

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Barnwell County
Doyet A. Early, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL PAUL BUCKMON,

APPELLANT

APPELLATE CASE NO 2016-002257

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

COURT'S EXHIBIT #4 (DVD 11/11/13); COURT'S EXHIBIT #6 (DVD 2/18/14) FROM THE PRE-TRIAL TRANSCRIPT DATED JULY 19, 2016 AND STATE'S EXHIBIT #46 (INTERVIEW 11/11/13) AND STATE'S EXHIBIT #47 (INTERVIEW 2/18/14) FROM THE TRIAL TRANSCRIPT DATED OCTOBER 17-19, 2016

1 State of South Carolina) In the Court
2 County of Barnwell) Of General Sessions
3
4 Indictment No.: 2014-GS-06-00359
5 2016-GS-06-00205
6 2016-GS-06-00210
7
8 State of South Carolina,)
9 Plaintiff.)
10 vs.) Transcript of Record
11 Michael Paul Buckmon,)
12 Defendant.)
13
14 July 19, 2016
15 Barnwell, South Carolina
16
17 B E F O R E:
18 The Honorable Robert E. Hood, Judge.
19
20 A P P E A R A N C E S:
21 David Miller, Deputy Solicitor
22 Wilder Harte, Assistant Solicitor
23 Attorneys for the State
24
25 Michael Chessser, Esquire
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Brenda J. Sigwald, Circuit Court Reporter
To The Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

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JACKSON V DENNO HEARING

1
2 THE COURT: All right. In State versus Buckmon,
3 Mr. Buckmon is present, represented by counsel; and State
4 is present represented by Mr. Miller and Mr. Harte and
5 we're going to do a Jackson versus Denno hearing; is that
6 right.

7 MR. MILLER: That is correct, Your Honor.

8 THE COURT: Okay. Is the State ready to proceed.

9 MR. HARTE: Yes, Your Honor.

10 THE COURT: Okay.

11 MR. HARTE: State calls Lieutenant Craig Collier.

12 MR. CHESSER: I just want to put on the record that
13 what our agreement is, is that this will be definitive that
14 we're -- even though this will be tried in front of Judge
15 Early that we're doing this attempting this to be the
16 Jackson v Denno hearing.

17 THE COURT: Okay.

18 MR. MILLER: That is correct, Your Honor. We're
19 just trying to get everything lined up so we can start that
20 trial quickly on the 17th.

21 THE COURT: Great.

22 All right. And your name is what?

23 THE WITNESS: Craig Collier.

24 THE COURT: Collier?

25 THE WITNESS: Yes, sir.

Craig Collier - Direct Examination In-Camera by Mr. Harte

1 THE COURT: All right. Thank you, Lieutenant
2 Collier.

3 CRAIG COLLIER,
4 having been duly sworn, testified as follows:

5 THE COURT: All right. Mr. Harte.

6 MR. HARTE: Thank you, Your Honor.

7 **DIRECT EXAMINATION IN-CAMERA**

8 BY MR. HARTE:

9 Q Lieutenant Collier, where are you employed?

10 A I'm employed with the South Carolina Law
11 Enforcement Division, commonly known as SLED.

12 Q How long you been in law enforcement?

13 A 21 years.

14 Q And how long have you been with the State Law
15 Enforcement Division?

16 A Since 2001.

17 Q What is your position there?

18 A I'm currently supervisor, special agent over the
19 arson investigations unit. I'm a Lieutenant at SLED, of
20 the arson unit.

21 Q And what does that position require that you do?

22 A I manage the day-to-day operations of the arson
23 unit. I supervise eleven special agents, and all they do
24 is fire investigation; administrative duties as well. I
25 also respond to fires, investigate fires. I'm a

Craig Collier - Direct Examination In-Camera by Mr. Harte

1 certified -- nationally certified fire investigator as
2 well.

3 Q What was your involvement in this case?

4 A I was supervising -- I'm the only supervisor in the
5 arson unit, so I was the supervisor at the time and I
6 responded to the fire scene with Agent Seals to assist him
7 in the investigation. From time to time if there are fatal
8 fires, a lot of times I go down just to have an extra set
9 of eyes and help out.

10 Q During your involvement in the case, did you have
11 occasion to speak with the defendant?

12 A I did, yes, sir.

13 Q When did that occur?

14 A May I refer to my statements here?

15 Q Of course.

16 A I spoke to Mr. Buckmon on November 10th of 2013.

17 Q Was anyone present that day as well?

18 A Yes, sir. Detective Brian Owens witnessed these
19 statements here as well. I think he's with the Barnwell
20 Police Department.

21 Q Okay. Did the defendant appear when you spoke to
22 him to be under the influence of alcohol or drugs?

23 A No, sir, he did not.

24 Q Did he appear to have any physical or mental
25 disability or impairment that would have inhibited his

Craig Collier - Direct Examination In-Camera by Mr. Harte

1 ability to understand what y'all were talking about?

2 A No, sir, he did not.

3 Q Where did the conversation occur?

4 A At the Barnwell County Sheriff's Office.

5 Q How long did it last?

6 A According to my statement here that I took, I
7 Mirandized him at 3:13 and the statement was signed at
8 5:30.

9 Q During that period of time did he ask to take a
10 break?

11 A Not that I recall.

12 Q Did he ask to use the telephone?

13 A No, sir, not that I recall.

14 Q Did he ask for a bathroom break?

15 A Not that I recall.

16 Q Did he ask for any food?

17 A No, sir.

18 Q Did he ask for anything to drink?

19 A Not that I recall, no, sir.

20 Q During the course of your conversation with the
21 defendant, did you promise anything if he gave you a
22 statement?

23 A Absolutely not.

24 Q Did you threaten him in any way to make him give
25 you a statement?

Craig Collier - Direct Examination In-Camera by Mr. Harte

1 A No, sir.

2 (Court's Exhibit Number 1 was marked for
3 identification.)

4 BY MR. HARTE:

5 Q I'm showing you what has been marked as Court's
6 Exhibit Number 1. Can you please identify this?

7 A Yes, sir.

8 Q What is it?

9 A This is the standard SLED Miranda Rights form and
10 it was dated November 10th, 2013, at the Barnwell County
11 Sheriff's Office at 3:13 p.m. this right advised Mr.
12 Buckmon of his rights, his Miranda Warning Rights and he
13 understood -- that he understood each one and that he
14 wanted to speak to me. He signed it. I witnessed it and
15 Detective Owens witnessed it as well.

16 Q So that's the same Miranda warning form that you
17 used when you interviewed the defendant on that date?

18 A Yes, sir, it is.

19 Q Okay. How do you know that it is, just to get it
20 for the record?

21 A It's dated and signed.

22 Q Who is it signed by?

23 A It's signed by Michael P. Buckmon, myself, and
24 Detective Owens.

25 Q Before you asked the defendant any questions, did

Craig Collier - Direct Examination In-Camera by Mr. Harte

1 you advise him that he had to understand his rights?

2 A Yes, sir, I did.

3 Q Did he initial by each of the listed rights to
4 indicate that he did understand them?

5 A He did initial, yes, sir.

6 Q And did the defendant sign the form to indicate
7 that he had read the statement of his rights and that he
8 understood what his rights were?

9 A Yes, sir, he did.

10 Q Okay.

11 MR. HARTE: Your Honor, at this time, we'd like to
12 introduce Court's Exhibit Number 1.

13 MR. CHESSER: No objection.

14 THE COURT: Court's Number 1 without objection.
15 You need to mark it, Ms. Sigwald?

16 THE COURT REPORTER: It is marked.

17 THE COURT: All right. Great.

18 THE COURT REPORTER: Thank you.

19 THE COURT: Go ahead, Mr. Harte.

20 MR. HARTE: Thank you, Judge.

21 BY MR. HARTE:

22 Q Lieutenant Collier, was your interview recorded by
23 audio or video equipment?

24 A No, sir, it was not.

25 Q Why not?

Craig Collier - Direct Examination In-Camera by Mr. Harte

1 A It's SLED's policy not to record, audio or video,
2 our statements. If the local jurisdiction chooses to do
3 that, then we will do that, but as a matter of habit for
4 SLED, we do not.

5 Q So, it's not your policy?

6 A It's our policy not to do it, yes, sir.

7 Q Okay. Was the statement that Mr. Buckmon gave you
8 reduced to writing?

9 A Yes, sir, it was. Mr. Buckmon wrote it himself.

10 (Court's Exhibit Number 2 was marked for
11 identification.)

12 BY MR. HARTE:

13 Q I'm showing you what's been marked as Court's
14 Exhibit Number 2. Could you please identify it?

15 A Yes, sir. This is the statement that Mr. Buckmon
16 provided on the same date and location.

17 Q If you could look at page 3 of that statement that
18 he provided, I believe there are a series of questions and
19 answers written down?

20 A Yes, sir.

21 Q Who was asking those questions?

22 A I was. I -- that's my handwriting. And -- the
23 questions are written in my handwriting and the answers are
24 written in his handwriting.

25 Q At any point during your conversation with the

Craig Collier - Direct Examination In-Camera by Mr. Harte

1 defendant did he change his mind and ask to stop speaking
2 to you?

3 A No, sir, he did not.

4 Q At any point during your interview did the
5 defendant ask to speak with an attorney?

6 A No, sir, he did not.

7 (There was a pause in the proceedings.)

8 BY MR. HARTE:

9 Q Lieutenant Collier, could you please explain what
10 happened when you asked the defendant if he had sex with
11 Dawn Dempsey the night she died?

12 A Yes, sir. According to the question and answer
13 section?

14 Q Yes, please?

15 A I asked the question -- I asked two questions, I'm
16 sorry, four questions, regarding intercourse with
17 Ms. Dempsey. The first one is Question Number 3: Did you
18 engage in sexual intercourse with Donna Dempsey on October
19 31, 2013, or November 1st, 2013. At first he wrote yes and
20 then he scratched it out and put his initials and he wrote
21 no.

22 The next question was when was the last time you
23 engaged in sexual intercourse with Donna Dempsey; and he
24 wrote, Wednesday October 30th, 2013.

25 I asked: Have -- and I scratched out and

Craig Collier - Direct Examination In-Camera by Mr. Harte

1 initialled and I wrote: How long have you been engaged in
2 sexual intercourse with Donna Dempsey; and he responded
3 around two months.

4 And the last question was: When you engaged in
5 sexual intercourse with Donna Dempsey 2013, did you use a
6 condom. He said: Yes, and I pulled them off throw it
7 away.

8 Those are the questions and the answers he gave me
9 verbatim.

10 Q Okay. Did someone from the solicitor's office tell
11 you they wanted a recorded interview after your initial
12 interview and written statement was obtained from the
13 defendant?

14 A I believe they might have, yes, sir.

15 Q All right. Did you perform a subsequent interview
16 with the defendant following that?

17 A I did not.

18 Q Did someone from your agency do that?

19 A My -- Agent Seals, did, yes, sir.

20 Q Okay.

21 MR. HARTE: And Your Honor, I don't believe I
22 introduced Court's 2 into evidence, but if I didn't, I'd
23 like to do that now.

24 THE COURT: Any objection to Court's Exhibit Number
25 2.

Craig Collier - Cross-Examination In-Camera by Mr. Chesser

1 MR. CHESSER: No objection, Your Honor.

2 THE COURT: Court's Number 2 without objection.

3 MR. HARTE: Your Honor, I have no further questions
4 for this witness.

5 THE COURT: All right. Mr. Chesser, would you like
6 to cross?

7 MR. CHESSER: Thank you, Your Honor.

8 **CROSS-EXAMINATION IN-CAMERA**

9 BY MR. CHESSER:

10 Q Lieutenant Collier --

11 A Yes, sir.

12 Q Court's Exhibit Number 1 --

13 A The Miranda?

14 Q Yes, sir.

15 A Yes, sir.

16 Q What's the first question that -- or first right
17 that you advised him of?

18 A You have the right to remain silent.

19 Q Okay. And did he initial that?

20 A He did that, yes, sir.

21 Q And what is the second one?

22 A Anything you say -- the second right?

23 Q Yes, please.

24 A Anything you say can be used in court as evidence
25 against you.

Craig Collier - Cross-Examination In-Camera by Mr. Chesser

1 Q And the third one?

2 A You're entitled to talk to a lawyer now and have
3 him present now or any time during questioning.

4 Q The fourth one?

5 A If you cannot afford an attorney, one will be
6 appointed for you without cost.

7 Q And the -- are there anymore?

8 A Yes, sir.

9 Q The fifth?

10 A If you decide the answer questions now without a
11 lawyer present, you will still have the right to stop
12 answering at any time. You also have the right to stop
13 answering at any time until you talk to a lawyer.

14 Q Okay. And all those were initialled?

15 A That's correct, yes, sir.

16 Q All right. You know why the SLED has a policy of
17 not video recording the interviews?

18 A No, sir, I do not.

19 Q Okay. With regard to this -- referring now, would
20 be Exhibit Number 2?

21 A Yes, sir.

22 Q This question number 3 --

23 A On the question, answer/section, sir?

24 Q Yes, sir.

25 A Yes, sir.

Craig Collier - Cross-Examination In-Camera by Mr. Chesser

1 Q As written there, the question is: Did you engage
2 in sexual intercourse with Donna Dempsey on October 31,
3 2013, or on November 1st, 2013, that's what it says, right?

4 A That's the question, yes, sir.

5 Q And then he wrote yes, and then scratched that out
6 and said no?

7 A Yes, sir, that's what it has here.

8 Q Did you have some conversation -- do you recall any
9 conversation or explanation of why he would write yes and
10 then write no?

11 A I do not recall that, sir.

12 Q All right.

13 A It's just been so long, I'm sorry, I don't.

14 Q Sure. All right. Thank you.

15 Well, let me ask you this.

16 A Yes, sir.

17 Q Did you tell him that if he answered -- if he
18 talked with you that day that he could help himself in his
19 case?

20 A No, sir, I don't tell people that.

21 Q Did you tell him if he talked with you, he'd have
22 an opportunity to have a better result in his case?

23 A Not that I recall, no, sir.

24 Q Okay. Did you tell him that you were going to be
25 speaking later on to his codefendant?

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 A I don't recall, sir.

2 Q Okay. Did you explain to him -- did you tell him
3 what the maximum penalties for these charges were?

4 A I don't recall.

5 Q All right. I have no further questions. Thank
6 you.

7 A Yes, sir.

8 THE COURT: Redirect?

9 MR. HARTE: Nothing from the State, Your Honor.

10 THE COURT: Okay. Thank you, Lieutenant Collier,
11 you may step down.

12 THE WITNESS: Thank you, Judge.

13 THE COURT: You wish to call another witness, Mr.
14 Harte?

15 MR. HARTE: Yes, Your Honor, the State calls
16 Special Agent Sterling Seals.

17 STERLING SEALS,

18 having been duly sworn, testified as follows:

19 THE CLERK: If you would be seated and state your
20 full name.

21 THE WITNESS: My name is Sterling Seals.

22 **DIRECT EXAMINATION IN-CAMERA**

23 BY MR. HARTE:

24 Q Good morning, Agent Seals.

25 A Good morning.

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 Q Where are you employed, sir?

2 A I'm employed with the South Carolina Law
3 Enforcement Division commonly known as SLED.

4 Q How long have you been in law enforcement?

5 A It's over 17 years.

6 Q Okay. And how long have you been with SLED?

7 A Just short of 10 years.

8 Q What is your position there?

9 A I'm a special agent assigned to the arson and bomb
10 unit.

11 Q And what does that require you do?

12 A We have jurisdiction over the State of South
13 Carolina. We receive requests from sheriff's offices
14 police departments, fire departments to conduct fire
15 investigations. And then I respond to those fire
16 investigations once I'm assigned. Once I have established
17 the jurisdiction and have probable cause to do so, then I
18 begin those investigations.

19 Q What was your involvement in this case?

20 A I received notification from -- from my supervisor
21 to respond to [REDACTED] in Barnwell in reference to
22 a fatal fire that occurred in October of -- or, I'm sorry,
23 November 1st, 2013, and I responded on that same date to
24 that fire to conduct the investigation.

25 Q Were you the lead investigator?

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 A Yes, I was assigned as the case agent, as we refer
2 to it.

3 Q As the case agent, did you have occasion to speak
4 with the defendant?

5 A Yes, I did.

6 Q And when did that conversation occur?

7 A The first occasion occurred on November 11th on
8 2013, and it occurred at the Barnwell police department.

9 Q Okay. Was there a second interview with the
10 defendant?

11 A There was a second interview.

12 Q And when was that one done?

13 A The second interview occurred on February 18th,
14 2014, at the Barnwell County Sheriff's Office.

15 Q During either or both to have those interviews, was
16 somebody else present with you?

17 A Yes, in both occasions.

18 Q Who was that?

19 A On both occasions, there was Detective Glen Rice
20 who was employed at the time with Barnwell Police
21 Department.

22 Q During both of those interviews or rather either of
23 those interviews, did the defendant appear to be under the
24 influence of alcohol or drugs?

25 A No.

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 Q During either of those interviews did he appear to
2 have any sort of physical or mental disability or
3 impairment that would have interfered with his ability to
4 understand what he was doing?

5 A No.

6 Q Where did these two interviews occur?

7 A The first interview occurred at the Barnwell Police
8 Department.

9 Q You say the first interview, you're referring to
10 the November 11th one?

11 A Yes, November 11th.

12 Q Okay. What about the second one?

13 A The second interview occurred at the Barnwell
14 County Sheriff's Office, February 18, 2014.

15 Q Do you recall how long each of these interviews
16 lasted?

17 A The first interview that occurred in November was
18 just short of two hours.

19 Q What about the second one?

20 A It was about an hour.

21 Q At any time during either of these interviews, did
22 the defendant ask to take a break?

23 A Not that I recall.

24 Q Did he ask for a telephone?

25 A No.

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 Q Does he ask for a bathroom break?

2 A No.

3 Q Did he ask for anything to eat?

4 A No.

5 Q Did he ask for anything to drink?

6 A I don't recall if he was asked if he wanted
7 something to drink, but I know that he was provided with a
8 beverage.

9 Q Okay. During the course of either of these
10 interviews, did you promise the defendant anything to give
11 you -- if he gave you a statement?

12 A No.

13 Q During either of these interviews, did you threaten
14 him in any way to make him give you a statement?

15 A No.

16 Q During the November 11th interview, was the
17 defendant advised of his constitutional rights pursuant to
18 Miranda prior to any questioning?

19 A Yes, he was.

20 Q How was he advised of those rights?

21 A We utilized the SLED Miranda Rights form.

22 (Court's Exhibit Number 3, Number 4, Number 5, and
23 Number 6 were marked for identification.)

24 BY MR. HARTE:

25 Q Agent Seals, I'm showing you what has been marked

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 as Court's 3. Can you identify this?

2 A This is the SLED Miranda Rights form that I
3 completed on November 11th, 2013, and it was completed at
4 the Barnwell Police Department.

5 Q Is this copy of the Miranda form the same one that
6 was used when you interviewed the defendant?

7 A Yes, it is.

8 Q How do you know that?

9 A It's dated November 11th, 2013; and it has my
10 signature as a witness, and there's a witness signature by
11 Detective Glen Rice and it is also signed by Michael Paul
12 Buckmon.

13 Q Before asking the defendant any questions, did you
14 advise him that he had to understand his rights?

15 A Yes, I did.

16 Q Did he initial by each of the rights listed on that
17 form indicating that he understood them?

18 A Yes, he did.

19 Q Did he ask you any questions or indicate to you in
20 any way that he did not understand them?

21 A No.

22 Q Did the defendant sign the form indicating that he
23 had read the statement of rights, understood what his
24 rights were?

25 A Yes.

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 MR. HARTE: Your Honor, at this time the State
2 would introduce Court's Exhibit Number 3.

3 MR. CHESSER: No objection.

4 THE COURT: Court's 3 without objection.

5 MR. HARTE: Thank you, Your Honor.

6 BY MR. HARTE:

7 Q Agent Seals, was your interview with the defendant
8 recorded by audio or video?

9 A Yes, it was.

10 Q I'm showing you what's been marked as Court's
11 Exhibit Number 4, can you please identify it?

12 A This is a DVD that is marked with Buckmon Interview
13 with the date, 11/11/13.

14 Q And how do you know that, sir? How do you know
15 that that's the video of that interview?

16 A This is just a copy of the interview that was
17 submitted with the case file.

18 Q Okay. At any point during the interview with the
19 defendant did he change his mind and ask to stop
20 questioning?

21 A There was a point that he wanted to stop
22 questioning.

23 Q What did you do when he said he wanted you to stop
24 questioning?

25 A I ended the interview and stopped it at that point.

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 THE COURT: Are we on the November 11th interview.

2 THE WITNESS: Yes, Your Honor, yes, Your Honor.

3 THE COURT: Okay.

4 BY MR. HARTE:

5 Q At any point during the interview did the defendant
6 ask to speak with his attorney?

7 A No.

8 Q Did he ask to speak to an attorney?

9 A No.

10 Q Okay.

11 MR. HARTE: Your Honor, at this time, we would seek
12 to introduce Court's Exhibit Number 4.

13 MR. CHESSER: No objection.

14 THE COURT: Court's Exhibit Number 4 admitted
15 without objection.

16 BY MR. HARTE:

17 Q After the defendant said he wanted to end the
18 interview, what happened at that point?

19 A He asked to stop the interview. I exited the room
20 and then he spoke briefly with Detective Glen Rice and then
21 Detective Glen Rice informed me that he wished to speak
22 with me again. So we reentered the room and continued in
23 the room from there.

24 Q But you didn't continue to speak to him --

25 A No.

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 Q -- until you were made aware that he requested to
2 continue the interview?

3 A No, no, I did not.

4 Q During the February 18th 2014, interview, was the
5 defendant advised of his constitutional rights pursuant to
6 Miranda prior to any questioning?

7 A Yes, he was.

8 Q How was he advised of those rights?

9 A He was advised of those rights by a SLED Miranda
10 Rights form.

11 Q Agent Seals, I'm showing you what's been marked as
12 Court's 5, can you identify it?

13 A This is also a SLED Miranda Rights form and it was
14 signed by myself and it was dated on February 18th, 2014.

15 Q Is it a copy of the same Miranda warning form that
16 you used when you interviewed the defendant?

17 A Yes, it is.

18 Q How do you know?

19 A It's -- like I said, it is signed by myself. It is
20 signed as a witness also by Detective Glen Rice and it is
21 signed by Michael Paul Buckmon.

22 Q Before you asked the defendant any questions, did
23 you advise him he had to understand his rights?

24 A Yes.

25 Q Did he initial next to each right indicating that

Sterling Seals - Direct Examination In-Camera by Mr. Harte

1 he understood it?

2 A Yes, he did.

3 Q Did he ask you any questions or indicate to you
4 that he did not understand the rights?

5 A No.

6 Q Did he sign the form to indicate he had read the
7 statement of rights and understood what the rights were?

8 A Yes, he did.

9 MR. HARTE: Your Honor, at this time, the State
10 would introduce Court's 5.

11 MR. CHESSER: No objection.

12 THE COURT: Court's 5 entered without objection.

13 BY MR. HARTE:

14 Q Agent Seals was your interview with the defendant
15 on February 18th, 2014 recorded by audio or video
16 equipment?

17 A Yes, it was.

18 Q I'm showing you what's been marked as Court's 6.
19 Can you identify it?

20 A It is the DVD marked Buckmon Interview, February
21 18, 2014, and this is the copy that was submitted with the
22 case file.

23 MR. HARTE: Your Honor, at this time, the State
24 would introduce Court's 6.

25 MR. CHESSER: No objection.

Sterling Seals - Cross-Examination by Mr. Chesser

1 THE COURT: Court's Number 6, admitted without
2 objection.

3 BY MR. HARTE:

4 Q Agent Seals, during your interview with the
5 defendant on February 18th, 2014, did he at any time say he
6 wanted to stop questioning?

7 A No.

8 Q At any time during that interview did the defendant
9 ask to speak with his attorney?

10 A His attorney was present.

11 Q Who was his attorney that day?

12 A His attorney at the time was Jason Price.

13 Q And he was present during the entirety of the
14 interview?

15 A Yes, he was.

16 Q Okay. Thank you, Agent Seals, I have no further
17 questions.

18 A Yes, sir.

19 THE COURT: Mr. Chesser?

20 MR. CHESSER: Thank you.

21 **CROSS-EXAMINATION IN-CAMERA**

22 BY MR. CHESSER:

23 Q Agent Seals, how long was your interview with
24 Michael Buckmon on November 11th?

25 A It was just short of two hours.

Sterling Seals - Cross-Examination by Mr. Chesser

- 1 Q And at that time was he in handcuffs?
- 2 A Yes.
- 3 Q Okay. He was wearing an orange jump suit?
- 4 A I can't recall the color at this time.
- 5 Q He was in prison clothes?
- 6 A Yes.
- 7 Q Okay. Did you tell him what charges he was facing?
- 8 A No, sir.
- 9 Q Did you tell him that this was his opportunity to
- 10 help himself?
- 11 A No, sir.
- 12 Q Did you tell that -- I mean after the interview
- 13 with Michael Buckmon you were going to be speaking with the
- 14 codefendant Matthew Bolen?
- 15 A I can't recall, sir, not at this point.
- 16 Q Do you recall on November 11th if Bolen was in
- 17 custody?
- 18 A He was in custody, yes.
- 19 Q Okay. And when Mr. Buckmon --
- 20 A Oh, stop right there. I cannot -- I cannot say
- 21 that. I cannot say that he was in custody. The days are
- 22 very close.
- 23 Q There came a point when Mr. Buckmon indicated that
- 24 he no longer wished to speak with law enforcement?
- 25 A Yes, there was a point that he wanted to stop.

Sterling Seals - Cross-Examination by Mr. Chesser

1 Q Okay. And who was in the room with him when he
2 invoked that right?

3 A It was myself and Detective Glen Rice.

4 Q And you left the room?

5 A Yes, I did.

6 Q Did Glen Rice leave the room?

7 A Yes.

8 Q How was it that the interview recommenced?

9 A It's a very small police department, very close
10 quarters. When I exited the room, Glen Rice and Michael
11 Paul Buckmon were in a hallway. They spoke briefly and
12 then Detective Glen Rice approached me and said that
13 Michael Paul Buckmon wished to continue the interview.

14 Q And that was -- and at that time what happened?

15 A We reentered the room and continued with the
16 interview.

17 Q All three of you?

18 A Yes.

19 Q At what point in that interview, that two hour
20 period was that?

21 A I cannot tell you within a level of certainty.

22 Q Have you been trained in interview techniques?

23 A Yes, I have.

24 Q Is that part of your arson training or is that some
25 other type of training?

Sterling Seals - Cross-Examination by Mr. Chesser

1 A When you're employed with the South Carolina Law
2 Enforcement Division as a sworn special agent, you're a
3 special agent first and then you have a special assignment.
4 So all agents will receive training that would be
5 associated with investigation and interviewing is part of
6 that fundamental, basic outline of training.

7 Q Do you recall what specific courses you've had in
8 interrogation techniques?

9 A I've attended the Reid Technique, which is a
10 private company that offers training, as well as another
11 one. I would be remiss to give you the pronunciation, but
12 two separate specific interview courses I have attended.

13 Q Okay. And do you remember approximately when you
14 attended those courses?

15 A The Reid Technique would have been in the mid
16 2000's and the last one, I believe, was in the last 24
17 months.

18 Q Okay. In your interview techniques, you
19 occasionally furnish the accused who is being interviewed
20 with false information?

21 A Are you asking me specifically on this case or
22 just -- repeat the question.

23 Q In this case did you give Mr. Buckmon false
24 information about the evidence against him?

25 A I do not recall.

Sterling Seals - Cross-Examination by Mr. Chesser

1 Q Okay. Do you recall telling him that the DNA
2 evidence proved that he had had sexual intercourse with her
3 immediately -- in the hours immediately preceding her
4 death?

5 A There was a reference to DNA, yes.

6 Q And, in fact, you had no DNA results on November
7 11th, 2013, right?

8 A I cannot say at this point if I had. It was not a
9 generated report.

10 Q So -- well, let me just ask you in general, then,
11 is it acceptable in your interview techniques to lie to a
12 defendant about the state of the evidence?

13 A Yes.

14 Q Okay. So that would be a technique that's in part
15 of your repertoire or available techniques to get
16 information?

17 A Yes.

18 Q Okay. And you don't recall specifically in this
19 case if you used that technique?

20 A No, I cannot.

21 Q But it is your testimony then that Buckmon asked
22 that the interview be continued; is that what you stated?

23 A Yes.

24 Q Did he make that question to you or --

25 A I was told by Detective Glen Rice that he wanted to

Sterling Seals - Redirect Examination by Mr. Harte

1 continue.

2 Q All right. That's all the questions that I have.

3 THE COURT: Redirect?

4 MR. HARTE: Briefly, Your Honor.

5 THE COURT: Sure.

6 **REDIRECT EXAMINATION IN-CAMERA**

7 BY MR. HARTE:

8 Q Agent Seals, when was the defendant taken into
9 custody?

10 A I cannot say. It was -- I know it was, obviously,
11 prior to when I interviewed him. I know that Lieutenant
12 Collier had interviewed him the day before and I was
13 contacted on November 11th because I was made aware that
14 there was a request for a recorded interview.

15 Q Okay. Thank you. I have no further questions.

16 THE COURT: Any followup?

17 MR. CHESSER: Nothing further, Your Honor.

18 THE COURT: Thank you Special Agent Seals. You may
19 step down.

20 Mr. Harte, do you wish to call another witness?

21 MR. MILLER: Your Honor, the State would call Glen
22 Rice.

23 THE COURT: Okay. Mr. Rice, please come forward.

24 GLEN RICE,

25 having been duly sworn, testified as follows:

Glen Rice - Direct Examination In-Camera by Mr. Miller

1 THE CLERK: State your full name for the record.

2 THE WITNESS: Thomas Glen Rice.

3 DIRECT EXAMINATION IN-CAMERA

4 BY MR. MILLER:

5 Q Mr. Rice, where do you work?

6 A Bamberg County Sheriff's Department.

7 Q And how long have you been with the Bamberg County
8 Sheriff's Office?

9 A I've been with them since February of this year.

10 Q And prior to that -- being employed there, were you
11 employed with the Barnwell Police Department?

12 A Yes, I was.

13 Q What was your job for the Barnwell Police
14 Department?

15 A I was a detective.

16 Q Okay. And as a detective, were you involved in the
17 investigation into the death of Ms. Donna Dempsey?

18 A Yes, I was.

19 Q Okay. What was your involvement in the case for
20 the Barnwell Police Department?

21 A I was the lead detective for Barnwell Police
22 Department, working along with Special Agent Seals with
23 SLED on it.

24 Q Okay. And in that capacity as the lead detective
25 for the Barnwell Police Department, did you have occasion

Glen Rice - Direct Examination In-Camera by Mr. Miller

1 to be present whenever the defendant, Mr. Buckmon was
2 interviewed?

3 A Yes, I did.

4 Q Were you present during the video-taped interview
5 from November 11th 2013?

6 A Yes, I was.

7 Q And were you also present during the video taped
8 interview from February 18th, of 2014?

9 A Yes.

10 Q Did you personally advise the defendant of his
11 rights under Miranda?

12 A I did not.

13 Q At either interview?

14 A No, I did not.

15 Q Okay. Did you see Special Agent Seals give him
16 those advisements?

17 A Yes, I did.

18 Q For both of the interviews?

19 A Yes, sir.

20 Q Did you ever make any threats, or attempt to
21 intimidate the defendant into giving you a statement at
22 either one of the interviews?

23 A No, I did not.

24 Q Did you make any promise or hold out some hope of
25 reward to him in order to get him to give you the

Glen Rice - Direct Examination In-Camera by Mr. Miller

1 statements at either one of the interviews?

2 A No, sir.

3 Q Now, you did, during the course of the interview on
4 November 11th of 2011, or excuse me 2013, you did tell the
5 defendant you were going to talk to his codefendant after
6 you got done talking to him, didn't you?

7 A Yes.

8 Q And you did tell the defendant that this was his
9 chance to talk and say what he knew because the other side
10 of the story was coming, correct?

11 A That's correct.

12 Q Do you recall with specificity what was said when
13 you and the defendant were off camera on November 11th
14 2013, and he had said I don't want to -- I'm done talking?

15 A I don't recall exactly what was said.

16 Q Okay. But, while you were off the camera at that
17 point in time, can you testify to this Court that you
18 didn't make any threats or any promises to him if he
19 continued to talk?

20 A I didn't make any threats or promises --

21 Q Okay.

22 A -- toward Mr. Buckmon.

23 Q Okay. Did the defendant request to go back into
24 the interview room or did the defendant ask you -- well
25 answer that one first. Did the defendant request to go

Glen Rice - Direct Examination In-Camera by Mr. Miller

1 back into the interview room on camera?

2 A Did he --

3 Q If you remember?

4 A I don't recall.

5 Q Okay. Did the defendant try to keep talking to you
6 after you had walked out of the interview room with him?

7 A Yes.

8 Q Okay. Now, on the February 18th, 2014 interview,
9 that interview was at the Barnwell Sheriff's Office,
10 correct?

11 A That's correct.

12 Q And honestly, I don't know if you said a word
13 during the course of the interview, do you recall anything
14 specific about that interview?

15 A No, sir.

16 Q Do you -- did you see anyone, yourself, Agent
17 Seals, anybody else try to threaten or intimidate the
18 defendant into giving a statement?

19 A No, sir.

20 Q And his defense attorney, Jason Price -- was Jason
21 Price there for that interview?

22 A He was.

23 Q All right. Please answer any questions Mr. Chesser
24 might have for you.

25 ///

Glen Rice - Cross-Examination by Mr. Chesser

CROSS-EXAMINATION IN-CAMERA

BY MR. CHESSER:

Q Detective Rice, I want to talk about the interview on November 11 of 2013. You recall when Michael Buckmon invoked his right to terminate the interview?

A Yes.

Q Okay. Now, you don't recall him asking to recommence the interview?

A I don't recall the conversation we had off camera.

Q Okay. So you can't tell the Court that Mr. Buckmon requested to have the interview continue?

A I can't tell you what we talked about off camera. I don't recall.

Q All right. What is your procedure when an interviewee, a defendant, an accused, invokes their right to terminate an interview? What is your procedure?

A I can still talk to them unless they specifically ask for a lawyer. If they ask for a lawyer, then I can't discuss any further with them.

Q So based on that procedure then, that's the procedure you employed in this case, right?

A He didn't request for a lawyer.

Q Right. He said I want to stop the interview, but you continued the interview, right?

A As he talked to me in the hallway, which, I don't

Glen Rice - Cross-Examination by Mr. Chesser

1 know exactly what the conversation was, I just knew we
2 needed to be on camera if he wanted to talk to me further.

3 Q But, again, he didn't request for the interview to
4 be continued, did he?

5 A He may have, he may not have, I don't recall.

6 Q All right. That's all the questions I have.

7 THE COURT: Mr. Miller?

8 MR. MILLER: Nothing further, Your Honor.

9 THE COURT: Thank you, Detective Rice, you may step
10 down.

11 You have any further witnesses, Mr. Miller?

12 MR. MILLER: None from the State, Your Honor.

13 THE COURT: Okay. Mr. Chesser do you wish to call
14 any witnesses?

15 MR. CHESSER: Beg the Court's indulgence.

16 THE COURT: Sure.

17 (There was a pause in the proceedings.)

18 MR. CHESSER: We don't have any testimony.

19 THE COURT: Okay. And the motion?

20 MR. CHESSER: Yes, sir. Your Honor, I would move
21 to suppress, to exclude that portion of the interview of
22 November 11th subsequent to Michael Paul Buckmon's
23 invocation of his right to terminate the interview. At
24 that point, law enforcement has an obligation to terminate
25 the interview and what they did in this case is they

1 disregarded his invocation of his right to silence and they
2 continued to question him and then they brought him back in
3 the interview room and continued this interview. I would
4 submit that is clearly in violation of Miranda. And we
5 would ask that that portion of the interview, subsequent to
6 his invocation of his rights be suppressed and not
7 admitted, Your Honor.

8 THE COURT: All right.

9 Mr. Miller, slash, Mr. Harte.

10 MR. MILLER: Your Honor, and I was actually looking
11 because we need to get the actual -- we did not publish
12 these interviews for the Court that are in the evidence,
13 but we will get the Court the exact time, but what is
14 actually on the audio and the video of the interview, when
15 he says he's done answering questions, he gets up and as he
16 is walking out of the room --

17 THE COURT: Who is he?

18 MR. MILLER: Mr. Buckmon.

19 THE COURT: Okay.

20 MR. MILLER: When Mr. Buckmon gets up and he is
21 walking out of the room, as Agent Seals testified, he's
22 standing up and writing -- he stands up and starts writing
23 in his notebook. He's concluded the interview. And as Mr.
24 Buckmon leaves the room, you can hear him off camera say,
25 I'll still talk to you, Rice.

1 And at that point, they get out of earshot and
2 Detective Rice clearly knew they needed to be back in the
3 interview room. And I think if the Court looks at the
4 video, it's approximately a two-minute span and if the
5 Court looks at the video, it's clear from the surrounding
6 circumstances, Mr. Buckmon did want to continue the
7 interview.

8 He comes back in, he sits down in the chair, he
9 starts talking about stuff again, he starts talking to
10 them. Now admittedly at that point in time, Detective Rice
11 is the only one that's asking him any questions because
12 he's already expressed his frustrations with Agent Seals.
13 Eventually, Agent Seals starts asking him other questions
14 too, to which he responded, but, Your Honor, I think that
15 the Court needs to take it into context and see the video
16 of what was captured in the audio and the video to
17 appreciate the fact that there's just absolutely no
18 evidence that they took him and forced him or coerced him
19 into continuing with his statement. He walks out of the
20 door and as he's walking away from the microphone,
21 apparently away from the microphone, he says to Detective
22 Rice, I'll still talk to you and Detective Rice knows that
23 if he's talking to him, he needs to be on camera and
24 that -- we would submit that was what was going on during
25 that period of time, was that he was explaining that he

1 needed to get back on the camera.

2 And we don't have any testimony to that effect, but
3 we would say that you need to look -- or the Court needs to
4 look at the circumstances surrounding it and the
5 voluntariness of the statement by actually viewing that
6 two-minute period whenever he is actually off of the
7 camera's view so the Court can see what his attitude and
8 what his demeanor was both before he said I want to stop
9 the interview and after, when he came back into the room.

10 Because frankly, when he said he wanted to -- I
11 believe the way he referred to it is, he said, I'm done, or
12 something to that effect and he was pretty frustrated and
13 when he walked back in and sat down, he was much more calm
14 and he was like, okay, let's -- you know they keep going
15 with it.

16 THE COURT: Agent Seals or Detective Rice, either
17 one of you can answer this, but after he says whatever he
18 says that causes y'all to leave the room, when you go back
19 in the room, is all that on video?

20 DETECTIVE RICE: Yes, Your Honor.

21 THE COURT: Okay. Is that right Special Agent
22 Seals?

23 AGENT SEALS: Yes, Your Honor.

24 THE COURT: Okay. All right. Do you have it
25 pulled up where I can see it?

1 MR. MILLER: We can get it, Your Honor. We'll get
2 a laptop in here and the video is there.

3 All right. So for the record, let's deal with the
4 November 10th, 2013 and the February 18th, 2014 statements.
5 And, of course, it is the Court's responsibility to conduct
6 an evidentiary hearing outside the presence of the jury
7 where the State is required to prove that these statements
8 were given voluntarily and their standard is by a
9 preponderance of the evidence and only then, if the Court
10 makes that decision, can they be submitted to the jury.

11 I find that all three of these interrogations were
12 in -- they were custodial interrogations, he was clearly in
13 custody. He was in -- by the February statement, he's
14 actually -- has pending charges and he is in custody for
15 each of these statements; and therefore, he must be
16 informed of his Miranda warnings. I find that he was
17 informed of his Miranda warnings.

18 He was advised and as to the November 10th and
19 February 18 statement, he voluntarily waived his rights. I
20 think that the State has proved that by a preponderance of
21 the evidence and based on the totality of the
22 circumstances, I find that the November 10th and February
23 18th statements were given knowingly, intelligently, and
24 voluntarily without any threat, coercion, force,
25 intimidation, or pressure, that his will was not overborne

1 considering all of the circumstances and that he was
2 clearly advised of his Miranda warnings.

3 February 18th, he was there and present with his
4 attorney at the time on the criminal charges. I take into
5 fact his background, his experience and the conduct of the
6 accused and the circumstances surrounding the case, I find
7 that the first and the last statements were freely,
8 voluntarily, knowingly, and intelligently made without
9 threat, coercion, force, or intimidation, and that they
10 would be admissible in trial if the State so sees fit to
11 use them.

12 As to the November 11th, 2013, statement, I'm going
13 to review the video. Y'all get it set up and then I'll
14 rule on that.

15 MR. MILLER: Thank you, Your Honor.

16 (There was a pause in the proceedings.)

17 MR. MILLER: Your Honor, we're going to hand up the
18 laptop here.

19 (The Court is watching the video for a short
20 portion.)

21 THE COURT: How long until they come back in?

22 MR. MILLER: Approximately a minute and 50 seconds,
23 I think, Judge.

24 THE COURT: Okay.

25 (Watching again.)

1 THE COURT: Okay. Any comment on that,
2 Mr. Chesser?

3 MR. CHESSER: No, Your Honor.

4 THE COURT: Okay. Mr. Miller?

5 MR. MILLER: No, Your Honor, aside from the
6 previously mentioned totality of the circumstances and the
7 Court's already spoken on the burden of proof on the State
8 at this point in the process.

9 THE COURT: All right. On the November 11th, 2013
10 statement, I'm going to find that it was freely,
11 voluntarily, knowingly, and intelligently made after his
12 advice of Miranda warnings; that he was without any threat
13 coercion, force, intimidation, or pressure. Based upon the
14 totality of the circumstances, he was being interviewed, he
15 basically says in the middle of the interview around minute
16 56, he says I'm ready to go, something of that nature. He
17 doesn't say anything about wanting a lawyer or he won't
18 talk without a lawyer or anything else.

19 The agents comply with him. He stands up. Agent
20 Seals comes onto the video. He begins writing in his note
21 pad and you can clearly hear Mr. Buckmon say to Detective
22 Rice, you can come back and talk to me, something of that
23 nature where he wishes to continue the interview at that
24 time. He then comes back into the interview room,
25 approximately a little under two minutes later, and sits

1 down; doesn't say I don't want to be here, he doesn't say I
2 don't want to have anything to do with this. He doesn't
3 say I don't want to talk. He doesn't say anything other
4 than going right back into relevant information or what I
5 would propose to be relevant information concerning the
6 facts and circumstances of the case. Therefore, I find
7 that the November 11th, 2013 statement is admissible, based
8 upon the standards in *Miranda versus Arizona*, in *State*
9 *versus Miller*, Court of Appeals, 2008, 375 SC 370. I think
10 it was actually decided in 2007 and *certiorari* was denied
11 in 2008; and all three statements are admissible.

12 Anything further from the defense?

13 MR. CHESSER: No, Your Honor.

14 THE COURT: And from the State?

15 MR. HARTE: No, Your Honor.

16 THE COURT: All right. Good luck to you Mr.
17 Buckmon. You'll be on the trial docket --

18 He'll be first up in October, is that right?

19 MR. MILLER: That is correct, Your Honor.

20 THE COURT: You'll be first up in October and best
21 of luck to you, sir.

22 * * * * * END OF TRANSCRIPT * * * * *

23

24

25

1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**

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4
5
6 I, THE UNDERSIGNED, Brenda J. Sigwald, Official
7 Court Reporter for the Eleventh Judicial Circuit of the
8 State of South Carolina, do hereby certify that I reported
9 the proceedings in the captioned case in the Court of
10 General Sessions in and for the State of South Carolina on
11 19th day of July, 2016.

12 I FURTHER CERTIFY that the foregoing pages
13 constitute a true, accurate and complete transcript of said
14 hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 seal at Aiken County, this 25th day of January, 2017.

19
20
21
22
23
24
25

Brenda J. Sigwald

Brenda J. Sigwald,
Court Reporter and Notary Public
For the State of South Carolina
My commission expires
January 4, 2020

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MIRANDA RIGHTS

PLACE: Barnwell Co. S.O. DATE: Nov 10, 2013 TIME: 3:13 P.M.

BEFORE WE ASK YOU QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

M.P.B.

You have the right to remain silent.

M.P.B.

Anything you say can be used in court as evidence against you.

M.P.B.

You are entitled to talk to a lawyer now and have him present now or at any time during questioning.

M.P.B.

If you cannot afford an attorney, one will be appointed for you without cost.

M.P.B.

If you decide to answer questions now, without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

M.P.B.

Do you understand these rights?

M.P.B.

Do you wish to talk to us at this time?

WAIVER OF RIGHTS

I have read ~~this~~ statement of my rights and I understand what my rights are. I am willing to talk now without a lawyer present. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed: Michael P. B.

Witness: J. J. J.

Witness: [Signature]

FEB 10 2014 10:00 AM	COURT'S
	EXHIBIT NO. <u>1</u>
	IDENTIFICATION EVIDENCE
	DKT.# <u>Buckman</u>
	DATE: <u>7-11-14</u>



VOLUNTARY STATEMENT

CASE # 35-13-0106

LEAD #

LAST NAME Buckman	FIRST NAME Michael	MIDDLE NAME Paul	AGE 36	D.O.B. [REDACTED]
NICKNAME/AKA MP	M ☒ F ☐ SSN [REDACTED]	STREET ADDRESS [REDACTED]		
CITY Bainwell	STATE SC	ZIP 29812	MAILING ADDRESS IF DIFFERENT	
HOME TELEPHONE 671-9072	WORK TELEPHONE	CELL TELEPHONE	OCCUPATION	
EMPLOYER		EMPLOYER ADDRESS		
DRIVER'S LICENSE NUMBER/STATE [REDACTED] SC		DATE AND TIME OF INTERVIEW 11/10/13 - 4:15 p.m.		
LOCATION OF INTERVIEW Bainwell County Sheriff's Office				
INTERVIEWING AGENT Lt. T.C. Collier, Sr.	DEPARTMENT SLED	INTERVIEWING AGENT	DEPARTMENT	

I, Michael Paul Buckman understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can cannot read and write and completed the 11th grade in school.

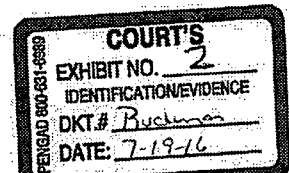
On Oct 31ST 2013 AROUND 9:30 Ms. Donna DEMPSEY NEEDED A RIDE TO REIDS FOR BEER AND WHINE. I MICHAEL PAUL BUCKMAN AND MATTHEW T. BOKER GAVE HER A RIDE TO REIDS THEN SHE PAID ME \$20 FOR THAT, THEN SHE STATED SHE WANTED SOME COCAINE SO SHE GOT ME SOME MONEY OUT THE TELLER AT SRP BANK. HERZ AND MATTHEW AKA. MATT TATT BECAME INTIMANT IN THE CAR RUBBING ON EACH OTHER. WE GULLED BEHIND MY MOTHER HOUSE AND THEY WALKED TO HER HOUSE WHILE I LEFT AND PICKED UP SOME COCAINE. MATTHEW AND DONNA WAS LEFT AT THE HOUSE FOR BOUT AN HR. ALONE. WHEN I GOT BACK MATT WANTED TO STEAL HER BELONGINGS I TOLD HIM NO AND THAT I WAS COOL WITH LLOYD AND HIS WIFE BECAUSE SHE KNEW MY MOTHER AND BABY MOM ASHLEY KOUNTREE. WHEN I GOT BACK WITH THE COCAINE MATT STATED HE WAS READY TO GO. SO WE LEFT AND WENT TO A HOUSE PARTY AND DURING THAT TIME MATT TOLD ME HE NEEDED TO GET SOME SHIRT SPOON ITEMS OUT MY MOMS BACK YARD BEFORE MY MOM FINDS OUT. THESE ITEMS SUPPOSELY CAME FROM NEXT DOOR FROM MS. DEMPSEY.

I have read each page of this statement consisting of 3 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 11/10/13 Time: 5:30pm Michael P. Buckman
Signature of person giving voluntary statement

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 3 pages.



VOLUNTARY STATEMENT SUPPLEMENTAL

Michael Paul Buckman

CASE # 35-13-5106

LEAD #

Statement of, Continued

house. I was not cause I told him not to do it. I had no choice but to move the items cause they was on my mother's property. I forgot that a rifle was left in my mom's house so I had to go back and pick it back up. We left to go to Greenville and he decide he wanted to pond the items in exchange for money to buy cocaine from me. I went along with him. While there Matt also took items from his grandmother's house in Piedmont and took her items to the scrap yard. The Drum set and a key board was taken to the pond ship call Palmer the Pond in the Eastly area. While there I was looking for a job and Matthew only wanted to Rob people. I told him I'm not with it. He always stayed in the phone answering about was he hot in Barwell. Then one morning he said he is wanted for a homicide. I told him if he is he going have to man up on his charges cause I'm not falling for no ones acters. I did not know the homicide was pretending to be Ms. Dempsey till Friday morning on the 8th of Nov. 2013. All that day we was arguing cause not only he took items from my neighbors, he probably killed her as well. I then began doing my research and started calling back home. That's when I found out she was dead. From the following people Willama Buckman Ashley Konatree and Ms. Brenda Buckman. Iasha Williams. When I ask him about it he just said I need to leave the state. I told him I was going back home to clear my name. We got into an argument at a small country store I went in to charge my phone and when I come out he was gone. I was stranded. I called Investigator Mr. Wayne Martin and told him I will be back in Barwell to

Date: 11/10/13 Time: 5:29pm

Michael P. Buckman
Signature of person giving voluntary statement

Person giving statement to place initials behind last word of statement as appears on last page.

VOLUNTARY STATEMENT
SUPPLEMENTALMichael Paul Buckman

Statement of, Continued.

cooperated with my questions, and my only
involvement which is in possession of someone's
stolen goods. M.P.B.

Question & Answer:

① Did you participate in the death of Donna Dempsey?

A: NO

② Did you participate in the fire at Donna Dempsey's house?

A: NO

③ Did you engage in sexual intercourse with Donna Dempsey on
October 31st, 2013, or November 1st, 2013?

A: ~~YES~~ M.P.B. NO

④ When was the last time you engaged in sexual intercourse
with Donna Dempsey?

A: Wednesday Oct 30 2013

⑤ How long have you been engaging in sexual intercourse
with Donna Dempsey?

A: Roughly 2 months

⑥ When you engaged in sexual intercourse with Donna Dempsey on
October 30, 2013, did you use a condom?

A: yes and I pulled them OFF AND THREW IT AWAY



MIRANDA RIGHTS

PLACE: Barnwell Police Dept DATE: Nov 11, 2013 TIME: 5:52 PM

BEFORE WE ASK YOU QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

- M.P.B. You have the right to remain silent.
- M.P.B. Anything you say can be used in court as evidence against you.
- M.P.B. You are entitled to talk to a lawyer now and have him present now or at any time during questioning.
- M.P.B. If you cannot afford an attorney, one will be appointed for you without cost.
- M.P.B. If you decide to answer questions now, without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.
- M.P.B. Do you understand these rights?
- M.P.B. Do you wish to talk to us at this time?

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to talk now without a lawyer present. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed: Michael P.B.

Witness: [Signature]
Witness: [Signature]

RECEIVED 810-531-4888	COURT'S
	EXHIBIT NO. <u>3</u>
	IDENTIFICATION EVIDENCE
	DKT # <u>Buckman</u>
DATE: <u>7-19-16</u>	

State of South Carolina

Court of General Sessions

County of Barnwell

State	)	
	)	
	)	Transcript of Record
v.	)	2014-GS-06-00359
	)	2014-GS-06-00205
Michael Paul Buckmon	)	2014-GS-06-00210
	)	
<u>Defendant.</u>	)	

October 17 - 19, 2016
Barnwell, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge; and a jury.

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

David Miller, Deputy Solicitor
Attorney for the State

Michael Chessser, Esquire
Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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1 P R O C E E D I N G S

2 * * *

3 THE COURT: All right. Mr. Miller, call your
4 first case.

5 MR. MILLER: Thank you, Your Honor. May it
6 please the Court? State calls the State of South
7 Carolina vs. Michael Paul Buckmon, Indictment
8 2014-GS-06-00359, a true billed indictment for
9 criminal sexual conduct in the first degree;
10 Indictment 2016-GS-06-205, a true billed indictment
11 for arson in the first degree involving death;
12 Indictment 2016-GS-06-210, true billed indictment
13 for murder.

14 THE COURT: All right. Ladies and gentlemen of
15 the jury panel, the State has called for trial a
16 case against the defendant Michael Paul Buckmon. He
17 has been indicted for the offenses of criminal
18 sexual conduct, arson in the first degree, and
19 murder.

20 Mr. Buckmon has pled not guilty to all three
21 indictments. A plea of not guilty clothes him with
22 the constitutional presumption of innocence unless
23 the State is able to prove to you beyond a
24 reasonable doubt the elements of each of these three
25 separate indictments separate and apart from the

1 other.

2 So Mr. Buckmon has pled not guilty. He's
3 presumed to be innocent unless the State is able to
4 prove his guilt to you beyond a reasonable doubt.

5 The fact that he's been arrested, charged and
6 indicted, that is not evidence in the case. These
7 are simply allegations. These are the formal legal
8 documents by way this case comes into the courtroom.
9 Please do not infer anything from the fact that he
10 has been indicted for these three offenses.

11 By pleading not guilty, we will have a jury
12 trial. During that trial, you will be the judges of
13 the facts. You will determine what the true facts
14 are and apply it to the law as I give it to you at
15 the conclusion of the case.

16 Now, as I told you earlier, we will select 12
17 jurors to serve. We will select three alternates
18 since this may go into Thursday. I have to ask you
19 a few more questions to determine whether or not
20 you're qualified to serve on this particular trial
21 that has been called, so please listen carefully.
22 And, once again, if any of the questions apply to
23 you, please stand and we will discuss them.

24 Do I have any member of the jury panel who is
25 related by blood or marriage or do I have anyone in

1 the jury panel who has ever had a close personal or
2 social relationship with Michael Paul Buckmon?

3 Mr. Buckmon, would you stand and face the jury
4 panel please.

5 THE DEFENDANT: You want me to stand?

6 THE COURT: Please.

7 Thank you. You may be seated.

8 Ma'am, please remain standing.

9 -- or the victim in this case who is a person
10 named Donna Dempsey? So is anyone related by blood
11 or marriage to Mr. Buckmon, Michael Paul, or to the
12 deceased Donna Dempsey or have had a close personal
13 or social relationship? Please stand.

14 You're not on the jury, sir.

15 THE WITNESS: No, sir.

16 THE COURT: All right. Ladies first. In the
17 white blouse, ma'am, your name and number?

18 POTENTIAL JUROR: I don't know my number but my
19 name is Janie Garvin. He was my son's friend in
20 school so I know him good.

21 THE COURT: You know the defendant?

22 POTENTIAL JUROR: Yes.

23 THE COURT: Ms. Garvin?

24 POTENTIAL JUROR: Yes.

25 THE COURT: All right. Thank you. Hold on.

1 Ma'am, your name and number?

2 POTENTIAL JUROR: I'm Tameka Jones. I'm not
3 sure about my number. I'm close friends with the
4 defendant.

5 THE COURT: How close?

6 POTENTIAL JUROR: We grew up together.

7 THE COURT: Grew up together? Okay.

8 And sir on the back with the striped shirt,
9 your name and number?

10 POTENTIAL JUROR: My number is 24, Willie
11 Brown. Good friend.

12 THE COURT: Good friend?

13 POTENTIAL JUROR: Yes.

14 THE COURT: And ma'am, your name and number?

15 POTENTIAL JUROR: 133, Charlene Darlington.
16 His aunt Sherrie Sherman Cooler and I were friends.
17 We went to grade school and college together.

18 THE COURT: Okay. So you're close friends to
19 his family?

20 POTENTIAL JUROR: Yes.

21 THE COURT: All right. Well, serving on a
22 jury -- please remain standing for me. Serving on a
23 jury requires that you listen to testimony and
24 determine who is telling the truth. And we're all
25 human. I mean, we have close friends, and it's

1 sometimes hard to judge a close friend or family or
2 somebody that you grew up with or somebody that
3 you've known all your life. And we normally don't
4 put people on juries who are that close to either
5 the defendant or the victim or even any of the
6 witnesses. I'm going to ask the same question about
7 witnesses so -- ma'am, your name again on the front?

8 POTENTIAL JUROR: My name? Charlene Owens
9 Darlington.

10 THE COURT: Would you rather be relieved of
11 your duty from having to listen to testimony dealing
12 with close family friends?

13 POTENTIAL JUROR: I do.

14 THE COURT: You don't think you could be fair,
15 is what I'm saying? And that's human nature.

16 POTENTIAL JUROR: I would be fair but it's
17 uncomfortable.

18 THE COURT: I understand. All right. I'm
19 going to excuse you from the trial of the case.

20 POTENTIAL JUROR: Thank you.

21 THE COURT: Y'all got her name and number?

22 POTENTIAL JUROR: 133. I may leave now?

23 THE COURT: Yes, ma'am.

24 POTENTIAL JUROR: Okay. Thank you.

25 THE COURT: Ma'am in the white shirt, your name

1 and number again?

2 POTENTIAL JUROR: My name is Janie Garvin but I
3 don't remember my number.

4 MR. MILLER: 190.

5 THE COURT: And you are --

6 POTENTIAL JUROR: Well, actually I knew him as
7 a little boy and he used to be my son's best friend,
8 so he's just like a son to me too.

9 THE COURT: All right. I deem legally that to
10 be too close. I'm going to excuse you from the
11 trial of the case. That wouldn't be fair to him or
12 to the State.

13 POTENTIAL JUROR: Thank you.

14 THE COURT: Ma'am, your name again?

15 I'm going to get to you in just a second,
16 ma'am.

17 POTENTIAL JUROR: Tameka Jones.

18 THE COURT: And you grew up with him?

19 POTENTIAL JUROR: Yes. And I'd rather be
20 relieved.

21 THE COURT: I'm going to remove you. That's
22 too close. Thank you.

23 Sir?

24 POTENTIAL JUROR: Willie Brown, Juror 24.

25 THE COURT: And you grew up with him too?

1 POTENTIAL JUROR: Well, we hung together a
2 while.

3 THE COURT: Hung together? I'm older than you
4 are. Hanging together, I assume, means y'all are
5 close friends?

6 POTENTIAL JUROR: Yeah, we was good friends.

7 THE COURT: All right. I'm going to excuse you
8 too.

9 POTENTIAL JUROR: Thank you.

10 THE COURT: Ma'am, you stood up a couple times
11 in the pretty multicolored blouse. Your name and
12 number?

13 POTENTIAL JUROR: Irene Aaron, Number 1.

14 THE COURT: And what's your situation?

15 POTENTIAL JUROR: He was a good friend to my
16 son and my nephew, so -- and I knew his Aunt
17 Sherrie.

18 THE COURT: And his what?

19 POTENTIAL JUROR: Excuse me?

20 THE COURT: He's a good friend to your son and
21 what?

22 POTENTIAL JUROR: And I know his Aunt Sherrie.

23 THE COURT: So in other words, pretty close
24 family relationship with his family and your family?

25 POTENTIAL JUROR: Well, he was like one of my

1 son's and nephew's friends so they came around a
2 lot. So I don't know -- it would be kind of funny
3 feeling --

4 THE COURT: I understand. I'm going to excuse
5 you. Thank you. You may leave.

6 Ma'am in the back, your name and number?

7 POTENTIAL JUROR: Alicia Buxton, Juror Number
8 27. Michael Paul and I grew up together. We lived
9 in the same apartments together, went to school
10 together. I would definitely like to be excused.

11 THE COURT: I will excuse you. That's too
12 close. Thank you.

13 Anyone else?

14 I asked about two names. Mike Paul Buckmon and
15 the alleged victim is Donna Dempsey.

16 Anyone related by blood or marriage or had a
17 close relationship with Donna Dempsey?

18 All right. We're going to go through that same
19 exercise. Listen to these names as I call them and
20 then I'll ask the same question. The potential
21 witnesses in the trial of the case are: Tracy
22 Dempsey -- I assume some kin to Donna Dempsey. I'm
23 not sure -- Chris Robinson from Sharpton, Georgia;
24 Hakeem Mixon; Felicia Worthy; and Lisha Williams as
25 well as Loy Mitcham from Aiken.

1 THE WITNESS: I'm here, sir.

2 THE COURT: You're who?

3 THE WITNESS: Loy Mitcham.

4 THE COURT: Stand up for us, Mr. Mitcham,
5 please.

6 THE WITNESS: Yes, sir.

7 THE COURT: Thank you. Just look at the jury
8 panel.

9 Thank you. You may be seated.

10 -- Captain Mark Cato from the Barnwell Fire
11 Department; Janice Ross -- she's a doctor from
12 Newberry. She's a pathologist -- Lieutenant Craig
13 Collier with SLED; Detective Deputy Glen Rice with
14 Bamberg County Sheriff's Office; special agent with
15 SLED Sterling Seals; and Matthew Trey Bolen of
16 Williston.

17 Same question: Do I have any member of the
18 jury panel who is related by blood or marriage, now
19 or in the past, or do you now or have you in the
20 past had a close personal or social relationship
21 with any of these potential witnesses? If so,
22 please stand.

23 Ladies first. In the black blouse.

24 POTENTIAL JUROR: I've known Mark Cato --

25 THE COURT: Your name and number?

1 POTENTIAL JUROR: Katrina Arbogast, Number 5.

2 THE COURT: And you know our fire chief; is
3 that correct?

4 POTENTIAL JUROR: Yes. And Glen Rice.

5 THE COURT: And who?

6 POTENTIAL JUROR: Glen Rice.

7 THE COURT: Used to work here, now works in
8 Bamberg. Glad to have him in Bamberg.

9 Know them or went to school with them, grew up
10 with them or what?

11 POTENTIAL JUROR: I know them. My husband used
12 to work with both of those.

13 THE COURT: Well, the fact that you know them
14 and I assume that means you just know them -- I know
15 a lot of people in the town I live in. Some of them
16 I'm close to; some I just know.

17 POTENTIAL JUROR: Well, my husband and Mark
18 Cato are -- well, they were real good friends. They
19 still talk a good bit.

20 THE COURT: I want to feed everybody out of the
21 same spoon and be fair. Is that relationship very
22 close?

23 POTENTIAL JUROR: Not as much.

24 THE COURT: All right. Let me ask you this:
25 The fact that you have some knowledge or know a

1 couple of the witnesses, Captain Cato and Detective
2 Rice, would that in any way preclude or keep you
3 from being a fair and impartial juror in the trial
4 of this case being able to side the fact that your
5 husband has some friendship with them and decide
6 this case based solely on what is presented in the
7 courtroom? Can you do that?

8 POTENTIAL JUROR: Yes.

9 THE COURT: Thank you. You may be seated.
10 Sir in the front right here.

11 POTENTIAL JUROR: Juror 149, Daryl Rhymes. I
12 know Glen Rice.. He is my niece's husband.

13 THE COURT: Your niece's husband? So that
14 makes him family by marriage?

15 POTENTIAL JUROR: Yeah, family by marriage.

16 THE COURT: All right. I'm going to excuse you
17 from the trial of this case. You're excused. Too
18 close.

19 Sir, your name and number again, in the white
20 shirt?

21 POTENTIAL JUROR: Thomas Higgs, Number 74.

22 THE COURT: And?

23 POTENTIAL JUROR: Approximately ten years ago
24 over a period of some eight years prior to that, I
25 worked with Glen Rice and I worked periodically with

1 Captain Cato. He was a volunteer fireman for the
2 city. Detective Rice was a police officer -- making
3 them essentially a second-tier, third-tier employee.

4 THE COURT: So you were a volunteer fireman at
5 the time?

6 POTENTIAL JUROR: No, sir. I was city
7 manager -- city administrator here. But I have not
8 seen them in some ten years.

9 THE COURT: Okay. That's fair enough. The
10 fact that you were the city manager at that time and
11 these gentlemen worked for the city, would that in
12 any way preclude or keep you from being able to
13 decide this case based solely on what is presented
14 on the witness stand and determining what the true
15 facts are and applying those facts as they give them
16 to you?

17 POTENTIAL JUROR: No, sir.

18 THE COURT: Thank you. You may be seated.

19 POTENTIAL JUROR: Terry Birkenstock.

20 THE COURT: I'm sorry. Your name and number?

21 POTENTIAL JUROR: Terry Birkenstock. Can't
22 remember the number.

23 THE CLERK: Number 15.

24 POTENTIAL JUROR: This morning due to the lack
25 of me keeping proper time I came early trying to

1 find when court started, and I approached these good
2 people -- the two people on the front and asked them
3 were they here for jury duty and they explained that
4 they were here to testify on a murder trial. We
5 didn't talk anything more about it after that.

6 THE COURT: Mr. Birkenstock, thank you for
7 bringing that to my attention. That certainly was a
8 benign request as to why you were here early and
9 what they were doing here. In any way -- would that
10 in any way preclude or keep you from being fair and
11 impartial in the trial of the case?

12 POTENTIAL JUROR: Other than their emotional,
13 why they were here, no, sir.

14 THE COURT: Well, what do you mean by that,
15 other than --

16 POTENTIAL JUROR: You could feel the emotion
17 from it.

18 THE COURT: Well, murder trials are very
19 emotional cases for everybody concerned, including
20 me and the -- everybody. It's a civic duty that's
21 not -- you can't do it without feeling some emotion.

22 POTENTIAL JUROR: It was an eye-opener and the
23 reason why I was here. Didn't want to be here but
24 when I seen somebody was here, you could see there's
25 a reason why I was here. People are involved in a

1 decision and you need to --

2 THE COURT: But can you make that decision
3 based solely on what you hear presented in this
4 courtroom?

5 POTENTIAL JUROR: I believe so, sir.

6 THE COURT: Thank you. You may be seated.

7 Representing Mr. Buckmon are lawyers from Aiken
8 Mr. Michael Routzong and Michael Chesser.
9 Mr. Chesser is on my right, your left. Mr. Routzong
10 is on my left, your right.

11 The State will be represented by Mr. David
12 Miller and Mr. Harte, Wilder Harte. They live in
13 Aiken as well. Mr. Harte now lives in Columbia, I
14 think.

15 First question: Has anyone on the jury panel
16 ever had legal work in the past or currently
17 performed by any of the four lawyers? If so, please
18 stand.

19 Is any member of the jury panel related by
20 blood or marriage, or do you now or have you in the
21 past had a close personal relationship with any of
22 the four lawyers who are involved in the case?

23 As I told you earlier, the indictment is the
24 means by way this trial comes into the courtroom.
25 The indictment is the means by way this case comes

1 into the courtroom. I need to ask you if you know
2 anything about the case, about the facts in the
3 case, if you heard anything about it, read anything
4 about it, formed any opinions, anybody's discussed
5 it with you, formed any preconceived ideas about the
6 case.

7 It's alleged -- it is alleged -- these are
8 allegations that must be proven in court -- that
9 here in Barnwell County on Halloween of 2013 -- the
10 night of October 31, 2013 into the morning hours of
11 November 1, 2013 it is alleged that during that time
12 period on Berry Street -- and I'm not sure where
13 Berry Street is, but it's [REDACTED] here in
14 Barnwell -- that Mr. Buckmon committed a sexual
15 battery on the deceased Donna Dempsey, constituting
16 the crime of criminal sexual conduct.

17 It is further alleged that on those dates,
18 probably into the morning hours of November 1, 2013,
19 that by -- with malice aforethought, he murdered her
20 by incapacitating her in some manner and setting
21 fire to her residence where she was and as a result
22 she died from the fire.

23 It is further alleged that between October 31
24 and November 1 of 2013 that he caused the residence
25 or structure or building in which she died, that he

1 caused it to be set on fire, caused it to be burned.
2 In other words, it's a case involving an event that
3 occurred on Berry Street in Barnwell Halloween night
4 of 2013 into the early morning hours of November 1,
5 2013. It's alleged that he had sexual battery with
6 her that constituted criminal sexual conduct, that
7 he caused her injuries, that he incapacitated her,
8 set the house on fire and she died as a result.

9 Now, my question is: Do I have any member of
10 the jury panel that has any knowledge of this event
11 other than perhaps what you have read in the
12 newspaper or any knowledge whatsoever which would
13 preclude you from serving? If so, please stand.

14 Has anyone discussed this case with you? Have
15 you read about it in the newspaper, seen it on the
16 TV, Internet, neighbors talked to you about it?
17 Anyone know anything at all about what happened back
18 in 2013 on Halloween night on Berry Street?

19 Anyone formed any opinion about it?

20 Ladies and gentlemen, the way under our system
21 of justice, which our forefathers fought for and we
22 have our constitution and the laws that have evolved
23 since the 1700s, when anyone is accused, such as
24 Mr. Buckmon is in this case, of this offense of
25 arson first degree, criminal sexual conduct and

1 murder, if he's accused and he says, I plead not
2 guilty, then our system of justice handles it in
3 this manner: We select 12 citizens from the
4 community to sit and listen to the evidence and
5 determine whether or not the State can prove his
6 guilt to you beyond a reasonable doubt.

7 In other words, during the trial of a criminal
8 case as well as a civil case, but in a criminal
9 case, we have two judges who participate in the
10 trial of the case. Now, it's obvious that I'm one
11 of the judges because I'm up here with a black robe
12 on.

13 I was elected by the State legislature to be
14 the resident judge of Bamberg, Barnwell and Aiken
15 Counties 12 years ago, and I preside in trials all
16 over the state. And in those cases that I preside
17 in I am the judge of the law in the case. In other
18 words, I instruct you what the law is and you're
19 under an oath to accept the law as I give to you.

20 So my job is fairly easy. I tell you what the
21 law is dealing with murder and criminal sexual
22 conduct and arson in the first degree, proof beyond
23 a reasonable doubt, presumption of innocence. Those
24 sorts of things. That's my main job in the case.
25 I'm the judge of the law.

1 My other main responsibility is to make sure
2 that the lawyers on both sides present their cases
3 and present the evidence so that it complies with
4 the rules of evidence and the rules of criminal
5 procedure. What that happens sometimes is they can
6 ask witness 1 a question and they'll say, well, it
7 was in the nighttime, and witness 2 will say it was
8 in the daytime, witness 3 will say, I don't know.

9 All of them are proper questions. You get
10 three different answers. So we have to have a
11 smarter judge than me. We have to have a judge of
12 the facts in the case. And the judge of the facts
13 in the case, they listen to all of the testimony and
14 they determine who is telling the truth. They judge
15 the credibility or the believability of the
16 witnesses who testify in the case.

17 You do that day in and day out dealing with
18 your children, your husbands, your wives, your
19 friends, employees, employers. You know how to
20 judge when someone is telling to truth. So that's
21 the judges of the facts.

22 Well, so happens that judge of the facts are 12
23 people collectively acting as one. So the 12 jurors
24 who are the judges of the facts, you listen and
25 determine what the true facts are. And once you

1 make a decision as to what those true facts are, you
2 apply the facts to the law as I give it to you, and
3 then you will be in a position to render a true and
4 just verdict in the case. Verdict simply means to
5 speak the truth.

6 So having said that, do I have anyone on the
7 jury panel who is unable for any reason whatsoever,
8 whether it be a personal belief, a political belief,
9 a religious belief or any kind of belief, that
10 cannot perform this civic duty by sitting on the
11 jury panel, listening to the testimony and
12 determining what the true facts are and applying it
13 to the law as I give to you?

14 I need to know that now. Do I have anyone who
15 cannot perform that civic duty? Please stand.

16 Yes, ma'am, your name and number? You want to
17 come up here and tell me what's going on, why you
18 can't do that?

19 Your name and number?

20 POTENTIAL JUROR: 115, Kimberley M.

21 THE COURT: What's going on?

22 POTENTIAL JUROR: Because of my religious
23 beliefs.

24 THE COURT: What kind of religion?

25 POTENTIAL JUROR: Jehovah's witness. I don't

1 believe in judging --

2 THE COURT: You're not judging. What you're
3 doing is determining what the true facts are and
4 applying it to the law as I give it to you. You
5 can't do that?

6 POTENTIAL JUROR: I don't believe I can put
7 judgment on someone.

8 THE COURT: All right. Well, you stay with us.
9 I'll excuse you from the trial of this case but you
10 need to stay with us.

11 POTENTIAL JUROR: Okay.

12 THE COURT: Do I have any member of the jury
13 panel who is a contributor to or a member of an
14 organization or group that has as its primary
15 concern the promotion of law enforcement or victim's
16 rights, such as MADD, Mothers Against Drunk Drivers;
17 SADD, Students Against Drunk Drivers; CAVE, Citizens
18 Against Violent Crime, or some other type of group?
19 Anyone a member of those types of groups?

20 Any member of the jury panel, you or your
21 immediately family an employee of law enforcement --
22 that would be the Barnwell County Sheriff's Office
23 or Police Department, SLED, highway department --
24 please stand.

25 Yes, sir?

1 POTENTIAL JUROR: My son was formerly a police
2 officer in Williston.

3 THE COURT: In Williston?

4 POTENTIAL JUROR: For about two years and
5 Blackville for about two years. He is currently
6 working in Beckley, West Virginia as a mechanic at a
7 ski resort.

8 THE COURT: He's probably having more fun at
9 the ski resort. You're Mr. Birkenstock, right?
10 Number 15?

11 POTENTIAL JUROR: Yes, sir. And my sister
12 retired from Dayton, Ohio, full career as a police
13 officer.

14 THE COURT: Thank you. And the fact that you
15 had family in law enforcement in the past, would
16 that in any way, sir, preclude you from being fair
17 and impartial?

18 POTENTIAL JUROR: I believe not, sir.

19 THE COURT: Thank you. You may be seated.

20 Yes, ma'am? Your name and number again?

21 POTENTIAL JUROR: Katrina Arbogast, Number 5.
22 My husband is an ex-police officer.

23 THE COURT: I'm sorry. Is a what?

24 POTENTIAL JUROR: My husband is an ex-police
25 officer.

1 THE COURT: Aiken? Where does he work?

2 POTENTIAL JUROR: He's no longer a police
3 officer now.

4 THE COURT: The fact that your husband was at
5 one time a police officer, would that in any way,
6 ma'am, preclude or keep you from being fair and
7 impartial, being able to try the case based solely
8 on what you hear in the courtroom?

9 POTENTIAL JUROR: No, sir.

10 THE COURT: Thank you. You may be seated.
11 Sir in the back?

12 POTENTIAL JUROR: Ronnie, Juror Number 68 or 9.
13 I'm not sure.

14 THE CLERK: 68.

15 POTENTIAL JUROR: My son-in-law J.D. Grubbs was
16 an employee for the Barnwell Sheriff's Office.

17 THE COURT: The fact that your family member
18 was in the past a member of the local law
19 enforcement, Mr. Hare, would that in any way
20 preclude or keep you from being fair and impartial
21 in the trial of the case?

22 POTENTIAL JUROR: I don't think so, no, sir.

23 THE COURT: Thank you. You may be seated.

24 Ma'am, your name and number?

25 POTENTIAL JUROR: Maddie Brown, Juror 23.

1 THE COURT: Yes, ma'am, Ms. Brown?

2 POTENTIAL JUROR: Detention officer at Aiken
3 County Detention Center. I worked with SCDC from
4 2013 to December of last year.

5 THE COURT: And the fact that you worked in the
6 detention center at one time, Ms. Brown, would that
7 in any way preclude or keep you from being fair and
8 impartial in the trial of the case?

9 POTENTIAL JUROR: Yes, sir.

10 THE COURT: All right. Remove her from the
11 jury. But you have to stay with me.

12 Your name and number?

13 POTENTIAL JUROR: Ethyl Washington. I don't
14 know the number.

15 THE CLERK: Number 185.

16 POTENTIAL JUROR: My sister was a jailer at the
17 Barnwell County Detention Center.

18 THE COURT: When was that, Ms. Washington?

19 POTENTIAL JUROR: I think she's done been
20 retired now about eight years.

21 THE COURT: About eight years? So long before
22 this allegedly happened?

23 POTENTIAL JUROR: Oh, yes.

24 THE COURT: Would that in any way keep you from
25 being fair and impartial?

1 POTENTIAL JUROR: No, it would not.

2 THE COURT: Thank you, Ms. Washington.

3 Do I have any member of the jury panel who a
4 member of your family has been a victim of burglary
5 or arson or of a murder? If so, please stand.

6 Mr. Hare?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: What was your number? 68?

9 POTENTIAL JUROR: 68. My dad was the victim of
10 an armed robbery attack that led to his death
11 numerous years ago.

12 THE COURT: How long ago was that?

13 POTENTIAL JUROR: Roughly 28 years ago.

14 THE COURT: All right. Mr. Hare, the fact that
15 you had to endure that unpleasant experience, would
16 that in any way preclude or keep you from being able
17 to be a juror in the trial of this case, being fair
18 to both sides?

19 POTENTIAL JUROR: Honestly it could, sir.

20 THE COURT: Could?

21 POTENTIAL JUROR: It could.

22 THE COURT: I can understand. We'll excuse you
23 from the trial of the case.

24 POTENTIAL JUROR: Thank you.

25 THE COURT: Stick with me a minute.

1 Ma'am on the front row in the Gamecock colors.

2 POTENTIAL JUROR: 77, Tamara Hudson. My house
3 was burglarized about four years ago.

4 THE COURT: And the fact that your house was
5 burglarized four years ago, would that keep you from
6 being a fair and impartial juror and being able to
7 try the case based solely on what you hear?

8 POTENTIAL JUROR: No.

9 THE COURT: Thank you, ma'am.

10 Ma'am in the green and black.

11 POTENTIAL JUROR: Carla Dobson 50. House
12 broken into..

13 THE COURT: I'm sorry. Your name and number
14 again?

15 POTENTIAL JUROR: Carla Dobson, 50. My house
16 was broken into several years back.

17 THE COURT: And the fact that your house was
18 broken into years ago, ma'am, would that in any way
19 preclude or keep you from being fair and impartial?

20 POTENTIAL JUROR: No, sir.

21 THE COURT: You may be seated.

22 Sir, last but not least?

23 POTENTIAL JUROR: Brian Meister, Juror 72. My
24 mom was robbed at gunpoint probably 15 years ago.

25 THE COURT: Would that event preclude or keep

1 you from being fair and impartial in the trial of
2 the case?

3 POTENTIAL JUROR: No, sir.

4 THE COURT: Thank you. You may be seated.

5 Last question: Does any member of the jury
6 panel know of any reason whatsoever why he or she
7 should not be able to serve as a juror with
8 particular emphasis being placed on your ability to
9 be fair both to the defendant and to the State? If
10 so, please stand.

11 Any additional questions by the State?

12 MR. MILLER: None by the State, Your Honor.

13 THE COURT: By the defendant?

14 MR. CHESSER: No, Your Honor.

15 THE COURT: All right.

16 Ladies and gentlemen, the way we select a jury
17 now on a criminal case as opposed to a civil case,
18 who are car wreck cases or legal malpractice or
19 something of that nature -- if we were trying a
20 civil case, Ms. McElveen would give me a list with
21 20 names on it; the plaintiff, the person bringing
22 the suit would strike four; the defendant would
23 strike four, leaving us with 12.

24 In a criminal case it's a little different. We
25 will randomly select jurors from a computer program.

1 We used to do it with a cigar box, just pull them
2 out for years. But you'll be selected randomly.
3 And as your name is called, if you would, please
4 come and stand right here. The State has five
5 strikes. The defendant has ten strikes. And they
6 can strike you for most any reason or no reason at
7 all within certain bounds.

8 Obviously that's dictated by certain cases
9 before the U.S. Supreme Court. The lawyers know all
10 about. They have to comply with those. Case called
11 Batson, one of the main ones. But anyway, don't get
12 your feelings hurt if they strike you because
13 sometimes I don't know why.

14 But anyway, we'll go through that process until
15 we get 12 jurors and three alternates and then we'll
16 have our jury. So as your name is called please
17 come forward and stand right here.

18 THE CLERK: Juror No. 159 Donald Sanders.

19 (Donald Sanders comes forward.)

20 THE CLERK: What says the State?

21 MR. MILLER: Please present Mr. Sanders.

22 THE CLERK: What says the defense?

23 MR. CHESSER: Please strike Mr. Sanders.

24 Please excuse Mr. Sanders.

25 THE CLERK: Juror No. 82, Gary James.

1 (Gary James comes forward.)
2 THE CLERK: What says the State?
3 MR. MILLER: Please present Mr. James.
4 THE CLERK: What says the defense?
5 MR. CHESSER: Please seat Mr. James.
6 THE CLERK: Juror No. 54, Michael Dikes.
7 (Michael Dikes comes forward.)
8 THE CLERK: What says the State?
9 MR. MILLER: Please present Mr. Dikes.
10 THE CLERK: What says the defense?
11 MR. CHESSER: Please excuse Mr. Dikes.
12 THE CLERK: Juror No. 41, Porter Clayter.
13 (Porter Clayter comes forward.)
14 THE CLERK: What says the State?
15 MR. MILLER: Please present Mr. Clayter.
16 THE CLERK: What says the defense?
17 MR. CHESSER: Please seat Mr. Clayter.
18 THE CLERK: Juror No. 158, David Ryans.
19 (David Ryans comes forward.)
20 THE CLERK: What says the State?
21 MR. MILLER: Please present Mr. Ryans.
22 THE CLERK: What says the defense?
23 MR. CHESSER: Please seat Mr. Ryans.
24 THE CLERK: Juror No. 118, Valerie Moody.
25 (Valerie Moody comes forward.)

1 THE CLERK: What says the State?
2 MR. MILLER: Please present Ms. Moody.
3 THE CLERK: What says the defense?
4 MR. CHESSER: Please seat Ms. Moody.
5 THE CLERK: Juror No. 75, Larry Highsmith.
6 (Larry Highsmith comes forward.)
7 THE CLERK: What says the State?
8 MR. MILLER: Please present Mr. Highsmith.
9 THE CLERK: What says the defense?
10 MR. CHESSER: Please excuse this juror.
11 THE CLERK: Juror No. 95, Alex Kennedy.
12 (Alex Kennedy comes forward.)
13 THE CLERK: What says the State?
14 MR. MILLER: Please present the juror.
15 THE CLERK: What says the defense?
16 MR. CHESSER: Please seat the juror.
17 THE CLERK: Juror No. 14, Barbara Bell.
18 (Barbara Bell comes forward.)
19 THE CLERK: What says the State?
20 MR. MILLER: Please present Ms. Bell.
21 THE CLERK: What says the defense?
22 MR. CHESSER: Please excuse Ms. Bell.
23 THE CLERK: Juror No. 58, Johnnie Faust.
24 (Johnnie Faust comes forward.)
25 THE CLERK: What says the State?

1 MR. MILLER: Please present Mr. Faust.
2 THE CLERK: What says the defense?
3 MR. CHESSER: Please seat Mr. Faust.
4 THE CLERK: Juror No. 109, David Martin.
5 (David Martin comes forward.)
6 THE CLERK: What says the State?
7 MR. MILLER: Please present Mr. Martin.
8 THE CLERK: What says the defense?
9 MR. CHESSER: Please seat Mr. Martin.
10 THE CLERK: Juror No. 86, Chicora Johnson.
11 (Chicora Johnson comes forward.)
12 THE CLERK: What says the State?
13 MR. MILLER: Please excuse Ms. Johnson from the
14 trial of this case.
15 THE CLERK: Juror No. 186, Lessie Washington.
16 (Lessie Washington comes forward.)
17 THE CLERK: What says the State?
18 MR. MILLER: Please excuse Ms. Washington from
19 the trial of this case.
20 THE CLERK: Juror No. 125, Ronald Neville.
21 (Ronald Neville comes forward.)
22 THE CLERK: What says the State?
23 MR. MILLER: Please present the juror.
24 THE CLERK: What says the defense?
25 MR. CHESSER: Please seat Mr. Neville.

1 THE CLERK: Number 10, Betty Baxley.
2 (Betty Baxley comes forward.)
3 THE CLERK: What says the State?
4 MR. MILLER: Please present the juror.
5 THE CLERK: What says the defense?
6 MR. CHESSER: Please seat Ms. Baxley.
7 THE CLERK: Juror No. 108, Stephanie Mahuron.
8 (Stephanie Mahuron comes forward.)
9 THE CLERK: What says the State?
10 MR. MILLER: Please present the juror.
11 THE CLERK: What says the defense?
12 MR. CHESSER: Please seat Ms. Mahuron.
13 THE CLERK: Juror No. 53, Christine Dunaway.
14 (Christine Dunaway comes forward.)
15 THE CLERK: What says the State?
16 MR. MILLER: Please present the juror.
17 THE CLERK: What says the defense?
18 MR. CHESSER: Please excuse Ms. Dunaway.
19 THE CLERK: Juror No. 26, Betty Burch.
20 (Betty Burch comes forward.)
21 THE CLERK: What says the State?
22 MR. MILLER: Please present Ms. Burch.
23 THE CLERK: What says the defense?
24 MR. CHESSER: Please seat Ms. Burch.
25 THE CLERK: Juror 185, Ethel Washington.

1 (Ethel Washington comes forward.)

2 THE CLERK: What says the State?

3 MR. MILLER: Please present Ms. Washington.

4 THE CLERK: What says the defense?

5 MR. CHESSER: Please seat Ms. Washington.

6 THE COURT: All right. Two and one, three
7 alternates.

8 THE CLERK: Juror No. 59, Karen Flanders.

9 (Karen Flanders comes forward.)

10 THE CLERK: What says the State?

11 MR. MILLER: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. CHESSER: Please seat Ms. Flanders.

14 THE CLERK: Juror No. 96, Anthony Kennedy.

15 (Anthony Kennedy comes forward.)

16 THE CLERK: What says the State?

17 MR. MILLER: Please excuse Mr. Kennedy from the
18 trial of this case.

19 THE CLERK: Juror No. 152, April Robinson.

20 (April Robinson comes forward.)

21 THE CLERK: What says the State?

22 MR. MILLER: Please present Ms. Robinson.

23 THE CLERK: What says the defense?

24 MR. CHESSER: Please seat Ms. Robinson.

25 THE CLERK: Juror No. 153 Donald Robinson.

1 THE COURT: Two and one again, gentlemen.
2 (Donald Robinson comes forward.)
3 THE CLERK: What says the State?
4 MR. MILLER: Please excuse Mr. Robinson from
5 the trial of this case.
6 THE COURT: Who was that?
7 THE CLERK: Donald Robinson, Juror No. 153.
8 THE COURT: Thank you.
9 THE CLERK: Juror No. 76, Thomas Houston.
10 (Thomas Houston comes forward.)
11 THE CLERK: What says the State?
12 MR. MILLER: Please present Mr. Houston.
13 THE CLERK: What says the defense?
14 MR. CHESSEY: Please excuse Mr. Houston.
15 THE CLERK: Juror No. 15 Terry Berkenstock.
16 (Terry Berkenstock comes forward.)
17 THE CLERK: What says the State?
18 MR. MILLER: Please present the juror.
19 THE CLERK: What says the defense?
20 MR. CHESSEY: Please excuse Mr. Berkenstock.
21 THE CLERK: Juror No. 91, Thomas Johnson.
22 (Thomas Johnson comes forward.)
23 THE CLERK: What says the State?
24 MR. MILLER: Please present the juror.
25 THE CLERK: What says the defense?

1 MR. CHESSER: Please seat the juror.

2 THE COURT: Any motions by the State or the
3 defendant in connection with the selection of the
4 jury?

5 MR. MILLER: None from the State, Your Honor.

6 MR. CHESSER: None from the defense.

7 THE COURT: Now, ladies and gentlemen, as
8 stated earlier and as represented I am now going to
9 release you. Those of you who were not selected
10 will be released for the balance of the week.
11 You'll receive a check from the clerk by mail within
12 the next few days.

13 If anyone needs a work excuse, please go
14 downstairs to the clerk's office and they will
15 provide one for you.

16 I thank you for your willingness to participate
17 in this civic duty. We cannot run our court system
18 without citizens being ready, willing and able to
19 serve on jury duty and I thank you.

20 I'm going to release you now. If you would
21 give the bailiffs at the back of the courtroom your
22 badges as you leave. If anyone needs an elevator or
23 needs assistance in going down the stairs, come
24 right here and Officer Hires will help you. You may
25 go. Thank you.

1 (The balance of the jury pool is excused at
2 3:16 p.m.)

3 THE COURT: Mr. Miller, Mr. Chesser, anything
4 for the record before we proceed?

5 MR. MILLER: Nothing from the State, Your
6 Honor.

7 MR. CHESSER: No, Your Honor.

8 THE COURT: All right. Ladies and gentlemen,
9 we've been going an hour or so, anybody need a
10 bathroom break or are you ready?

11 All right. We'll take about a ten-minute
12 bathroom break. We'll come back out and probably
13 go -- well, we won't go later than 5:00. We have
14 three witnesses but I understand they're relatively
15 short.

16 What we'll do is we'll come back and I'll give
17 you a little bit of an opening statement followed by
18 the lawyers giving you their opening statements and
19 then we'll get right into the trial of the case.

20 If we're still going at 5:00, we'll look at
21 where we are and we won't be long after that.
22 Probably before that. So don't discuss the case.
23 Don't talk about it. Go to the jury room, use the
24 rest room, and we'll get cranked up here in just a
25 few minutes.

1 (Jury exits the courtroom at 3:19 p.m.)

2 THE COURT: All right. We'll stand at ease for
3 about 10 minutes.

4 (Court in recess.)

5 THE COURT: Anything for the record before we
6 start back, Mr. Miller?

7 MR. MILLER: No, sir.

8 THE COURT: Mr. Chesser?

9 MR. CHESSER: No, sir.

10 THE COURT: Bring the jury in please.

11 (The jury enters the courtroom at 3:35 p.m.)

12 THE COURT: All right. Ladies and gentlemen,
13 the first thing we have to do to get started is once
14 again you have to stand and raise your right hand.
15 Ms. McElveen will give you the oath of jurors.

16 THE CLERK: (Swears the jury.)

17 THE JURY: I do (in unison.)

18 THE COURT: All right. Ladies and gentlemen,
19 let me once again remind you that the fact that the
20 defendant Michael Paul Buckmon has been indicted by
21 the Barnwell County grand jury for the offenses of
22 arson in the first degree, murder and criminal
23 sexual conduct.

24 That is obviously not evidence in the case.
25 These are allegations. These are the way these

1 cases come into the courtroom.

2 He's pled not guilty to these charges, and a
3 plea of not guilty puts the burden on the State to
4 prove him guilty of each and every indictment and
5 each and every element of each charge in each
6 indictment separate and apart from the others to you
7 beyond a reasonable doubt.

8 He has the constitutional presumption of
9 innocence like all people accused of crimes until
10 and unless the State is able to prove his guilt to
11 you beyond a reasonable doubt. So please do not
12 infer anything, do not take any stock in the
13 indictments. These are simply allegations that the
14 State has to prove.

15 This is a criminal case, as we keep talking
16 about. In this case because the State has the
17 burden of proof, they will go first in presenting
18 their case. And the case will start off such as
19 this: The State -- when I finish my few remarks --
20 they'll make their opening statement, followed by
21 the defendant with their opening statement.

22 Opening statement is statements. This is not
23 evidence in the case. It is simply what the lawyers
24 contend they will be able to show, be able to prove.
25 It's sort of a road map they will give you as to

1 where they're going with their case, what they
2 intend to prove, what their defenses are, what they
3 intend to show. So they will stand up and make that
4 opening statement but that is not evidence in the
5 case that you will consider in your deliberations.

6 Once the opening statements are completed, then
7 the lawyers on behalf of the State because they do
8 have the burden of proof going first, they will call
9 witnesses and introduce relevant exhibits.

10 Once those people have testified and they've
11 presented their case then the defendant if he
12 chooses -- obviously he has absolutely no burden of
13 proving anything, but if he chooses to put up a
14 defense that's when he would do so. He may or may
15 not.

16 Once all the testimony is in we will have
17 closing arguments and then I will instruct or charge
18 you on the law, and then you'll be in a position to
19 start your deliberation.

20 I will tell you each time that we take a break
21 please do not start talking about the case, do not
22 start any deliberations, do not start discussing the
23 case until all of the evidence has been presented to
24 you, the final arguments have been made and I've
25 instructed you on the law.

1 As this is a criminal case, as I told you, the
2 State has the burden of proving all elements of the
3 offenses. We try two types of cases in this
4 courtroom throughout the state in all courtrooms.
5 There are civil cases and criminal cases.

6 In a civil case if you were suing someone for
7 running the red light out there and causing you to
8 break your leg or going to a lawyer and he messes up
9 your case and you're suing for legal malpractice or
10 a doctor for medical malpractice or breach of
11 contract -- civil cases where you're seeking
12 monetary compensation -- when the parties come into
13 the courtroom, the plaintiff -- the person bringing
14 the case -- and the person getting sued -- the
15 defendant -- they come in on equal footing and for
16 the plaintiff to prevail he or she has to prove
17 their case by what we call the preponderance or
18 greater weight of the evidence.

19 If these were the scales of justice, they have
20 to tip the scales ever so slightly in their favor in
21 order to prevail. If they're able to tip the scales
22 then they win. If the scales remain the same or tip
23 in favor of the defendant, they don't prevail.
24 That's the burden of proof in a civil case.

25 This is not a civil case. This is a criminal

1 case. Because the US Constitution and the
2 Constitution of the State of South Carolina presumes
3 people to be innocent until proven guilty beyond a
4 reasonable doubt, when they come in the courtroom
5 the scales of justice are tipped in their favor
6 because of that presumption or burden of proof --
7 presumption of innocence.

8 For the State to prove them guilty beyond a
9 reasonable doubt they have to tip the scales this
10 way. So the burden of proof in a criminal case is
11 much greater than in a civil case.

12 At the conclusion I'll give you the definitions
13 of beyond a reasonable doubt. They have to prove
14 their case to you beyond a reasonable doubt.

15 In just a minute we'll start with the trial of
16 the case by taking opening statements and the
17 testimony. Before we get there, I try to run an
18 efficient courtroom. I try to start when I say
19 we're going to start. If I say we're going to take
20 a ten-minute break, I try not to go too far beyond
21 that. I try to start right back. We'll start
22 punctually on time in the morning.

23 And even though we're trying to be efficient
24 with everyone's time, we're not trying to run a race
25 up here. If at anytime you get uncomfortable, get

1 hot or cold, need a bathroom break, need to stretch,
2 get tired of listening to me, please raise your hand
3 and tell me you're too hot or too cold or you need a
4 bathroom break. We want to make sure you're
5 comfortable so you pay attention. So don't get
6 uncomfortable. If you do, let me know and we'll try
7 to help out.

8 When we break for the evening and probably in
9 the morning before we start I'm going to ask that
10 you select between the 12 regular jurors a
11 foreperson. A foreperson is simply someone who is
12 the spokesperson for the jury. They will bring to
13 me any problems you may have or anything you want
14 called to my attention. You'll lead up any
15 discussions and you'll sign the verdict form.

16 So if you could choose a foreperson between the
17 12 of you, please do so. If you can't then I'm
18 going to randomly select somebody, but I think you
19 can choose your own foreperson.

20 We're going to get started here in just a few
21 minutes. As I said, this is obviously a very
22 serious trial. The man is charged with the murder
23 of a lady here in Barnwell, Ms. Donna Dempsey. He's
24 charged with setting her house on fire, charged with
25 criminal sexual conduct.

1 So I'm asking that you pay very close attention
2 to the lawyers as they present their opening
3 statements, final arguments. Please pay close
4 attention to the witnesses whose testify. If this
5 trial is like the rest of them that I try week in
6 and week out throughout the state, you will hear
7 testimony from the witness stand that is admitted
8 into the trial of the case, it's proper testimony,
9 but sometimes testimony will differ from one witness
10 to the next.

11 And that's where you have your job as the
12 judges of the facts to determine what the true facts
13 are, who you believe in their testimony. You're to
14 judge the credibility or the believability of the
15 witnesses who testify. At the conclusion you will
16 sift all that out, determine what those true facts
17 are, the 12 of you collectively acting at one and
18 will be in a position to render a true and just
19 verdict.

20 I look forward to working with you. This is
21 not TV. Obviously this is the real world and -- so
22 please pay close attention. Anything you need me to
23 do for you, just raise your hand and we'll make sure
24 that whatever need you have we take care of.

25 Any objections to my opening remarks by the

1 State?

2 MR. MILLER: No, sir, Your Honor.

3 THE COURT: By the defendant?

4 MR. CHESSER: No, Your Honor.

5 THE COURT: Mr. Miller, you may open.

6 MR. MILLER: Thank you, Your Honor. May it
7 please the Court and Mr. Chesser, Mr. Routzong.

8 Ladies and gentlemen of the jury, what a
9 difference a day makes. On Halloween 2013 at 4:00
10 in the afternoon, Donna Dempsey was doing whatever
11 Donna Dempsey was doing. Twenty-four hours later, at
12 4:00 on November 1st everything of any significant
13 value had been stolen from her home; she had been
14 raped; she had been bludgeoned unconscious in her
15 kitchen and lay bleeding on the floor; a fire had
16 been started in an attempt to cover up those crimes
17 that ultimately killed her.

18 And the people who committed that crime were in
19 Greenville County selling the stuff that they had
20 taken from her house. All in the span of 24 hours
21 from 4:00 p.m. on the 31st of October to 4:00 p.m.
22 on the 1st of November.

23 The defendant, and a guy you're going to hear
24 from tomorrow, his codefendant, were together on the
25 31st. They both say that they were together on the

1 31st whenever they came into contact with the victim
2 in this case.

3 You'll video of the two of them carrying a huge
4 multi-piece drum set into that pawnshop. And you'll
5 see them set it down in the pawnshop, go back out to
6 the car together and pick up another piece, come
7 back into the pawnshop, set it down. Back and forth
8 they go. Neither one of them looks like they have a
9 care in the world. They just murdered somebody less
10 than ten hours before that.

11 The defendant walks up to the counter, makes
12 the transaction, signs his name to the receipt for a
13 couple hundred dollars. That's what Donna Dempsey
14 is dead for, so that they could get away with a
15 couple hundred dollars worth of stuff that they were
16 going to go pawn in some other county and because of
17 the fact that she was going to say that she'd been
18 raped.

19 The judge has already talked to you a little
20 bit about credibility, believability. How do you
21 judge credibility? You do it every day. You do it
22 with your coworkers. You do it with your children.
23 You do it with your spouse.

24 Ladies and gentlemen, I submit to you one of
25 the best ways to judge credibility is, have they

1 lied other times? There's an expression: Fool me
2 once, shame on you; fool me twice, shame on me. I
3 challenge you to listen very carefully when you hear
4 the defendant's statements because he gave
5 statements. You're going to hear over two hours and
6 15 minutes of him talking about what happened
7 October 31st to November the 1st. And there's not
8 any question that he's not being truthful in those
9 statements because he'll say at one point, I didn't
10 go into the house; and later on he'll say, oh, I
11 went into the house but it was before anything
12 happened; and later on he'll say, well, I was in the
13 house to do this.

14 And I ask you to pay attention to that because
15 over the course of three separate days -- the date
16 of his arrest, the date after his arrest, and then
17 about three months later -- there are three separate
18 statements given to law enforcement. The first one
19 is just a written statement, and that one just says,
20 I went and sold this stuff at the pawnshop with this
21 guy but that's all I did.

22 And then the day after his arrest there's a
23 videotaped statement, got audio and video, given at
24 the Barnwell Police Department, and in that
25 statement, he goes all the way from there to --

1 well, you'll see where he ends up with that.

2 And then about three months later he gives that
3 last statement at the Barnwell County Sheriff's
4 Office. And ladies and gentlemen, I submit to you
5 he's still not telling the truth. He still hasn't
6 told the truth and we'll prove it to you beyond a
7 reasonable doubt.

8 The evidence in this case and the facts of this
9 case are intense. They're not comfortable. But we
10 are here because Michael Paul Buckmon killed Donna
11 Dempsey to cover up the fact that he raped Donna
12 Dempsey.

13 Now, I doubt his attorney is going to talk a
14 whole lot about what his statements were. He's
15 going to want to talk about Matthew Bolen. But
16 ladies and gentlemen, Matthew Bolen is not on trial
17 today. He will have his time. His time is
18 absolutely coming. He is charged with everything
19 that the defendant is.

20 Today, is Michael Paul Buckmon's day in court.
21 Please give us and him your attention, and at the
22 end of this case you'll know, beyond any shadow of a
23 doubt, that he and Matthew Bolen, together,
24 together, stole from Donna Dempsey, raped Donna
25 Dempsey, beat Donna Dempsey unconscious leaving her

1 in the floor of her kitchen and then set her house
2 on fire. They were together all the time. They
3 were always two people with one goal in common:
4 We're going to get this stuff and then we're going
5 to cover it up by setting the house on fire. And
6 then they went off and they pawned the stuff in
7 Greenville.

8 Thank you, ladies and gentlemen.

9 MR. CHESSER: May it please the Court,
10 Mr. Miller, Mr. Harte.

11 Good afternoon. My name is Michael Chesser.
12 I'm out of Aiken. I practice in Aiken and Barnwell
13 and Bamberg and Edgefield and sometimes in Columbia.
14 It's a privilege to be with you. I represent
15 Michael Buckmon.

16 Michael, would you stand please?

17 THE DEFENDANT: Yes, sir.

18 MR. CHESSER: Thank you. This is Michael Paul
19 Buckmon.

20 And Mr. Routzong has consented to help me with
21 this case. Michael, will you please stand?

22 Thank you. Mr. Routzong is out of Aiken also
23 and he and I have worked on some cases together in
24 the past.

25 It's a lot of responsibility to represent

1 somebody in a case like this. But a lot of times
2 people have a tendency to pay attention to the
3 lawyers, think about the lawyers, but we really
4 don't have the key role in this case.

5 By far the key role is the role that you have.
6 You decide if the case is proven beyond a reasonable
7 doubt. You decide if you have any question about
8 the facts. You evaluate the witnesses. Your role
9 is so much really more pressure-packed than my role
10 or Mr. Miller's role.

11 The burden of proof, as Judge Early has
12 instructed you and it will get repeated and
13 repeated -- you're not in this situation very often
14 so we take the liberty of repeating ourselves. But
15 the State has to prove all of the elements of these
16 offenses beyond a reasonable doubt, and as right now
17 and as the case goes on, the defendant, the
18 accused's is cloaked with this presumption of
19 innocence.

20 When you hear the evidence, when you listen to
21 the evidence, you listen to it in light of this
22 presumption of innocence.

23 I want to talk a little bit now just about the
24 facts or that is what the evidence will show. This
25 case is almost three years old and there's a lot of

1 sort of preparation that goes into it, say on my
2 part. It takes me time to figure out, you know,
3 when things happened. I'd like to take a minute to
4 sort of orient you to some extent.

5 This Halloween the 31st of October, 2013 was a
6 Thursday. The area that we're talking about is on
7 Berry Street, and I don't know if y'all know it, but
8 it's heading out toward Walmart and it's on your
9 right as you're going out of town. They have Berry
10 and Cherry and so on.

11 So Donna Dempsey lived there at [REDACTED], I believe,
12 Berry Street. This Halloween she celebrated it --
13 you'll hear testimony that she was in a witch's
14 outfit and out and about in the street. And then at
15 9:30, Mr. Buckmon and Mr. Bolen and she end up going
16 to a Reid's Grocery Store.

17 Now, after that, it is unclear -- there will be
18 evidence presented to you as to what happened, but
19 this time period between, say, 9:30 Thursday evening
20 and 10:00 a.m. on Friday morning -- and that's when
21 Loy Mitcham shows up -- he'll be testifying --
22 shows up at her house. This is the time period
23 where the State is going to try to prove to you or
24 tell you what happened based primarily or more than
25 primarily on this testimony of Matthew Bolen.

1 And Matthew Bolen -- again, there -- he is a
2 very key figure in this case and he has -- one thing
3 you can be sure of is that he has a tremendous
4 motivation to try to help himself. So one of
5 perhaps the key -- single key thing that you'll be
6 doing is to evaluate the testimony of this
7 individual Matthew Bolen who has a mission here to
8 save himself.

9 Now, one of the things that the judge mentioned
10 to you is that you should wait until all of the
11 testimony is in and then he will give you permission
12 -- at that time he will instruct you to begin your
13 deliberations. So I want to reemphasize that. I
14 want to ask you to keep your minds open to absorb
15 this testimony, to think about it but keep your
16 minds open and not try to put things together, draw
17 all kind of conclusions, inferences, weigh things
18 until you get back in that final jury room and Judge
19 Early instructs you at that time to begin your
20 deliberations.

21 Please listen to this. I know you're listening
22 to it attentively. As the judge said, it's a very
23 significant, important case and thank you very much
24 for being here.

25 THE COURT: You may call your first witness.

1 MR. MILLER: Thank you, Your Honor. The State
2 calls Loy Mitcham to the stand.

3 LOY MITCHAM

4 being first duly sworn, testified as follows:

5 THE WITNESS: I do.

6 THE CLERK: Be seated and state your full name
7 for the record.

8 THE WITNESS: Yes, ma'am.

9 My name is Loy McClain Mitcham, Sr.

10 DIRECT EXAMINATION

11 BY MR. MILLER:

12 Q. Mr. Mitcham, did you know Donna Dempsey?

13 A. Yes, sir I did.

14 Q. How did you know Ms. Dempsey?

15 A. She was my fiancée.

16 Q. Do you know where she lived?

17 A. [REDACTED].

18 Q. Is that in the City of Barnwell?

19 A. Yes, sir, that's correct.

20 Q. In Barnwell County?

21 A. Yes, sir.

22 Q. Did you live at [REDACTED] at any time?

23 A. I stayed with her at [REDACTED] very
24 often, and she would sometimes come to my parents'
25 house and we stayed there sometimes. And that's

1 [REDACTED], Aiken County, South Carolina
2 29803.

3 Q. Okay.

4 A. So we lived between the two places.

5 Q. So on the night of October 31st, 2013 were you
6 staying in Aiken or were you staying in Barnwell?

7 A. I left [REDACTED] to go have my first
8 Halloween with my first grandson. He was -- had
9 just -- this was his first Halloween and he wanted
10 his Papa there. So I left there.

11 Donna would have come. She did not want
12 Mrs. Joann that lived across the street to take care
13 of the dogs for the entire weekend, so I told her to
14 do whatever she wanted to do and take care of the
15 dogs that evening and help party with the kids, the
16 candy and all. She begged me to go so I would be
17 with my grandson on his first Halloween.

18 Q. Okay.

19 A. I told her I loved her and left.

20 Q. What time approximately did you leave for
21 Aiken?

22 A. I'd say about -- my mother picked me up about
23 6:00 I'd say.

24 Q. In the evening?

25 A. That's correct, sir.

1 Q. Okay. So let me see if I can summarize because
2 you kind of went on a big tear there.

3 A. I'm sorry. Yes, sir.

4 Q. You said that taking care of the dogs for the
5 whole weekend. Why would the neighbor be taking
6 care of the dogs for the weekend?

7 A. Because on Friday morning we were going to
8 spend the weekend at my parents' house.

9 Q. Okay. So she didn't want to go a night early
10 because that would have left the neighbor taking
11 care of the dogs for three nights instead of two?

12 A. That's correct, sir.

13 Q. All right. So when you went to Aiken at about
14 6:00 p.m. did you hear from Donna again that night?

15 A. Yes, sir, I did.

16 Q. When was the last time that you spoke to Donna
17 Dempsey?

18 A. Just before midnight.

19 Q. Okay. So that's going into November the 1st?

20 A. Yes, sir.

21 Q. Okay. And was it an unusual or strange
22 conversation or just kind of a normal conversation?

23 A. Fairly normal. I could tell that she'd had a
24 couple of drinks but other than that, nothing out of
25 the norm. She was very happy, almost giddy.

1 Q. All right. Did you ever hear from her again?

2 A. I woke up the next morning and turned on my
3 cell phone and received a garbled message that I
4 could not -- it was inaudible.

5 Q. So how do you know it was from her?

6 A. You could just barely -- you could hear the
7 sounds of her -- you know, the tone of her voice.

8 Q. Okay.

9 A. I could tell it was definitely in her tone but
10 I could not make out what she was saying.

11 Q. All right. Did you attempt to call her after
12 you received that message?

13 A. Yes, I did, sir.

14 Q. And did you ultimately get in touch with her on
15 the phone?

16 A. No, sir, I did not.

17 Q. What did you do when you could not get in touch
18 with her on the phone?

19 A. My son and his, well, common-law wife and my
20 grandson, they were already planning to go to
21 Statesboro where they used to live to pick up some
22 things but they were already going to go pick Donna
23 up for our weekend in Aiken.

24 Q. Right.

25 A. We left a little early because of the panic.

1 The -- the panic of me picking up the phone and not
2 being able to get the -- the voice box that
3 records -- the tape recorder. I couldn't get a ring
4 or a tape recording.

5 Q. I'm sorry. When you called [REDACTED],
6 was that a landline or a cell phone?

7 A. That was a landline.

8 Q. Okay. You called the landline at [REDACTED]
9 You weren't getting the answering machine or Donna
10 to answer?

11 A. A squeal. Only a squeal.

12 THE COURT: Only what?

13 THE WITNESS: A squeal. A high pitched tone.

14 BY MR. MILLER:

15 Q. Okay. And so did you come to Barnwell?

16 A. Yes, sir, I did.

17 Q. Who came with you?

18 A. My son, my grandson, and his common-law wife.

19 Q. Okay. Your son was how old at this time?

20 A. I would have -- he's 26 now, so I would say he
21 was 23 then.

22 Q. Okay. So your adult son, his common-law wife,
23 your grandson and you?

24 A. That's correct.

25 Q. When you got to [REDACTED] did you notice

1 anything unusual about the house?

2 A. Pulling into the yard, no.

3 Q. All right. When you got out of the car what
4 did you do?

5 A. Went to the front door to knock. I remember
6 mentioning to my son how odd it was that the door
7 was not open and her bags weren't packed by the
8 door.

9 Q. Why was that unusual to you?

10 A. Because it -- well, she worked at Savannah
11 River Site for 21 years and was just the most
12 meticulous person I ever met. Just unbelievably
13 meticulous. And if she was going to be picked up
14 she didn't want anyone to ever have to wait, so
15 she'd have bags packed, literally sitting on the
16 packed bags by the door playing with the two dogs
17 Billy and Butterbean. They'd be sitting with her.

18 Q. Okay.

19 A. But the door was shut when I got there.

20 Q. So when you approached the door you didn't have
21 keys to the house?

22 A. No, sir. I did not have keys on me that day,
23 no.

24 Q. Okay. And when you approached the door did you
25 notice anything unusual?

1 A. I looked up -- the first thing that I noticed
2 was the -- well, visual or audial?

3 Q. Either one.

4 A. The first thing I noticed was the smell. It
5 smelled like gasoline, like someone had left the
6 Grillmaster that she had purchased for me on
7 Father's Day. It was on the porch. And I said -- I
8 turned to my son Skylar and said, somebody must have
9 left the grill on. This smells like gas.

10 So I went and it was off and not just the knobs
11 on the grill, the propane tank itself was off. I
12 could still smell the smell. So when I knocked
13 again -- the door wasn't set in real well, not
14 perfectly. When I knocked a little bit harder I
15 noticed a black soot streak at the corner of the
16 trim and I said -- panic. At that point why else --
17 why would there be soot coming out the top corner?

18 Q. What did you do?

19 A. I yelled -- I said, Skylar, please come back to
20 the back yard. Because I can get in through the
21 back door by coming through the doggy door.

22 Q. You told Skylar to get out. Had he stayed in
23 the car up until this point?

24 A. He had because he was going to stay in the car
25 while I got inside to get Donna. But when I saw the

1 soot I wanted my son to be with me in case there was
2 someone inside or anything. At that point it's
3 backup.

4 Q. In case you needed help?

5 A. Yes, sir, absolutely.

6 Q. So you were running around to the house, yelled
7 to your son. What happened then?

8 A. Ran around the house. My son followed me to
9 the back of the yard. And I got to the door and the
10 door has a type of lock on it. Some people here may
11 know that if you got a lock that's built like this
12 you can open it from the inside but if you shut it,
13 it will not -- you'll lock yourself out, which I've
14 done many times myself.

15 But anyway, this lock, you could unlock it or
16 lock it. You would have to literally unlock the
17 little piece in order for it to be unlocked on both
18 sides. But if you locked it toward the outside you
19 could still get out.

20 Q. You could still turn the knob?

21 A. That's correct.

22 Q. Okay.

23 A. But what I didn't understand when I reached my
24 hand in to unlock the dead bolt, the dead bolt was
25 unlocked.

1 Q. Okay.

2 A. But I couldn't open the outside lock. But that
3 didn't matter. Since it was unlocked with the dead
4 bolt all I had to do was just turn the knob.

5 Q. Okay. What happened when you opened the door?

6 A. I opened the door and there was high pitch
7 squelching. If anybody understands --

8 THE COURT: Restate that please.

9 THE WITNESS: I'm sorry. Can I have a napkin
10 please? I'm sorry.

11 BY MR. MILLER:

12 Q. Mr. Mitcham, let's start like this: When the
13 door -- when you opened the door what's the first
14 thing that you noticed?

15 A. Smoke, bellowing smoke.

16 Q. Was it dark?

17 A. It was dark.

18 THE COURT: What was dark?

19 THE WITNESS: The smoke was dark.

20 BY MR. MILLER:

21 Q. And in case we haven't covered this: What time
22 of the morning was this?

23 A. This was just after 10:00.

24 Q. Okay.

25 A. Please give me a window of 15 minutes. It

1 could have been 10:00, 10:15.

2 Q. After ten o'clock?

3 A. After ten o'clock.

4 Q. All right. And the smoke is coming out the
5 door. Would this be the door to the kitchen?

6 A. This is the back door into the kitchen.

7 Q. Okay. What did you see in addition to the
8 smoke?

9 A. I walked in the door and I noticed -- it didn't
10 look like anything was actually burnt, just
11 everything was black. Everything was completely
12 black. And the -- but it was enough heat for the
13 electrical behind the walls and the ceiling to cause
14 the wiring to squeal. That's what -- what was
15 squealing was wiring to certain parts of the house
16 because the electricity wasn't cut off.

17 So wherever damaged wires were you could just
18 hear this squealing. It wasn't deafening by any
19 means. Matter of fact, it was more annoying than
20 anything. If I had to guess, I would say it was
21 probably the smoke detector. But the noise caught
22 me right after the smoke. Go ahead.

23 Q. What else did you see?

24 A. I went walking towards -- through the house.
25 It was so black. Donna was on the floor but I

1 didn't know this at the time. I walked right past
2 her, thinking maybe she may had started a kitchen
3 fire and laid down anything. Anything.

4 So I'm going through the house, Donna, Donna,
5 Donna. And as I come back through, I looked down
6 and I saw her legs with her long skirt on. I
7 couldn't see the upper body. I could just see her
8 legs and her panties to her knees.

9 Q. What did you do -- what happened at that time?

10 A. I lost it. I yelled at my son immediately,
11 dial 911, because I didn't have my phone in my hand.

12 Q. What happened next?

13 A. Obviously -- you know, I was scared to death.
14 It didn't matter. I wanted to see if I could get a
15 pulse. She was laying sideways a tad this way with
16 her legs this way. Her arm was up this way.
17 Obviously, I can't do it the right direction because
18 I'm up here. Her feet were pointed towards the
19 door.

20 Q. Right.

21 A. And I could see like this. And I looked down
22 and I nudged her and said, Donna, baby, please get
23 up. I reached down to see if I could feel any kind
24 of pulse. She was so hot. She wasn't burnt but
25 really sweaty and I couldn't even get a good grab.

1 So I tried to lift her up, and when I did the rigor
2 mortis had set in and it lifted half her body. And
3 I knew then.

4 Skylar said, they're on the phone. They want
5 to know what's going on. I said, please let them
6 know that Donna is -- she's not moving and rigor
7 mortis had set in.

8 I don't remember exactly what I said other
9 than, she's gone, and then walked out of the house
10 and collapsed in my son's arms.

11 Q. What is the next thing you remember happening?

12 A. Next thing I remember happening was the
13 coroner -- Skylar had got me to the front porch.
14 The coroner was snapping his fingers in my face
15 saying, Mr. Mitcham, Mr. Mitcham. I was pretty, you
16 know, obviously out. When he finally got my
17 attention I looked at him and said, is this for
18 real? He grabbed -- he hugged me and he said, she's
19 gone.

20 Q. Now, once the law enforcement got involved in
21 the case did you meet with them to go through the
22 house -- meet with anybody from law enforcement to
23 go through the house to see if there were any items
24 that were missing from the home?

25 A. Yes..

1 Q. And do you recall what some of those items
2 were?

3 A. Yes, sir, I do. I had purchased -- me and
4 Donna together had purchased my son a large black
5 drum set double bass. And several laptops were
6 missing -- one was broken; one was not -- and a
7 portable with speakers synthesized keyboard.

8 Q. Okay. Did you go with the police and point out
9 the items -- the places where items were missing?

10 A. Oh, yes, sir. Absolutely. They actually did
11 part of that -- they just -- they didn't spend a lot
12 of time on that. They were concerned with finding
13 what happened -- you know, who did what with Donna.

14 But they definitely took pictures of the room
15 where you could see the soot had fallen and then
16 they took -- but there wasn't a lot of that because
17 of the fact that -- I think by the time they got the
18 stuff out of the door the soot really hadn't started
19 caking the house yet.

20 MR. MILLER: We'll let Special Agent Seals
21 testify about that.

22 THE WITNESS: Okay.

23 MR. MILLER: Please answer any questions
24 Mr. Chesser may have for you.

25 THE COURT: Mr. Chesser?

1 CROSS-EXAMINATION

2 BY MR CHESSER:

3 Q. Mr. Mitcham?

4 A. Yes, sir.

5 Q. On that Friday morning, November 1st, you
6 testified that there was a message, a garbled
7 message on your mother's phone; is that right?

8 A. No, sir. It was on the cell phone that I --
9 the flip phone that I had at the time.

10 Q. On your cell phone then?

11 A. That's correct.

12 Q. Okay. And if there was a message there that
13 means that the call had come in earlier and you had
14 not been able to answer it, correct?

15 A. That's correct. I was asleep. Yes, sir.

16 Q. Okay. So you woke up and checked that phone
17 and saw that message at what time?

18 A. It was about -- I woke up around seven o'clock,
19 which would have been normal time for me. Between
20 six and seven.

21 Q. Okay. So you woke up then and you checked that
22 message and you couldn't understand it?

23 A. That's correct.

24 Q. Okay. You got out to Barnwell about
25 10:00 a.m., right?

1 A. That's correct.

2 Q. So the calls that you made where you got this
3 nonresponse, you made those calls about 9:00 a.m.,
4 right?

5 A. That's correct.

6 Q. Okay.

7 A. Maybe a little bit earlier than that, just to
8 make sure she was up and moving which is more
9 courtesy than anything because I knew she would be.

10 Q. Yes, sir. I'm just trying to get that
11 timeline.

12 A. I understand. Probably more like 8:30.

13 Q. Okay. So did you tell law enforcement about
14 this garbled message on your cell phone?

15 A. To be honest with you, I do not recall whether
16 I did or did not. I do know I was not asked about
17 it.

18 Q. Okay. All right. But -- so you don't have any
19 information as to whether that message was ever
20 obtained by law enforcement?

21 A. I have no idea whatsoever, sir.

22 Q. Okay. Now, how long had your fiancée lived on
23 Berry Street?

24 A. Actually, she purchased the house for her
25 mother six years prior. And Donna went through a

1 divorce, which is right when I met her, and she
2 moved out of the house that she -- of the marital
3 home when she got the divorce and moved in with
4 Betty her mother. The house was never in Betty's
5 name but it was Betty's to live in as she chose.

6 Q. Okay. Well, let me ask you again. I
7 understand you're trying to answer. But Donna -- in
8 other words, first she lived there with her mother?

9 A. That's correct.

10 Q. Okay. And how many years ago was it that she
11 began to live there with her mother?

12 A. The divorce was six years prior so I'd have to
13 say she started living with her mother a year and a
14 half after.

15 Q. Okay. So it would be between four and five
16 years that she had lived there at the time of this
17 Halloween of 2013, right?

18 A. Yes.

19 Q. Okay. Now, how long had you had a relationship
20 with Donna prior to that Halloween of 2013?

21 A. Since the divorce.

22 Q. Okay. In other words, about that same time
23 frame, four to five years?

24 A. Closer to six years.

25 Q. Okay.

1 A. Because she had lived with her -- remember, I
2 told you, she lived with her mother for a while and
3 I lived at 1313 Two Notch. We didn't start
4 cohabiting until a little bit later. The
5 relationship was closer to six years.

6 Q. Okay. So did you actually live or spend
7 significant time at this house on Berry Street?

8 A. Yes, I did.

9 Q. Okay. Now, looking at that house on Berry
10 Street, the neighbors on the right, did you know
11 those neighbors on the right?

12 A. The only neighbors that I knew that lived on
13 the right -- it's a duplex. The neighbors on the
14 right, the one that lived right next to us was -- I
15 mentioned earlier, Joann the lady that watched her
16 dogs across the street -- her son Lucius who
17 recently passed away lived in the duplex closest to
18 us. And the defendant's mother lived in the duplex
19 next to that.

20 Q. Okay. In other words, looking at the house on
21 the right side -- but you're not familiar with
22 Hakeem Mixon? That name doesn't mean anything to
23 you?

24 A. No. Hakeem who?

25 Q. The -- that area is a what was called mixed

1 neighborhood. It has black families and white
2 families and other families living in it; isn't that
3 right?

4 A. I would imagine so, sir. I didn't know -- I
5 never heard it paraphrased that way but okay.

6 Q. Okay. You would agree with that?

7 A. Yes, sir.

8 Q. Okay. And she'd been living there for some
9 four to five years, right?

10 A. Yes, sir.

11 MR. CHESSER: All right. That's all the
12 questions I have. Thank you.

13 THE COURT: Redirect, if any?

14 MR. MILLER: None, Your Honor.

15 THE COURT: All right. Mr. Mitcham, you may
16 step down.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Thank you.

19 Next witness, please.

20 MR. MILLER: The State calls Captain Mark Cato.

21 MARK CATO

22 being first duly sworn, testified as follows:

23 THE WITNESS: Yes.

24 THE CLERK: Please be seated and state your
25 full name for the record.

1 THE WITNESS: Mark Alan Cato, C-A-T-O.

2 DIRECT EXAMINATION

3 BY MR. MILLER:

4 Q. Captain, where are you employed?

5 A. Full time at Savannah River Site Fire
6 Department.

7 Q. Okay. Is that your only source of employment?

8 A. No. I'm part time with the City of Barnwell
9 Fire Department as a captain.

10 Q. Okay. How long have you been with Savannah
11 River Site?

12 A. Seven years.

13 Q. What position do you hold there?

14 A. I'm a firefighter paramedic.

15 Q. Okay. And with the City of Barnwell what
16 position do you hold?

17 A. Captain over training and also next in line if
18 the chief is out of town or not available.

19 Q. How long have you been in that position?

20 A. About 15 years.

21 Q. Okay. So in total how long have you been a
22 firefighter?

23 A. My total years in the fire service is 27 years
24 this year.

25 Q. As a captain with the Barnwell Fire Department,

1 what are the responsibilities that you have?

2 A. My main job right now is training, but if we
3 have a fire, like I said, if the chief is not there,
4 then I assume command of the scene and make sure
5 everybody's doing what they're supposed to do.

6 Q. Were you in that position on November 1st of
7 2013?

8 A. Yes, sir.

9 Q. Do you recall the events of that day?

10 A. Yes, sir.

11 Q. How did you become involved in this incident?

12 A. We were dispatched to that location for a
13 structure fire with someone possibly trapped inside.
14 Me and one of the firemen were actually just down
15 the road from it in my pickup and were within just a
16 minute or so of getting on the scene.

17 Q. How long from the time that you were notified
18 that there was a possible fire until the time that
19 you got there?

20 A. Maybe a minute, two at the most.

21 Q. Okay. Was anybody with you?

22 A. Yes.

23 Q. Who was that?

24 A. That was Lieutenant Ryan Delk.

25 Q. Was there anybody else that met you at the

1 scene?

2 A. Another firefighter Jerry Hodge had got there
3 about the same time. He came in the other end of
4 the street. I came in from the Barnwell side of the
5 street.

6 Q. What did you find at that location?

7 A. When I got there, Jerry was talking to
8 Mr. Mitcham trying to get some information. All I
9 know is Jerry hollered at me and said, there's
10 somebody still in the house.

11 Q. What was the first thing that you did when you
12 got to the scene?

13 A. When I got there I assumed command of the scene
14 on the radio and then I do what we call a 360 which
15 is I try to go all the way around the house, get a
16 size-up of what's going on. That way I can radio
17 back to the trucks on the way what we're going to
18 need.

19 Q. Okay. And when you sized up the house what did
20 you radio back?

21 A. When I got to the backside I noticed the back
22 door was open, there was some smoke coming out the
23 back door. And I went ahead and called the first in
24 truck, told them to go ahead and have some people
25 packed out and ready to come in whenever they got

1 there..

2 Q. What does it mean to be packed --

3 A. Get on the full gear, air pack and all. Be
4 ready to pull a line and go inside.

5 Q. Okay. Based on what you saw when you did your
6 360 of the house what did you do?

7 A. Just what I told you. I told them I wanted
8 them to be ready.

9 Q. Did you do anything else?

10 A. Then myself, I went on up to the door since the
11 door was already open and tried to holler out to see
12 if anybody would answer me. I could see the
13 victim's legs in the doorway. The smoke was
14 probably halfway down, I'd say, maybe banked down a
15 little bit, about halfway down the wall. So I was
16 able to see along the floor way.

17 There was still too much heat and stuff for me
18 to go in without any type of gear. I went in as far
19 as I could to, you know, try to do an assessment
20 real quick and maybe pull her out and realized that
21 she was deceased.

22 Q. How did you determine she was deceased?

23 A. Based on the way she looked and I checked for a
24 carotid pulse. I didn't find a pulse.

25 Q. Okay. Was there any fire visible from inside

1 the house?

2 A. I didn't see any fire from where I was at. No,
3 sir.

4 Q. Okay. What was your level of visibility
5 inside?

6 A. Like I said, it was very minimal at that point.
7 You know, from ceiling down it was still pretty
8 smoky and still warm.

9 Q. Okay. Based on all of that what did you do?

10 A. I backed back out and, like I said, had the
11 guys when they got there to go on stretch a hose
12 line. I wanted a crew to go in and do a search to
13 see if we had anymore victims and to find where the
14 fire was possibly at.

15 Q. Were any additional victims found inside the
16 home?

17 A. No. They radioed back and said they found no
18 other victims and no source of a fire.

19 Q. What did you do at that point?

20 A. At that point I had already started relying
21 information to dispatch that we needed law
22 enforcement due to a suspicious nature of a fire,
23 which is protocol. Any time we have a victim in a
24 fire we know we'll be investigating so we went ahead
25 quarantined off the scene with the rope -- the

1 barricade tape -- I'm sorry -- and started keeping a
2 log of who entered from that point on.

3 MR. MILLER: Thank you, Captain. I don't have
4 any further questions for you. Please answer any
5 questions the defense has.

6 THE COURT: Mr. Chesser?

7 MR. CHESSER: No questions, Your Honor.

8 THE COURT: You may step down.

9 Next witness please.

10 MR. MILLER: Your Honor, the State calls
11 Detective Glen Rice.

12 GLEN RICE

13 being first duly sworn, testified as follows:

14 THE WITNESS: Yes, ma'am.

15 Thomas Glen Rice.

16 DIRECT EXAMINATION

17 BY MR. MILLER:

18 Q. Detective Rice, where are you employed
19 currently?

20 A. With the Bamberg County Sheriff's Department.

21 Q. And how long have you been in law enforcement?

22 A. This past May was 17 years.

23 Q. All right. What are your job responsibilities
24 with Bamberg where you are now?

25 A. Routine calls for service, basic

1 investigations, property crimes, domestics, such
2 like that.

3 Q. And prior to working for the Bamberg County
4 Sheriff's Office where did you work?

5 A. I worked for a short while, for a year with
6 Ehrhardt Police Department and before there I was a
7 detective with the Barnwell Police Department.

8 Q. While you were at the Barnwell Police
9 Department working as a detective what kind of job
10 responsibilities would you have?

11 A. As a detective we handled everything general
12 sessions, felony from forgeries to armed robberies,
13 shooting, stabbings, things such as that.

14 Q. So basically what you see on TV a detective
15 doing?

16 A. Exactly.

17 Q. Major crime investigation?

18 A. That's correct.

19 Q. Okay. Were you employed as a detective for the
20 Barnwell Police Department on October 31st, 2013?

21 A. Yes, I was.

22 Q. Okay. What was your responsibility in the
23 case -- well, first of all, were you the lead
24 detective on it. Were you the one that was kind of
25 in charge of the investigation for Barnwell?

1 A. Once SLED become involved with the case I
2 became the lead for Barnwell City Police Department
3 to assist Special Agent Sterling Seals.

4 Q. Okay. So you said that SLED became involved
5 and once SLED became involved my understanding it
6 was their investigation?

7 A. That's correct.

8 Q. Okay. What were some of the things that you or
9 people acting at your direction would do to assist
10 with an investigation?

11 A. Being that he was out of town he probably
12 wasn't very familiar with the community and people
13 and I was like a liaison with him. As names and
14 information would come in I could more rapidly run
15 down and I would assist him with tracking down leads
16 and stuff like that.

17 Q. Did you and your officers go talk to several
18 people?

19 A. Yes.

20 Q. Okay. And as a result of your conversations
21 and running down the leads, as you called them, as a
22 result of all of that, were you able to pass on
23 information to Agent Seals to allow suspects in the
24 case to be developed?

25 A. Yes. Throughout all the legwork it wound up

1 that we did develop suspects in this case.

2 Q. And who were they?

3 A. Michael Paul Buckmon and Matthew Bolen.

4 Q. And this incident was discovered by Mr. Mitcham
5 on November 1st and y'all were out there on
6 November 1st?

7 A. I believe -- I'm not sure of the dates when I
8 actually became involved with Special Agent Seals.

9 Q. Okay. When you -- at some point in time did
10 you or people under your direction start looking for
11 Michael Paul Buckmon and Matthew Bolen so that y'all
12 could talk to them?

13 A. Absolutely.

14 Q. And did -- were they in the Barnwell area?

15 A. No. From everything we were learning they had
16 left the area.

17 Q. Okay. Now, ultimately Mr. Buckmon was taken
18 into custody; is that correct?

19 A. That is correct.

20 Q. And the next day which was -- do you recall
21 what day he was taken into custody?

22 A. Not exactly.

23 Q. Okay. Well, the day after he was taken into
24 custody, did you assist Agent Sterling Seals with an
25 interview of Mr. Buckmon?

1 A. Yes, I did.

2 Q. Okay. So I'm going to show you what's been
3 marked for identification as State's Exhibit 50.
4 I'm going to ask you if you can identify that. Just
5 tell me what it is.

6 A. It's a Miranda form. Something -- whenever we
7 interview possible suspects we advise them of their
8 Miranda rights.

9 Q. And is that signed by Mr. Buckmon?

10 A. It is.

11 Q. What is the date on that?

12 A. November 11th, 2013.

13 Q. Okay. So on November 11th, prior to
14 Mr. Buckmon giving his statement, was this form
15 explained to him?

16 A. Yes.

17 Q. And who did that?

18 A. Special Agent Seals.

19 Q. Okay. Were you present when it was explained
20 to him?

21 A. I was.

22 Q. All right. And did anyone during the course of
23 this being explained and him signing to say that he
24 understood it, did anybody promise him anything or
25 threaten him or try to coerce him into giving a

1 statement?

2 A. No.

3 Q. Did you get the feeling from your own
4 experience, did he want to talk to law enforcement?

5 A. Yes.

6 Q. Okay. Now, sometime later on do you recall
7 doing another audio and video recorded interview
8 with Mr. Buckmon with Agent Seals?

9 A. Yes, I have.

10 Q. I'll show you what's been marked for
11 identification as State's Exhibit 51 and ask you if
12 you can tell me what that is.

13 A. This is a Miranda form advising the defendant
14 of his rights.

15 Q. And what is the date on that form?

16 A. It is February 18th, 2014.

17 THE COURT: I'm sorry. What?

18 THE WITNESS: February 18th, 2014.

19 MR. MILLER: February 18th, 2014, Your Honor.

20 BY MR. MILLER:

21 Q. And is this form signed by Mr. Buckmon as well?

22 A. Yes, it is.

23 Q. And again, the witnesses here, it's Detective
24 Glen Rice which is you and then Sterling Seals; is
25 that correct?

1 A. That's correct.

2 MR. MILLER: I beg the Court's indulgence
3 please.

4 Detective Rice, please answer any questions
5 Mr. Chesser may have for you.

6 THE COURT: Cross?

7 MR. CHESSER: I have no questions for Detective
8 Rice.

9 MR. MILLER: Your Honor, we have moved along
10 quickly through our three witnesses and it's about
11 4:30.

12 THE COURT: And?

13 MR. MILLER: Your Honor --

14 THE COURT: I understand. We had discussed
15 this, all the lawyers. To keep some semblance of
16 order we decided to do three witnesses today, and
17 it's run a little bit quicker than we thought so
18 you'll get to leave a little earlier today.

19 What time is your first witness in the morning?

20 MR. MILLER: Your Honor, we can have him here
21 as early as we -- we can go 9:30 easily. I'm
22 getting a glare from the court reporter.

23 THE COURT: No, you're not, not from her.
24 She'll be here at six if we have to.

25 Normally we have hot coffee and some

1 refreshments in the morning. We can have sausage
2 biscuits or donuts and fruit or sausage biscuits and
3 donuts and fruit. What's your pleasure?

4 THE JURY: Sausage biscuits (in unison.)

5 THE COURT: Ms. McElveen will have us some hot
6 sausage biscuits and hot coffee. Is 9:30 okay to
7 start? Which means if you want to have a hot
8 sausage biscuit and some hot coffee you have to be
9 here before 9:30. You can't bring it out into the
10 courtroom. So we'll start right at 9:30.

11 I will ask you two or three things for me
12 please: Number one, enjoy your sausage biscuit and
13 your coffee in the morning; number two, please do
14 not discuss the case among yourselves, don't start
15 any deliberations and please don't discuss it with
16 anyone tonight. If anyone insists on discussing it
17 with you, please get their names and I'll deal with
18 that tomorrow. I would ask you also please don't do
19 any research on this. Don't go back and try to find
20 anything on the internet or whatever you use, so
21 forth. We want to try this case based solely on
22 what we hear in the courtroom.

23 The last thing: In the morning while you come
24 in and you're enjoying your sausage and biscuits
25 please select me a foreperson for the 12 of you.

1 We'll start right at 9:30. Normally, we'll see how
2 we're running at lunchtime. I may order some lunch
3 in, pizza or sandwiches. We'll see how we're
4 running and we'll make that decision tomorrow.

5 Have a pleasant evening. Everybody okay with
6 rides? We're running on a good schedule so please
7 be prompt in the morning. I'm easy to get along
8 with until somebody is late and then I sometimes get
9 a little testy.

10 Yes, ma'am?

11 JURY MEMBER: So we're starting court up at
12 9:30 so we should be here at 9:00?

13 THE COURT: If you want that sausage biscuit
14 and coffee because I can't let you bring it out in
15 the courtroom. Fair enough?

16 JURY MEMBER: I don't drink coffee. Could I
17 have some orange juice please?

18 THE COURT: Yes, ma'am. The bailiff will
19 show -- you're going to go back to the jury room now
20 and they'll show you where to report in the morning.
21 Any other questions?

22 Y'all have a very pleasant evening. Thank you
23 so much. Y'all have been great, paying great
24 attention and I look forward to working with you
25 tomorrow. Everybody else please remain seated.

1 (The jury excused for the evening at 4:36 p.m.)

2 THE COURT: Mr. Miller, anything for the record
3 before we break for the evening?

4 MR. MILLER: Nothing from the State, Your
5 Honor.

6 THE COURT: Mr. Chesser, Routzong, et al?

7 MR. CHESSER: No, Your Honor.

8 THE COURT: All right. Gentlemen, who is here
9 from the jail?

10 JAIL DEPUTY: I am, sir.

11 THE COURT: Please have him here at 9:00 in the
12 morning properly dressed.

13 All right. We'll break for the evening.

14 (Court in recess for the day at 4:37 p.m.)

15 THE COURT: For the record, I had three jurors
16 who failed to attend yesterday. Ms. Jamira
17 Williams, would you please stand. Tell me why you
18 were not here.

19 POTENTIAL JUROR: I placed it wrong on my
20 calendar. I had it for Friday and not Monday.

21 THE COURT: Ms. Barbara Johnson, good morning.
22 Why were you not here?

23 POTENTIAL JUROR: I didn't look at my calendar
24 at all.

25 THE COURT: Ms. Ciara Croft, you okay today?

1 POTENTIAL JUROR: Yes.

2 THE COURT: I don't think so. Aren't you on
3 probation right now?

4 POTENTIAL JUROR: Yes, sir.

5 THE COURT: You know what the conditions of
6 your probation are, don't you? You're subject to
7 random drug and alcohol testing. You know that?

8 POTENTIAL JUROR: Yes.

9 THE COURT: You want to sit with me this
10 morning and let me get you tested?

11 POTENTIAL JUROR: That's fine.

12 THE COURT: Why not?

13 POTENTIAL JUROR: I said that was fine.

14 THE COURT: Why were you not here yesterday?

15 POTENTIAL JUROR: Cellulitis in my wrist and in
16 my elbow.

17 THE COURT: Did you call anybody?

18 POTENTIAL JUROR: Yes, sir. I called them
19 yesterday and let them know I was sick. I went to
20 the hospital for it.

21 THE CLERK: She said she called yesterday
22 afternoon and said she was sick and went to the
23 hospital for it.

24 THE COURT: All right. Ladies, please in the
25 future when you receive subpoenas from the court,

1 please honor those. It's important that we have you
2 here because we can't do business without you. I'm
3 going to transfer you to the next term of court.
4 Please be present at that time. You'll receive your
5 summons from Ms. McElveen. Thank you. You may
6 leave.

7 All right. Let the record reflect as to the
8 State versus Michael Paul Buckmon, we had an in
9 chambers discussion this morning concerning a juror
10 situation which I will put on the record when we
11 take our first break. We're already running a
12 little behind now.

13 As a result of that situation, I am replacing
14 Juror No. 10, Ms. Betty Baxley. We have had a
15 random selection between the three alternates. The
16 clerk has randomly made a selection and I think it's
17 Juror No. 91 Thomas Johnson.

18 Is that correct, ma'am?

19 THE CLERK: Yes, sir.

20 THE COURT: He will be substituted as the 12th
21 juror. I will put on the record -- Mr. Miller,
22 Mr. Chesser, remind me to do so when we take a
23 morning break or lunch break.

24 Anything else for the record before we start
25 back?

1 MR. MILLER: Your Honor, the State has
2 submitted -- we also discussed during our in
3 chambers discussion some issues related to the
4 redaction.

5 THE COURT: You did. I have the State's
6 requested charge. I will review it before we get to
7 the video. Mr. Chesser, I would ask that you do so
8 also and I suspect we can all agree on that language
9 before we play the redacted video.

10 And Mr. Chesser, we also discussed you making
11 sure you're protected on your objections that you
12 made in limine and we'll handle that before we move
13 into the videos.

14 MR. Chesser: Thank you, Your Honor.

15 MR. MILLER: And Your Honor, there is one
16 photograph that Mr. Chesser requested redaction of.
17 That redaction has been done as well. It's very
18 clearly a redaction of that photograph and he's seen
19 it and we agreed on it.

20 THE COURT: Thank you very much for your
21 cooperation and working together.

22 Bring the jury in please.

23 (The jury enters the courtroom at 9:56 a.m.)

24 THE COURT: Good morning.

25 THE JURY: Good morning.

1 THE COURT: Let me, first of all, apologize.
2 We're running 25 minutes behind schedule. It's
3 certainly not intentional. I apologize for y'all
4 having to sit back there and wait. Perhaps you had
5 a chance to eat an extra biscuit.

6 But we had a number of jurors who failed to
7 show yesterday. I had to deal with those. And it
8 sometimes happens, we had some pretrial matters we
9 had to discuss outside of your presence and went
10 ahead and did that this morning so we wouldn't
11 interrupt you in the trial of the case.

12 We're ready to move forward. We got everything
13 streamlined for this morning. They have all of the
14 witnesses here. So it looks like we may finish
15 testimony today, if not, certainly early in the
16 morning unless something really goes sideways.

17 Mr. Thomas Johnson, raise your hand. I'm
18 elevating you as an alternate to the regular jury,
19 the 12 people. If you would please come have a seat
20 here please.

21 Were y'all able to select a foreperson?

22 Mr. Porter Clayter. Is this your first elected
23 position?

24 THE FOREMAN: Yes.

25 THE COURT: You may call your next witness.

1 MR. MILLER: Your Honor, the State calls
2 Matthew Bolen.

3 THE COURT: Mr. Bolen come right around here
4 please.

5 MATTHEW BOLEN

6 being first duly sworn, testified as follows:

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Be seated and state your full name
9 for the record.

10 THE WITNESS: Matthew Trey Bolen.

11 THE COURT: Mr. Bolen, you're going to have to
12 speak up loud enough so we can all hear in the
13 courtroom.

14 THE WITNESS: Matthew Trey Bolen.

15 DIRECT EXAMINATION

16 BY MR. MILLER:

17 Q. Mr. Bolen, do you know the defendant sitting at
18 the table there?

19 A. Yes, sir.

20 Q. What's his name?

21 A. Michael Buckmon.

22 Q. Mr. Bolen, did you and Mr. Buckmon participate
23 in setting fires at [REDACTED] [sic]?

24 MR. CHESSER: Your Honor, I'd object to the
25 leading.

1 THE COURT: Sustained.

2 BY MR. MILLER:

3 Q. Mr. Bolen, are you aware that there was a fire
4 [REDACTED] [sic] on November 1st?

5 A. Yes, sir.

6 Q. Who set that fire?

7 A. As far as I know, Mr. Buckmon.

8 Q. Did you participate in the burning of that
9 fire?

10 A. Yes, sir.

11 Q. At the time that fire was -- well, at the time
12 that you left that house, was Donna Dempsey inside?

13 A. Yes, sir.

14 Q. Was she walking around? What condition was she
15 in?

16 A. I thought she was deceased.

17 THE COURT: What?

18 THE WITNESS: I thought she was deceased, dead.

19 THE COURT: Speak up so everybody can hear you
20 please. Pull that mic closer to you.

21 BY MR. MILLER:

22 Q. Who was with you when you left [REDACTED]
23 [sic] that morning?

24 A. Mr. Buckmon.

25 Q. Where did you and Mr. Buckmon go?

- 1 A. After -- we went to Robert Eure's house.
- 2 Q. How did you get there?
- 3 A. Mr. Buckmon drove.
- 4 Q. What did he drive?
- 5 A. My Lincoln town car.
- 6 Q. Your Lincoln town car?
- 7 A. Yes, sir.
- 8 Q. Okay. Let's go back a little bit. How did you
- 9 come to meet Donna Dempsey on October 31st?
- 10 A. Me and Mr. Buckmon saw her across the street on
- 11 Berry Street.
- 12 Q. And do you know whose house that was across the
- 13 street on Berry Street?
- 14 A. No, sir.
- 15 Q. Okay. What happened then?
- 16 A. She came over to where me and Mr. Buckmon were
- 17 at.
- 18 Q. Where were you and Mr. Buckmon?
- 19 A. At a mutual friend's name Keem.
- 20 Q. Keem. Do you know Keem's full name?
- 21 A. Keem Nixon.
- 22 Q. So what were you doing over at Keem Nixon's
- 23 house?
- 24 A. Doing drugs.
- 25 Q. Had you been -- were you doing anything else

1 that evening, that afternoon over at Hakeem Nixon's
2 house?

3 A. Just drinking and doing drugs.

4 Q. When Ms. Dempsey came over, did you talk to
5 her?

6 A. She started to say that she saw us, yeah, and
7 we spoke, had a few words.

8 Q. All right. Did you know her prior to that
9 time?

10 A. No, sir.

11 Q. Did she know anybody over there or did she
12 appear to know anybody over there?

13 A. Not that I know of.

14 Q. Okay. Did she address anybody by name?

15 A. I don't remember that.

16 Q. Okay. When was the next time you saw
17 Ms. Dempsey?

18 A. Later on that night.

19 Q. What happened then?

20 A. She came to where me and Mr. Buckmon were at.

21 Q. Where was that?

22 A. Behind his mother's house.

23 Q. In relationship to Keem's house, is it on Berry
24 Street too?

25 A. Yes, sir. Next door.

1 Q. Okay.

2 A. Two houses over.

3 Q. Where is Mr. Buckmon's or his mother's house in
4 relationship to Keem's house?

5 A. Two houses over.

6 Q. Two houses over?

7 A. Yes, sir.

8 Q. Okay. So when she comes over there to where
9 you and Mr. Buckmon are, what's she talking about?

10 A. We were supposed to go get some beer or some
11 liquor.

12 Q. Where were you going to get that at?

13 A. We ended up going to Reid's.

14 Q. Is Reid's a long way away from Berry Street
15 where you were?

16 A. No, sir.

17 Q. How did you get there?

18 A. Mr. Buckmon drove my car.

19 Q. Who all went?

20 A. Mr. Buckmon, myself and Ms. Dempsey.

21 Q. After you get the beer or alcohol -- did you
22 get that at the Reid's?

23 A. Yes, sir.

24 Q. Okay. After that where did you go?

25 A. After that, we went to the ATM that's by the

1 Reid's.

2 Q. In that same parking area or right beside it?

3 A. I believe so, yes, sir.

4 Q. All right. And did -- who got money out or did
5 anybody get money out?

6 A. Ms. Dempsey.

7 Q. Okay. Did anybody else do any kind of
8 transaction at the ATM?

9 A. Not to my knowledge.

10 Q. Okay. Well, were you in the car when this was
11 going on?

12 A. Yes, sir.

13 Q. Just you and Mr. Buckmon and Ms. Dempsey,
14 correct?

15 A. Yes, sir.

16 Q. Where were you sitting in the car?

17 A. In the passenger seat.

18 Q. And Ms. Dempsey was in the back?

19 A. Yes, sir.

20 Q. And Mr. Buckmon was driving?

21 A. Yes, sir.

22 Q. Okay. So where did you go after you left the
23 ATM?

24 A. Back to Mr. Buckmon's mother's house.

25 Q. Okay. When you got to Mr. Buckmon's mother's

- 1 house, where would people typically park or where
2 did Mr. Buckmon park that night?
- 3 A. We always parked in the back.
- 4 Q. So pull around behind the house?
- 5 A. Yes, sir.
- 6 Q. Okay. What did you do next?
- 7 A. Sat there and drink.
- 8 Q. Was -- did Ms. Dempsey leave or was she with
9 you drinking?
- 10 A. She was with us drinking.
- 11 Q. Okay. At some point did you split off, you and
12 Ms. Dempsey split up from Mr. Buckmon?
- 13 A. Yes, sir.
- 14 Q. Where did you and Ms. Dempsey go?
- 15 A. First all three of us went to Ms. Dempsey's
16 house.
- 17 Q. Okay. And then what happened?
- 18 A. We sat there for a while and then Mr. Buckmon
19 went to get some cocaine.
- 20 Q. When Mr. Buckmon left Ms. Dempsey's house what
21 happened -- what interaction did you have with
22 Ms. Dempsey?
- 23 A. Sat there and talked for a while.
- 24 Q. What else?
- 25 A. She started rubbing on me on the couch and then

1 we started to have sexual intercourse but we
2 stopped.

3 Q. Was there anybody else at the house at that
4 time?

5 A. No, sir.

6 Q. So it's you and Ms. Dempsey. Mr. Buckmon is
7 gone. How long was it before Mr. Buckmon came back?

8 A. I couldn't give you a time.

9 Q. Okay. Did he ultimately come back to the
10 house?

11 A. Yes, sir -- no, not immediately.

12 Q. But eventually he came back to the house?

13 A. Eventually he came back to the house, yes, sir.

14 Q. Okay. And you said during that time, you and
15 Ms. Dempsey had consensual sex?

16 A. Yes, we started to but we stopped.

17 Q. Okay. Did you stop because she told you to
18 stop?

19 A. Yes. Mainly her, yes, sir.

20 Q. All right. When Mr. Buckmon got back to the
21 house, what happened next? Was there anybody with
22 him?

23 A. Well, before he got back Keem came over to the
24 house.

25 Q. Okay. So Hakeem comes over. It's you, Hakeem

1 and Ms. Dempsey in the house at that point?

2 A. Right.

3 Q. Okay. Then what happened?

4 A. Ms. Dempsey was in the restroom, so me and
5 Hakeem went back to Mr. Buckmon's mother's house.

6 Q. What was Ms. Dempsey's state when she was in
7 the restroom?

8 A. She was passed out.

9 Q. Did she go lay down on the floor in the
10 restroom and pass out?

11 A. (Nonverbal response.)

12 Q. Let's be clear about something. There are two
13 bathrooms in this house, correct, or do you know?

14 A. The one that I know of.

15 Q. Okay. Is that the bathroom she was in?

16 A. Yes, sir.

17 Q. All right. If you're at the front door of the
18 house and you're looking at the house, would it be
19 the bathroom at the end of the hall on the right?

20 A. Yes, sir.

21 MR. MILLER: Your Honor, we have submitted a
22 number of exhibits, State's 1 through 45 and State's
23 48, 49, 50, 51, 52, 53, 54 and 55 to the defense.
24 The defense has indicated that they have no
25 objection to those exhibits. So that would be 1

1 through 55 with the exception of 46 and 47. Is that
2 correct, Michael?

3 MR. CHESSER: Yes, sir.

4 MR. MILLER: Your Honor, at this time the State
5 would move to introduce Exhibits 1 through 55 with
6 the exception of Exhibits 46 and 47.

7 THE COURT: Any objection?

8 MR. CHESSER: No objection.

9 THE COURT: Thank you, 1 through 45 and 48
10 through 55.

11 (State's Exhibit Nos. 1 through 45 and 48
12 through 55 were entered into evidence.)

13 BY MR. MILLER:

14 Q. Mr. Bolen, I'm going to show you what's been
15 marked as State's Exhibit 55. Can you tell me what
16 that is?

17 A. It's a layout of Ms. Dempsey's house.

18 Q. Okay. If this is the front door here, is this
19 the bathroom you're talking about at the end of the
20 hall to the right?

21 A. Yes, sir.

22 Q. And that's the bathroom she was in?

23 A. Yes, sir.

24 Q. Okay. So you and Hakeem leave the house and
25 where did you go?

- 1 A. Back to Mr. Buckmon's mother's house.
- 2 Q. And how far away is Mr. Buckmon's mother house
- 3 from Ms. Dempsey's house?
- 4 A. Right next door.
- 5 Q. Okay. So it wasn't a long trip?
- 6 A. No, sir.
- 7 Q. Where was Mr. Buckmon?
- 8 A. Outside behind the house.
- 9 Q. Where was your vehicle?
- 10 A. Right there behind the house.
- 11 Q. Was he in the car?
- 12 A. He was outside of it.
- 13 Q. Was there anybody else there?
- 14 A. Yes, sir.
- 15 Q. Who else was there?
- 16 A. Buffy, Rain, Eisha, CeeLo and Mike Paul.
- 17 Q. All right. So you got CeeLo and Mike Paul and
- 18 then three other people, correct?
- 19 A. Yes, sir.
- 20 Q. Those other three people are all female?
- 21 A. Yes, sir.
- 22 Q. Buffy, Rainy and who was the other one?
- 23 A. Eisha.
- 24 Q. Okay.
- 25 A. And then there was Keem. He was with me when

1 we came over.

2 THE COURT: Speak up.

3 A. Keem was with me when we came over.

4 Q. Right.

5 A. That's who I was with.

6 THE COURT: Hold on. My jurors cannot hear.
7 Get the microphone closer to you or slide up to the
8 microphone and speak into it. You can slide that
9 chair up.

10 THE WITNESS: I said Hakeem was with me when we
11 actually left so he was already there.

12 BY MR. MILLER:

13 Q. Okay. So Hakeem, you, Michael Paul, CeeLo. So
14 that's four and then three girls?

15 A. Right.

16 Q. Seven people in total?

17 A. Yes, sir.

18 Q. You're all behind Michael Paul's house?

19 A. Yes, sir.

20 Q. And when we say Michael Paul's house we're
21 talking about his mom's house, right?

22 A. Yes, sir.

23 Q. Okay. What happened then?

24 A. Sat out there and got high for a little while.

25 Q. Then what did you do?

1 A. Me, Mr. Buckmon and CeeLo went back to
2 Ms. Dempsey's house.

3 Q. Okay. You, Buckmon, and CeeLo. So you left
4 Hakeem or did Hakeem leave?

5 A. He was still outside.

6 Q. He didn't go back to the house with you?

7 A. No, sir.

8 Q. All right. What did y'all do when you got back
9 to Ms. Dempsey's house?

10 A. Starting taking items out of the house.

11 Q. What did you take?

12 A. Mr. Buckmon had a TV. I had a laptop and CeeLo
13 had a printer or something like that.

14 Q. Okay. What did you do next?

15 A. After that we went to Robert's house.

16 Q. How did you get there?

17 A. Rain drove us in my car.

18 Q. Who all was in the car?

19 A. Rain, Mr. Buckmon, myself, and Buffy.

20 Q. Okay. So just the four of you?

21 A. Yes, sir.

22 Q. What happened to CeeLo?

23 A. They left.

24 Q. Okay. And you said CeeLo had taken something
25 out of the house. Did he actually take it with him

1 or did he leave it with you?

2 A. Went in the car.

3 Q. Okay. What about the TV that Mr. Buckmon had?

4 A. All of it was in the car.

5 Q. All of it was in the car?

6 A. Yes, sir.

7 Q. Do you know Robert's last name?

8 A. Eure.

9 Q. So you go to Robert Eure's house. Is that a
10 long way away?

11 A. (No response.)

12 Q. How long did the drive take usually?

13 A. If I had to guess I'd say ten minutes.

14 Q. Okay. So it's a drive?

15 A. Yeah.

16 Q. What happened while you were at Robert Eure's
17 house?

18 A. Went in there and Mr. Buckmon took the TV. We
19 sat there and played cards for a little while.

20 Q. When did you -- how long were you there just in
21 general terms? Was it minutes or an hour or more?

22 A. I couldn't tell you.

23 Q. When did you leave -- or why did you leave
24 Robert Eure's house?

25 A. It's just what got decided at the time..

1 Q. What did you do when you left Robert Eure's
2 house?

3 A. Rain drove back to where she was staying and
4 got dropped off but she drove herself.

5 Q. Then where did you go from there?

6 A. Buffy drove to her house.

7 Q. Okay. And that left you and Mr. Buckmon with
8 your car, correct?

9 A. Yes, sir.

10 Q. Was anybody else in the car?

11 A. No, sir.

12 Q. Where did you go from there?

13 A. Back to Mr. Buckmon's mother's house.

14 Q. And where did -- who was driving?

15 A. Mr. Buckmon.

16 Q. And where did you park?

17 A. Behind the house.

18 Q. All right. What happened next?

19 A. After that, we decided that we was going to get
20 the drum set that was in Ms. Dempsey's house.

21 Q. Whose idea was it to go get the drum set?

22 A. I mentioned it and Mr. Buckmon said we should
23 go get it.

24 Q. So why didn't you take it the first time when
25 you were in there?

1 A. I don't know.

2 THE COURT: Speak up please.

3 THE WITNESS: I don't know.

4 BY MR. MILLER:

5 Q. So did you and Mr. Buckmon go back to the
6 house?

7 A. Yes, sir.

8 Q. How did you get into the house?

9 A. Through the back door.

10 Q. When you went in the back door what happened
11 next?

12 A. Mr. Buckmon peeked his head in Ms. Dempsey's
13 bedroom and saw that she was asleep.

14 Q. What did you do then?

15 A. Started taking the drums out of the house.

16 Q. Now, I'm going back to this diagram, State's
17 Exhibit 55. And again, if this is the front door,
18 this is the back door. You can see the kitchen
19 there. Where in the house were the drums located?

20 A. Right here.

21 Q. Okay. And you're pointing to the far
22 right-hand corner bedroom from the front of the
23 house, correct?

24 A. Yes, sir.

25 Q. All right. How many pieces were in the drum

1 set approximately?

2 A. I don't know.

3 Q. Was it a lot?

4 A. Seemed like a lot.

5 Q. Were they heavy?

6 A. Some of them.

7 Q. And as you're moving that drum set how are you
8 doing it?

9 A. Grabbing them and -- first we both grabbed
10 something and took it outside.

11 Q. Okay. Where did you place it when you took it
12 outside?

13 A. Behind the back door. By the back door.

14 Q. So you placed it beside Ms. Dempsey's back
15 door?

16 A. Yes, sir.

17 Q. Okay. And you said you and Mr. Buckmon were
18 both carrying stuff out?

19 A. Yes, sir.

20 Q. All right. What happened then?

21 A. Then somehow we got into like an assembly line
22 type thing. He'd hand me something and I'd set it
23 outside.

24 Q. Okay. Once you got everything out the back
25 door, you had all of the stuff that y'all were going

1 to take, was it just the drums? Was there anything
2 else that you took?

3 A. There was a keyboard too.

4 Q. Okay. Was there anything else that you
5 remember taking?

6 A. Not that I remember.

7 Q. Okay. So you got the drums and keyboard
8 outside the back door. Then what did you do?

9 A. There was still a few pieces on the kitchen
10 floor.

11 Q. Okay. What kind of pieces are you talking
12 about?

13 A. Some stands and symbols.

14 Q. Okay. So what happened then?

15 A. After that Mr. Buckmon said he was going to go
16 in the room and try to have sex with Ms. Dempsey.

17 Q. And what did you do?

18 A. I was loading up the -- supposed to finish
19 loading up the drums.

20 Q. Okay. Did you get everything from inside to
21 the outside?

22 A. Eventually, yes, sir.

23 Q. At any point in time did you go to look or try
24 to get Mr. Buckmon to help you finish moving this
25 stuff?

1 A. Yes, sir.

2 Q. And how did that interaction go?

3 A. The first time when I was taking some of the
4 pieces off the floor that I mentioned earlier I told
5 Mr. Buckmon I needed help; I didn't get a reply.

6 There was another time that I -- the first time I
7 heard some moaning from the bedroom is all I heard.

8 I didn't get a reply. The second time when I came
9 in I poked my head in the bedroom to tell him I
10 needed help. He yelled at me and told me to come in
11 there where he was at.

12 Q. What did he ask you to do?

13 A. He asked me to grab her belt and tie
14 Ms. Dempsey up.

15 Q. Tie her up how?

16 A. By her feet.

17 Q. Did you try to do that?

18 A. I couldn't do it.

19 Q. Did you attempt to do it?

20 A. I guess you could say yeah.

21 Q. Were you successful in tying her feet up?

22 A. No, sir.

23 Q. What did you do next?

24 A. Mr. Buckmon got mad and told me to go finish
25 loading the drums up.

1 Q. At this point all the drums were already
2 outside, right?

3 A. There was still a couple pieces in the living
4 room.

5 Q. In the living room or in the kitchen?

6 A. In the kitchen. Sorry.

7 Q. All right. So did you get all of those items
8 outside?

9 A. Yeah. After that I took everything outside.

10 Q. And where did those items move to next?

11 A. I moved them towards where the fence and
12 there's a car right there. Around there.

13 Q. All right. The fence that you're talking
14 about, is it a chain link fence?

15 A. Yes, sir.

16 Q. How tall is it?

17 A. I don't know.

18 Q. Is it over your head or is it --

19 A. No.

20 Q. On your own body how would you say -- where
21 would it come up to?

22 A. Midsection.

23 Q. Okay. Was there a gate right there?

24 A. I can't remember.

25 Q. How were you moving stuff to the other side of

1 the fence? That's my question. Were you putting it
2 over it?

3 A. Trying to, yes, sir.

4 Q. All right. Are you moving really fast at this
5 point?

6 A. No.

7 Q. Why not?

8 A. Just hard for me to get stuff over the fence.
9 I don't know. It's just hard to get it over.

10 Q. Okay. How -- if you remember, how long were
11 you outside moving stuff from the back of the house
12 to the fence and over the other side of the fence?

13 A. I couldn't tell you.

14 Q. Did it seem like a long time?

15 A. Yes, sir.

16 Q. What were the lighting conditions like at that
17 time? Was it still middle of the night dark?

18 A. It was dark, yes, sir.

19 Q. Okay. So at this point Mr. Buckmon is in the
20 house and you don't know what he's doing because
21 you're not in the house, correct?

22 A. Yes, sir.

23 Q. And you get all of the stuff over the fence,
24 correct?

25 A. No, sir.

1 Q. What -- what happened?

2 A. I couldn't get them over so I had to go tell
3 Mr. Buckmon I needed help.

4 Q. Okay. So you go inside to tell him you need
5 help getting this stuff over the fence?

6 A. Right.

7 Q. What did you see when you walked into the
8 house?

9 A. I walked back in and I saw -- it looked like
10 something burning on the stove and there was smoke
11 in the air.

12 Q. What happened then?

13 A. After that, I saw Ms. Dempsey running from her
14 bedroom with Mr. Buckmon behind her.

15 Q. She was in her bedroom? Now, let's go back to
16 that State's Exhibit 55. From the front of the
17 house -- so this is the front of the house. If you
18 come in the front door, is -- which bedroom is
19 Ms. Dempsey's bedroom?

20 A. Right here.

21 Q. Okay. So that's the first bedroom closest to
22 the street on the left-hand side, correct?

23 A. Yes, sir.

24 Q. To the left of that first room you enter into?

25 A. Right.

1 Q. All right. She came out of that bedroom with
2 Mr. Buckmon behind her, correct?

3 A. Yes, sir.

4 Q. What happened then?

5 A. Mr. Buckmon put her in a choke hold.

6 THE COURT: I'm sorry. Say it again.

7 THE WITNESS: Mr. Buckmon put her in a choke
8 hold.

9 BY MR. MILLER:

10 Q. From behind?

11 A. Yes, sir.

12 Q. Okay. Did she stop running?

13 A. Yes, sir.

14 Q. What happened next?

15 A. They fell to the floor.

16 Q. How did they fall to the floor?

17 A. (No response.)

18 Q. Was he on her back? Did he pick her up and
19 throw her on the floor? How did they fall to the
20 floor?

21 A. I couldn't tell you. I just remember them
22 going down to the ground.

23 Q. Okay. What happened then?

24 A. Ms. Dempsey went slack.

25 Q. Said she went slack?

- 1 A. Yes, sir.
- 2 Q. Like she passed out?
- 3 A. Yeah.
- 4 Q. I'm asking you. Is that what you mean?
- 5 A. Yes, sir.
- 6 Q. She just went limp?
- 7 A. Yes, sir.
- 8 Q. Okay. Then what happened?
- 9 A. Mr. Buckmon looked up and saw me standing
- 10 there.
- 11 Q. And what did you do?
- 12 A. Just stood there.
- 13 Q. What happened next?
- 14 A. He got up and pushed me towards the back door
- 15 and told me to get out and finish loading everything
- 16 up.
- 17 Q. Did you go outside?
- 18 A. No, sir.
- 19 Q. Why not?
- 20 A. I don't know.
- 21 Q. What happened next?
- 22 A. Ms. Dempsey started to move.
- 23 Q. She was still on the ground in the kitchen?
- 24 A. Yes, sir.
- 25 Q. And you're in the kitchen?

- 1 A. Yes, sir.
- 2 Q. And Buckmon is in the kitchen?
- 3 A. Yes, sir.
- 4 Q. What happened when she started to move?
- 5 A. Mr. Buckmon came over there and punched her in
- 6 the chest.
- 7 Q. In the chest?
- 8 A. Yes, sir.
- 9 Q. Okay. What happened next?
- 10 A. She turned to try to cover up her face.
- 11 Mr. Buckmon put her back in a choke hold.
- 12 Q. Was he standing over her? Was he kneeling,
- 13 laying on top of her while he's doing this? What's
- 14 he doing?
- 15 A. I couldn't tell you his exact position.
- 16 Q. Okay. What happened after that?
- 17 A. After she went slack, Mr. Buckmon grabbed a
- 18 hammer and hit her on the head with the hammer.
- 19 Q. Where was the hammer?
- 20 A. On the stove countertop area. Somewhere around
- 21 there.
- 22 Q. After she was hit in the head in the kitchen,
- 23 did she move anymore?
- 24 A. No, sir.
- 25 Q. What did you do at that time?

1 A. I just stood there.

2 Q. What made you move?

3 A. (No response.)

4 Q. What's the next thing you did after you just
5 stood there?

6 A. I didn't move until Mr. Buckmon made me.

7 THE COURT: Speak up please.

8 Q. How did he --

9 THE COURT: Hold on, Mr. Miller.

10 You're going to have to speak up.

11 THE WITNESS: I didn't move until Mr. Buckmon
12 made me move.

13 BY MR. MILLER:

14 Q. How did he make you move?

15 A. When he looked up and he saw me still standing
16 there, he put the hammer in his waistband and pulled
17 the gun out and put it in my face.

18 Q. Okay. What did he tell you to do, if anything?

19 A. Told me if I didn't keep my mouth closed and do
20 what I was told to do he was going to kill me and my
21 kids.

22 Q. What did he tell you to do?

23 A. After that he told me to find some bleach.

24 Q. Find some bleach?

25 A. Yes, sir.

1 Q. Did you try to find bleach?

2 A. Yes, sir.

3 Q. What was he doing during that time?

4 A. Standing by Ms. Dempsey.

5 Q. Were you able to find any bleach?

6 A. No, sir.

7 Q. Where did you look for bleach?

8 A. In the drawers, up under the sink, in the
9 laundry room.

10 Q. Where was the laundry room in relationship to
11 the kitchen?

12 A. Right there pretty much in the same section.

13 Q. Okay. Was there a door to the laundry room
14 from the kitchen?

15 A. There was an entryway. Yes, sir.

16 Q. Okay. An entryway? You weren't able to find
17 bleach?

18 A. No, sir.

19 Q. When you weren't able to find any bleach what
20 did you do?

21 A. Mr. Buckmon told me to finish burning --

22 Q. If you remember exactly what he said you need
23 to say exactly what he said.

24 A. He said, finish burning this shit down.

25 Q. What did you do when he told you to finish

1 burning the place?

2 A. I went in the living room.

3 Q. What did you see when you got there?

4 A. I saw a fire on top of the piano.

5 Q. And what was going on -- describe the fire.

6 Describe what was happening.

7 A. It was a candle and some books over the top of
8 the candle that caught fire.

9 Q. Now, explain this to me. You got a regular
10 candle just sitting on top of the piano, correct?

11 A. Right.

12 Q. And then you've got books -- a stack of books?

13 A. Right.

14 Q. And you said one or some of the books had been
15 positioned to be above the flame?

16 A. Right.

17 Q. Okay. All right. What did you do when you saw
18 that -- was -- that book that was over the flame,
19 had it started smoking or flaming up?

20 A. Yes, sir.

21 Q. What did you do?

22 A. I grabbed my shirt and grabbed the book and
23 threw it -- went to the bathroom with it and threw
24 it in the bathtub.

25 Q. Now, was that the same bathroom that you had

1 left Ms. Dempsey earlier that night?

2 A. Yes, sir.

3 Q. Where did you throw it in the bathroom?

4 A. In the bathtub.

5 Q. What else did you observe in the bathroom?

6 A. When I walk in the bathroom area there was some
7 tissue like over a towel rack and there was a candle
8 up under it. It wasn't on fire but I threw it in
9 the bathtub too.

10 Q. Okay. When you say tissue, was this like
11 toilet paper?

12 A. As far as I can remember, yeah.

13 Q. Was it a lot of it had been draped over or was
14 it just one --

15 A. No, it was a good little bit.

16 Q. Okay. And you said you took that and threw it
17 in the tub too?

18 A. Yes, sir.

19 Q. What did you do next?

20 A. Came back out of the bathroom.

21 Q. And where was the defendant during all of this
22 time?

23 A. Standing in between where the kitchen and the
24 living room connect.

25 Q. Okay. Is there an entryway from the kitchen

1 into the living room?

2 A. Yeah, where you can stand in the middle and be
3 in both of them at the same time.

4 Q. Okay. So there's a doorway kind of like this
5 and you can stand like this and be in both places?

6 A. Yes, sir.

7 Q. Okay. When you came out of the area where the
8 bathroom was and you encountered Mr. Buckmon again,
9 what did you do then?

10 A. We left.

11 Q. Where did you go?

12 A. Went back outside the back door of her house.

13 Q. And when you back out of the back door of
14 Ms. Dempsey's house was Mr. Buckmon with you?

15 A. Yes, sir.

16 Q. And did either of you ever go back into
17 Ms. Dempsey's house again?

18 A. No, sir.

19 Q. Once you got outside, you still had some stuff
20 that wasn't moved over the fence, correct? Part of
21 this drum set?

22 A. Yes, sir.

23 Q. What happened then?

24 A. Mr. Buckmon got upset with me because I didn't
25 load the stuff up.

1 Q. Because you hadn't loaded all this into the car
2 already?

3 A. Right.

4 Q. So what did you do?

5 A. Me and Mr. Buckmon jumped the fence and went
6 over by my car, and he continued to tell me to grab
7 the stuff by the fence and bring it to the car.

8 Q. So now you're going from the fence to the car,
9 putting it in the car?

10 A. Yes, sir.

11 Q. Was Mr. Buckmon loading it into the car for you
12 or you leave it here and he'd load it, or were you
13 loading it in the car?

14 A. I loaded the majority of the items but there
15 was a few that I set down and he just threw in the
16 car.

17 Q. Okay. Did this drum set fill up the trunk of
18 your car?

19 A. Trunk and the back seat.

20 Q. Okay. The trunk and the back seat.

21 A. Yes, sir.

22 Q. Was there anymore room in the car to put
23 anything else?

24 A. No, sir. I had another piece in the front seat
25 too.

1 Q. You had another piece of the drum set in the
2 front seat?

3 A. Yes, sir.

4 Q. What was it? Do you recall?

5 A. I believe it was a snare.

6 Q. A snare drum? The round one?

7 A. Right.

8 Q. Okay. So who -- was there anybody else around
9 besides you and Michael Paul Buckmon whenever all
10 this was going on?

11 A. There was someone across the street.

12 Q. Okay. Was that person in any way involved at
13 all with anything going on here?

14 A. No, sir.

15 Q. All right. Did you ever see the defendant's
16 mother that morning?

17 A. No, sir.

18 Q. Okay. When you get into the car -- your car,
19 who is driving?

20 A. Mr. Buckmon.

21 Q. Where are you?

22 A. In the passenger's seat.

23 Q. What about that snare drum you were talking
24 about?

25 A. It's in my lap.

1 Q. Where did y'all go?

2 A. To Robert's house.

3 Q. After you go to Robert Eure's house where do
4 you go?

5 A. I had to go -- Robert wasn't at his house so we
6 had to go pick him up.

7 Q. Okay. Where was that -- do you recall -- that
8 you picked him up?

9 A. Some apartments. I don't recall which ones.

10 Q. Okay. Are you from this area?

11 A. I'm mainly from Williston area.

12 Q. Okay. Do you have a lot of familiarity with
13 Barnwell? Do you know where all these places are?

14 A. I have a mother-in-law that lives here but as
15 far as the apartments and stuff I don't really know.

16 Q. So you go pick up Eure and did Eure go anywhere
17 with you?

18 A. Yes, sir.

19 Q. Where did y'all go?

20 A. To the gas station.

21 Q. After going to the gas station, what did y'all
22 do with Mr. Eure?

23 A. Dropped him back off.

24 Q. All right. Now, tell me who was in the car at
25 this point. You've dropped off Mr. Eure. It's your

- 1 car. Who is driving?
- 2 A. Mr. Buckmon.
- 3 Q. You're in the passenger's seat?
- 4 A. I'm in the middle.
- 5 Q. Okay. In the middle?
- 6 A. Right.
- 7 Q. And who else is in the car?
- 8 A. Robert got in on the passenger's seat.
- 9 Q. Okay. Once you drop him off now it's just you
- 10 and Mr. Buckmon, correct?
- 11 A. Yes, sir.
- 12 Q. And is Mr. Buckmon still driving?
- 13 A. Yes, sir.
- 14 Q. What did you do? Are you still in the
- 15 passenger's seat?
- 16 A. Yes, sir.
- 17 Q. What did you do?
- 18 A. Eventually we started heading to Columbia.
- 19 About that time I kind of blacked out.
- 20 Q. Okay. When you woke up -- well, let's go back.
- 21 When you were loading all of the items into the car,
- 22 you're loading the drums and everything else into
- 23 the car, what were the lighting conditions like?
- 24 What time of the day was it?
- 25 A. It just started to be morning time.

1 Q. Okay. Daybreak. Starting to get light, sky
2 starting to lighten up?

3 A. Yes, sir.

4 Q. Okay. By the time you drop off Mr. Eure is it
5 daylight outside?

6 A. Yes, sir.

7 Q. All right. When you wake up, where were you?

8 A. At a rest area.

9 Q. Where?

10 A. I couldn't give an exact location.

11 Q. Was it on one of the interstates?

12 A. Yes. Somewhere on the interstate.

13 Q. Okay. Do you know if it was on I-26 or if it
14 was on I-20?

15 A. I don't know.

16 Q. Okay. What happened from there?

17 A. Mr. Buckmon got out and told me to drive.

18 Q. Okay. So now he's in the passenger's seat and
19 you're in the driver's seat?

20 A. Yes, sir.

21 Q. Where is that snare drum?

22 A. Floorboard.

23 Q. Okay. And where did you drive to?

24 A. Piedmont -- well --

25 THE COURT: Speak up please.

- 1 A. Piedmont area.
- 2 Q. Why did you go to the Piedmont area?
- 3 A. It was just the only place I knew where to go.
- 4 Q. Why did you know to go there?
- 5 A. Because my grandparents have a trailer there.
- 6 Q. All right. Do your grandparents live there
- 7 anymore?
- 8 A. No, sir.
- 9 Q. But they still own the trailer?
- 10 A. Yes, sir.
- 11 Q. All right. So you go to that trailer in
- 12 Piedmont. Is Mr. Buckmon still with you?
- 13 A. Yes, sir.
- 14 Q. After you go to the trailer in Piedmont what
- 15 did you do?
- 16 A. Before we got to the trailer we stopped at a
- 17 gas station in Greenville to try to pawn the drums
- 18 but they didn't accept it.
- 19 Q. Then where'd you go?
- 20 A. To the trailer in Piedmont.
- 21 Q. Then where'd you go?
- 22 A. After that we went to a pawnshop in Easley.
- 23 Q. And that pawnshop in Easley, were you able to
- 24 pawn the drums?
- 25 A. Yes, sir.

1 Q. Now, when you were taken into custody -- when
2 you were taken into custody, your car had already
3 been found and seized by SLED, correct?

4 A. Yes, sir.

5 Q. And that was one of the ways they found you was
6 because they found your car, correct?

7 A. Yes, sir.

8 Q. I'll show you what's been marked as State's
9 Exhibit 4. This is a pawn receipt. This was in
10 your vehicle, wasn't it?

11 A. Yes, sir.

12 Q. And this is from Blue Ridge Pawnbrokers in
13 Easley, South Carolina, correct?

14 A. Yes, sir.

15 Q. And it says, one Pearl drum set, two symbols,
16 and some other stuff and a Yamaha keyboard 12-piece
17 and stands. You see that on there?

18 One Pearl drum set, two symbols, something,
19 12-piece and stands, Yamaha keyboard?

20 A. Yes, sir.

21 Q. Now whose name is that here?

22 A. Michael P. Buckmon.

23 Q. And what is the date and the time on that from
24 the top of that receipt?

25 A. 11/1/13. Time, looks like 3:48.

1 Q. Now, State's Exhibit 53 which is already in
2 evidence was a video, and on this video -- you
3 initialed that this morning, correct?

4 A. Yes, sir.

5 Q. And put today's date on it?

6 A. Yes, sir.

7 Q. Is that video the video of the transaction at
8 the pawnshop?

9 A. Yes, sir.

10 Q. One second please. When you were trying to tie
11 Ms. Dempsey's feet what was she doing? Was she
12 moving?

13 A. No, sir.

14 Q. Was she face up or face down?

15 A. Face up, I believe.

16 Q. After Mr. Buckmon hit Ms. Dempsey with the
17 hammer in the kitchen, what did he do with the
18 hammer?

19 A. Put it in his waistband.

20 Q. He put it in his waistband?

21 A. Yes, sir.

22 Q. Do you know what happened to that hammer
23 ultimately?

24 A. Mr. Buckmon threw it in the woods.

25 Q. Where did he throw it in the woods?

1 A. On a road called -- Wren School Road, I
2 believe, is the name of the road.

3 Q. After your arrest, did you try to take the
4 police out to that area and show them where that
5 hammer was?

6 A. Yes, sir.

7 Q. Were they able to find it?

8 A. No, sir.

9 Q. When you and Mr. Buckmon left [REDACTED],
10 Ms. Dempsey's house -- when you left the house that
11 morning, were there fires burning inside?

12 A. Not that I know of.

13 Q. Was Ms. Dempsey still inside the house in the
14 kitchen?

15 A. Yes, sir.

16 Q. She was?

17 A. Yes, sir.

18 Q. What was her condition?

19 A. She was on the floor.

20 Q. Was there blood around her head?

21 A. I don't know.

22 MR. MILLER: Please answer any questions
23 Mr. Chesser has for you.

24 MR. CHESSER: Your Honor, I request a short
25 break.

1 THE COURT: Everybody okay over there?

2 We need to take a short break. We'll take a
3 short bathroom break. Please don't discuss the case
4 and don't deliberate. We'll be back in about ten
5 minutes. Everybody else remain seated.

6 (The jury exits the courtroom at 10:40 a.m.)

7 THE COURT: All right. We'll take about a
8 ten-minute break. If the witness needs a bathroom
9 break, make sure he's taken care of.

10 (Trial in recess 10:41 a.m. to 10:59 a.m.)

11 (Jury enters the courtroom at 11:01 a.m.)

12 THE COURT: We had maintenance come up and
13 check your chair. Is it okay?

14 JURY MEMBER: Thank you. Yes, it is.

15 THE COURT: Mr. Chesser.

16 MR. CHESSER: May it please the Court.

17 CROSS-EXAMINATION

18 BY MR. CHESSER:

19 Q. Mr. Bolen, how old are you?

20 A. Twenty-six.

21 Q. How long did you go to school?

22 A. To -- I completed the 11th grade.

23 Q. Now, you were convicted in 2009 of burglary in
24 the second degree?

25 A. Yes, sir.

1 Q. And also, you were convicted of grand larceny
2 more than \$1,000?

3 A. Yes, sir.

4 Q. And on the burglary second you were sentenced
5 to ten years suspended to two years and five years
6 probation?

7 A. Repeat that one more time.

8 Q. Ten years suspended to two years active and
9 five years probation?

10 A. I believe that's correct. Yes, sir.

11 Q. Okay. And you got three years suspended to two
12 years active on the grand larceny, right?

13 A. I believe so. Yes, sir.

14 Q. So you actually went to prison on those
15 charges?

16 A. Yes, sir.

17 Q. And in 2013, were you on probation?

18 A. No, sir.

19 Q. You don't think so?

20 A. No, sir.

21 Q. Okay. And also, when you went up to Greenville
22 where your grandparents had a house -- that's what
23 you testified to, right?

24 A. Yes, sir.

25 Q. And you ended up stealing an air conditioner

1 from that house?

2 A. Yes, sir.

3 Q. And then also -- and let's get the dates right.

4 You were arrested on November the 11th?

5 A. I believe that's correct.

6 Q. Okay. And this happened on Friday, November
7 the 1st?

8 A. October 31st through November the 1st. Yes,
9 sir.

10 Q. And during this time period from November the
11 1st through November 11th, there were occasions when
12 you came back to this area in your vehicle; isn't
13 that correct?

14 A. Yes, sir.

15 Q. Okay. And on one of those occasions you stole
16 some items from your grandparents the Goffs here in
17 Williston, didn't you?

18 A. No, sir.

19 Q. In this case here you're charged with murder;
20 isn't that correct?

21 A. Yes, sir.

22 Q. And you're charged with arson in the first
23 degree?

24 A. Yes, sir.

25 Q. On the murder charge you understand that you're

1 facing 30 years to life?

2 A. Yes, sir.

3 Q. Day for day?

4 A. Yes, sir.

5 Q. And if you get life you come out of prison in a
6 box, right?

7 A. Yes, sir.

8 Q. And you understand on the arson first you're
9 looking at 30 years?

10 A. Yes, sir.

11 Q. And of those 30 whatever you get -- well,
12 actually of the 30 you'd do 85 percent of those.

13 You understand that?

14 A. Yes, sir.

15 Q. So you're here to help yourself, right?

16 A. Yes, sir.

17 Q. Now, you were interviewed by law enforcement on
18 or about November 11th of 2013, correct?

19 A. I believe so.

20 Q. Okay. Now, what you've testified to, you would
21 understand, is something that would make an
22 unforgettable impression on you, right?

23 A. Yes, sir.

24 Q. So when you were interviewed on or about
25 November 11th of 2013, in fact, you told law

1 enforcement that you handed a hammer to Mr. Buckmon,
2 right?

3 A. Yes, sir.

4 Q. And now you're stating that you didn't, right?

5 A. I told them I didn't at first, in my first
6 interview.

7 Q. So you told them one thing and then you changed
8 it?

9 A. Yes, sir.

10 Q. And now you're changing it again?

11 A. Yes, sir.

12 Q. Also, in your statement, around about
13 November 11th, you never mentioned anything about
14 Mr. Buckmon having a gun at Donna Dempsey's house,
15 did you?

16 A. Yes, I did.

17 Q. Are you familiar with the written statement you
18 gave on or about November 11th?

19 A. Fairly, yes, sir.

20 Q. Okay. If I show it to you, would you be able
21 to point out where you mention something about a
22 gun?

23 A. I can read it and see if it's in there.

24

25 MR. CHESSER: Permission to approach?

1 A. Yes, sir. I previously forgot to mention that
2 while in the house he pointed a black 45 pistol at
3 me and said if I didn't do what he said he would
4 kill me and my kids.

5 Q. So you're saying that when you first talked to
6 them you didn't remember that, did you?

7 A. I told them. It's in my statement.

8 Q. And later on you changed your statement, right?

9 A. I told him it's right here, that he pointed the
10 gun at me.

11 THE COURT: Speak up, sir. We can't hear you.

12 THE WITNESS: I told him it's right here, that
13 he pointed the gun at me.

14 BY MR. MILLER:

15 Q. Now, that night on October 31st of 2013 --
16 well, during that day -- we'll start with that
17 day -- you were giving tattoos in that area on Berry
18 Street, right?

19 A. I can't really remember.

20 Q. Do you recall that you were wearing red shorts
21 and a red shirt and a baseball cap?

22 A. I remember the red shirt and the red shorts.
23 Yes, sir.

24 Q. Okay.

25 MR. CHESSER: Your Honor, I have exhibits which

1 we've agreed would come into evidence.

2 THE COURT: As Defendant's Exhibits?

3 MR. CHESSER: Yes, Your Honor. And they are
4 Defendant's 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 18
5 and 19, and Defense would move these into evidence
6 at this time.

7 THE COURT: Mr. Miller, 1 through 5, 8 through
8 13, 18 and 19.

9 MR. MILLER: Without objection, Your Honor.

10 THE COURT: Mr. Chesser, this is coming in on
11 the defense side; is that correct?

12 MR. CHESSER: Yes, Your Honor.

13 THE COURT: All right.

14 (Defendant's Exhibit Nos. 1, through 5, 8
15 through 13, 18 and 19 were entered into evidence.)

16 BY MR. CHESSER:

17 Q. Let me show you what's been introduced into
18 evidence as Defendant's Exhibit 19, Mr. Bolen and
19 ask you, do you recognize -- isn't that you giving a
20 tattoo on Halloween Day of 2013?

21 A. I don't know what day it is but that's me in
22 the picture.

23 Q. All right. And would you disagree this is what
24 you were wearing on Halloween of 2013?

25 A. That's it.

1 Q. That's it. Now, later on that night, you went
2 over to Donna Dempsey's, right?

3 A. Yes, sir.

4 Q. And that would be after the trip to Reid's or
5 Bi-Lo's at about 10:00 p.m. on October 31st, right?

6 A. I don't know what time but I know we went.

7 Q. But it was after that trip to the grocery store
8 that you went over to Donna Dempsey's house and
9 spent some time with her?

10 A. Yes, sir.

11 Q. Okay. Now -- and then you testified that later
12 on that night, you went to Robert Eure's house,
13 right?

14 A. Yes, sir.

15 Q. So at some point you changed these red shorts
16 for a pair of blue jeans, right?

17 A. No.

18 Q. Is it your testimony here then that you were
19 not wearing blue jeans on that Halloween night over
20 at Donna Dempsey's?

21 A. Not that I remember, no.

22 Q. So you don't remember what you were wearing?

23 A. Red shorts, as far as I can recall.

24 Q. You testified about having sexual relations
25 with Donna Dempsey at her house again after that

1 trip to Bi-Lo's, correct?

2 A. Yes, sir.

3 Q. Okay. Now, this was a time that you testified
4 that Michael Buckmon was not present at her house,
5 right? You were alone with her?

6 A. Yes, sir.

7 Q. Okay. And you stated that she came on to you
8 or made advances to you; is that right?

9 A. Yes, sir.

10 Q. Okay. And then you began to have sexual
11 relations with her in the living room, right?

12 A. Yes, sir.

13 Q. And those sexual relations advanced to her
14 bedroom; isn't that right?

15 A. Yes, sir.

16 Q. And you testified that she asked you to stop
17 having sexual intercourse with her at some point,
18 right?

19 A. Yes, sir.

20 Q. And she indicated she was uncomfortable,
21 correct?

22 A. We just stopped. Yes, sir.

23 Q. Sir?

24 A. Yeah. I mean, I don't know what the reason
25 was. She just wanted to stop.

1 Q. Isn't it a fact that she told you that she was
2 uncomfortable in the process of having sex with her?

3 A. I don't remember what she said exactly. I just
4 know we stopped.

5 Q. Okay. At that point she performed oral sex on
6 you; is that right?

7 A. Yes, sir.

8 Q. Now, there was a time later on that evening
9 when you were over there at Donna Dempsey's with
10 Hakeem Mixon, right?

11 A. Yes, sir.

12 Q. In fact, you understood that Hakeem had sex
13 with her, correct?

14 A. No.

15 Q. He told you he had sex with her, didn't he?

16 A. No, he never told me that.

17 Q. And you told law enforcement that he told you
18 that he had sex with her, right?

19 A. I don't remember saying that.

20 Q. You don't remember telling the SLED agent
21 interviewing you that Hakeem said that he had sexual
22 relations with Donna Dempsey?

23 A. I don't remember saying that, sir.

24 Q. Now, you recall that when you were arrested
25 your car was seized by law enforcement, correct?

1 A. Yes, sir.

2 Q. All right. And various items were taken out of
3 that vehicle, correct?

4 A. Right.

5 MR. CHESSER: Permission to approach, Your
6 Honor?

7 THE COURT: Yes, sir.

8 BY MR. CHESSER:

9 Q. I'll show you what's been introduced into
10 evidence as Defendant's Exhibit Number 1. You
11 recognize this red and black baseball bat, correct?

12 A. Yes.

13 Q. That's your bat, right?

14 A. Yes, sir.

15 Q. You carry it around in your vehicle, right?

16 A. Right.

17 Q. And I'll show you Defendant's Exhibit No. 2
18 introduced into evidence. These are some knives
19 that were in the trunk of your vehicle, right?

20 A. Yes, sir.

21 Q. Those are your knives, right?

22 A. Yeah.

23 Q. I'll show you Defendant's Exhibit No. 3. This
24 is a red shirt, black shorts and a gray, looks like
25 a tank top. Those are yours, correct?

1 A. Yes, sir.

2 Q. Defendant's Exhibit No. 4 in evidence, those
3 are your red and black shoes, correct?

4 A. Yes, sir.

5 Q. Defendant's Exhibit 5 in evidence, again, red
6 and black shoes, correct?

7 A. Yes, sir.

8 Q. Some jeans of yours -- two pair were found in
9 that vehicle, correct?

10 A. I don't know how many pairs were found.

11 Q. Okay. Do you recognize these with the tear.
12 Those are your jeans, aren't they?

13 A. Yes, sir.

14 THE COURT: Exhibit number?

15 MR. CHESSER: Thank you, Your Honor. Number 8.

16 BY MR. CHESSER:

17 Q. Defendant's Exhibit No. 9, again, those are
18 your jeans with these holes in them?

19 A. Yes, sir.

20 Q. Number 10?

21 A. Yes, sir.

22 Q. Defendant's Exhibit No. 11, those are your
23 jeans?

24 A. Yep.

25 Q. Number 12, your jeans?

- 1 A. Yes, sir.
- 2 Q. Number 13, your jeans?
- 3 A. (Nods head.)
- 4 Q. Now, at this point I want to show you
- 5 Defendant's 18. Do you recall this being found in
- 6 your vehicle?
- 7 A. Yeah.
- 8 Q. Okay. And this is 14 pieces of paper having to
- 9 do with introduction into the Blood's street gang,
- 10 correct?
- 11 A. Yes, sir.
- 12 Q. And this is your handwriting, right?
- 13 A. Yes, sir.
- 14 Q. I'm going to show you what appears to be page
- 15 6. It has 6 stars up at the top right corner,
- 16 right?
- 17 A. Right.
- 18 Q. But it has what looks to be a reverse 9. Is
- 19 that actually indicating that it's the 6th page?
- 20 A. Yes, sir.
- 21 Q. Okay. And you wrote that, right?
- 22 A. Yes, sir.
- 23 Q. You wrote it all in red ink, right?
- 24 A. Yes, sir.
- 25 Q. This next to the last paragraph, why I bang,

1 would you read that to the jury please?

2 A. It says, I bang for the cause, not because. I
3 bang for all the real homies and O G's. I bang for
4 blood, to be blood, to see blood. I bang for all
5 the big homies and O G's who blood shed so I can
6 B-hop and G-stroll. I don't rep this life. I bang
7 this life till I get pushed.

8 Q. So Mr. Bolen you were, in fact, a banger; is
9 that right?

10 A. No, sir.

11 Q. You had this Blood's -- basically sort of a
12 Blood's Bible and that's what you were studying,
13 right?

14 A. Yes, sir, I had it.

15 Q. Isn't it a fact in the Bloods they have an
16 initiation process, Mr. Bolen?

17 A. I couldn't tell you.

18 Q. Isn't it a fact that you have to kill somebody
19 to get inscripted into the Blood street gang?

20 A. I couldn't tell you.

21 Q. Isn't that what you wrote here, that you bang
22 for the cause?

23 A. That's what I wrote, yes, sir.

24 MR. CHESSER: That's all the questions I have,
25 Your Honor.

1 THE COURT: Redirect?

2 REDIRECT EXAMINATION

3 BY MR. MILLER:

4 Q. Mr. Bolen, to the best of your knowledge,
5 aren't you and Mr. Buckmon facing the exact same
6 charges?

7 A. Yes, sir.

8 Q. And when you were arrested and just in general
9 through those ten days between October 31st and
10 November 11th when you were arrested, what was your
11 mental state at that time. What were you doing?

12 A. High all the time.

13 Q. You were high all the time?

14 A. Yeah. Delusional. I had a lack of sleep.

15 Q. And as you recalled what was going on talking
16 to the officers, did you tell them in response to
17 their questions what you remembered?

18 A. Yes, sir.

19 Q. And is that what you told the jury here today?

20 A. Yes, sir.

21 Q. What offers, what deals have been made for you
22 to get up here and testify today?

23 A. Nothing.

24 Q. And if, in fact, if you don't testify
25 truthfully in the opinion of the judge, if you don't

1 testify truthfully --

2 MR. CHESSER: Objection.

3 THE COURT: Sustained.

4 BY MR. MILLER:

5 Q. What do you get out of getting on the stand and
6 not testifying truthfully?

7 A. What do I get out of testifying and not
8 testifying truthfully?

9 Q. Yes.

10 A. As far as I know, more charges. I don't know.

11 Q. Do you expect to help yourself by testifying
12 not truthfully?

13 A. Not truthfully?

14 Q. Not truthfully.

15 A. I don't see how that would help me.

16 Q. And as far as your testimony here today, if you
17 are hoping to get some help with your charges
18 because of that testimony, you understand that it
19 has to be truthful, correct?

20 A. Yes, sir.

21 MR. MILLER: No further questions.

22 THE COURT: All right. You may step down.

23 MR. MILLER: Your Honor, may we approach?

24 (Off-the-record sidebar discussion.)

25 THE COURT: He's released from his subpoena.

1 He no longer has to be here today.

2 All right. Next witness.

3 MR. MILLER: Your Honor, the State calls
4 Special Agent Sterling Seals.

5 STERLING SEALS

6 being first duly sworn, testified as follows:

7 THE CLERK: Have a seat and state your full
8 name for the record.

9 THE COURT: Mr. Foreman, ladies and gentlemen
10 of the jury, this is SLED Agent Seals. As I
11 understand -- we had a conference with the lawyers
12 before we started this morning and he had a couple
13 roles in the investigation. We're going to do
14 something a little different in his testimony.

15 He's going to testify this morning dealing with
16 one aspect of the investigation. Mr. Chessser will
17 be able to cross-examine him on that. And then to
18 make things float chronologically he will come back
19 after lunch to testify on the other aspect of the
20 investigation, and also Mr. Chessser will be allowed
21 to cross-examine him on that aspect.

22 Is that basically where we are on that?

23 MR. MILLER: That is, Your Honor. And I
24 apologize, I should have asked before. We will need
25 the two alternates to move to the other end so that

1 we can put up the screen.

2 THE COURT: All right.

3 Mr. Bamberg, can you help us?

4 My two alternates, would you move down here so
5 you can see the screen?

6 Your witness.

7 DIRECT EXAMINATION

8 BY MR. MILLER:

9 Q. Special Agent Seals, where are you employed?

10 A. I'm employed with the South Carolina Law
11 Enforcement Division which is also commonly referred
12 to as SLED.

13 Q. How long have you been with SLED?

14 A. I've been with SLED over ten years.

15 Q. How long have you been with law enforcement?

16 A. I started out my career in 2000 so 17 years.

17 Q. Where did you start your career?

18 A. Before working at SLED I was employed with the
19 Mount Pleasant Police Department here in South
20 Carolina.

21 Q. What was your role with the Mount Pleasant
22 Police Department?

23 A. I was patrolman as well as a SWAT team member.

24 Q. Okay. What do you do at SLED?

25 A. I am specifically assigned to the arson and

1 bomb investigation unit.

2 Q. Is that the only role that you have at SLED?

3 A. That is the unit I'm primarily assigned. All
4 special agents at SLED are investigators and we are
5 also subject to helping out with disaster relief
6 such as Hurricane Matthew as well as restoring order
7 if there's -- like we had last year at the Capital.
8 We are subject to those type of call-outs as well,
9 besides our primary responsibility.

10 Q. So your primary responsibility is that of an
11 investigator, correct?

12 A. That's correct.

13 Q. What are some of the things that you as an
14 investigator do?

15 A. As a member of the arson and bomb investigation
16 unit my primary goal is to investigate fires around
17 the State of South Carolina. We do investigate
18 across the state. We're called in to investigate
19 fires by any number of jurisdictions. It can be a
20 police department, fire department or sheriff's
21 department.

22 When we are called an agent is assigned. When
23 it's myself I go there, and I conduct what we call
24 an origin and cause investigation which is trying to
25 determine where a fire started and how it started.

1 Q. What is the educational background that allows
2 you to hold that position?

3 A. I hold a Bachelor of Science degree from the
4 University of South Carolina in criminal justice. I
5 also have a Master of Arts degree in education and
6 social science from the Citadel with emphasis in
7 criminal justice.

8 And I graduated from the South Carolina Fire
9 Academy. I attended the arson investigation course
10 that they offer. I also graduated from the National
11 Fire Academy which is in Emmitsburg, Maryland. I
12 graduated from their arson investigation course.
13 And I have attended numerous other courses offered
14 by a state as well as a federal institution, as well
15 as private institutions at any time available.

16 Q. You mentioned a couple times the special unit
17 that you are a part of with SLED.

18 A. Yes, sir.

19 Q. What is that called again?

20 A. It's the arson bomb investigation unit. We
21 have two sides. We have agents that deal
22 specifically with the fire and we have agents that
23 we call bomb techs. They're still special agents
24 but they're bomb techs. We work in accord with each
25 other.

1 Q. Does that unit require you to participate in
2 continuing education programs?

3 A. Yes. Annually I have to continuously go to
4 training that deals with specifically what the kind
5 of cases that I work. Just this year alone I
6 attended a course on motor vehicle fires as well as
7 reading publications. It's a constant requirement.

8 Q. Okay. Are there any specific certifications
9 that you have to have within your field?

10 A. I belong to several organizations that are
11 internationally recognized, one of which is the
12 International Association of Arson Investigators,
13 and under that organization I applied and obtained
14 what they call FIT, which is a fire investigation
15 technician certification.

16 I'm also a member of the National Association
17 of Fire Investigators and under that particular
18 organization I have two certifications. One is a
19 certified fire and explosion investigator and I also
20 have a certified vehicle fire investigator
21 certification from NAFI as it's called.

22 Q. Over the course of your time with SLED, how
23 many fire investigations have you been a part of?

24 A. I have investigated myself as a lead agent over
25 150 fires.

1 Q. Have you ever been qualified as an expert
2 witness in South Carolina courts before?

3 A. Yes, I have..

4 Q. How many times?

5 A. Over five times.

6 MR. MILLER: Your Honor, at this time the State
7 would offer Special Agent Seals as an expert in fire
8 investigation.

9 THE COURT: Any cross-examination as to his
10 qualifications?

11 MR. CHESSER: No, Your Honor.

12 THE COURT: I will qualify him.

13 Normally, Mr. Foreman, ladies and gentlemen of
14 the jury, a witness is not allowed to give opinion
15 testimony. We can only testify about we see,
16 observe, direct things that we see. As an exception
17 to that rule, if someone is qualified as an expert
18 in a particular field such as an arson
19 investigation, he would be allowed to give opinion
20 testimony, allowed to give his opinion as to certain
21 things.

22 I will at the end of the case tell you how you
23 handle an expert witness's testimony like other
24 witnesses and I'll charge you on that specific area
25 of the law.

1 MR. MILLER: Thank you, Your Honor.

2 BY MR. MILLER:

3 Q. Agent Seals, what was your involvement in this
4 case?

5 A. In this particular case I was contacted by my
6 supervisor and he told me there had been a request
7 from the Barnwell Police Department because they had
8 had a fatal fire and they needed an investigator. I
9 was assigned on November 1st, and I responded to [REDACTED]
10 [REDACTED] on the same date to initiate an origin
11 cause investigation involving a fatal fire.

12 Q. When you say an origin and cause investigation,
13 what does that mean?

14 A. As I had mentioned earlier, when you have a
15 fire it's the responsibility of the fire
16 investigator to determine where the fire started and
17 also, if you can, the cause of the fire.

18 Q. So when you began your arson investigation at
19 [REDACTED], what did you do?

20 A. Once I arrived on the scene at [REDACTED]
21 I met with the first responders and the individuals
22 that were there from the fire department, law
23 enforcement. We have to establish jurisdiction and
24 in this case it was a search warrant. Once I
25 reviewed that document, made sure we have

1 jurisdiction to be there, then I began my
2 investigation.

3 I initiated it by doing an outside scene
4 assessment, basically walking around the residence,
5 looking at the condition of the structure for safety
6 purposes as well as looking at the fire damage.

7 Q. So you began your investigation on the exterior
8 of the house?

9 A. That is correct.

10 Q. What sorts of things did you look for on the
11 exterior?

12 A. Looking on the exterior I was looking for
13 damage to the structure, whether it be structural
14 damage or damage that would be caused as a result of
15 a fire. I'm also looking for safety hazards; if
16 there was electrical lines that were running, if
17 they were still attached or if they'd come loose.
18 Any number of things as well as you can have a
19 septic tank that's been crushed by a fire truck.
20 I'm looking for those type of situations at the
21 exterior scene examination.

22 Q. Does your investigation end on the exterior of
23 the house?

24 A. No, it does not. With a fatal fire
25 investigation, once you enter the residence, if

1 that's where the victim is located, the victim is
2 the priority. You will investigate around where the
3 location of the victim is.

4 Once the scene has been processed around the
5 victim and the victim has removed then you will
6 continue on with an interior examination of the
7 structure, and that's what I did in this particular
8 case.

9 Q. During an interior examination what are you
10 looking for?

11 A. When you're doing the interior examination --
12 and as I did in this particular case -- you're
13 looking at each room. Or if it's a commercial
14 structure it would be all the different
15 compartments. But in this one looking in each room,
16 looking at the damage, assessing the damage, looking
17 at the fire patterns, assessing how the fire moved
18 through the structure -- the movement and intensity
19 of the fire. And once I have determined an area or
20 areas of origin then I will look in those particular
21 locations and try to determine the cause, something
22 that caused the fire to occur in that location.

23 Q. Agent Seals --

24 MR. MILLER: Your Honor, may I approach?

25 BY MR. MILLER:

1 Q. Agent Seals, I'm handing you State's Exhibits 1
2 through 45. They're already been admitted into
3 evidence. Could you just take a look through and
4 identify those for us?

5 A. Yes, sir. You want me to tell the jury out
6 loud what I'm looking at?

7 Q. Just tell us generally, what are you holding?

8 A. Okay. These are scene photographs that I took
9 at [REDACTED]. They are both exterior
10 photographs as well as interior photographs, and I
11 believe there's one photograph in here of the victim
12 inside of the residence.

13 Q. Now, that particular photograph, is it in any
14 way changed or altered from the photograph that you
15 took that day?

16 A. The photograph of the victim? It's been
17 redacted.

18 Q. Okay. Could you just generally describe that
19 redaction?

20 A. There is a square black box to cover the
21 victim's genitalia.

22 Q. Okay. But other than that, it's a fair and
23 accurate representation of the photograph you took?

24 A. Yes, it is.

25 Q. Okay. Agent Seals, what I'd like to do at this

1 time is go through each photograph and ask you to
2 describe why you took it, certain characteristics of
3 each, et cetera. Would you like to hold on to those
4 copies while you do that?

5 A. That would be fine. Thank you.

6 Q. And Agent Seals, if you need to step down and
7 point anything out, I don't think that will be an
8 issue but we'll ask the Court before you do that.

9 THE COURT: He may if he needs to.

10 MR. MILLER: Thank you, Your Honor.

11 BY MR. MILLER:

12 Q. Agent Seals, State's Exhibit 1, can you tell us
13 what that is?

14 A. Ladies and gentlemen of the jury, this
15 photograph here is the incident location I responded
16 to. It's [REDACTED]. This is the front of
17 the residence, and the street right here this is
18 actually Berry Street. This is the angle view you'd
19 have looking straight on at the residence.

20 And this particular photograph here, what it
21 shows is that you've got the siding, the shutters,
22 the window. The tree is blocking -- I think it's a
23 large oak here blocking it. But there's no damage
24 you could see just standing on the street looking at
25 it. There's no obvious fire damage you could see

1 from this photograph.

2 Next slide please. This is a closer
3 photograph. This is moving up the driveway and now
4 looking at the front door. The importance of this
5 photograph here is you can see this is the roof or
6 the under side of the porch, and you have the
7 windows here and the doors. This is the storm door
8 open. You have the white door, the front door and
9 again the shutters. [REDACTED] here just showing the
10 actual incident location address.

11 What's important about this photograph is you
12 can't see any fire damage here except for a small
13 amount of soot that's present right here at the
14 upper portion of the door, and again, if you look at
15 the top right corner you can see a very small amount
16 of soot that is coming off the edges of that window
17 frame as well as the upper part of the exterior side
18 of the structure.

19 Q. Agent Seals, is that accumulation of soot
20 unusual?

21 A. I would not characterize it as unusual. That
22 is what was present.

23 Q. Would you expect to see that amount of soot or
24 more soot?

25 A. To answer your question, I've worked fire

1 scenes where the structure was completely destroyed
2 and I have worked them where they're just purely
3 room content. That is just the amount of soot that
4 was there. What it lets me know is this fire on the
5 front side has not penetrated. It has not vented to
6 the exterior part of the structure.

7 Q. Next slide please.

8 A. This is standing in the back yard of [REDACTED]
9 [REDACTED] looking at the back door. Just like the two
10 previous photographs you've looked at here, again,
11 there's no location you can see all along the roof
12 as well as these windows here and over here on the
13 other side of the door where there's any indication
14 that fire has come out of this structure. There's
15 no smoke and soot damage that shows that the fire
16 has exited and caused any damage or there's any heat
17 damage. This is continuing to show the fire is
18 contained to the inside of this structure.

19 Q. Next slide please.

20 A. This is just a closer view -- still in the back
21 yard looking at the residence. You see a very small
22 amount of soot coming out of the doggy door here and
23 also a small amount at the upper portion of the set
24 of windows there. This damage right here on the
25 vinyl siding, what's important about that is vinyl

1 siding, it does not burn. If you light it, as soon
2 as you let go of the heat source it's going to go
3 out. It doesn't burn very well, doesn't produce a
4 lot of fire.

5 What this is showing me is that damage is from
6 heat inside the structure caused that melting, not
7 from anything out here. You can see these items
8 clearly. None of these items that caught fire, they
9 did not cause that heat damage. That heat damage,
10 to me, is indicating it comes from the inside of the
11 structure.

12 Next slide please.

13 This is the door. Obviously you're looking to
14 see if there's any indication of forced entry. Did
15 somebody kick the door in, broke the windows? This
16 is showing the door frame, your dead bolt lock and
17 plate for your actual door.

18 What this is important to show is that this
19 portion, this white portion -- this is the outside;
20 this is the inside. And all the soot, all this is
21 black. You'll see in more photographs why this is
22 so dark. The soot collected right up to the door
23 jam and it stopped. There's no damage to either
24 plate to indicate forced entry and it also shows the
25 door was closed at the time of the fire.

1 Next slide please.

2 This is the angle view that I had when I
3 entered the structure from the rear door. This is
4 the kitchen. The entire room is covered in a heavy
5 layer of smoke and soot on all the items and this is
6 an overall view. You can see the bottom of the
7 photograph here. This is actually the victim's foot
8 and it's the location in which she was located when
9 I entered the room.

10 This is looking at the stove. Obviously with
11 the kitchen there's a lot of things you want to look
12 at. What's important on here obviously is you can
13 see the condition of the crock pot, the can opener,
14 coffee maker. You can see the stove, what's on the
15 stove. There's some tissue here and some tissue
16 here. You got common items you'd find in a kitchen.
17 All the settings on the stove, the knobs, you can
18 see they're all in opposition. One of the eyes was
19 in the very lowest setting of one and that's
20 indicated here in the photograph.

21 Q. Agent Seals, you listed off several appliances
22 on that photo. Was there anything unusual or
23 remarkable about any of the appliances?

24 A. No, there was not. I did not believe any of
25 these items were a potential what we call an

1 ignition source, something that could have caused
2 the fire.

3 Q. Thank you. Next slide.

4 A. This is standing -- right here the bottom left
5 of this photograph being in front of that stove.
6 It's looking back and this is the location of the
7 victim. The victim was covered in a heavy layer of
8 soot just like the rest of the room, and what that
9 indicates to me is the victim was there before the
10 fire started.

11 Just like everything else in the room where the
12 victim is located, the soot collected on everything
13 in there while the fire was occurring, and that is
14 why it was so heavy on her body. And you could also
15 see -- because soot collects -- as it goes up it
16 enters the atmosphere and it comes down just like
17 snow would, so anything on the underside isn't going
18 to get under there.

19 So that's why the under part of the leg here,
20 it's white and then on top it's heavy. As well as
21 you can see the arms here, it's white on the
22 underside and covered on the top. That's what it
23 indicates to me.

24 Q. Agent Seals, there are a number of footprints
25 in that photograph. Is there anything remarkable

1 about those?

2 A. No. You've heard from previous witnesses that
3 by this point there have been several first
4 responders as well as the victim's fiance that had
5 been in up to this point.

6 Q. Okay. Thank you. Next slide.

7 A. Continue on past the victim where we were in
8 the kitchen. This would be now in the living room.
9 Now you're looking at the living room and the
10 contents. Again, very heavy soot throughout the
11 room. You have the layer of soot is beginning to
12 come back down the wall. This door here is actually
13 the front door, which you saw in one of the very
14 first photographs. That's the front door.

15 Q. Thank you. Next slide.

16 A. This photograph would be from the last one
17 would be turning slightly to the left and now you're
18 looking down the hallway. So if you were looking at
19 this piano, a little more to my right would be the
20 front door. So now you've changed your angle of
21 view and now you're looking down the hallway. You
22 have these fire patterns that are coming down the
23 hallway.

24 What's important for me and what I observed
25 that day is that I don't have any fire down here at

1 the bottom which is your white wood trim. You can
2 see the white wood trim and the door down the
3 hallway. This is your return portion of your air
4 conditioning unit and this is your light switch
5 here.

6 All the fire is up high and what this is
7 showing me -- and obviously I'm standing up high.
8 In the living room you can see all the items in the
9 previous photographs -- the chair and television and
10 everything. So this is showing me that I have a
11 fire that has moved down the hallway and has moved
12 along up high and come into the living room.

13 Q. Agent Seals, why would fire move like that up
14 high?

15 A. Well, fire -- if it's set -- and I say set --
16 when a fire occurs it's going to move up and it's
17 going to move out, and it's affected by the
18 surrounding materials that are in close proximity to
19 it. So if a fire gets near a wall it's going to go
20 up the wall because of the ceiling jet. It's going
21 to move. It's going to plume. It's going to reach
22 the upper level off the ceiling and it's going to
23 move along. That's the ceiling jet. And it will
24 come back down.

25 Another part of this photograph that's

1 important is this part of the piano, you have this
2 pattern that goes across here. This 45-degree angle
3 comes back here to these books. You have several
4 items here and then it comes back. You have the
5 pattern that comes along here.

6 One of the things I noticed about this later on
7 is that this pattern moves along and it begins to
8 narrow as it gets further away from its source but
9 this fire here -- in my opinion there was another
10 fire here and it created its own pattern independent
11 of the larger fire that came down the hallway.

12 Q. Agent Seals, I need you to speak up just a
13 little bit so that the jurors in the back can hear
14 you as well as the court reporter.

15 A. Yes, sir.

16 Q. Next slide please.

17 A. This is moving more down the hallway, clearly
18 in the hallway now. And this doorway over here to
19 my left is the back bedroom on the back side of the
20 house. This is looking straight on the hallway
21 bathroom. This portion that you can see this light
22 color, this is actually a tub and the entrance in
23 the tub. And the white you can see over here to the
24 far right of the screen, that is actually a doorway
25 to a bedroom that is on the front side of the house.

1 Q. Next slide.

2 A. Hold on. I'm sorry. Can you go back one?

3 So again, like the previous photograph, the
4 fire is coming out of this room. You can see the
5 fire is heaviest in this room in any photographs
6 you've seen. All of the charring that's occurred on
7 the framing materials that come up here, it's
8 blistered the walls. It's come up under the top
9 side of this door frame and it's blistered and it's
10 charred all of this.

11 But this pattern here, you see it coming here,
12 also not as much but over here, to me that's an
13 indication the fire has come out of that room, it's
14 traveled up, come underneath that door and then gone
15 down the hallway and then spread out.

16 Q. State's Exhibit 12 please.

17 A. This is another photograph. We're now back in
18 the kitchen. And this is just a photograph that
19 really shows you how much soot is present. It's
20 very, very thick. The windows still are intact.
21 Everything is covered in a very, very thick layer.
22 And that's an indication that a fire has burned and
23 it has gone into a state that it's began to -- went
24 out but was a long process in relative terms and as
25 combustion reduces you get more smoke and soot.

1 To give you an explanation of what soot is,
2 soot is incomplete combustion. So you look at a
3 campfire and see that black coming off, what that is
4 it's actually the product of the wood burning, but
5 the soot is the atmosphere and it's the particles of
6 the wood that have not completely been consumed.

7 So that is actually what that is. And then it
8 settles with the atmosphere and then it will come
9 down. That's what happened here.

10 Q. State's Exhibit 13 please.

11 A. This is outside of the residence again. This
12 is an addition and the water heater was in there.
13 Again, it's just showing continued examination of
14 the entire structure.

15 Q. Was there anything unusual or remarkable about
16 that part of the house?

17 A. There wasn't anything unusual. Looking, again,
18 you know, for potential ignition sources. And I
19 entered through this door and, like I said, the
20 water heater was in there. Nothing that struck me
21 about that, no.

22 Q. Thank you. State's 14.

23 A. This is another photograph in the living room.
24 This area right here would be you coming from the
25 kitchen and this angle would be -- where I'm

1 standing I'm in the room and I had the front door
2 behind me and I'm looking back at the master bedroom
3 and the entrance to the kitchen.

4 This straight line that you see here right
5 along, what we call that is line of demarcation. It
6 means the smoke and soot and the gas as it filled
7 the room it's come down and there's a layer and it
8 creates that pattern on the wall.

9 Q. Thank you. State's 16.

10 A. This is looking straight down the hallway.
11 It's a better photograph than the previous. Give
12 you a better indication of how the fire is coming
13 out of this bathroom, coming across this hallway.

14 But again, we have another fire, in my opinion,
15 that started here and created this pattern here. We
16 call that a V pattern. It's a shape of a V and puts
17 up against a horizontal surface and moves up, leaves
18 an impression and damages it just like that.

19 Q. Agent Seals, you mentioned two separate fires.
20 Could you elaborate on what that means?

21 A. Well, like I originally stated, when you do an
22 origin and cause investigation, you're looking for
23 an area of origin or areas. You can have more than
24 one. There can be more than one fire. At this
25 point I have observed a fire that I believe came

1 from this hallway bathroom and another but smaller
2 fire on top of this piano, as well as in one of the
3 first photographs there was some toilet tissue that
4 was found around the stove, yet the stove, I do not
5 believe, was the cause of the tissue to be burned.

6 Even though it's very small, it's a small
7 amount of combustible items that were burned, still
8 at this point I've seen three areas of fire origin
9 inside this one residence.

10 Q. Thank you. State's 16.

11 A. This is just -- this one, I think, just gives
12 you a better indication of the second fire coming
13 back through the books. You can see the books here
14 as they come down and you have the candle here and,
15 again, the patterns as they continue here.

16 Q. 17.

17 A. This is looking at -- in the living room this
18 is showing you the sofa. Again, you know, looking
19 at the lamp here, you can see the bulb here still
20 intact. You can see the sofa, all of the items that
21 are there, and the sofa has began to succumb to the
22 heat that's coming in the fire. But this sofa and
23 table and lamp were not ignition sources for the
24 fire.

25 Q. 18.

1 A. This is standing in the hallway and looking
2 straight up at the ceiling. You can see all the
3 damage that's occurred, especially over here at this
4 door right here. This is your overhead light
5 fixture.

6 What's important about this is, this particular
7 light, if this had been the ignition source for this
8 fire, what I would expect to see and what I have
9 seen in my experience is that all of this would be
10 destroyed, if not completely consumed, and then
11 you'd have a hole looking at the framing materials
12 in the attic and the fire patterns would be
13 spreading out from there but it's not. To me, this
14 was affected by the fire but not an ignition source
15 of the fire.

16 Q. 19.

17 A. This is the master bedroom. This would be on
18 the other end of the house opposite of the bathroom
19 we were just looking at. This is the mattress.
20 What's important about this, just like with the
21 victim's body and you saw the soot on there, that
22 means the victim's body was there before the fire
23 had started. Just like this, this means this
24 mattress was removed of its bedding, if it had
25 bedding, before the fire.

1 And the soot and smoke moved into this room and
2 began to collect, but this is one of the least
3 amount of areas of soot and smoke that was observed.

4 Q. 20.

5 A. This is looking at the kitchen. Now you've
6 come back out of the master bedroom and this would
7 be -- when you come out of the master bedroom and
8 then over here on the left, this would be going out
9 the back door. And you can see you have your
10 dishwasher, your sink, oven, all your appliances.

11 Again, I'm looking at if there could be a
12 potential ignition source for this fire in this
13 residence, and this is showing that everything you'd
14 normally find in a kitchen, everything looks like it
15 should.

16 Q. 21.

17 A. This is a closer angle. Later on this beer can
18 and the cigarette butt, you can see, was important.
19 But again, looking at the crock pot, light switch,
20 the microwave. You see your outlet there. And
21 anything that's moved, like this, you can see that.

22 This is just another angle of looking right on
23 into the kitchen sink. You can see your item here
24 plugged in. There's no problem with the outlet.
25 Again, heavy soot on the sink.

1 Next slide please.

2 This photograph is really to orient you to get
3 you back in the bathroom. So now we're moving back
4 to the bathroom.

5 Next slide please.

6 This is the master bedroom looking at the
7 contents that were inside the room.

8 Next slide please.

9 Now, this is the main hallway bathroom. This
10 is where I think the largest fire occurred. Right
11 here at the bottom left is your sink, toilet, and on
12 the back here it's kind of a mess here but this is
13 like a mesh wire metal basket and some flat irons
14 and a hair dryer. And this is the beginning of the
15 tub at the top right corner.

16 Next slide please.

17 MR. MILLER: This is Number 26, Your Honor.

18 A. This is looking straight on the toilet. This
19 yellow that you see and these pieces coming out
20 here, this is the collection of the hair dryer and
21 the flat irons.

22 Q. 27.

23 A. This is looking back at the sink. You have
24 your light switches here. You got your outlet here,
25 cord coming down here, and you have all kind of

1 items here. When you have a fire and things burn it
2 will damage items found inside your house. We call
3 that fall down so that's fall down. I've got fall
4 down and I've got just items that were there before.
5 And you'll see in the photographs that follow we
6 remove this stuff but layer by layer, trying to see
7 what's there.

8 Next slide please.

9 This is looking up at the medicine cabinet.
10 You can see the damage to the walls. There's a lot
11 of damage here but to me what I'm seeing is these
12 walls were affected by a fire but not a fire that
13 started in this location. This photograph is to
14 show you the damage that was caused by the fire on
15 the walls of the bathroom.

16 Next slide please.

17 This is the light fixture that's inside the
18 bathroom that I mentioned before in the hallway.
19 Still looking at, you know, what could be an
20 ignition source in the bathroom. It's in good
21 condition. It was affected by the fire but not an
22 ignition source.

23 Next slide please.

24 This is looking at the floor. I've got some
25 rolls of toilet tissue here. Toilet tissue is

1 toilet tissue but it's similar to the toilet tissue
2 that was found on the stove. You can see the floor
3 here, see the trim. It's still the original color,
4 the white. Cabinets are in good condition.
5 Obviously you got some more items over here. But
6 this to me what's important is it's not a fire on
7 the floor in the bathroom. Fire was -- it was away
8 from this location.

9 Next slide.

10 MR. MILLER: 31, Your Honor.

11 A. Looking at the items more closely, this is the
12 plug of one of the items of the collection of the
13 hair dryer and flat irons. It's in good shape. If
14 I had a lot of damage here and this was all brown
15 and heavily charred, there would be more concern.
16 Photograph is just showing you the process.

17 Next slide please.

18 This is a better collection. You can still see
19 the original plastic, the sheathing on here. Again,
20 another plug here. If these items were energized --
21 which you saw the previous plug, this plug and you
22 see the condition. If these items were energized,
23 they were plugged in and there was a malfunction --
24 they have what they call a thermal cut-off -- and
25 the thermal cut-off had malfunctioned, there was a

1 runaway which means it basically just continues to
2 heat.

3 If you have a flat iron they're specifically
4 designed at a certain point to cut themselves off,
5 but if it failed then you can have a fire that
6 generates but that did not happen.

7 Q. So Agent Seals, those were not ignition sources
8 for the fire in your opinion?

9 A. No, they were not.

10 Q. Okay. Number 33.

11 A. This is inside the bathroom and looking down
12 the hallway, showing you how the fire has gone up
13 the walls, under this door frame here and then moved
14 down the hallway.

15 Next slide please.

16 This one is blurry but this is now looking down
17 in the tub. You can see all the fire damage down in
18 the tub. Now, in a couple slides before that, you
19 saw the floor in the bathroom was you could see --
20 this one you can see damage down inside the tub.

21 Next slide please.

22 This is a picture of the breaker panel, just
23 showing the different breakers for the house. Just
24 another part of the process of examining not only
25 the items in the house and the materials in the

1 house but also the electrical system.

2 Q. Now, in State's 35 here does the electrical
3 system appear to be in normal working order?

4 A. The panel is in good condition. I don't have
5 like a blowout. If you had a malfunction in this
6 panel and you had like a big hole here, you could
7 say, okay, I had a malfunction here at this
8 location. We did not have that.

9 Q. But nothing to indicate this was an ignition
10 source, correct?

11 A. That is correct.

12 Q. Okay. Number 36.

13 A. This is back to the main bathroom, the one we
14 were talking about the whole time. And this is
15 where we are going to cut this out and we're pulling
16 out that outlet. Obviously the outlet, if you have
17 a malfunction we have to take the time to cut out
18 the drywall, look at the outlet and see if there's
19 been a fire behind the wall.

20 Q. What was the result of that inspection?

21 A. If you could go to the next slide you'll see a
22 better angle you can see. This now has been moved.
23 Here you can see the wood frame materials behind the
24 drywall. Here's your outlet. This is the outline
25 of the housing. So I think this was affected by the

1 fire but not an ignition source.

2 Q. 38.

3 A. This is a cosmetic bag, hair dryer with cord
4 wrapped around. It's not energized, not plugged in.
5 It's not in play as an ignition source.

6 Q. 39.

7 A. Showing the plug, the condition, not energized.

8 Q. 40.

9 A. Moved all the debris out, looking at the sink.
10 You can see something was there protected beforehand
11 but now you can see up here. We've looked around
12 the outlet, behind the wall, at the housing of the
13 outlet, the top of the sink but not seeing anything
14 here showing that the fire originated on the sink or
15 around that outlet.

16 Q. 41.

17 A. This is -- if you were at the sink and you kind
18 of squatted down and you looked up you're seeing
19 under here. There's no damage here. If you had a
20 fire in that sink and it was in the sink, you'd see
21 damage under here, some charring and you don't see
22 that. This is just showing the fire didn't
23 originate at that sink.

24 Next slide.

25 This is the back bedroom -- if you were facing

1 the residence, it would be the back right bedroom.

2 It's hard to see. Right here is a piece of a drum
3 set. In another photograph I believe you'll be able
4 to see where it actually says Pearl, which is the
5 brand.

6 Q. 43.

7 A. This is a piece of the stand of a Pearl drum
8 set and because you can see where it was moved ever
9 so slightly you can tell it was there before the
10 fire.

11 Q. Can we go back up to 42 real quick? Agent
12 Seals, why did you take this photograph?

13 A. To show where these items were and the fact
14 that they were sitting there and the fire had
15 occurred, and then as the fire progressed the soot
16 and smoke entered the room and collected on these
17 items.

18 Q. Thank you. Number 44.

19 A. This is just -- and this is in the tub and you
20 can see better here. You have books and something
21 right here, and what that ended up -- when we
22 recovered that it was actually a red T-shirt.

23 Q. Thank you. And finally, 45?

24 A. This is just a better angle here. I believe
25 this is an image of Elvis Presley's head. This is

1 books and a red T-shirt, and these are combustible
2 items that were found inside that tub in that
3 hallway bathroom.

4 Q. Thank you, Agent Seals. You can retake the
5 witness stand. I've just got a few more follow-up
6 questions.

7 What areas of the house sustained the most
8 damage?

9 A. I identified three areas of origin inside the
10 house: the hallway bathroom, the counter in the
11 kitchen near the stove where there was some toilet
12 tissue, as well as the top of the piano in the
13 living room. The most significant of those three
14 locations was the hallway bathroom.

15 Q. Okay. And at the conclusion of an arson
16 investigation, what do you attempt to do?

17 A. We classify the fire. There are several
18 classifications for a fire. You can have
19 accidental, incendiary, undetermined would be you
20 could not determine the origin or cause.

21 In this particular case my fire was classified
22 as incendiary. Incendiary is a fire that has been
23 set and the person setting it knew it should not
24 have been set.

25 Q. Do you attempt to determine why a fire was set?

1 A. I try to determine, if I believe it's an
2 incendiary fire, the person or persons that brought
3 the fuel load and the ignition source altogether to
4 create the fire. That's what I'm trying to do is
5 look for that individual or individuals.

6 Q. Is reaching that conclusion a part of your
7 investigation?

8 A. Yes.

9 Q. What are some of the different reasons why a
10 fire might be set?

11 A. There's a lot of different reasons people set
12 fires. You have fires that are set by individuals
13 for excitement. That would be a fire you've
14 probably seen on Dateline or something. People are
15 excited by a fire, get something out of it, like
16 seeing the excitement. Power and influence, being
17 able to do something like that, as well as
18 vandalism, just wanting to destroy property. It
19 could be related to a hate crime. It also can be
20 for crime concealment as well, which basically a
21 crime has occurred and to cover up any potential
22 evidence the fire is set to cover up that crime.

23 Q. In this case did you reach a conclusion as to
24 why this fire was set?

25 A. It was my opinion this fire was set for crime

1 concealment.

2 MR. MILLER: Thank you. Please answer any
3 questions that Mr. Chesser may have.

4 CROSS-EXAMINATION

5 BY MR. CHESSER:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. I want to ask you some specific questions.
9 Donna Dempsey's body where it was found, the only
10 item of clothing that she had on at that time was a
11 T-shirt?

12 A. That's correct.

13 Q. Or could it be described as -- or was it some
14 other kind of shirt? It was just a shirt, right?

15 A. It was a blue shirt.

16 Q. Okay. Now, you had occasion to interview
17 Matthew Bolen, right?

18 A. That is correct.

19 Q. And that was -- actually, I believe it was
20 November 12th and 13th?

21 A. November 12th.

22 Q. Okay. Do you recall that he told you that he
23 was wearing pants at the time that he was at Donna
24 Dempsey's house?

25 A. I can't recall if he said that or not.

1 Q. Can I show you something and have you take a
2 look at it?

3 A. Yes, you can.

4 Q. I'll show you that. (Tenders document to
5 witness.)

6 Having seen that, Agent Seals, does it refresh
7 your recollection?

8 A. Yes, sir.

9 Ladies and gentlemen of the jury, what has been
10 presented to me is a copy of my report. It's page
11 24 and it's a part where I'm referencing the
12 interview with Bolen.

13 Q. Okay. And you indicate that your understanding
14 was he was wearing pants at this time when he was at
15 Donna Dempsey's, correct?

16 A. That's correct.

17 Q. All right. Thank you.

18 A. Uh-huh.

19 MR. CHESSER: Your Honor, at this time the
20 defense would offer in a number of exhibits.
21 Defendant's Exhibits 6, 7, 14, 15, 16, and 17. And
22 as I understand, there's no objection.

23 MR. MILLER: Nothing from the State, Your
24 Honor.

25 THE COURT: These are photos?

1 MR. CHESSER: Yes, Your Honor.

2 (Defendant's Exhibit Nos. 6 and 7 and 14

3 through 17 were entered into evidence.)

4 BY MR. CHESSER:

5 Q. Agent Seals, I'm going to ask you if you
6 recognize these. I'm showing you first Defendant's
7 Exhibit No. 6 in evidence. Do you recognize that?

8 A. Yes. This is the T-shirt that was recovered
9 from inside the hallway bathroom in the tub.

10 Q. Okay. It's your understanding that T-shirt
11 belonged to Matthew Bolen?

12 A. That's correct.

13 Q. Okay. I'll show you Defendant's Exhibit No. 7.
14 You recognize that?

15 A. Yes. This is a photograph taken inside [REDACTED]
16 [REDACTED]. This is of a cabinet that was --
17 you're in the kitchen, it would have been toward the
18 end of it.

19 Q. Okay. Thank you. May I ask you to look
20 through these State's Exhibits and find a picture
21 that more or less shows the kitchen which would also
22 tend to show this cabinet?

23 A. Yes. It's the one with the victim.

24 THE COURT: Number please?

25 THE WITNESS: Your Honor, it's Number 8.

1 BY MR. CHESSER:

2 Q. Now, what I would ask you to do is to tell the
3 jury, referencing this photograph, where you
4 observed suspected blood, blood spatter.

5 A. Well, let me -- I'll answer your question.
6 When you refer to blood spatter that is something
7 specifically that our crime scene agents, that they
8 observe and they analyze and they make a
9 determination on. So you would have to ask them
10 about -- if you want to know about what that
11 specifically is and what their interpretation of
12 that is.

13 Q. Okay. I can understand that. Let me ask you
14 this: In fact, it's your understanding there was
15 suspected blood spatter found in that kitchen?

16 A. That's correct.

17 Q. Okay. The blood spatter, again, it's your
18 understanding it was basically in the area near
19 where Donna Dempsey's head was; is that correct?

20 A. There is a report that was generated by SLED
21 that indicated that.

22 Q. Okay. I'll show you Defendant's Exhibit 14 and
23 ask you if you recognize that and can state what it
24 is?

25 A. This is a photograph taken inside of [REDACTED]

1 [REDACTED] and this is a photograph in the master
2 bedroom of looking at the items on the floor.

3 Q. Okay. And is it fair to say this shows a woven
4 leather belt?

5 A. That is correct.

6 Q. Okay. And it appears to be in two pieces?

7 A. That is correct.

8 Q. Okay. Show you Defendant's Exhibit 15, and I'd
9 ask you is this, again, another picture of this
10 woven leather belt?

11 A. That is correct.

12 Q. Do you recognize the bedroom where this leather
13 belt is found?

14 A. The master bedroom.

15 Q. Right. Okay. Thank you. And I'll show you 16
16 and ask you, this is, again, another picture showing
17 a fragment of this woven leather belt?

18 A. That's correct.

19 Q. Okay. Again, it would appear to be in the
20 master bedroom?

21 A. That's correct.

22 Q. Okay. And finally, Defendant's Exhibit 17.
23 And that would -- well, can you state what that is
24 or do you know?

25 A. It's a picture of a woven leather belt.

1 Q. Okay. And it's -- it would be reasonable to
2 conclude that's the leather belt collected in the
3 possession of SLED, right?

4 A. Yes, sir.

5 Q. All three pieces?

6 A. Yes.

7 Q. Okay. I want to show you some exhibits that
8 were introduced earlier. I'll show you what's in
9 evidence as Defendant's Exhibit No. 11.

10 You're familiar with the fact that the vehicle
11 that Matthew Bolen was in possession of was --
12 custody of that vehicle was obtained or seized by
13 law enforcement on or about November the 12th,
14 right?

15 A. Thereabouts. 11th or 12th, yes.

16 Q. Okay. And then inventoried items were taken
17 out of that vehicle, right?

18 A. Yes.

19 Q. Do you recognize this as being some jeans that
20 were taken out of the vehicle?

21 A. I was not there when they were taken out.

22 Q. Well, you heard Matthew Bolen recognize that
23 these were his jeans out of that vehicle, didn't
24 you?

25 A. Yes.

1 Q. Okay. These jeans, law enforcement considered
2 that they may have blood spatter on them; isn't that
3 correct?

4 A. We did collect them.

5 Q. Right.

6 A. Yes.

7 Q. And I'll show you Defendant's 10 -- 9 and 10
8 also and ask you if those appear to be the same
9 jeans and, again, with some substance or splatter on
10 them?

11 A. Yes.

12 Q. And finally, Defendant's 8. Again, the same
13 question, with some -- Bolen's jeans, again, with
14 this substance on them?

15 A. Yes, sir.

16 Q. Okay. Now, if Bolen hit Donna Dempsey in the
17 head with this hammer, he would be expected to have
18 blood spatter on his jeans, would he not?

19 A. Yes.

20 Q. Do you know what the results of the examination
21 on these jeans were?

22 A. These jeans were not examined.

23 Q. All right. You had occasion to review the
24 video at Reid's or Bi-Lo's. Have you reviewed that
25 video?

1 A. Yes. It's been a while but yes.

2 Q. Okay. And you would agree that in that video,
3 Mr. Buckmon is wearing khakis; isn't that correct?

4 A. I can't recall that, sir.

5 MR. CHESSER: All right. Thank you. No
6 further questions.

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

9 THE COURT: You may step down. You're
10 testifying after lunch so please stay with us.

11 MR. MILLER: Your Honor, we have asked our next
12 two witnesses to be present at 2:00. I imagine that
13 they're going to get here a little bit before that.

14 THE COURT: Dr. Ross and --

15 MR. MILLER: Dr. Ross and we have another SLED
16 agent who will be very brief.

17 THE COURT: And Dr. Ross will be very brief?

18 MR. MILLER: Yes, sir. With that in mind, I
19 think if we could take an hour and a half for lunch
20 that we'll be ready to go at 1:45.

21 THE COURT: Mr. Foreman, Ladies and Gentlemen,
22 we're going to break until 2:00. We'll be back at
23 1:45 because there's always something to do.

24 Please don't discuss the case, don't let
25 anybody discuss it with you. We'll start right back

1 at two o'clock with y'all. It sounds like we may
2 probably finish up testimony this afternoon. Have a
3 very pleasant lunch and I'll see you back at two
4 o'clock ready to go.

5 (Jury exits the courtroom at 12:17 p.m.)

6 THE COURT: All right. Mr. Miller, anything
7 for the record before we break for lunch?

8 MR. MILLER: Not before we break for lunch,
9 Your Honor. If we come back at 1:45 that would
10 probably be a great time for us to go ahead and make
11 sure Mr. Chessser's objections are reserved as to the
12 redactions and maybe he and Mr. Routzong can take a
13 look at them during lunch.

14 THE COURT: Anything for the record before we
15 break?

16 MR. CHESSER: No, Your Honor.

17 THE COURT: All right. Let's start back at --
18 we'll definitely start back at 2:00. How long are
19 the videos?

20 MR. MILLER: One of them is an hour and 42
21 minutes and the second one is 40 minutes. They're
22 pretty lengthy.

23 THE COURT: So we're not going to finish by
24 this afternoon.

25 MR. MILLER: We'll be close. And that will

1 conclude the State's case.

2 THE COURT: Mr. Chesser, any idea about how
3 long you're going to go? Just a guess.

4 MR. CHESSER: I would just say this: The only
5 potential witness that I anticipate is the defendant
6 and he'll be pondering this some. But I don't
7 think -- well, I don't know in that respect -- but
8 even if he were to testify, then we would be talking
9 an hour, hour and a half.

10 THE COURT: Sure. Let's do this: Let's see
11 how far we can get this afternoon. We're not going
12 to argue and charge this afternoon. Obviously we'd
13 be -- if we start at 2:00, we got two hours of video
14 so that's four o'clock. Dr. Ross is 30 minutes so
15 that's 4:30 and the other SLED agent is 30 minutes
16 maybe. That's pushing us right to 5:00.

17 According to whether Mr. Buckmon wants to
18 testify, that would be the only one. If he does
19 we'll come back in the morning and take his
20 testimony. If not, we'll come back and argue. If
21 he testifies, we'll argue and charge after his
22 testimony.

23 Anything I can do for y'all, Mr. Chesser,
24 before lunch?

25 MR. CHESSER: No, sir. Thank you.

1 THE COURT: Mr. Buckmon, are you okay?

2 THE DEFENDANT: Yes, sir. Thank you.

3 THE COURT: All right. We'll stand at ease
4 until 2:00.

5 (Lunch was taken from 12:19 to 1:46 p.m.)

6 THE COURT: Mr. Miller, anything for the record
7 before we start?

8 MR. MILLER: Nothing for the State, Your Honor.

9 THE COURT: Mr. Chesser?

10 MR. CHESSER: Yes, Your Honor. We'd like to
11 put some matters on the record with respect to the
12 videos. There are -- the State intends to produce
13 redacted versions of two video interviews of the
14 defendant, Michael Paul Buckmon. One of these is
15 the interview on November 11th, 2013; the other one
16 is an interview February 18th, 2014.

17 And we've -- the defense has submitted a motion
18 and a memorandum combination for the suppressing or
19 redaction of these videos. And I would like at this
20 time to just highlight a few matters concerning
21 this.

22 In the first place, we move to exclude the
23 videos based on the fact that Mr. Buckmon is in
24 handcuffs, orange jail suit, leg chains. He's
25 chained up throughout this and the impression that

1 that gives the jury -- and if this is admitted
2 they're going to see some two hours of it -- is
3 given that outfit, the chains, manacles and so on,
4 is what we consider to be a very prejudicial
5 reflection on his character. Something that they
6 won't be able to get of their minds.

7 THE COURT: Do you have any -- I read that in
8 your memorandum. I looked at the cases you
9 submitted. None of them address that specific issue
10 and quite frankly, I know of no cases for that sole
11 reason alone that that video interview would not be
12 allowed to be shown to the jury.

13 Are you aware of any cases that says that?

14 MR. CHESSER: No.

15 THE COURT: Neither am I.

16 MR. CHESSER: But we would move for exclusion
17 on that basis.

18 THE COURT: I'm going to respectfully deny
19 that.

20 MR. CHESSER: We also move for the exclusion of
21 the video as a whole based on the position that the
22 redaction of them renders them not coherent and not
23 meaningful -- not representative of what the actual
24 interviews were to the --

25 THE COURT: Mr. Chesser, that's an interesting

1 argument because you're the one who asked them to be
2 redacted. I've granted your motion to redact just
3 about everything you want out, and now you say by
4 redacting it, it creates a situation that is not
5 coherent and flowing. So which way do you want it?

6 And I'm not fussing at you. I appreciate what
7 you're doing and I understand your position. I'll
8 let you argue it.

9 MR. CHESSER: In addition, Your Honor -- we
10 understand Your Honor is overruling that.

11 In addition, I do want to make clear -- well,
12 let me just turn to the items that were admitted --
13 that were deemed to be admitted over objections.
14 There's seven of them and --

15 THE COURT: It's my understanding you sent me
16 the memo with all the -- and we'll make it part of
17 the record but with all of the requested redactions,
18 and I took that and went through it and sent it back
19 to y'all saying, this is what I will redact. And
20 that has been done.

21 And there were very few things left in that you
22 didn't want in, I think. So exactly what is it that
23 you're saying is not far enough in the redaction?
24 What is troubling you or you're making an objection
25 to?

1 MR. CHESSER: What I would do -- what I want to
2 do is simply have my objections for the record --

3 THE COURT: Certainly. You can do it orally.
4 You can submit your memo with everything that's
5 still left in and showing what I did redact out or
6 however you wish to protect the record.

7 MR. CHESSER: The only thing I can think of or
8 what occurs to me with regard to the record is I
9 would ask that your response be admitted into the
10 record and simply be noted those items that you deem
11 be admissible that my objection is noted and
12 continues.

13 In other words, I would ask that your ruling
14 when you decided what will be admitted and what will
15 be excluded -- and it would also be understood that
16 the parts that you mentioned might be for further
17 argument that the State conceded or simply agreed to
18 redact those. So I ask that the record be fleshed
19 out to the extent that your response be made a part
20 of the record.

21 THE COURT: Okay. Who has that -- I sent that
22 e-mail -- Mr. Miller, do you have a copy of it?

23 MR. MILLER: I can print off a copy from our
24 e-mail. I think we've written notes all over ours.

25 THE COURT: Why don't you make a clean copy of

1 it, show it to Mr. Chessser and we'll make that a
2 Court's exhibit so Mr. Chessser will be protected on
3 the record. Is that fair enough?

4 MR. MILLER: Yes, sir, Your Honor.

5 MR. CHESSER: Thank you, Your Honor.

6 (Court's Exhibit No. 1 marked for
7 identification.)

8 MR. MILLER: And I would point out for the
9 record, from the State vs. King case the process of
10 analyzing prior bad act evidence begins with Rule
11 401 of South Carolina Rules of Evidence which are
12 defining relevant evidence.

13 Your Honor, the State would submit that the
14 seven portions of the some 73 requested redactions,
15 the seven that the Court declined to redact after
16 Mr. Chessser sent it in, we would say that those
17 items -- you got to go a step prior to that. We
18 don't believe that they are prior bad acts. We
19 don't believe that they're admissible under 404, but
20 even if you do analyze it under 404(b), they'd still
21 be admissible.

22 They are certainly relevant because the
23 defendant's entire claim eventually is that he knows
24 all about what happened but he wasn't acting in
25 concert with the defendant. So to the extent that

1 those arguments or statements at the end that
2 Buckmon says he was threatening Matt; honestly he
3 was going to hurt him; I knew my name would come up
4 in this, those statements are his attempt to further
5 convince law enforcement that he wasn't in on this
6 with Bolen. And he was trying to distance himself
7 from Matthew Bolen in the course of these various
8 interviews.

9 Most of those statements -- all but one of
10 them -- in fact, there was only one statement out of
11 the hour and 50-plus-minute unredacted interview
12 that was admitted, and that was the statement, if I
13 was going to run from the police I could hide at
14 Donna's.

15 He was trying to establish to law enforcement
16 that he was close enough with the victim in this
17 case that he could hide at her house if he wanted
18 to.

19 Certainly there's no argument to be made that
20 the statement, if I was going to run from the police
21 I could hide at Donna's, is any kind of a prior bad
22 act. It's not even an act that's occurred. Nobody
23 has alleged that it has and he does it, so I don't
24 think that that analysis is appropriate in that
25 instance.

1 As to the second interview, again, this is a
2 block of statements that were made in his attempt to
3 demonstrate to the police that this -- and in fact,
4 I think at one point he even says, I found out I was
5 hanging out with a crazy person. This wasn't my
6 friend. This wasn't somebody I was wanting to be
7 with. This is somebody I was with against my will.

8 And I don't think any of those statements can
9 be considered to be prior bad acts taken in the
10 context of the argument as a whole. And if -- if
11 they were, they would certainly be relevant to the
12 context of the statement that he is making, and that
13 would therefore make them probative.

14 Their prejudicial impact of him making
15 statements like, I was threatening Bolen because of
16 what he did and I was going to hurt him, but he
17 didn't. I mean, I don't know how that is
18 prejudicing him other than making it appear that he
19 might be a tough guy.

20 But clearly, there's no implication that he
21 ever got into a physical altercation with Mr. Bolen,
22 that they ever fought. He says they argued; Bolen
23 says they argued. I just don't think it's so
24 prejudicial as to warrant its exclusion.

25 And having said that, in the context of a 403

1 analysis, it is probative though, Your Honor, from
2 the issue of, he's saying that he was making these
3 statements and he's saying this was going on during
4 the seven-day long period between the time of the
5 murder and the time that he and Bolen both agreed
6 that they went their separate ways.

7 And so, with that in mind, he was with him for
8 a week. Nobody's alleged that he did anything to
9 Bolen. Nobody's alleged that Bolen did anything to
10 him during that entire week. And certainly that
11 makes these statements of, I was going to hurt him,
12 probative as to his veracity. Just for one thing,
13 because if he was going to hurt him, he had ample
14 opportunity over the course of a week to hurt him
15 and that didn't happen.

16 So the State thinks that, first of all, they
17 should not be analyzed under 404. If they are
18 analyzed under 404, they are still relevant under
19 401. And as relevant under 401 then you balance the
20 probative value versus the prejudicial effect, which
21 I will point out has to be unfair prejudice to the
22 defendant under the 403 analysis, in which case
23 those statements should properly come in this matter
24 and the Court has so ruled.

25 As to anything that the Court said needed to be

1 excluded or anything that the Court indicated that
2 it wanted to hear more argument from both sides on,
3 we consented to the rest of them. So we got 66
4 redactions that we ended up doing in these two
5 videos. And we submit that we have done them all by
6 consent and the only possible issue could be those
7 seven remaining redactions that were admitted by the
8 Court in your initial analysis, Your Honor.

9 THE COURT: Mr. Chesser?

10 MR. CHESSER: Just briefly, Your Honor. On
11 these final six admissions, which are all from the
12 second tape, for the record one of them says,
13 Buckmon says he was threatening Matthew; he says
14 honestly he was going to hurt him; he says I knew my
15 name would come up in this; he talked about putting
16 guns in his house; Buckmon said he needed his guns
17 because the people are coming; and then finally he
18 was going to take Matt out -- I submit that these
19 are way more prejudicial than probative.

20 What their probative value is I do not know.
21 They have zero probative value. They have nothing
22 to do with who committed this murder, and they have
23 everything to do with the jury perceiving that
24 Mr. Buckmon is a bad person.

25 I submit they are substantially more

1 prejudicial than probative and they're not relevant.

2 THE COURT: Thank you. Okay. So the record
3 will be protected, number one, I want the unredacted
4 tapes made a part of the record.

5 MR. MILLER: Want that to be made as a Court's
6 exhibit, Your Honor?

7 THE COURT: Court's exhibit. Obviously the
8 redacted copies will be coming into evidence. I
9 want the memo that was submitted to me along with
10 the requests for redactions part of the record as a
11 Court exhibit.

12 And for the record, we conducted an in-camera
13 review of the tapes along with Mr. Chessser's outline
14 of what he wanted redacted. Very few that I left
15 in. I think six or seven. I did an analysis under
16 whether it was prior bad acts or prior conduct. I
17 did an analysis whether it was relevant. And then
18 last but not least I did a 403 probative versus
19 prejudicial analysis, and I found those six or seven
20 to be relevant, that the probative value outweighed
21 the prejudicial value.

22 And I have so ruled and that's where we are.
23 And I think that protects you on the record,
24 Mr. Chessser.

25 MR. CHESSER: All I would ask at this point is

1 that I be protected and that there would be no need
2 for me to make any more objections on these lines.

3 THE COURT: You are and you've raised it.

4 Mr. Miller, do you have any problem with that?

5 MR. MILLER: I do not, Your Honor. And I'm
6 attempting to print right now the information that
7 the Court is requesting.

8 THE COURT: Okay. We're going to get the jury
9 in here. I see Newberry waiting on us and we said
10 we'd start at 2:00.

11 See if my jury is back, please.

12 (Jury enters the courtroom at 2:02 p.m.)

13 THE COURT: I hope everyone had a pleasant
14 lunch.

15 THE FOREMAN: We had a wonderful lunch. Thank
16 you for the offer yesterday. We were okay though.

17 THE COURT: I'm going to buy you lunch
18 tomorrow. What did I say, today? Tomorrow, I
19 promise. I was going to buy lunch today but
20 Ms. McElveen said the taxpayers were too broke for
21 that.

22 THE CLERK: I'll see if I can't pass a
23 collection hat.

24 THE COURT: We will have lunch tomorrow, I
25 promise you. And if you get through before lunch is

1 ready you can take it with you.

2 THE CLERK: But you have to wait for it to get
3 here.

4 THE COURT: Y'all are very fortunate in
5 Barnwell to have a clerk of court as good as
6 Ms. McElveen. She does an excellent job and runs a
7 good court system.

8 You may call your next witness.

9 MR. MILLER: Your Honor, the State calls
10 Dr. Janice Ross.

11 JANICE ROSS, MD

12 being first duly sworn, testified as follows:

13 THE WITNESS: I do.

14 THE CLERK: Be seated and state your full name
15 for the record.

16 THE WITNESS: Janice Edwards Ross.

17 DIRECT EXAMINATION

18 BY MR. MILLER:

19 Q. Dr. Ross, where do you work?

20 A. I with Newberry Pathology Associates in
21 Newberry, South Carolina.

22 Q. What do you do there?

23 A. We do forensic autopsies for different coroners
24 in the State of South Carolina.

25 Q. What kind of training did you have to have or

1 education do you have to have to do that type of
2 work?

3 A. I'm a doctor. I have a four-year degree from
4 the University of South Carolina and four years of
5 medical school where I got my MD at Upstate Medical
6 Center in Syracuse, New York. That's where I did
7 training in the field of pathology.

8 Pathology as opposed to surgery or pediatrics
9 is a discipline in medicine where we learn how to
10 diagnose diseases by using the microscope, by using
11 the laboratory in the hospital. We also learn how
12 to do an autopsy to find a cause of death.

13 I'm further trained through medical examiner's
14 offices in doing forensic autopsy. The word
15 forensic means legal. So we use our knowledge for
16 legal matters like homicides, accidents, suicides,
17 rapes. Forensic autopsy is more fine tuned. We
18 identify patterns of injury, collect specimens for
19 the court of law, take photographs, and come up with
20 a -- decide on a cause and manner of death.

21 Q. Dr. Ross, have you ever been qualified as an
22 expert witness in the State of South Carolina?

23 A. Yes.

24 Q. Approximately, just ballpark, how many times?

25 A. Over 200 times.

1 Q. Okay.

2 MR. MILLER: Your Honor, at this time the State
3 would move to admit Dr. Ross as an expert witness in
4 the field of forensic pathology.

5 THE COURT: Any cross-examination as to
6 Dr. Ross's qualifications?

7 MR. CHESSER: No, Your Honor.

8 THE COURT: Thank you. She will be qualified
9 as an expert in forensic pathology and will be
10 allowed to give opinions in that field.

11 Mr. Miller.

12 MR. MILLER: Thank you, Your Honor.

13 BY MR. MILLER:

14 Q. Dr. Ross, did you have occasion to perform an
15 autopsy on Donna Dempsey?

16 A. Yes, I did.

17 Q. When was that autopsy performed?

18 A. It was on November 2nd, 2013.

19 Q. Could you briefly state for the jury the
20 relevant findings from that autopsy examination?

21 A. Yes. The body is brought to us in the morgue
22 at Newberry County Memorial Hospital. In opening
23 the body bag we found that the person was covered
24 with soot. She was clothed only in a shirt and a
25 bra. So we do external examination and then an

1 internal examination.

2 Externally we could see some injuries to her
3 head, neck, and various parts of the body. And then
4 we could see a lot of soot in her airways.

5 Q. Dr. Ross, whenever you received this body for
6 autopsy, were you aware that it had been involved in
7 a fire, or did you not discover that until you had
8 opened it up?

9 A. We got a brief summary that she had been in a
10 fire or a house where there was a fire that I guess
11 put itself out but it was smoky.

12 Q. All right. So that was -- you expected the
13 soot to be there, correct?

14 A. Correct.

15 Q. What were you able to determine about the cause
16 of death based upon the autopsy that you did?

17 A. We had a lot of injury actually. But the soot,
18 once we got inside and looked at the trachea and the
19 airway down into the lungs we found a lot of dense
20 soot in the airway, which means that she was
21 breathing during the fire and -- in order to get
22 that much soot down into her lungs.

23 Q. And I suppose that would be something you would
24 expect to see with someone who had died in a fire or
25 in the presence of a fire. But were there any

1 injuries that were not consistent with just somebody
2 dying in a fire?

3 A. Yes.

4 Q. What were those injuries?

5 A. There were several. There was injury to her
6 head. She had a lot of what we call blunt force
7 injury. Injuries that cause splits in the skin,
8 from being hit by an object or from hitting an
9 object.

10 These injuries on the left side of her head
11 were a little bit arc-shaped, little bit
12 semicircular, and they actually broke the skin and
13 fractured the skull underneath. A couple of
14 areas -- there was a bone actually pushed into the
15 brain tissue.

16 There was also a lot of bruising around her
17 right face, around her neck and around her
18 shoulders. There were what we call petechia, little
19 red dots in her eyes and over the skin of her face.
20 Petechia are caused by, for instance, when a lot of
21 force is put on the front of the neck and does not
22 allow blood to drain from the head back to the
23 heart. Blood backs up under the pressure and blood
24 breaks out of the capillaries and underneath the
25 skin and cause little red dots. So that is a sign

1 of asphyxia due to strangulation.

2 Q. And were you able to tell from your examination
3 whether the head injury and the strangulation were
4 injuries that occurred prior to her dying in the
5 fire or were those injuries that could have been
6 post-mortem?

7 A. They were caused before the fire. The injury
8 on the head had a lot of blood hemorrhage bruising
9 around it, indicating again, circulation was caused.
10 Plus, the brain was swollen and you get a swollen
11 brain when you have blunt force injury to the head
12 and when you have asphyxiation strangulation.
13 Again, the strangulation causing the petechia would
14 have occurred while circulation -- while the heart
15 was still going.

16 So in other words, she had the injury to the
17 head and the strangulation evidence before the fire,
18 but she was alive enough to breathe in the dense
19 soot.

20 Q. All right. I want to go over two more things
21 with you. You said some kind of strangulation area
22 to the neck, the upper body; some injury to the side
23 of the head/face on the right side; and then blunt
24 force trauma to the left side of the head?

25 A. Correct.

1 Q. Okay. Now, can you explain to the jury what
2 the general terms cause of death and manner of death
3 mean?

4 A. Yes. Cause of death is just like it means.
5 What caused the death? Was it heart attack or
6 bleeding out or broken heart? Manner of death --
7 there are five manners of death. One is homicide.
8 One is suicide, accident, natural death like a heart
9 attack and sometimes we can't determine it so we
10 call it undetermined.

11 Q. Were you able to determine a cause as well as a
12 manner of death in this case?

13 A. Yes.

14 Q. And what were they?

15 A. Cause of death was smoke inhalation due to
16 incapacitation by the fractured skull and the
17 beating -- due to the beating in addition --
18 contributing to that is the strangulation. Manner
19 of death, homicide.

20 MR. MILLER: Thank you, Doctor. I don't have
21 any further questions.

22 THE COURT: Mr. Chesser?

23 CROSS-EXAMINATION

24 BY MR. CHESSER:

25 Q. Good afternoon, Dr. Ross.

1 A. Good afternoon.

2 Q. In examining Ms. Dempsey, you found an abrasion
3 below -- I guess you can correct me with the
4 term but the vagina; is that right?

5 A. Yes, on the lower part of the vagina. On the
6 entrance -- it's called the introitus but the
7 entrance of the vagina.

8 Q. Okay. And can such an abrasion be the result
9 of, say, rough sex?

10 A. Yes.

11 Q. If they had an abrasion like this, could it
12 cause discomfort to the female in sexual
13 intercourse?

14 A. Yes.

15 Q. Okay. In your autopsy, do you do blood alcohol
16 analysis?

17 A. We draw blood and fluids and they're taken to
18 SLED for analysis.

19 Q. So you send it off to them?

20 A. Yes.

21 Q. And finally, did you take other samples such as
22 samples for the presence of sperm?

23 A. Yes, we did.

24 Q. Okay. Did you take a sample from the
25 decedent's anal area?

1 A. Yes, we did.

2 Q. And the vagina?

3 A. Yes.

4 Q. And the mouth?

5 A. Yes.

6 Q. And did you also take separate samples which
7 are designed for DNA analysis?

8 A. Yes. We sent -- we -- excuse me.

9 Q. Take your time. I'm sorry.

10 A. Tail end of a cold.

11 Q. Take your time, Dr. Ross.

12 THE COURT: You okay, Dr. Ross?

13 THE WITNESS: Yeah.

14 BY MR. CHESSER:

15 Q. This is my last question so...

16 A. Part of the rape kit is for DNA and we do blood
17 analysis for DNA.

18 Q. Okay. And so you did that in this case and
19 sent it off to SLED?

20 A. Yes.

21 MR. CHESSER: Okay. Thank you very much.

22 REDIRECT EXAMINATION

23 BY MR. MILLER:

24 Q. Dr. Ross, when you did this examination, this
25 autopsy, did the decedent have injuries consistent

1 with a CSC, a rape?

2 A. Yes.

3 Q. Those injuries were consistent?

4 A. Yes.

5 Q. And when you -- you said you took these samples
6 and you sent them off to SLED, talking about the
7 blood alcohol content and the presence of any kind
8 of drugs in the system that may have contributed to
9 the person's death. When those go off to SLED do
10 you actually get those results back?

11 A. I do, yes.

12 Q. And if there's something that you see in those
13 test results that changes your opinion of the cause
14 or manner of death, can you amend it?

15 A. Yes. In this case, the toxicology report
16 indicated a high level of carbon monoxide, which
17 supported the cause of death.

18 Q. And did the toxicology report indicate any
19 other kind of drugs that would cause someone to drop
20 dead?

21 A. No.

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

23 MR. CHESSER: I would like to clarify one
24 thing.

25

1

2

RE CROSS-EXAMINATION

3

BY MR. CHESSER:

4

Q. Dr. Ross, when you say consistent with criminal sexual conduct or rape, it's also consistent with rough sex; isn't that right?

5

6

A. Yes.

7

8

Q. In other words, it has other possible explanations, right?

9

10

A. Yes.

11

MR. CHESSER: Okay. Thank you.

12

MR. MILLER: Thank you.

13

THE COURT: Thank you. Dr. Ross, I hope you feel better. You are released from your subpoena and be careful going back to Newberry.

14

15

16

Next witness, please.

17

MR. MILLER: Your Honor, the State calls Lieutenant Craig Collier.

18

19

CRAIG COLLIER,

20

being first duly sworn, testified as follows:

21

THE WITNESS: Yes, ma'am.

22

THE CLERK: Be seated and state your full name for the record.

23

24

THE WITNESS: Timothy Craig Collier, Sr.

25

1 DIRECT EXAMINATION

2 BY MR. MILLER:

3 Q. Good afternoon, Lieutenant Collier.

4 A. Good afternoon.

5 Q. Where are you employed?

6 A. The State Law Enforcement Division commonly
7 known as SLED.

8 Q. How long have you been in law enforcement?

9 A. Twenty-one years.

10 Q. And what is your position at SLED?

11 A. I'm currently the special agent in charge of
12 the arson investigation unit.

13 Q. Okay. How long have you been in that position?

14 A. Since 2012.

15 Q. What was your involvement in this case?

16 A. I respond to the scene. I assisted Agent Seals
17 in the scene examination and also assisted in
18 follow-up investigation to certain limits. I have
19 several agents under my command so I can't spend all
20 my time on one case. I have the whole state to take
21 care of so I was in and out on this investigation.

22 Q. In an assistance role?

23 A. Correct.

24 Q. In that role during your involvement in this
25 case did you have occasion to speak with the

1 defendant?

2 A. I did.

3 Q. When did that conversation occur?

4 A. I took a statement from him. I don't have it
5 in front of me to reference.

6 Q. If I showed you a document that had that date
7 marked would it refresh your recollection?

8 A. Certainly.

9 November 10th, 2013.

10 Q. Thank you, Lieutenant. Was anyone else present
11 when y'all spoke?

12 A. Yes, sir. There was an officer -- a Barnwell
13 Police Department officer that was in the room as
14 well.

15 Q. When you and the defendant spoke did the
16 defendant appear to be under the influence of any
17 alcohol or drugs?

18 A. No, sir, he did not.

19 Q. Did he appear to have any physical or mental
20 disabilities that would have impaired his ability to
21 have a conversation with you?

22 A. No, sir, he did not.

23 Q. Do you recall where this conversation occurred?

24 A. It was at the Barnwell County Sheriff's Office.

25 Q. Do you recall how long your conversation with

1 the defendant lasted?

2 A. I don't offhand. It was probably an hour or so
3 -- a couple hours maybe. Without looking at the
4 statement I couldn't tell you but it was probably a
5 couple hours.

6 Q. At any time did he ask to take a break?

7 A. No, sir.

8 Q. Did he ask for a telephone?

9 A. No, sir.

10 Q. Bathroom break?

11 A. Not that I recall.

12 Q. Food?

13 A. No, sir.

14 Q. Drink?

15 A. No, sir.

16 Q. During the course of that conversation did you
17 promise him anything?

18 A. No, sir, I did not.

19 Q. Did you threaten him in any way to make a
20 statement to you?

21 A. No, sir, I did not.

22 Q. Was he advised of the nature of your
23 investigation?

24 A. He was.

25 Q. Was he advised of his constitutional rights

1 prior to being questioned?

2 A. Yes, sir, he was.

3 Q. Lieutenant, I'd like to show you what has been
4 admitted into evidence as State's Exhibit 48. Can
5 you explain to the jury what that is?

6 A. Yes, sir. This is the standard Miranda rights
7 form. You've probably seen it on TV. You have the
8 right to remain silent. That's what this is.

9 Want me to read it to the jury?

10 Q. Just explain in general terms --

11 A. Sure. Basically this advises the person being
12 questioned of their constitutional rights -- the
13 right to have counsel present with them during
14 questioning, that they have the right to answer
15 questions without one or they can stop at any time
16 until they have one present. Just making sure they
17 understand their rights, that they have the right to
18 stop talking to have a lawyer present if they wish
19 to have one.

20 Q. Is that Miranda form a copy of the same one you
21 used when you interviewed the defendant?

22 A. It appears to be, yes, sir.

23 Q. How do you know that?

24 A. My signature is on it. My handwriting with the
25 location and date and time it was taken.

1 Mr. Buckmon's initials down on the left side,
2 signature on the bottom.

3 Q. When you say the left side, what is indicated
4 there?

5 A. Beside each statement there's a spot for him to
6 initial whether or not he understands that
7 statement, and if he understands it he initials by
8 it. That's where he initialed by each one saying
9 that he understood each one that I read to him.

10 Q. So he initialed next to each right?

11 A. Correct.

12 Q. And after going over that form with you he
13 stated he wished to waive his rights?

14 A. That is correct. And then he signed the bottom
15 of the page indicating that..

16 Q. After you and he went over that form did you
17 ask him any questions?

18 A. I did. We spoke about the incident and as a
19 result of our conversation he supplied a written
20 statement in his own handwriting.

21 Q. Lieutenant, could you please identify what has
22 been admitted into evidence as State's Exhibit 49?

23 A. Yes, sir. This is the voluntary statement that
24 I took from Mr. Buckmon on November 10th, 2013.

25 This is a common SLED form. The top part is

1 basically information about the interviewee -- date
2 of birth, name, address, phone numbers -- and then a
3 spot for he or she to write their statement, and he
4 did it in his own handwriting. Each page is
5 initialed and signed by myself and a witness.

6 Q. Is that statement the same copy -- a copy of
7 the statement that he provided to you on that date?

8 A. Yes, sir. It appears to be.

9 Q. How do you know that?

10 A. It's signed by him, by me and by the witness on
11 the date that I took the statement.

12 Q. Okay. And Lieutenant, on page 3 there are a
13 series of questions and answers. Could you please
14 explain to the jury who is asking those questions
15 and who is answering the questions?

16 A. Certainly. This is commonly referred to as a
17 Q&A, a question and answer. If after I read the
18 statement there's still questions that I have that
19 weren't addressed in the statement, I'll asked a
20 pointed question and I'll have the interviewee
21 answer it in a yes or no. These six questions at
22 the end were questions that I wanted answered. I
23 wrote the question out and had him write his answer
24 after it.

25 MR. MILLER: Your Honor, at this time I'd like.

1 Lieutenant Collier to publish that to the jury by
2 reading it to them and while he does that we've
3 provided it up on the screen so the jury can follow
4 along.

5 A. The statement or the Q&A?

6 Q. Please read the entire statement from page 1 to
7 page 3, and when you get to the Q&A, say Q and
8 then A.

9 A. Okay. So the narrative: On October 31st, 2013
10 around 9:30, Ms. Donna Dempsey needed a ride to
11 Reid's for beer and wine. I, Michael Paul Buckmon,
12 and Matthew T. Bolen gave her a ride to Reid's.
13 Then she paid me \$20 for that. Then she stated she
14 wanted some cocaine so she got me some money out the
15 teller at SRP Bank.

16 Her and Matthew, AKA Matt Tat became intimate
17 in the car rubbing on each other. We pulled behind
18 my mother house and they walked to her house while I
19 left to pick up some cocaine. Matthew and Donna was
20 left at the house for about an hour alone.

21 When I got back Matt wanted to steal her
22 belongings. I told him no and that I was cool with
23 Lloyd and his wife because she knew my mother and
24 baby-mom Ashley Rountree -- I think that says
25 Rountree -- when I got back with the cocaine, Matt

1 stated he was ready to go so we left and went to a
2 house party. And during that time Matt told me he
3 needed to get some stolen items out my mom's back
4 yard before my mom finds out. These items
5 supposedly came from next door from Ms. Dempsey's
6 house.

7 I was pissed because I told him not to do it.
8 I had no choice but to move the items because they
9 were on my mother's property. I forgot that a rifle
10 was left in my mom's house so I had to go back and
11 pick it back up.

12 We left to go to Greenville and he decided he
13 wanted to pawn the items in exchange for money to
14 buy cocaine from me. I went along with him. While
15 there Matt also took items from his grandmother's
16 house in Piedmont and took her items for the scrap
17 yard.

18 The drum set and a keyboard was taken to the
19 pawnshop called Palmetto Pawn in the Easley area.
20 While there I was looking for a job and Matthew only
21 wanted to rob people. I told him I'm not with it.

22 He always stayed on the phone worrying about
23 was he hot in Barnwell. Then one morning he said he
24 is wanted for a homicide. I told him if he is -- I
25 told him he is going to have to man up on his

1 charges because I'm not falling for no one's
2 actions.

3 I did not know the homicide was pertaining to
4 Ms. Dempsey until Friday morning on the 8th of
5 November 2013. On that date we was arguing because
6 not only he took items from my neighbor, he probably
7 killed her as well.

8 I then began doing my research and started
9 calling back home. That's when I found out she was
10 dead from the following people: Wilhelmina Buckmon,
11 Ashley Rountree and Ms. Brenda Buckmon, Eisha
12 Williams. When I asked him about it, he just
13 stated, I need to leave the state.

14 I told him I was going back home to clear my
15 name. We got into an argument at a small country
16 store. I went in to charge my phone and when I came
17 out he was gone. I was stranded. I called
18 investigator Mr. Wayne Martin and told him I'll be
19 back in Barnwell to cooperate with any questions and
20 my only involvement which is possession of someone's
21 stolen goods, which initialed MPB.

22 And then the question and answer portion. I
23 wrote the question, did you participate in the death
24 of Donna Dempsey? He responded no. Did you
25 participate in the fire at Donna Dempsey's house?

1 He responded no. Did you engage in sexual
2 intercourse with Donna Dempsey on October 31st, 2013
3 or November 1st 2013? At first he wrote yes and
4 then he put his initials and wrote no.

5 Number four, when was the last time you engaged
6 in sexual intercourse with Donna Dempsey? He
7 answered, Wednesday, October 30th, 2013. Number
8 five, I started with have and scratched out and
9 wrote how long have you been engaging in sexual
10 intercourse with Donna Dempsey? And he answered,
11 around two months.

12 And the sixth and final question was, when you
13 engaged in sexual intercourse with Donna Dempsey on
14 October 30th, 2013 did you use a condom? And he
15 answered, yes and I pulled off and throw it away.

16 Q. Thank you, Lieutenant Collier. On November
17 10th of 2013 when the defendant provided you with
18 this statement, did you see anyone threaten, coerce
19 or intimidate him in order to give you that
20 statement?

21 A. No, sir, I did not.

22 Q. Did you or did you witness anyone else promise
23 him anything?

24 A. No, sir, I did not.

25 Q. Was anything promised to him on November 10th,

1 2013?

2 A. No, sir.

3 MR. MILLER: Thank you, Lieutenant. I have no
4 further questions. Please answer any questions
5 Mr. Chesser may have.

6 THE COURT: Mr. Chesser?

7 MR. CHESSER: I have no questions for
8 Lieutenant Collier.

9 THE COURT: You may step down.

10 Next witness.

11 MR. MILLER: The State calls Special Agent
12 Sterling Seals.

13 THE COURT: May Lieutenant Collier be excused?

14 MR. MILLER: The State would request so, Your
15 Honor.

16 THE COURT: Any objection to Lieutenant Collier
17 being excused, Mr. Chesser?

18 MR. CHESSER: No, sir.

19 THE COURT: Thank you, sir.

20 I'll remind you that you're still under oath,
21 sir.

22 THE WITNESS: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. MILLER:

25 Q. Agent Seals, in your role investigating this

1 case did you have occasion to speak with the
2 defendant?

3 A. Yes, I did.

4 Q. On how many occasions?

5 A. Two occasions.

6 Q. When was the first time that you had occasion
7 to speak with the defendant?

8 A. The first one was on Veteran's Day,
9 November 11th, 2013 and that occurred at the
10 Barnwell Police Department in Barnwell, South
11 Carolina. And the second one occurred on
12 February 18th, 2014 and that was at the Barnwell
13 County Sheriff's Department.

14 Q. Let's talk about the November conversation
15 first. Who was present during that conversation?

16 A. It was myself and Detective Glen Rice who at
17 the time was employed with the Barnwell Police
18 Department.

19 Q. When you and the defendant had that
20 conversation, did he appear to be under the
21 influence of alcohol or drugs?

22 A. No, he did not.

23 Q. Did he appear in any way to be physically or
24 mentally impaired such that his statement would be
25 influenced by those things?

1 A. No, he did not.

2 Q. How long was your conversation with the
3 defendant in November of 2013?

4 A. It was about two hours.

5 Q. At any time did he request to take a break?

6 A. Yes. He did ask at one point to stop.

7 Q. What happened when he asked to stop?

8 A. When Michael Paul Buckmon asked to stop I
9 stopped the interview, and I got up, took my
10 belongings and I left the room.

11 Q. What happened at that point?

12 A. After a short period of time, I was approached
13 by Detective Glen Rice who said that Michael Paul
14 Buckmon, who he had been talking with in the
15 hallway, wanted to continue with the interview. At
16 which time I reentered the room with Detective Glen
17 Rice as well as Michael Paul Buckmon and the
18 interview was continued.

19 Q. During the course of that interview, did he ask
20 for a telephone?

21 A. No, he did not.

22 Q. Did he ask for a bathroom break?

23 A. No, he did not.

24 Q. Did he ask for anything to eat?

25 A. No.

1 Q. Did he ask for anything to drink?

2 A. He was provided a beverage. I can't recall if
3 he asked for it but I know that we did provide him a
4 beverage.

5 Q. Was it a Coke?

6 A. It was, I believe, Dr. Pepper.

7 Q. Okay. During the course of that conversation
8 did you promise him anything in order to get him to
9 give you a statement?

10 A. No, I did not.

11 Q. Did you threaten him in any way to make him
12 give you a statement?

13 A. No, I did not.

14 Q. Was he advised of the nature of your
15 investigation?

16 A. Yes.

17 Q. Was he advised of his constitutional rights
18 prior to your questioning?

19 A. Yes, he was.

20 MR. MILLER: Your Honor, may I approach?

21 Q. Agent Seals, can you please identify what's
22 been admitted into evidence as State's 50?

23 A. This is a SLED Miranda rights form. It was
24 filled out on November 11th, 2013 and the place that
25 it was filled out at was the Barnwell Police

1 Department. And it's signed by myself as well as
2 Detective Glen Rice and Michael Paul Buckmon.

3 Q. Could you briefly explain to the jury again
4 what that form is used for?

5 A. The Miranda rights form is provided to the
6 individual that's being interviewed. Each of their
7 rights is explained to them. And the individual
8 that's being interviewed, they will initial if they
9 understand their rights, and on this form each of
10 the rights -- there are the initials MPB by each one
11 of the rights.

12 Q. Were these rights explained to the defendant?

13 A. They were.

14 Q. Did he appear to understand the rights as you
15 went over them?

16 A. He did.

17 Q. Did he initial next to each right explaining
18 that he understood them?

19 A. Yes. The initials MPB are by all of the rights
20 that are listed here on this form.

21 Q. Did he have any questions about any of his
22 rights?

23 A. No, he did not.

24 Q. After you reviewed those rights with him did he
25 indicate that he wished to waive them?

1 A. He signed the form which that's what this is,
2 is a waiver of his Miranda rights, agreeing to speak
3 with us.

4 Q. Okay. Was your interview with the defendant
5 recorded in any way?

6 A. It was recorded.

7 Q. How was that done?

8 A. The Barnwell Police Department had video
9 equipment set up and it was utilized for the
10 interview.

11 Q. Was it utilized for the entirety of the
12 interview.

13 A. Yes.

14 MR. CHESSER: This would be subject to previous
15 objections on the record, Your Honor.

16 THE COURT: You're protected.

17 MR. MILLER: May I approach, Your Honor?

18 BY MR. MILLER:

19 Q. Agent Seals, could you please identify what has
20 been marked as State's Exhibit 46?

21 A. This is a DVD. It's a copy of the recorded
22 interview which I have reviewed and it has my
23 initials on it. This is the interview that was
24 conducted on November 11th, 2013 at the Barnwell
25 Police Department with Michael Buckmon.

1 MR. MILLER: Your Honor, at this time we'd move
2 to admit State's 46.

3 THE COURT: Any objections over the ones you've
4 already noted?

5 MR. CHESSER: No further objections, Your
6 Honor.

7 THE COURT: Thank you.

8 (State's Exhibit No. 46 was entered into
9 evidence.)

10 BY MR. MILLER:

11 Q. Agent Seals, I now want to jump forward to the
12 February 2014 interview. Do you recall what date
13 that was done?

14 A. February 18th, 2014.

15 Q. Who was present during that interview?

16 A. That was myself, Michael Paul Buckmon,
17 Detective Glen Rice and at the time Michael Paul
18 Buckmon's attorney.

19 Q. Who was that?

20 A. Last name was Price.

21 Q. But he was there for the entirety of the
22 interview?

23 A. Yes.

24 Q. Okay. Again, I'm just going to ask you the
25 same couple questions. Did the defendant appear to

1 under the influence of alcohol or drugs?

2 A. No, he did not.

3 Q. Did he appear to be physically or mentally
4 disabled in such a way that those things would
5 interfere with his ability to give you a statement?

6 A. No, he did not.

7 Q. You may have already told me this but where did
8 this interview occur?

9 A. This interview was conducted at the Barnwell
10 County Sheriff's Office.

11 Q. How long did it last?

12 A. I believe the interview was under an hour.

13 Q. At any time during that interview did the
14 defendant ask to take a break?

15 A. No.

16 Q. Did he ask for a telephone?

17 A. No.

18 Q. Bathroom break?

19 A. No.

20 Q. Food?

21 A. No.

22 Q. Drink?

23 A. No.

24 Q. During the course of that conversation did you
25 promise the defendant anything in order to get him

1 to give you a statement?

2 A. No, I did not.

3 Q. Did you threaten, coerce or intimidate the
4 defendant or did anyone else with you do that that
5 day?

6 A. No, they did not and nor did I.

7 MR. MILLER: May I approach, Your Honor?

8 Q. Agent Seals, could you please identify this?

9 THE COURT: Number please?

10 MR. MILLER: 51.

11 THE WITNESS: 51, Your Honor.

12 A. This is a SLED Miranda rights form. It's the
13 same type form that was used in the previous
14 interview. The place that it was signed was the
15 Barnwell County Sheriff's Office. The date
16 indicated is February 18th 2014. The rights, they
17 were explained to Michael Paul Buckmon, have his
18 initials MPB by all of the rights. And the waiver
19 of rights, below that there is a signature of
20 Michael Paul Buckmon, and the witnesses are
21 Detective Glen Rice as well as myself.

22 Q. Is it the same form that was used in the last
23 two interviews?

24 A. Yes.

25 Q. And he initialed in all the appropriate places?

1 A. Yes, he did.

2 Q. And signed the waiver at the bottom?

3 A. Yes, he did.

4 Q. And his attorney was present for the entirety
5 of the interview?

6 A. He was.

7 MR. MILLER: Your Honor, may I approach?

8 Q. Agent Seals, could you identify this?

9 A. This is State's Exhibit 47.

10 Q. Can you tell the jury what is it?

11 A. This is a recording of the video recorded
12 interview of Michael Paul Buckmon on February 18th,
13 2014 and it has my initials on it.

14 Q. Have you reviewed that video since
15 February 18th, 2014?

16 A. Yes, I have.

17 Q. Is it a fair and accurate representation of
18 that video?

19 A. Yes, it is.

20 MR. MILLER: Your Honor at this time the State
21 would move to admit State's 47.

22 MR. CHESSER: Subject to previous objections.

23 (State's Exhibit No. 47 was entered into
24 evidence.)

25 MR. MILLER: Your Honor, at this time we'd like

1 to publish both interviews to the jury.

2 THE COURT: All right. Mr. Foreman, ladies and
3 gentlemen of the jury, as you've heard, the State
4 has introduced certain videotaped statements of the
5 defendant. We're now going to show them to you.

6 The pretrial portion of this case during the
7 discovery both the defendant and his lawyer were
8 provided copies of these videos, and after reviewing
9 the videos there were portions of the recordings
10 that the defense and the State agreed should be
11 removed from the recordings for various legal
12 reasons based on previous cases and certain rules.

13 Both sides got together. They agreed that some
14 things should be removed and then I had to -- they
15 disagreed on some things and I had to make a
16 pretrial ruling. This is what we call redaction.
17 We redacted the statements to eliminate anything
18 that was not relevant or perhaps violates some other
19 types of cases and/or rulings.

20 So therefore, as a result of the redaction
21 there are places in the video which appears to skip
22 around or maybe where the sound drops out of the
23 video. Both the State and the defendant have been
24 provided with these redacted videos you're about to
25 see. Both the state and the defense agreed that the

1 redactions conformed to my final order of where it
2 should redact certain things out.

3 So as such, you're to draw absolutely no
4 inference from the fact that the statements have
5 been edited or redacted. You're to consider the
6 statements as they are entered into evidence, and
7 you're to give those statements whatever weight you
8 feel the statements deserve, if any.

9 So having said that, we're going to start them.
10 Which one you going to do first? 11/11/13?

11 MR. MILLER: Yes, sir. November 11th, 2013.

12 THE COURT: This one may be a little long. If
13 we get into it, if anyone needs a bathroom break or
14 need a break, raise your hand. Somewhere along the
15 line we'll find the appropriate place to take a
16 bathroom break or afternoon break. But if you need
17 that break before I feel like we do, just raise your
18 hand. And if you get too cold, let me know. If
19 your chair doesn't work, let me know.

20 MR. MILLER: Your Honor, we just ask that Agent
21 Seals be allowed to step down during the video due
22 to the length.

23 THE COURT: You can sit over in the jury box or
24 however you want to do it. Sit wherever you'd like
25 to sit. Just don't discuss it with anyone.

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. Mr. Bamberg, if
3 you'll -- this is Exhibit No. 46, the video of
4 11/11/13 that has been redacted or edited.

5 (State's Exhibit No. 46 published to the jury.)

6 THE COURT: Mr. Bamberg, cut it off for a
7 moment please.

8 (Sidebar conference.)

9 THE COURT: Can y'all understand and hear it?

10 THE JURY: Hearing and understanding.

11 THE COURT: How about y'all step in the jury
12 room just a second and see if I can get this
13 technical issue figured out.

14 THE FOREMAN: Yes. It's marginable at best.

15 (Jury exits the courtroom at 2:50 p.m.)

16 THE COURT: All right. Bring the jury back in
17 please.

18 (The jury enters the courtroom at 2:57 p.m.)

19 THE COURT: All right. Dim the lights for me
20 please.

21 (State's Exhibit 46 resumed for the jury and
22 his Honor.)

23 MR. MILLER: Your Honor, may we approach
24 briefly?

25 THE COURT: Everybody okay? We can stop for

1 the day. We've got about an hour and a half more to
2 play on this one and the next one. We'll try to get
3 a better audio system for early in the morning and
4 finish it up, or we can continue going and listening
5 to it like this. What is your pleasure? You have
6 to come back tomorrow anyway.

7 THE FOREMAN: Yeah, break.

8 THE COURT: You want to let them try to get a
9 little better audio? You're saying break for the
10 day?

11 THE FOREMAN: Yes, sir.

12 THE COURT: All right. Turn the lights on for
13 me.

14 All right. Couple things: 9:30 okay? You
15 want another sausage biscuit or you want something
16 different? And I'm going to buy you lunch tomorrow.
17 I'm not going to get fussed at again. I can get you
18 some fruit and donuts, I guess.

19 THE FOREMAN: Sausage biscuits.

20 THE CLERK: How about bacon, egg and cheese?

21 THE COURT: Just get half and half. All right.
22 9:30. If you want your breakfast, be here a little
23 bit early. Please be on time. We're going to get
24 started in the morning. I'll be in a better
25 position to tell you -- we're going to finish

1 tomorrow one way or the other. We're down in the
2 short roses, as my daddy used to say.

3 We'll get it turned over to y'all probably
4 around lunchtime. I'll order your lunch so you
5 don't have to leave. You can eat lunch here while
6 you deliberate. Fair enough?

7 Don't deliberate tonight. Don't let anyone
8 discuss it with you. Don't do any independent
9 research. Please have a wonderful evening. Y'all
10 have been great. I appreciate y'all paying close
11 attention. Have a nice evening and see you bright
12 and early in the morning.

13 (Jury exits the courtroom at 3:46 p.m.)

14 THE COURT: Mr. Miller, anything from the State
15 before we break for the evening?

16 MR. MILLER: Nothing from the State, Your
17 Honor.

18 THE COURT: Mr. Chesser?

19 MR. CHESSER: Nothing, Your Honor.

20 THE COURT: Mr. Buckmon, let me discuss a few
21 things with you. Obviously tomorrow we're going to
22 finish up, I assume, the State's case at the
23 conclusion of playing the remainder of the
24 interviews and that will conclude all the State's
25 evidence.

1 Of course, at that time you have the right to
2 present your defense, which means you can call
3 witnesses, you can introduce relevant exhibits and
4 you can take the witness stand and tell your side of
5 the story.

6 THE DEFENDANT: Can I speak, Your Honor?

7 THE COURT: Well, let me finish and then you
8 can. Fair enough?

9 THE DEFENDANT: Yes.

10 THE COURT: Make sure you understand what I'm
11 saying. On the other side of that coin is if you
12 decide to testify obviously you would be subject to
13 the same rules everybody else is. You would be
14 subject to being cross-examined on all relevant
15 matters. Does he have a record that's habitual?

16 MR. MILLER: He does, Your Honor. He's got an
17 ABHAN conviction from 2009.

18 THE COURT: And there is a possibility that
19 your prior record could come in simply for the
20 purpose of impeaching your believability or
21 credibility once I make a decision as to whether or
22 not it's more probative than prejudicial. That
23 would be the only reason to attack your credibility.

24 On the other side of the coin you have the
25 constitutional right under to United States.

1 Constitution and the State Constitution to remain
2 silent. Everyone who is accused of a criminal event
3 or a crime has the absolute right to remain silent.
4 You have absolute nothing to prove. The burden of
5 proof is on the State.

6 If you do not take the witness stand, I will
7 instruct the jury at the conclusion of the case that
8 they cannot hold the fact that you did not testify
9 against you in any manner whatsoever. They can't
10 discuss it in the jury room. They cannot infer
11 anything from it. They can't even mention it. You
12 have the absolute right to remain silent and you
13 have nothing to prove and I will tell them that.

14 So you'll have to make a decision tomorrow
15 after the State's case as to whether or not you want
16 to testify, and I just want to make sure you
17 understand your right to remain silent and what I
18 tell the jury if you don't testify. You have the
19 right to testify, if you wish to, and you would be
20 subject to cross-examination and perhaps that prior
21 record may come in.

22 Now, having said that, you wanted to ask me a
23 question and I'd be glad to answer it.

24 THE DEFENDANT: I didn't want to cost the State
25 time and the law to argue but this witness in the

1 case as to what Matthew Bolen stated that I
2 instructed other guys that was on the scene to make
3 them do something -- and those guys already gave
4 interviews to Mr. Seals and the State and writes
5 that it was a total lie. They had nothing to do
6 with the crime just as well as me. They already in
7 prison. I didn't want you to have them subpoenaed
8 from prison.

9 THE COURT: I don't have anything to do with
10 who is called or who's not called. I don't think
11 anybody else is going to be called by the State, and
12 you have the right to present whoever you wish. I
13 just need to know -- make sure you understand you
14 have the right to not testify and if you don't I'll
15 tell the jury they can't hold that against you in
16 any manner whatsoever.

17 As far as these other witnesses and all, I
18 don't control that until they get here to testify
19 and determine whether or not what they're going to
20 say is relevant or not. Relevant means having
21 something to do with the case.

22 So do you have any other questions you want to
23 ask me?

24 THE DEFENDANT: No, sir. I mean, the State
25 didn't bring any witnesses -- all the witnesses

1 stating I didn't do nothing or they don't know if I
2 did something. I guess that's why they didn't bring
3 the witnesses.

4 THE COURT: I don't do the prosecuting. I sit
5 up here and referee. I can't tell them whether to
6 throw a curve ball or a force out. I have to just
7 call it whether it's a ball or a strike.

8 All right. We'll get to that in the morning.
9 You can make your decision tomorrow when we get to
10 that point. Fair enough?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You need anything?

13 THE DEFENDANT: No, sir. I'm good.

14 THE COURT: All right. We'll break for the
15 evening. Make sure the jail knows to have him here
16 at 9:30 in the morning dressed out.

17 (Court recessed for the day at 3:51 p.m.)

18 THE COURT: Good morning. Please be seated.

19 Anything for the record before we start,
20 Mr. Miller, on behalf of the State?

21 MR. MILLER: Your Honor, we have -- in
22 accordance with the Court's instructions yesterday,
23 relative to the redaction of the videos, I put
24 together a Court's Exhibit No. 1 with Mr. Chesser's
25 assistance that contains everything that I believe

1 the Court requested. We do have copies of the
2 unredacted videos that Mr. Bamberg is getting right
3 now.

4 THE COURT: That's fine. We can do that when
5 we take a break. Let's get cranked.

6 MR. MILLER: All right. We're ready to go,
7 Your Honor.

8 MR. CHESSER: Your Honor, we had submitted a
9 published jury instruction re the jump suit and
10 shackles. The prosecution indicated they don't have
11 an objection to it and I've handed it up.

12 This is a case that Mr. Routzong found. But it
13 appears that there's a line of cases and I think it
14 would be proper to give a curative -- not so much
15 curative but just an instruction.

16 THE COURT: You want me to give it now or you
17 want me to give it when I charge the jury?

18 MR. CHESSER: I would ask that you give it now,
19 Your Honor.

20 THE COURT: Mr. Miller?

21 MR. MILLER: Your Honor, I don't object to the
22 instruction. I leave it to the Court's discretion
23 when to make the charge.

24 THE COURT: Bring my jury in please.

25 (The jury enters the courtroom at 9:36 a.m.)

1 THE COURT: Good morning.

2 THE JURY: Good morning.

3 THE WITNESS: We're right on time this morning.

4 I hope everyone had a wonderful evening. We're
5 going to get started back in just a second with the
6 conclusion of the first video and then we'll do the
7 second video. I think that will complete the
8 State's case and then we'll see where we go after
9 that. I'll be in a position to -- is that correct?

10 MR. MILLER: We have a few follow-up questions
11 for Agent Seals at that point.

12 THE COURT: So we'll move right along.
13 Obviously yesterday while you were watching the
14 video it shows Mr. Buckmon dressed in jail clothing
15 and some type of restraints. Please be advised that
16 it's not unusual when they take someone into custody
17 for them to dress them in a jail suit and
18 restraints.

19 So please don't infer anything from the fact
20 that he was in jail clothes and is in restraints.
21 Don't consider that in any manner when you
22 deliberate. He's pled not guilty. He's presumed to
23 be innocent unless the State can prove him guilty
24 beyond a reasonable doubt. So please do not let the
25 fact that he's in jail clothing at that time and

1 restrained have any effect on your deliberations and
2 don't infer anything from the fact he's dressed in
3 that manner.

4 Satisfied, Mr. Chesser?

5 MR. CHESSER: Yes, sir.

6 THE COURT: Mr. Miller?

7 MR. MILLER: Yes, sir.

8 THE COURT: Mr. Bamberg, you may dim the
9 lights.

10 By the way, before we start look right in front
11 of you. Look what we did last night. Got us some
12 new speakers. Does the foreperson have the right to
13 control the volume?

14 MR. MILLER: There is a volume knob on the
15 front of the speaker in front of the foreperson. It
16 might max out pretty quickly but it's there. And
17 Mr. Bamberg has got his computer sound turned all
18 the way up.

19 (State's Exhibit No. 46 resumed for the jury.)

20 THE COURT: Mr. Foreman, ladies and gentlemen,
21 are you okay over there? You want to get started
22 into the next one?

23 If you get uncomfortable raise your hand
24 please.

25 (State's Exhibit No. 47 published to the jury.)

1 MR. MILLER: Your Honor, we'd also like to
2 publish State's 52. It's already been admitted into
3 evidence. We just haven't published it yet. It's
4 about three minutes of video. Agent Seals is going
5 to point out a few -- we can do it after a break
6 if --

7 THE COURT: However you want to do it. You
8 said you had some questions for him and now you're
9 adding more time to it. Go ahead.

10 MR. MILLER: Just three minutes.

11 THE COURT: I'm not fussing. Go ahead. What
12 is this we're watching now?

13 MR. MILLER: This is State's 52. It is a video
14 of Berry Road [sic] from a drone that was flown over
15 the street.

16 THE COURT: Thank you.

17 DIRECT EXAMINATION

18 BY MR. MILLER:

19 Q. Agent Seals, as this video plays could you
20 please identify the defendant's mother's house and
21 the incident location, Ms. Donna Dempsey's house?

22 A. Ms. Buckmon's house is white house, the
23 one-story right there in front of you and the street
24 to the right is Berry Street. This drone is moving
25 up over the trees that if you were to come out the

1 door of Ms. Buckmon's house would be straight ahead.
2 You have the storage shed behind the house. This is
3 the storage house right here. Behind this line of
4 trees is a cyclone fence. And this blue house right
5 here is Ms. Donna Dempsey's residence right here.

6 There's a lot of overgrowth and stuff. This
7 was taken after the fact. But what you can see here
8 is you're seeing the entire roof of the structure,
9 and there's no place where you'll see fire has come
10 out of the structure.

11 This portion right here would be the front
12 porch. This is the driveway. Again, this is [REDACTED]
13 and this residence here on the right side was also
14 mentioned. This area right here with the trees is
15 the back yard of [REDACTED]. You can see right here
16 is the cyclone fence. It extended all the way
17 across and separated the two properties.

18 The items that referred to where the location
19 would have been, would have been roughly about this
20 location. That's -- when you kept hearing about the
21 items stacked up, it would have been over that fence
22 right there. And when they're referring to the
23 vehicle parked behind Ms. Buckmon's house, that
24 would be the upper part of the frame right here.

25 The distance between this front door and

1 Ms. Buckmon's residence, the back of this residence
2 is roughly a couple hundred yards.

3 MR. MILLER: That's good, Mr. Bamberg.

4 Agent Seals, if you wouldn't mind taking the
5 stand we have a few follow-up questions.

6 BY MR. MILLER:

7 Q. Okay. Agent Seals, during both of those
8 interviews, a number of different names were
9 mentioned. A long list of individuals were
10 mentioned. Did law enforcement follow up with those
11 individuals?

12 MR. CHESSER: Objection.

13 THE COURT: Your objection is what?

14 MR. CHESSER: It obviously calls for hearsay,
15 Your Honor.

16 MR. MILLER: He's testifying about information
17 within his personal knowledge.

18 THE COURT: He just asked did he follow up.
19 That's not hearsay. Overruled.

20 A. Yes. Law enforcement did follow up on the
21 names that were referred to.

22 Q. Was any useful information obtained during --

23 MR. CHESSER: Objection.

24 THE COURT: Sustained.

25 A. No.

1 THE COURT: Don't --

2 MR. CHESSER: Objection.

3 THE COURT: Disregard that, ladies and
4 gentlemen. He can't testify to what other people
5 told him.

6 BY MR. MILLER:

7 Q. Okay. Agent Seals, on Monday when Loy Mitcham
8 testified he stated that there were two dogs inside
9 the residence. During your investigation were you
10 able to determine what happened to those dogs?

11 MR. CHESSER: Objection.

12 THE COURT: What's the objection on that?

13 MR. CHESSER: It's much more prejudicial than
14 probative, Your Honor. It has zero probative value
15 and it's prejudicial.

16 THE COURT: I don't know what he's going to
17 say. How's the dogs got anything to do with --

18 MR. MILLER: It's a portion of his
19 investigation, Your Honor.

20 THE COURT: I'll sustain the objection.

21 MR. MILLER: Yes, Your Honor.

22 BY MR. MILLER:

23 Q. Agent Seals, the defendant stated during both
24 interviews that when Mr. Bolen left him at the
25 country store in the Upstate, he then contacted

1 Captain Wayne Martin to turn himself in. Did that
2 occur?

3 A. Yes, it did.

4 Q. Okay. When did that happen?

5 A. I believe it was either November 9th or 10th.

6 Q. Okay. During the November 11, 2013 interview,
7 the defendant indicated that Matthew Bolen had
8 removed things from the house after the fires had
9 been set. In your opinion was that corroborated by
10 your investigation?

11 MR. CHESSER: Objection.

12 THE COURT: Sustained.

13 BY MR. MILLER:

14 Q. Agent Seals, during the February 2014
15 interview, the defendant stated that he could smell
16 smoke from his mother's house. Was that
17 corroborated by your investigation?

18 MR. CHESSER: Objection.

19 THE COURT: Sustained.

20 MR. MILLER: Your Honor, he's giving testimony
21 within his expert --

22 THE COURT: Sustained.

23 MR. MILLER: Yes, Your Honor.

24 THE COURT: You didn't ask it right.

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

1 THE COURT: Anything on cross?

2 MR. CHESSER: No questions for this witness.

3 THE COURT: You may step down.

4 Next witness please.

5 MR. MILLER: Your Honor, the State rests.

6 THE COURT: Mr. Foreman, ladies and gentlemen,
7 that concludes the State's presentation of
8 testimony. I need to spend a few minutes with the
9 lawyers to sort of see where we're going. I'll let
10 you go back to your jury room now.

11 Ms. McElveen will come back. As promised, she
12 will go over your lunch options with you. We'll
13 order in so we can move along. So go back. Don't
14 start any deliberations. Don't discuss the case and
15 we'll have you back out in just a few minutes.

16 (The jury exits the courtroom at 11:18 a.m.)

17 THE COURT: Any motions by the State?

18 MR. MILLER: None by the State, Your Honor.

19 THE COURT: By the defendant?

20 MR. CHESSER: May it please the Court.

21 Mr. Buckmon stands accused of murder, arson in the
22 first degree and criminal sexual conduct --

23 THE COURT: That's correct.

24 MR. CHESSER: -- in the first degree. And at
25 this time we would move for a motion of directed

1 verdict of not guilty on all three of those charges
2 on the basis of no direct and no substantial
3 circumstantial or indirect evidence that he is --
4 such that a jury could reasonably find that he is
5 guilty of these three charges, Your Honor.

6 THE COURT: Well, the codefendant testified and
7 said your client is the one who hit her in the head
8 with a hammer, which according to the pathologist
9 that's contributing or was the cause of her death.
10 He set the fire.

11 Now, Mr. Miller, what evidence is there in the
12 record about criminal sexual conduct that would --

13 MR. MILLER: Your Honor, there is substantial
14 circumstantial evidence of the criminal sexual
15 conduct, both from the testimony that has come out
16 in the defendant's own statements about his
17 inconsistencies in whether or not he even had sex
18 with the victim in the first place or not; the
19 changing variations of the story until he finally
20 comes up and says in his final version of the story
21 that he and his codefendant had sex with her.

22 At the same time the defendant -- or the
23 codefendant who is cooperating and testified said
24 that Mr. Bolen had sex with her and during that
25 sexual encounter he instructed him to come in and

1 try to tie her up. He said he was not successful in
2 tying her up. Then when she tried to get away from
3 him, when she ran out of the bedroom, that's what
4 precipitated him grabbing her around the neck,
5 riding her to the floor, ultimately hitting her in
6 the head with the hammer and directing that the
7 fires be set around the house.

8 Certainly that's substantial circumstantial
9 evidence of the fact that the sexual contact that
10 Mr. Bolen talked about was not in any way consensual
11 and, therefore, would constitute criminal sexual
12 conduct.

13 And also, Your Honor, Dr. Ross also testified
14 that the injuries to the victim were consistent with
15 a CSC.

16 THE COURT: All right. Based on the testimony
17 of the codefendant and if the jury believes him,
18 that evidence is in existence and I will
19 respectfully deny your motion. I'm not concerned at
20 this stage of the game of the weight of the evidence
21 but I'm concerned with the existence of the evidence
22 and -- it's up to the jury to determine credibility
23 of the witnesses, and if they believe the
24 codefendant then it will sustain a conviction for
25 CSC as well. So respectfully denied on all three

1 charges.

2 All right. Do you intend to put up any
3 witnesses, Mr. Chesser?

4 MR. CHESSER: No, Your Honor. My understanding
5 is that Mr. Buckmon does not intend to testify;
6 although, it would be appropriate for the Court to
7 inquire.

8 THE COURT: Mr. Buckmon, you recall yesterday
9 before we left you and I talked about your right to
10 remain silent and your right to testify during the
11 trial, and I told you that if you testified you
12 would be subject to cross-examination and your prior
13 record may come in. I hadn't made that decision
14 yet.

15 On the other side of the coin, you have the
16 constitutional right under the 5th Amendment and the
17 State of South Carolina's constitution not to
18 testify. You have absolutely nothing to prove. The
19 burden of proof is on the State. If you do not
20 testify, then I will charge the jury -- are you
21 listening? You paying attention?

22 THE DEFENDANT: Yeah, I'm paying attention,
23 Your Honor. I'm aggravated.

24 THE COURT: What you aggravated about?

25 THE DEFENDANT: Because you denied my motion

1 for direct verdict. And Matthew stated that he
2 assumed that I set the fires. The fires that he's
3 trying to say I set wasn't even a fire extension --
4 wasn't even ruled as fire damage. Was it?

5 THE COURT: Sir, you're not here to ask
6 questions. I'm asking you about your right to
7 remain silent. You want to testify or not?

8 THE DEFENDANT: No. They pretty much read what
9 I was stating so there's no reason for me to
10 testify.

11 THE COURT: And obviously -- I'm not cutting
12 you off but your lawyers have the right to argue all
13 the points you're making about the inferences that
14 they can draw from what Mr. Bolen testified about
15 and what he didn't testify about.

16 If they believe him and what he said, that
17 would be enough evidence to convict you. If they
18 don't believe him -- I don't know how they're going
19 to read your -- and take your statement. They --
20 that's why we have jurors who determine what the
21 true facts are. I don't make that decision.

22 THE DEFENDANT: I mean, if I testify it's still
23 dealing with what they seen on the videos. It's the
24 same thing.

25 THE COURT: That's a decision you have to make.

1 MR. CHESSER: Me and you have made a decision.
2 We've thought about it. He just wants to know you
3 understand your rights.

4 THE DEFENDANT: Yes, sir.

5 MR. CHESSER: And we've talked about it.

6 Your Honor, he indicates that he does not wish
7 to testify.

8 THE COURT: Is that correct, sir?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Any questions you want to ask me?

11 THE DEFENDANT: No, sir. But it seems like
12 you're trying to put me in jail for a murder I
13 didn't commit.

14 THE COURT: Well, that's not for me to decide.
15 That's why we have the system that we have. The
16 jury has heard the evidence --

17 THE DEFENDANT: I mean, Mr. Seals go on the
18 cause of death smoke inhalation. You know, when
19 Matthew set the fires in the bathroom that's what
20 killed that woman. That's common sense.

21 THE COURT: Maybe that's what the jury will
22 find. They may find different though. They may
23 believe Matthew in his entirety.

24 THE DEFENDANT: They didn't see me set fires on
25 the DVD.

1 THE COURT: All right, sir. You don't want to
2 testify; is that correct?

3 Mr. Routzong, anything else you need to discuss
4 with him?

5 MR. ROUTZONG: I'm fine, Judge.

6 THE COURT: All right. Let's take a short
7 break.

8 Well, before we take a break, jury charges --
9 all right. As far as the jury charge goes, first of
10 all, do I have any specific requests from anyone?
11 Or do y'all want me to go over what my general
12 charge is and then add to that?

13 MR. MILLER: That would be easy, Judge.

14 THE COURT: Mr. Chesser, Mr. Routzong,
15 indictment is not evidence. There are multiple
16 charges. Decide each one separate and apart from
17 the other, three distinct verdicts. Presumption of
18 innocence, reasonable doubt, duty of the jury and
19 the judge, credibility of witnesses, expert
20 witnesses, failure of defendant to testify, hand of
21 one, mere presence, prior record of a witness,
22 statement of defendant, arson first degree, murder,
23 CSC first degree, unanimous verdict.

24 Mr. Chesser?

25 MR. CHESSER: We were going to request mere

1 presence but obviously you're giving that so we have
2 no further requests.

3 THE COURT: Mr. Miller, I did not add direct
4 evidence and circumstantial evidence. Do y'all want
5 that?

6 MR. MILLER: I would prefer not, Your Honor.
7 It seems like it just adds confusion.

8 THE COURT: It does.
9 Anything else?

10 MR. CHESSER: Your Honor, I've got -- I'm going
11 to try to work with Mr. Bamberg to be able to use
12 this projector device for my closing and I would
13 like to ask for just about 15 minutes to get set up
14 before we come back and rest and presumably start
15 our arguments.

16 THE COURT: That's okay.

17 MR. CHESSER: Thank you, sir.

18 THE COURT: Now, the State's going to open on
19 the law.

20 MR. MILLER: We'd waive formal opening, Judge.

21 THE COURT: Mr. Chesser, you go first followed
22 by Mr. Miller. All right. We'll start 11:45. It's
23 11:30 now.

24 Madam clerk, would you go back and tell the
25 jury we're going to take about 15 minutes and if

1 they need to stretch their legs or take a cigarette
2 break, however y'all want to handle that.

3 (Off the record from 11:28 to 11:45 a.m.)

4 THE COURT: Is the State ready to proceed?

5 MR. MILLER: Yes, Your Honor.

6 MR. CHESSER: Yes, Your Honor. The defendant
7 has indicated he'd like to apologize to the Court.

8 THE COURT: For what? You haven't done
9 anything wrong.

10 THE DEFENDANT: The small outburst with the
11 directed verdict issue. Got kind of discouraged.

12 THE COURT: I accept your apology but you
13 certainly don't need to apologize. You're fine.
14 You haven't done anything that's offended me. I
15 understand. Fair enough?

16 THE DEFENDANT: Uh-huh.

17 THE COURT: All right.

18 (Jury enters the courtroom at 11:48 a.m.)

19 THE COURT: Mr. Foreman, ladies and gentlemen
20 of the jury, we have now concluded the State's side
21 of the case.

22 And Mr. Chesser?

23 MR. CHESSER: The defense rests at this time.

24 THE COURT: And there will be no testimony put
25 up by the defendant. So that, I assume, is nothing

1 in rebuttal. That concludes all of the testimony.
2 What's left now are the final arguments. The first
3 argument will be made by the defense, Mr. Chessser,
4 followed by the State.

5 As I told you when we started, final arguments
6 is not evidence in the case. You have heard now all
7 the evidence that you will hear on which you will
8 make your decision. Obviously the two attorneys
9 will be arguing in the light most favorable to their
10 side but you've heard the evidence.

11 Not withstanding all of that, final arguments
12 are a very important phase of the trial, so please
13 pay close attention. Once we complete the final
14 arguments, my charge to you or my instructions to
15 you take about ten or 15 minutes and then we'll be
16 in a position to let it be turned over to you to
17 start your deliberation. I understand that y'all
18 have ordered your lunch and it should be here
19 coinciding about the same time we finish up
20 everything. So please pay close attention.

21 Mr. Chessser.

22 MR. CHESSER: May it please the Court.

23 THE COURT: Certainly.

24 MR. CHESSER: Thank you. Thank you for being
25 here. Thank you for your attention. To some extent

1 I'm going to try to project some of these things
2 which we haven't done before so we're going to try
3 our best. So bear with us if we have any sort of
4 technical problems.

5 On this Halloween in 2013 what was new? What
6 was new was Matthew Bolen. Mr. Buckmon had been
7 there for the bulk, the majority of his life. He
8 lived there with his mother. This happened some 24
9 hours after Matthew Bolen got there. So think about
10 logically what had changed, what precipitated this
11 event. Matthew Bolen.

12 Matthew is a guy who habitually stole. It came
13 out that he had a conviction in 2009 for burglary
14 second, a conviction for grand larceny and he
15 actually ended up going to prison on those charges.
16 Also, you'll recall that he went -- they went to
17 Greenville to Matthew's grandmother's where he
18 proceeds to steal an air conditioner from her house.
19 That's what he testified to.

20 I'll talk a little bit more about this later,
21 but he was obsessed with this Blood gang. You some
22 13 pages of handwritten red ink that he had copied
23 out laboriously. And the other overarching thing to
24 consider is that Buckmon had no motive. There was
25 no motive in this for Buckmon.

1 Now, one of the things -- it seems to me I
2 would submit to you that this motive, the lack of a
3 motive -- what the prosecution is trying to do is to
4 fill that with this allegation of criminal sexual
5 conduct or rape. I'm just going to call it rape
6 since that's a normal term.

7 Again, the reason that this charge is there is
8 because the prosecution is scratching their heads
9 and they put in -- create a motive really out of
10 nothing. Just think about it, Buckmon is there all
11 this time. Donna Dempsey lives there. She's lived
12 there for years, four or five years, Loy Mitcham
13 testified.

14 And this is -- I'm not really criticizing her
15 character but she likes to drink and she likes to
16 socialize, and she gets along well with everybody on
17 this street, white or black or whatever. She gets
18 along with everybody. Hakeem Mixon lives on one
19 side. A gentleman lives in half the duplex on the
20 other side. Michael Buckmon and his mother live on
21 the other side of that duplex.

22 And she's out dressed as a witch for Halloween
23 enjoying it with everybody. And she drinks. This
24 isn't just one night. But that's kind of one of the
25 things that she does. And it seems contrary to

1 common sense to some extent to common experience to
2 think that she doesn't occasionally have sexual
3 relations with young people or whoever there.

4 And I say that -- in this particular case what
5 the prosecution's theory -- what they had Matthew
6 Bolen testify to is that he met her in the afternoon
7 that day and she was after him so to speak all day.
8 And this is when she met him that afternoon.

9 The other thing -- and this is a side, I
10 suppose, but Loy Mitcham talked about how she didn't
11 want to go celebrate Halloween with him because she
12 was there and she was concerned about her dog. It
13 seems to me -- and again, this is not a criticism
14 but she felt like she was going to have a good time
15 where she was. She was going to dress up and go out
16 and socialize and drink and have fun. I don't put
17 her down for that. I think, you know, there's
18 something to be said for living your life.

19 But at any rate, the idea that this -- that
20 Mr. Michael Buckmon had some motive or idea to rape
21 her, seems to me that is against common sense. And
22 of course, in your experience of life that's one of
23 the things you bring to the jury. But that just
24 seems in the first instance far fetched, and I
25 submit to you that the reason it's there is because

1 the prosecution is trying to fill this gap of no
2 motive or the only person who had a motive was
3 Matthew Bolen and his attempt to fulfill this Blood
4 motto or Blood oath that he has.

5 Now, again with regard to the CSC, I would
6 mention also that this neighbor Keem was over there
7 in and out of her house. And this particular night
8 she drinks to the point where there's testimony that
9 she just passes out in the bathroom. And that's
10 just to indicate that she has a tendency to
11 overdrink and the idea, again, that she's living
12 chased in this house is pretty far fetched.

13 Another thing is that Matthew Bolen testified
14 that he had vaginal intercourse with her and that at
15 some point she says, no, no, no. I'm not
16 comfortable and she ended up -- I believe the
17 testimony is she performed oral sex. But the point
18 there is it's uncomfortable.

19 This would indicate that she was experiencing
20 some type of discomfort which is consistent with
21 this abrasion under the vagina, which Dr. Ross
22 testified about. In other words, there's nothing
23 here that requires this leap to say, oh, well,
24 Michael Buckmon raped her. Not only is there
25 nothing to suggest that, there's really no proof of

1 it.

2 And again, one of the things here is the photo
3 in evidence of Donna Dempsey shows her down there
4 naked on her kitchen floor and that -- it may to
5 somebody suggest this, but a lot of people sleep in
6 a night shirt, in a shirt. That's the way they
7 sleep. I submit to you that's the way Donna Dempsey
8 slept.

9 And there's no allegation that somehow she was
10 violated on her kitchen floor. That's not even in a
11 ballpark. It just happened that she ended up this
12 way and the prosecution is searching for this motive
13 so they came up with this. There's no substantial
14 evidence to support that charge of CSC, rape.

15 One of the things that wasn't really
16 emphasized, although you may have understood it, has
17 to do with the cause of death. The prosecution,
18 their theory is that the cause of death was this
19 smoke inhalation, and as a technical matter of a
20 fact, that may be the case.

21 It was not really emphasized to you and it may
22 be important simply as a fact -- I don't know if it
23 helps anybody but the doctor testified that her
24 skull was crushed in. It was actually fractured and
25 pushed into the brain. It just seems to me that the

1 cause of death really was this impact with the
2 hammer. I wouldn't tell you sort of legally that
3 that is binding on you or anything. I wouldn't
4 suggest that.

5 But it seems to me to help you understand this
6 case, the prosecution is emphasizing this fire as
7 the cause of death and kind of in a way contrary to
8 common sense because that's their backup theory.
9 Because the person who had the blood on them,
10 suspected blood -- I want to talk about this a
11 little more later, because according to Agent Seals
12 it was never tested.

13 But the person who has these specs and things
14 that appear to be blood is Matthew Bolen, which is
15 consistent with Matthew Bolen wielding whatever it
16 was, whether it was a hammer or whatever it was.
17 He's got the blood on him. That's what it would
18 appear.

19 Now, I want to go ahead and talk about that or
20 go over some of these exhibits. I'm just going to
21 go over various exhibits just in order so -- this
22 case -- y'all have had a lot of information in one
23 day but I think y'all remember this. It will be a
24 little bit of a jump around but hopefully not too
25 much.

1 If we could just start with the first exhibit
2 please.

3 This is the bat that was taken out of Matthew
4 Bolen's vehicle in connection with his arrest on or
5 about November the 12th or 11th and there's a couple
6 of significances to this bat. One is the color of
7 it. Everything about Matthew Bolen is red or red
8 and black, and I submit to you that is because of
9 his affiliation, his fascination, his obsession with
10 this Blood gang.

11 The other question you have to ask yourself is,
12 why does somebody carry a bat around in their
13 vehicle?

14 We'll take a look at the second exhibit. These
15 are two knives that were found in Matthew Bolen's
16 trunk. I'm going to talk about those later. I'm
17 going to suggest to you a theory about how this may
18 have happened that involves those knives, so we'll
19 come back to them.

20 The third exhibit. This is some clothes --
21 Matthew Bolen's clothes that were taken out of the
22 vehicle. The idea here, again, is you've got this
23 red and black. This continuous theme.

24 These are some sandals -- Matthew Bolen's
25 sandals and just note the color please. These are

1 shoes and, again, you've got the red and black. And
2 it's almost always the same shade of red.

3 Next exhibit please. Thank you, Mr. Bamberg.
4 This is Matthew Bolen's shirt that he took into the
5 bathroom of Donna Dempsey's house and attempted to
6 burn in the bathtub. It was retrieved from the
7 bathtub. Again, the color. Also, this is something
8 that for whatever reason SLED chose not to test for
9 blood.

10 This is what Agent Seals testified to was
11 suspected blood spatter. You can see it here and
12 here and here and here. And he indicated there was
13 more on various parts of the room. It just --
14 again, they did not pursue that.

15 Next exhibit please.

16 The reason these -- again, this is the
17 suspected blood on Matthew Bolen's jeans taken out
18 of the vehicle. And one of the aspects of this that
19 I would ask you to pay attention to is the
20 similarity between these marks and the marks on that
21 piece of furniture. In other words, it looks
22 exactly the same. It's that spatter type pattern.

23 And this is, of course, consistent with what
24 Agent Seals testified to is that if Matthew Bolen
25 wielded the hammer he would have blood on his

1 clothes. We have what appears to be exactly
2 something that looks similar to the blood spatter.

3 Next exhibit please. This is, of course,
4 another example of apparent blood spatter on the
5 jeans of Matthew Bolen.

6 Next exhibit. And of course, this is the same
7 here in another region and obviously that's why they
8 took these pictures. I mean, this is not arbitrary.
9 They took them because of this suspected blood
10 spatter.

11 Next exhibit please. And here again, you've
12 got, again, same pattern that you see on that piece
13 of furniture in the kitchen. And this is simply the
14 rear of Matthew Bolen's and what you don't see on
15 the rear of his jeans is any sort of pattern or
16 speckling of blood spatter.

17 Next photo please. This is the same, an
18 absence of blood spatter. And we'll stop here. And
19 the idea here is that he is facing this. In other
20 words, it would be consistent to have this on his
21 front if he is actually wielding this hammer.

22 I'd like at this time to go to Exhibit 19.
23 This, as Matthew Bolen recognized, is him giving a
24 tattoo on this Halloween day and, of course, this
25 shows his clothes, red clothes. Not just red but

1 the same exact tint of red that he has on
2 consistently.

3 So what I would suggest to you, what the
4 prosecution I would anticipate their argument is,
5 well, Mr. Bolen may have killed Donna in effect, may
6 have wielded this hammer but nevertheless
7 Mr. Buckmon is guilty because of something to do
8 with this fire.

9 But there's a couple of things about this fire
10 that I would like to talk about. One of them is
11 that the main thing that was set on fire was this
12 red shirt. Matthew set fire to his own shirt in the
13 bathroom. It is very odd to think that someone is
14 going to go in this bathroom -- if you look at the
15 picture, it's not a regular tub. It's sort of a
16 raised, almost like a handicap tub where they have a
17 door to go in it.

18 But one wonders if somebody is setting a fire,
19 how logical is it to set it in a tub? I would
20 submit to you that you can consider what Matthew
21 Bolen's actual motive was in lighting that shirt on
22 fire, if it was not simply to destroy the shirt,
23 which somehow he had realized had something on it
24 that he did not want -- that he wanted to destroy.

25 It just is so strange that someone would say --

1 would create this fire in a tub, in a controlled
2 environment. So I would suggest to you to consider
3 that actual motive.

4 Mr. Buckmon, you've heard his statements and
5 what he said was he came in at some point and the
6 fire was there. He panicked. He made some attempts
7 to put it out and then left. And the prosecution
8 wants to argue that that is sufficient to make him
9 guilty of murder and arson first.

10 His Honor is going to give you an instruction
11 on what's called mere presence where you end up at
12 all or part of something but you don't contribute.
13 You don't help. You don't have an agreement with
14 that person. And under the circumstances he's going
15 to instruct you that you can and should find the
16 accused not guilty.

17 But the prosecution, their fallback argument
18 is, again, that Buckmon somehow did something with
19 this fire that would make him guilty, but his
20 statement was that he simply tried to put it out.

21 I would like to go to the second interview and
22 play just a 20-second spot from this.

23 (Interview clip published to the jury.)

24 So Agent Seals indicates that in the middle of
25 the night, 3:00 or whatever, she goes next door and

1 says, I want some water. What is the inference from
2 there? The inference is that she doesn't have water
3 in her own house. Now, if Mr. Buckmon, he panics.
4 He makes an ineffective attempt to put this fire
5 out. But if there's no water it gives further
6 credence to the fact that he was not in a position
7 to easily put this out and he panicked and just
8 said, I'm out of here.

9 And the prosecution, again, their fallback
10 position is that Matthew Bolen may be lying about
11 all this other stuff but Buckmon's involvement in
12 this fire makes him guilty.

13 I submit to you that what Buckmon said is he
14 panicked and he left and that is not enough. He did
15 not help with these fires. And the prosecution, I
16 don't think that their position can stand if Bolen
17 is not telling the truth about all this other stuff
18 and then say, oh, but at the end we've still got him
19 through some type of a sort of safety net -- a
20 prosecution safety net. I submit to you that if
21 Bolen is so incredible, that their case falls.

22 One of the things I want to mention is that
23 it's apparent that Michael Buckmon is from the wrong
24 side of the tracks. He is sort of from that group
25 of people -- and not necessarily bad people but

1 people who it's not their custom to freely cooperate
2 with the police. The police are seen as an
3 adversary. And sometimes in some cases it may be
4 easier for the prosecution to convict somebody from
5 the wrong side of the tracks, somebody that their
6 first reaction is not, the police are here to try to
7 help me -- somebody that if the prosecution goes
8 after them it might be easier.

9 But I'd ask you not to make it easier. I'd ask
10 you to comply with your oath, to fulfill your oath
11 to require the prosecution to present proof beyond a
12 reasonable doubt that he actually did these crimes.

13 Matthew Bolen, we talked about the fact that he
14 has done this -- these burglaries and things but
15 also, in this case, as you heard, he's facing the
16 murder charge and the arson charge. Murder carries
17 30 to life day for day. That was the testimony.
18 The arson is simply 30. And he hopes for a benefit
19 and the prosecutor made reference to the idea that
20 somehow it would be in the discretion of the judge.

21 The only way it can be in the discretion of the
22 judge to give him less than 30 is if the chargers
23 are reduced. Matthew Bolen is angling for a
24 reduction in the charges.

25 If you have someone whose sort of mindset is

1 this allegiance, this study, almost obsessive
2 writing of the Blood's Bible and then you offer them
3 their only route and the prosecution says the truth.
4 No one knows the truth. Their only out is to help
5 themselves. Will they take it?

6 I want to go now to Exhibit 14. You heard
7 Matthew Bolen testify that he tried to tie Donna up
8 with a woven belt, and I'd submit to you -- this is
9 a picture from the scene, of course. This would be
10 her bed. This is the belt. Notice it's in two
11 pieces and doesn't have the buckle part right here.

12 Next exhibit please. This is the buckle part
13 and it appears to be well removed from the other
14 parts. Again, it appears to be severed there.

15 Next exhibit. This, again, another photo image
16 of the belt.

17 Next exhibit please. This is in SLED custody
18 with all the three pieces of the belt here together.

19 I want to suggest something to you: This story
20 about the belt, I would submit to you it is true
21 that Matthew Bolen tried to tie her up with the
22 belt. I would submit to you that it is true that he
23 did tie her up with a belt.

24 The reason that someone would need to tie her
25 up in her room with a belt is if they were alone.

1 They would want -- he would want -- Matthew Bolen, I
2 submit to you, would want to immobilize her legs and
3 then he would get on her upper body and choke her
4 out possibly. At that point he was wanting to kill
5 her.

6 Now, the belt being in these pieces around her
7 bed indicates that it was cut off her. Now, if you
8 have a belt that is actually completed around you
9 and you take a knife and you cut it, you're going to
10 get exactly that situation, the three pieces.

11 Who has the knives? Matthew Bolen has the
12 knives. He immobilizes her with this belt. He
13 severs it and then you get these three pieces on the
14 floor. And in the interim he chokes her out, does
15 whatever it takes to immobilize her. Actually, he
16 intends to kill her. He goes back to the kitchen.
17 He continues his stealing but she is not out.

18 She comes out of the bedroom and she runs into
19 Matthew Bolen. He intercepts her and then he kills
20 her with the hammer. I submit to you that the blood
21 is on his clothes. I submit to you he tried to burn
22 the shirt with the blood on it.

23 If we could go to Exhibit 18. Can we page
24 through here please? Next page, next page, next
25 page, next page, next page.

1 Okay. This is what he read: Why I bang? I
2 bang for the cause, not because. I bang for all the
3 real homies and O G's. I bang for blood, to be
4 blood, to see blood; bang for all the boy homies and
5 G G's who blood shed so I can B-hop and G-stroll. I
6 don't rep this life. I bang this life till I get
7 rushed.

8 Next page please. Next page, next page, next
9 page. This is the Blood roll call. Whose house is
10 this? The Bloods have big dog style, bark. We eat
11 so-and-so crabs. I got you blood, peace almighty.
12 Alive to die. Red light, green light, oppression,
13 destruction, victory. When I say gangster, you say
14 kills. Gangster, kills; gangster, kills; gangster,
15 kills.

16 Thank you.

17 I submit to you that Bolen had blood on jeans
18 and on his shirt. He denied wearing his jeans on
19 the stand. He wanted to put those jeans away from
20 him, but Agent Seals had testified that he had
21 earlier stated that he did have on pants or jeans
22 and not those red shorts that you see in that photo.
23 Agent Seals testified to that.

24 I submit to you that as jurors you in effect
25 have a right to forensic evidence if it's out there.

1 In other words, Dr. Ross testified that she took
2 sperm and DNA type of samples. In other words, she
3 took samples from Donna Dempsey and sent them off
4 for analysis. And yet, there is no testimony of DNA
5 or sperm results.

6 There's no blood spatter analysis. Agent Seals
7 testified that there were various locations of
8 suspected blood spatter, pictures taken and so on,
9 and no analysis. That is inexplicable. There is,
10 of course, no analysis on Bolen's jeans with what
11 would appear to be blood spatter.

12 I ask you to require that evidence and the
13 absence of that evidence in the presence of
14 reasonable doubt. I ask you to find Michael Paul
15 Buckmon not guilty. Thank you.

16 THE COURT: Mr. Foreman, everybody okay?

17 MR. FOREMAN: Yes, sir.

18 THE COURT: Mr. Miller.

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

21 THE COURT: Yes, sir.

22 MR. MILLER: Let's just go from the end. Why
23 is there no DNA analysis? Because Matthew Bolen and
24 Michael Paul Buckmon both testified they had sex
25 with her that night. What is the presence of DNA

1 going to do in the case? Well, of course their DNA
2 is there. I said we had sex with her.

3 What about the blood splatter? What if that
4 blood spatter that is on his jeans is from there?
5 Mr. Chesser is bent over trying to come up with a
6 way where you can hit somebody with a hammer in
7 their head and cause blood spatter up here on your
8 jeans when the blood spatter is in the kitchen on
9 the counter.

10 You know the other way that that happens a lot
11 easier is if somebody else is hitting somebody with
12 a hammer in the head right in front of you, which is
13 what Matthew Bolen testified to from the stand, why
14 wouldn't he have blood on him? Why would the walls
15 and the cabinets have blood on them and Michael
16 Bolen not have blood on him if he was standing there
17 when she got hit in the head with a hammer?

18 It's not CSI. You don't go down to the lab and
19 throw something in the machine and stand there while
20 there's a commercial break so that you can have the
21 results pop out. These tests are expensive and they
22 take a lot of time to do.

23 And one of the things that the lab will want
24 is, tell us why you need it. Why do you need DNA
25 analysis in a case where both of your suspects admit

1 they had sex with the victim? Don't have a real
2 good answer for that.

3 The knife thing is kind of interesting though.
4 That's a new one. The belt in three pieces. I'm
5 sorry but I was trying to figure out, where do I cut
6 my belt at exactly to make it fall apart in three
7 pieces? It might fall apart in two. Where do you
8 cut it to make it fall apart in three pieces?

9 The Bloods, the Bloods, the Bloods. It's a red
10 herring. One of the things that the judge has told
11 you is what the lawyers say in argument is not
12 evidence. Well, there's another part to that too.
13 The lawyers' questions are not evidence either.

14 So when Mr. Chesser asked Mr. Bolen, isn't it
15 true you got to kill somebody to become a member of
16 the Bloods gang? He says, I have no idea. That's
17 certainly what he wanted you to believe. And based
18 on his closing argument if he had said, well, yeah,
19 that's supposed to be part of the deal, then he
20 would have said, there's the motive. He's killing
21 her because of the fact that he wanted to get into
22 the Bloods gang.

23 But he didn't say that and when he didn't say
24 that now the motive shifts. Oh, he's already a
25 Blood. He's completely involved with them in

1 everything he does. He's a Bloods gang member.

2 He's a piece of trash. I can promise you that.

3 There is nobody that has dealt with Matthew Bolen
4 that went away from that conversation going, hey,
5 that seems like a pretty nice guy. But guess what?
6 People don't get involved in stuff like this if
7 they're nice guys.

8 If there's going to be a codefendant in a CSC,
9 robbery, arson, murder case, he's not going to be a
10 good guy. And I submit to you that Matthew Bolen is
11 not. But I will tell you what he is. He's either
12 brilliant, which I didn't see from that stand, or
13 he's telling the truth.

14 Kenny, I'd like State's Exhibit 44 please.
15 Let's talk about the fire. Well, first of all,
16 Mr. Chesser does get to argue the facts. He doesn't
17 get to make them up. Dr. Ross testified the cause
18 of death was smoke inhalation. The fire killed
19 Donna Dempsey. He can talk about a hammer all he
20 wants but the fire killed Donna Dempsey.

21 And when they incapacitated her -- and notice I
22 said they. When they incapacitated her, left her
23 passed out on the floor with a hammer blow to the
24 head after setting her house on fire, they intended
25 for her to die.

1 But what did Matthew Bolen say about that fire?
2 He said, I went into the room and when I got into
3 the room with the piano there was already a fire
4 burning on top of the piano. I took my shirt -- his
5 red shirt -- Mr. Chesser thinks he wanted to burn it
6 because it had evidence on it. He took his shirt
7 and he went into the bathroom where there was
8 another fire that was starting and threw everything
9 into the tub.

10 And he talked about there being some toilet
11 paper hanging from the towel rack with a candle
12 underneath it. Almost like somebody wanted there to
13 be a fire but they didn't want it to start right
14 away. Give them time to get out before the fire
15 gets going real good. And he said he threw his
16 shirt in there. It was holding books that were on
17 fire.

18 These are pages of books that clearly have been
19 on fire. There is his red shirt. You know what's
20 missing out of this picture? Where are these
21 blankets that the hero firefighter Michael Paul
22 Buckmon allegedly used to try to put the fire out in
23 the living room on top of the piano? Because that's
24 what his last story was.

25 He came into the room, saw the fire, grabbed

1 some blankets, put the fire out, went into the
2 bathroom, threw everything into the tub. Where are
3 those blankets? How did Matthew Bolen's shirt
4 survive the fire but the blankets didn't? That's
5 just one of the problems with his story.

6 Go back a little bit further. How did he get
7 to the house in the first place? Pretty
8 consistently throughout all of his various stories
9 he has said that there was a period of time when he
10 was at Robert Eure's house for this big party and
11 then he comes rolling over to his mom's house at
12 3:30, 4:30, 5:30 in the morning.

13 He comes in after a whole night of partying,
14 gets out of the car, goes inside, lays down in his
15 bed but a little while later for no reason at all
16 that he can explain he gets up and walks outside.
17 And he goes, I smell a fire. I better go check that
18 out. He goes over to Ms. Dempsey's house. He goes
19 in the front and that's when he sees what he
20 describes in his statement as the blazing fire on
21 top of the piano.

22 Now, use your common sense. For him to be able
23 to smell a fire from 100 yards away at his mother's
24 house that fire has got to be producing some pretty
25 heavy smoke. Okay? You know the difference in your

1 own head between burgers cooking or steaks cooking
2 on the grill and something being on fire that
3 shouldn't be on fire.

4 And this isn't out in the country where maybe
5 somebody just had a fire going. This is in the City
6 of Barnwell, in a neighborhood. He smells smoke.
7 For him to be able to smell that smoke that fire had
8 to be going well. And when he gets over to the
9 house, he runs inside.

10 Look at how close everything is in the pictures
11 of the house. This is a small house. It is a small
12 room. It has a piano in it and that piano is on
13 fire. But he just goes on in like it's no big deal.

14 Agent Seals testified about how hot fires burn.
15 He talked about how hot fires get. You heard
16 Captain Cato talk about the heat he could still feel
17 even after the door had been open when Loy came over
18 the next morning and even after their response time,
19 which wasn't very long but their response time. He
20 walked in and he could still feel the heat.

21 And he was telling his guys, pack out. Hurry
22 up and pack out. We've got a body in here. You
23 need to go in and make sure there's nobody else
24 inside the house.

25 When he was talking about packing out they're

1 putting on their breathing apparatus. Why? Because
2 it's lethal inside there. It is poisonous gas.
3 That's what that smoke is. You can't breathe it.
4 That's why Ms. Dempsey is dead, is because she was
5 left in there breathing with that gas.

6 But Michael Paul goes in and grabs some
7 blankets and he puts out the fire. He's really kind
8 of the hero of this story, if you listen to him.
9 No.

10 Go back to his first story. He was with the
11 victim and Bolen and they went to the store.
12 Doesn't change. All the way through. Donna gave
13 him money to get some cocaine. Doesn't change all
14 the way through. He, Bolen and the victim went to
15 his house, back yard. He came back after getting
16 the cocaine but he didn't get to the house because
17 Matt was coming out of the house whenever he walked
18 up. That's important.

19 He and Matt go to the house party. That's
20 consistent through every one of his stories. Then
21 Matt tells him, I kind of took some stuff out of
22 your neighbor's house and stacked it all up behind
23 your mama's house. And he's mad but he goes back
24 and helps him get the stuff anyway. And then he and
25 Bolen go to Greenville, and then they pawn the drum

1 set and the keyboard.

2 Here's what he denied in his first statement:
3 Said, I was never in the house that night. He said
4 he didn't want to steal anything from the house. He
5 says he doesn't have any knowledge and he doesn't
6 even mention a fire. That never comes out at all.
7 He says he didn't know anyone was dead until Bolen
8 says that Bolen is wanted for a homicide. He didn't
9 know that Ms. Dempsey was the victim until November
10 8th, one week after the incident. He claims that.

11 But interestingly enough, he also claims that
12 he was on the phone with his mama, on the phone with
13 his sister, talking to people back in Barnwell. He
14 came back to Barnwell during that week period. And
15 nobody thought to say, hey, you remember the woman
16 that y'all stole all this stuff from? That's the
17 woman who is dead.

18 During that time period, he was back here.
19 He's talking to people on the phone but he claims, I
20 didn't even know anybody was dead at first and I
21 certainly didn't find out it was her until the day
22 that we got into the argument and all of a sudden
23 Bolen drives off and leaves me stranded.

24 So he didn't have sex with the victim on
25 October 31st or November 1st. He's clear about it.

1 So clear, in fact, that when he writes yes in the
2 question and answer on the form -- when he writes
3 yes, he scratches through it and writes no. He
4 wasn't involved in the death and he wasn't involved
5 in the fire.'

6 Well, ladies and gentlemen, there's a problem
7 when you're not telling the truth about something.
8 You can't get the details right. When there's that
9 many details, you can't get them right. You can't
10 keep them right.

11 So the next day -- and there were definitely
12 some problems with his story. These are trained
13 investigators: Investigator Rice, Agent Seals.
14 This isn't their first rodeo. So the next day they
15 go back to talk to him again and you saw the hour
16 and 42 minutes that produced.

17 He never made it to the house that night
18 because he called when he got back and Matt came
19 over. It took him 35 minutes to change that story.
20 That was his first statement. And I'm not talking
21 about his first statement from November 10th. I'm
22 talking about that day. He said, no, I never made
23 it into the house that night because when I got back
24 from going to go whenever, when I got back Matt
25 called me. He comes over. Thirty-five minutes

1 later he goes, no, actually that's not how it
2 happened.

3 The last time you saw the victim was when she
4 and Bolen left the yard behind his mom's house to go
5 to the victim's house. Doesn't know anything about
6 a homicide. He never asked Matt -- while all this
7 stuff with the drums is going on he never asked Matt
8 where she was. What was she doing the whole time
9 that we were loading all this stuff up? Doesn't
10 ask. He kept trying to talk to Matt but Matt would
11 never tell him anything so he never knew anything.
12 He was just clueless. He didn't know what Matt
13 would say about him.

14 But here comes his defense, the one you just
15 heard: I don't have any reason to rape her or to
16 steal from her. I been having sex with her. I got
17 money. I got plenty of money. She gives me money.

18 He and Agent Seals get into a back and forth
19 and he says there is no way he had sex with her on
20 October 31st. And one hour into the interview, he
21 says, actually, it was October 31st. Yeah, it was
22 October 31st I had sex with her. Well, when did you
23 have sex with her on October 31st? Well, after we
24 came back from the store.

25 But wait a minute. You told us you didn't ever

1 go back into the house after you went to the store.

2 No, I was -- that's why my beer can was in there.

3 First, first, first problem that Michael Paul
4 Buckmon has: He doesn't know what the police know.
5 He doesn't understand DNA. He doesn't understand
6 that it's not like CSI. He didn't know that they
7 hadn't taken that beer can and found a match to his
8 DNA on it yet. They hadn't done that, but he knows
9 he left a beer can in there.

10 Better explain that. So he explains it. He
11 says, yeah, I did come back over and oh, by the way
12 we did have sex too. I forgot about that.

13 Was Matthew Bolen around anywhere? No. He
14 kind of came and stuck his head in the door but
15 didn't come in. He doesn't change that until his
16 third statement that he gives.

17 Three months later after he's got a lawyer,
18 after he's heard from everybody on the street about
19 what's going on and what do they know and what
20 actually happened, that's when he says, wait a
21 minute, I forgot again. There was another guy in
22 the room having sex with her with me.

23 And all throughout in every one of his
24 statements -- every single one of his statements
25 throughout he's trashing the victim. She's a drunk.

1 She has sex with whoever. She'll do anything. It
2 doesn't matter. She's drunk.

3 Let me ask you this: If she is as drunk as he
4 and Matthew Bolen say that he is, how does she give
5 consent to have sex with the two of them between
6 10:30 and 11:30 that night? She didn't. They were
7 taking advantage of her.

8 Going back to that second statement. Bolen
9 never told him about the fire and he didn't see the
10 fire and he didn't know anything about the fire
11 until he got to Greenville. That's when Bolen said
12 something to him about the fire. Bolen did it.
13 Bolen did it. I don't know anything about anything.

14 And then it was very interesting to me. He
15 said specifically, specifically said, I never did
16 smell the fire. How would I know there was a fire?
17 I couldn't smell anything. That was his second
18 statement, not his third one. His third one, that's
19 the whole reason he went to the house where he
20 supposedly saw everything.

21 Ladies and gentlemen, there were so many
22 problems with his various stories. There are so
23 many lies on top of lies on top of lies with his
24 various stories that it would probably take me the
25 two hours that y'all sat here watching the videos to

1 point them all out. The point is this: Consider
2 Bolen's testimony. Bolen doesn't say he wasn't
3 there when something happened. Bolen doesn't say he
4 didn't see what happened or know how it happened.
5 Bolen -- Mr. Chesser suggests that Bolen will just
6 say anything in the world that the State asks him to
7 say, but from that witness stand right there, he
8 said, look, it didn't sound like he was raping her
9 to me. He went in there and was having sex with
10 her. He called me in.

11 If he supposedly -- all he's trying to do is
12 lie his way into some kind of benefit why would he
13 not say, oh, yeah, I heard her kicking and screaming
14 and hollering. That's why he called me in there to
15 tie up her legs?

16 Bolen is an idiot. Bolen is a drug addict.
17 Bolen was high the whole night. Bolen was doing
18 whatever he was told. Bolen thought there was a
19 target of opportunity when he left her house to go
20 over to Buckmon's before they went to the party. He
21 says, she's passed out. And he said, you know, we
22 went back over and picked up stuff we could pick
23 up -- a laptop, a printer, a television. We took it
24 back.

25 It's interesting. In Buckmon's third story --

1 when he's telling the third story with his attorney
2 sitting there -- in that one he makes mention of the
3 fact that there was some other stuff in the car. He
4 never talked about how that other stuff was already
5 in the car. He kind of glosses over the fact that
6 there was actually this burglary that went on before
7 that. He just doesn't mention it at all.

8 But he mentions the stuff being in Bolen's car
9 which is strange. Because that would show that he
10 knew exactly what was going on. That would show
11 that when -- after the party, he and Bolen pulled
12 back in behind Buckmon's yard behind his mom's
13 house.

14 He knew exactly why they were going over there
15 and what they intended to do. They were going to go
16 in and see if she was still passed out, and if she
17 was still out of it they were going to steal the
18 drum set. They had an identified target, what they
19 were going to take.

20 But in the meantime, Michael Paul Buckmon
21 decided he was going to get what he didn't get
22 before. This bothered Matthew Bolen, not because he
23 has any kind of heart or morality. It bothered him
24 because it left him doing all the work, but that's
25 what he testified to.

1 Ladies and gentlemen, we're not trying to make
2 Matthew Bolen something he's not. Matthew Bolen
3 told you what Michael Paul Buckmon did in that house
4 that night, and he told you that he saw it happen.
5 He minimized his own actions. I will freely admit
6 that he minimized what he did. What he told you
7 still makes him just as guilty as Michael Paul
8 Buckmon, but he minimized it.

9 Did he minimize it because he didn't want to
10 admit it? Did he minimize it because of the fact
11 that he just can't cope with the fact that he did
12 this to another human being? I don't know.

13 But where it matters in this case -- because he
14 will have his opportunity to have a jury or a judge
15 decide his fate. There's nothing inconsistent about
16 his story. And there's nothing consistent that is
17 material about anything that Buckmon said on any of
18 those videos.

19 He went from, I didn't see anything except for
20 some drums outside and have no idea what happened,
21 to, I'm in the house fighting the fire and she's
22 lying on the floor in the kitchen. That's what his
23 story is. And ladies and gentlemen, it's just not
24 believable.

25 This is a new video and we didn't want you to

1 have to sit there and watch all of it because of the
2 fact that, well, it doesn't have any sound and it's
3 not very exciting. And I'm probably not very
4 exciting myself at this point. But this is the
5 video from the pawnshop. It's in evidence.

6 You see these two guys? That's the light blue
7 Lincoln town car that is being driven by -- well,
8 it's Bolen's car. I'm not sure who is driving at
9 that point in time. But there's a guy and he's
10 assessing, do we want to get this stuff? Yeah.

11 And they're going to start taking all this
12 stuff out and they're going to start walking it into
13 the pawnshop. And who goes to the counter and gets
14 the money for it? Michael Paul Buckmon.

15 This is in Easley, and based on the date -- the
16 date stamp there on the video, as well as the date
17 that's on the receipt and the time on the receipt,
18 it's about nine or ten hours after they have
19 murdered Ms. Dempsey and set her house on fire.

20 Ladies and gentlemen, those are not two people
21 who are scared of each other. Michael Paul says --
22 he says, he could have gotten rid of the hammer any
23 time. He left me in Piedmont a couple of times. He
24 left you in Piedmont? Well, if you were being
25 forced to do something why didn't you leave? Why

1 didn't you say something to the pawnshop operator?

2 If these people in your neighborhood trust you
3 so much, how are you letting something like this
4 happen to your neighbor without saying a thing to
5 anyone? You know, I started this off -- there he
6 is, carrying it in. That's the keyboard.

7 I started off my opening argument by saying
8 what a difference a day makes. What a difference
9 ten days makes. Because one day you couldn't
10 separate Michael Paul Buckmon and Matthew Bolen with
11 a series of crimes. But once he was in custody, you
12 got me, you got me, he did it.

13 Think about -- as much as Mr. Chesser spent
14 talking about how he didn't think Matthew Bolen was
15 credible and you shouldn't think that Matthew Bolen
16 is credible in any way, shape or form. What was it
17 that he actually said he was lying about? You
18 didn't tell the police that my client had the gun
19 when you had the first interview, did you? Yeah, I
20 did. Show it to me in this statement.

21 He hands him the defense exhibit. Bolen looks,
22 right here page 4. He read it out loud, oh, yeah,
23 he had a gun. He pulled a gun on me. The jeans,
24 Bolen didn't deny the jeans. The Blood garbage, he
25 didn't deny that either. Where is the hole in the

1 story?

2 Bolen talked to the investigators, Agent Seals
3 right after they had talked to Michael Paul Buckmon.
4 His story matched the evidence. His story matched
5 what they could see. His story matched what they
6 knew. Michael Paul's didn't.

7 So three months later he took another shot at
8 it and gave them a little bit different story.
9 Guess what? That one doesn't match either. No
10 blankets in the bathtub.

11 Think about Loy Mitcham's testimony. Gets
12 there, pulls up in the car, gets out of the car,
13 didn't smell anything. Got all the way to the door
14 and was beating on the door and then he could smell
15 something that smelled like it was burning. He said
16 he thought that it was the gas grill that was right
17 there on the porch, and you can see it in one of the
18 photos too. There's a gas grill there. But he
19 looked and not only were all of the knobs turned
20 off, but the tank was turned off too. He couldn't
21 smell it until he was right up on the house.

22 Then he talked about going around and gave us
23 an interesting lesson on doorknobs and door locks
24 and why they work. And he gets into the back door
25 and he talks about all the smoke pouring out and

1 hitting him in the face and how he went in and was
2 trying to see if Donna was in there because he knew
3 she was supposed to be in there.

4 And then right after him comes Captain Mark
5 Cato. And Captain Cato gets out and says, yeah,
6 when I got out I could smoke. That makes sense.
7 Loy had opened the back door. All of that smoke
8 that was inside the house is billowing out of the
9 house now.

10 Captain Cato talked about doing his outside
11 scene assessment. He talked about walking in
12 through the back door and seeing the body there,
13 realizing there were no signs of life, but he was
14 only however many feet -- you can see it in the
15 photos.

16 He was just inside the kitchen and the door was
17 wide open behind him, but he couldn't go look in the
18 rest of the house for other people that might have
19 been in there because of the smoke. So he told his
20 guys to get packed out and he sent them in there to
21 make sure there wasn't anybody else in there. That
22 is the facts -- that is the facts lining up with the
23 testimony.

24 Matthew Bolen -- all of the facts, all of the
25 evidence lines up with his testimony. Did he

1 minimize what he did? Absolutely. Surely he did.
2 He's not a good person. But ladies and gentlemen,
3 that's the kind of person that gets involved in
4 something like this. And that is the witness we
5 have.

6 Ladies and gentlemen, the term verdict comes
7 from the Latin veredicto which means to speak the
8 truth. That's what we want. That's what we're
9 asking for in this case. We want you to go into
10 that jury room and to decide what is the truth.

11 If this was some kind of crazy set of
12 circumstances that Michael Paul Buckmon had nothing
13 to do with, if that's what you decide the truth is,
14 then you should find him not guilty. If this is two
15 guys that got involved in a situation with an
16 incapacitated woman and one thing led to another and
17 ultimately they ended up doing something that was
18 really bad so they had to set the house on fire to
19 cover it up, then he's guilty of everything that
20 he's charged with.

21 Ladies and gentlemen, speak the truth with your
22 verdict. Find the defendant guilty of murder, of
23 arson, and of criminal sexual conduct. Murder for
24 incapacitating her in that house and then leaving
25 her there with the house on fire. The hammer was

1 not the murder weapon; the fire was. And I would
2 ask -- I think y'all understand that. I think you
3 understand that. Thank you for your time.

4 THE COURT: Mr. Foreman, ladies and gentlemen
5 of the jury, my instructions are about ten, 15
6 minutes. Y'all need a break?

7 THE FOREMAN: Let's go.

8 THE COURT: Let's go? Let's roll. Is that
9 what they say?

10 THE FOREMAN: Yes, sir.

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen of the jury, let me remind you once again
13 the fact that the defendant in this case has been
14 indicted by the Barnwell County grand jury for the
15 offenses of criminal sexual conduct, arson in the
16 first degree, and murder and that he's been
17 arrested, charged and indicted, that is not evidence
18 in the case and cannot be considered by you as
19 evidence in this case and cannot be evidence of
20 guilt in the case, nor does it create any
21 presumptions or inferences of guilt. The indictment
22 is simply the way the case comes into the courtroom.

23 Like I said, in this case we're dealing with
24 three separate charges: murder, arson in the first
25 degree and criminal sexual conduct. Each indictment

1 charges a separate and distinct offense; therefore,
2 you must decide each indictment separately on the
3 evidence and the law applicable to it. And by your
4 decision as to any other indictment you have to
5 consider each one separate and apart. He can be
6 convicted on one, found not guilty on the other or
7 any combination thereof. And you will be asked to
8 render a separate verdict on each of the
9 indictments.

10 As to all three indictments the defendant has
11 pled not guilty and that puts the burden, as I've
12 told you a number of times, on the State to prove
13 the defendant guilty as to each indictment to you
14 beyond a reasonable doubt. A person charged with
15 committing a criminal offense in our state is never
16 required to prove himself innocent. I charge and
17 instruct you that it is an important rule of law, a
18 constitutional rule of law that a defendant in a
19 criminal trial, no matter how serious the charges
20 may be, will always be presumed to be innocent of
21 those charges for which the indictments were issued
22 unless guilt has been proven by the evidence
23 satisfying you of that guilt beyond a reasonable
24 doubt.

25 The presumption of innocence does not end when

1 you start your deliberations but it stays with the
2 defendant throughout the trial unless you reach a
3 verdict of guilt based on evidence satisfying you of
4 that guilt beyond a reasonable doubt.

5 The presumption of innocence is not a mere
6 legal theory. It's not just a legal phrase. It is
7 a substantial constitutional right to which every
8 defendant is entitled unless you the jury are
9 satisfied from the evidence of the defendant's guilt
10 beyond a reasonable doubt.

11 Now, what is a reasonable doubt? Our State
12 Supreme Court has defined it in a number of manners.
13 Probably the most popular definition of reasonable
14 doubt, it is the kind of doubt that would cause a
15 reasonable person to hesitate to act. It's the kind
16 of doubt that would cause a reasonable person to
17 hesitate to act.

18 I described the difference between a civil case
19 and a criminal case when he started. A civil case
20 is simply the preponderance of the evidence. A
21 criminal case such as this it is evidence beyond a
22 reasonable doubt.

23 Proof beyond a reasonable doubt is proof that
24 leaves you firmly convinced of the defendant's
25 guilt. There are very few things in the world that

1 we know with absolute certainty, and in criminal
2 cases the law does not require proof that overcomes
3 every possible doubt.

4 If based on your consideration of the evidence
5 you are firmly convinced that the defendant is
6 guilty of the crimes charged, then you must find him
7 guilty. If, on the other hand, you think there's a
8 real possibility that he is not guilty, then you
9 must give him the benefit of the doubt and find him
10 not guilty.

11 Let me remind you once again as we discussed
12 when we drew the jury that you and I have certain
13 duties to perform during the trial of the case. My
14 position makes me the judge of the law. As the
15 judge of the law I have two functions to perform:
16 One is to charge you on the law and instruct you on
17 the law as I'm doing now. Therefore, you must
18 accept the law as I give it to you.

19 If you some preconceived idea about what the
20 law is or it should be and it doesn't agree with
21 what I tell you, please set that aside and accept
22 the law as I give it to you. I'm telling you the
23 law based on the South Carolina Supreme Court, our
24 statutory law and our case law.

25 My other function as the judge of the law is to

1 make sure that the lawyers have asked questions that
2 comply with the rules of evidence. We've had very
3 few objections in this case, so everything that has
4 come into the trial of the case has been admitted
5 into the trial. So those are my two functions.

6 Obviously, your function, you're the judge of
7 the facts, so you have to take the facts and decide
8 what the true facts are and apply those true facts
9 to the law as I give it to you so you'll be in a
10 position to render a verdict.

11 So having said that, if at any time during the
12 trial of the case I have done anything up here that
13 makes you think that I have an opinion about the
14 facts, please disregard it. I can't. I try cases
15 all over the state day in and day out and my
16 position does not allow me to have any opinion about
17 the facts. So if I've smiled, frowned, yawned,
18 rolled my eyes, whatever, disregard it. I listen to
19 cases all the time so I have no opinion about the
20 facts. That is solely your responsibility.

21 Having that responsibility, obviously and
22 necessarily, you must determine the credibility of
23 the witnesses whose have testified in the case.
24 Credibility simply means believability. Who do you
25 believe? It becomes your duty as jurors to analyze

1 and evaluate the evidence to determine which
2 evidence convinces you of its truth. In performing
3 this task and in determining the credibility or
4 believability of witnesses you have the right to
5 believe one witness over several, several over one.

6 You can believe a part of the testimony and
7 disregard the other part. You can believe
8 everything a witness says. You don't have to
9 believe a word a witness says. You can determine
10 how they looked on the witness stand, did they
11 exhibit any interest, bias, prejudice or other
12 motive in the case, how they appeared.

13 What I'm saying, as I told you earlier when we
14 drew you on the jury, don't leave your common sense
15 at home. Bring it with you in that jury room. You
16 deal with husbands, wives, spouses, children,
17 family, friends. You know how to judge when someone
18 is telling the truth. So use that common sense and
19 perform your task of deciding what the true facts
20 are in the case and applying those true facts to the
21 law as I give it to you.

22 We had two witnesses, I think, who I qualified
23 as an expert. Ordinarily our rules do not permit a
24 witness to testify to opinions or conclusions. We
25 have an exception to the rule for witnesses we call

1 expert witness, a witness who by education,
2 experience and training has become an expert in some
3 art, science, profession such as the doctor in this
4 case or the SLED agent with arson. They may state
5 an opinion in areas in which the witness claims to
6 be an expert, and they can state the reasons for
7 that opinion if the questions are asked in a proper
8 manner.

9 You should consider any expert opinion received
10 in the evidence in this case like any other evidence
11 and give it the weight you think it deserves. If
12 you decide the opinion of an expert is not based on
13 sufficient education and training or the reasons
14 given in support of the opinion are not sound or the
15 opinion or opinions are outweighed by other
16 evidence, you may disregard the opinion entirely.

17 An expert witness's testimony is to be given no
18 greater weight than that of any other witness simply
19 because he's an expert. Further, you're not
20 required to accept an expert's opinion even though
21 it is not contradicted.

22 In this case, the defendant did not testify. I
23 instruct, charge and emphasize that the fact that
24 the defendant did not testify is not, is not a
25 factor to be considered by you in any manner

1 whatsoever in your deliberation and your
2 consideration on the question of guilt or innocence
3 of the defendant.

4 It must not be considered by you in any manner
5 whatsoever. A defendant has the absolute
6 constitutional right to remain silent and the
7 assertion of this right must not be considered by
8 you in your deliberations.

9 I repeat, under your oath, do not consider the
10 fact that he did not testify. The fact that he did
11 not testify should not be discussed at all by any of
12 you in the jury room. The burden of proof, as I've
13 told you many times, is on the State. The defendant
14 is not required to prove his innocence, and the
15 burden remains on the State to prove guilt beyond a
16 reasonable doubt.

17 There is a law in our state, in all states
18 where when crimes are committed by two or more
19 people lawyers and judges commonly refer to as the
20 hand of one is the hand of all. If a crime is
21 committed by two or more people who are acting
22 together in committing a crime, the act of one is
23 the act of all. A person who joins with another to
24 commit an unlawful act is criminally responsible for
25 everything done by the other person which happens as

1 a probable or natural consequence of the acts done
2 in carrying out the common plan and purpose.

3 For example, two people can be guilty of
4 killing another person when only one had a gun.
5 There was only one bullet and only one of the two
6 fired the shot that caused the death. If two or
7 more people are together, acting together and
8 assisting each other in committing the crime, the
9 act of one is the act of all or, as it is said
10 sometimes, the hand of one is the hand of all.

11 Prior knowledge that a crime is going to be
12 committed without more is not sufficient to make a
13 person guilty of that crime. Mere knowledge that
14 another person is going to commit a crime, even if
15 the defendant is present when the crime is
16 committed, is not sufficient to convict the
17 defendant.

18 Guilt of the principal is shown by actual or
19 constructive presence at the scene as a result of a
20 prior arrangement; therefore, a finding of a prior
21 arranged plan or common scheme is necessary for
22 finding guilt as a principal. The State must prove
23 beyond a reasonable doubt by competent evidence that
24 theory of the hand of one is the hand of all. The
25 principal in a crime is the one who either actually

1 commits the crime or who is present, aiding,
2 abetting or assisting in committing the crime.

3 When a person does an act in the presence of or
4 with assistance of another the act is done by both.
5 When two or more are acting with a common plan or
6 intent, are present at the commission of a crime, it
7 does not matter who actually commits the crime. All
8 are guilty. The hand of one is the hand of all.

9 Present at the commission of a crime means to
10 be sufficiently near to aid, abet and assist in the
11 commission of a crime. However, mere presence at
12 the scene of a crime is not sufficient to convict.

13 Intent is also necessary element. There must
14 have been a common design or intent to commit the
15 crime and the crime must have been committed
16 pursuant thereto with the person aiding and abetting
17 by some overt act. Intent means intending the
18 result which actually occurs.

19 Intent may be shown by acts or conduct of the
20 defendant and other circumstances from which you may
21 naturally and reasonably infer intent. The State
22 must prove these elements beyond a reasonable doubt.

23 However, the mere presence at the scene is not
24 sufficient to prove someone guilty of a crime. A
25 defendant's mere presence where a crime is being

1 committed or mere association with the person who
2 commits the crime does not make the defendant an
3 accomplice or aider or abettor.

4 The burden is on the State to prove every
5 element of the crime charged. If you find after
6 reviewing all of the evidence that the State has
7 proved that the defendant was only present at the
8 scene and they have not proved beyond a reasonable
9 doubt any other participation in the crime, then you
10 must find the defendant not guilty.

11 We had one witness who testified in the case
12 who had a prior record. A person who has a prior
13 criminal record is competent to testify during a
14 trial. A past record does not affect the ability of
15 that witness to testify. The past record may only
16 be considered by you, if at all, in determining the
17 witness's believability or credibility. You are the
18 sole judges of the facts and the believability of
19 the witnesses is within your sole province.

20 Now, you have seen statements that have been
21 made by the defendant. They've been admitted into
22 the evidence in this case. At the pretrial ruling
23 the Court has determined that the statements were
24 admissible; however, I instruct you that the
25 ultimate decision of whether or not the defendant

1 made the statement and he made it voluntarily and of
2 his own free will is for you to determine. This
3 means the statement was not caused by pressure,
4 force, fear, threats, coerce or intimidation or by
5 hope of a promise for leniency or reward of any
6 kind.

7 So you determine whether or not the statements
8 were voluntarily given. The State also has the
9 burden of proving beyond a reasonable doubt that the
10 statement was voluntary. If you decide that it was,
11 then you may give the statement any further
12 consideration that you deem proper. You must decide
13 what weight, if any, should be given to the
14 statement. It's up to you to decide credibility of
15 the statement.

16 Now, let's turn to the actual offenses that are
17 involved in this case. Mr. Foreman, ladies and
18 gentlemen, obviously I got to start with one so
19 don't put any significance in which one I start
20 with. It just happens to be on my charge that arson
21 in the first degree is the first one that comes up
22 so let's talk about that.

23 He is indicted for the offense of arson in the
24 first degree or first degree arson. That is set out
25 in Section 16-11-110(A) of the Code of Laws of South

1 Carolina.

2 In order to prove first degree arson, the State
3 must prove beyond a reasonable doubt that the
4 defendant willfully and maliciously caused or set
5 fire to burn or caused to be burned or aided and
6 abetted or procured the burning of certain
7 properties. The State must prove beyond a
8 reasonable doubt that the defendant willfully,
9 maliciously caused or set fire to or burned certain
10 properties.

11 Willfully means that it was done -- not done by
12 accident but was done knowingly and/or
13 intentionally. The State must show that the burning
14 was by the willful act of some person and not as a
15 result of a natural or accidental cause.

16 Maliciously means with hatred, ill will or
17 hostility towards another person. A person who
18 intentionally does a wrongful act without legal
19 justification or excuse does the act maliciously.

20 A malicious burning is an act done with a
21 condition of mind that shows a heart bent on
22 mischief, showing a desire to do an intentional
23 wrong act towards another or towards the public
24 without any legal justification or excuse.

25 Burning means actual combustion of some portion

1 or a piece of property. It is not necessary that
2 the property be consumed or destroyed. Charring of
3 the material of which the property is constructed or
4 a change in the fiber or a composition of the
5 structure is required for a burning.

6 Next, the State must prove beyond a reasonable
7 doubt that the property which was burned was a
8 building. A building includes a dwelling house.
9 And finally, the State must prove beyond a
10 reasonable doubt the burning directly or indirectly
11 caused the death of a person or serious bodily
12 injury. So that's what the elements are of arson in
13 the first degree.

14 The second offense for which he is charged is
15 criminal sexual conduct in the first degree. That
16 is set out in Code Section 16-3-652. The defendant
17 is charged with criminal sexual conduct in the first
18 degree.

19 The first element which the State must prove
20 beyond a reasonable doubt is that the defendant
21 engaged in a sexual battery with the victim. Sexual
22 battery is described as sexual intercourse,
23 canoodling, fellatio, anal intercourse or any
24 intrusion into the genital or anal openings of
25 another person's body.

1 If you find the State has not shown beyond a
2 reasonable doubt that a sexual battery occurred, you
3 would stop deliberating and your verdict would be
4 not guilty.

5 If you did find that a sexual battery did
6 occur, i.e. sexual intercourse, you must then decide
7 whether the State has proven beyond a reasonable
8 doubt that: The defendant used aggravated force to
9 accomplish the intercourse -- aggravated force means
10 the use of physical force or physical violence of a
11 high and aggravated nature to overcome the victim --
12 or that the victim submitted to the sexual battery,
13 sexual intercourse while the victim was also the
14 victim of a forcible confinement, kidnapping,
15 robbery, burglary, housebreaking or other similar
16 offense; or the defendant caused the victim without
17 the victim's consent to become incapacitated by
18 delivering a controlled substance or intoxicating
19 substance to that defendant [sic].

20 Physical helpless means the victim was
21 unconscious, asleep or for any other reason
22 physically unable to communicate, consent to the
23 sexual intercourse or battery.

24 And of course, the last indictment is the
25 indictment for murder. The defendant is charged

1 with the offense of murder. The State must prove
2 beyond a reasonable doubt that the defendant killed
3 another person with malice aforethought.

4 Malice is defined as hatred, ill will or
5 hostility towards another person. It is the
6 intentional doing of a wrongful act without just
7 cause or excuse and with an intent to inflict an
8 injury or under circumstances that the law would
9 infer an evil intent.

10 Malice aforethought does not require that the
11 malice exists for any particular time before the act
12 was committed, but malice must exist in the mind of
13 the defendant just before and at the time the act is
14 committed. Therefore, there must be a combination
15 of the previous evil intent, i.e. malice and the
16 act. And malice aforethought may be expressed or
17 inferred from the situation.

18 That doesn't mean there's two different types
19 of malice but it's the manner in which malice may be
20 shown to exist, that is either by direct evidence or
21 inference from the facts and circumstances or it may
22 be inferred by a showing of total disregard for
23 human life.

24 Now, Mr. Foreman, ladies and gentlemen, that's
25 sort of the standard charge we give in all criminal

1 cases and then the last three charges dealing with
2 murder, criminal sexual conduct and arson in the
3 first degree were designed for this case in
4 particular because those are the three indictments.

5 When you return to your jury room you will have
6 the evidence with you. If you need to play any of
7 it -- we got some of it on video and it may be
8 easier to come back out here and look at it. I
9 guess we could set that up in the jury room or we
10 can play it on --

11 MR. MILLER: We actually brought the clean
12 laptop from Aiken.

13 THE COURT: All right. We got a clean laptop.
14 If you want to look at any of those interviews or
15 whatever, just let us know and we'll bring it up for
16 you. You'll have all of the evidence. You will be
17 asked, as I said earlier, to consider each
18 indictment separate and apart from the other, even
19 though they somewhat interconnect but each one of
20 them has to be separate and apart.

21 You'll have a verdict form for each one; murder
22 criminal sexual conduct, arson in the first degree.
23 It's simple: We find the defendant not guilty. We
24 find the defendant guilty. Whichever one your
25 decision is you just check the appropriate box and

1 sign your name. Your verdict must be unanimous.

2 All 12 of you must agree.

3 If during the course of your deliberation you
4 have a question you need to ask me, the procedure or
5 protocol is that you write it out on a piece of
6 paper -- you'll have a legal pad back there -- send
7 it out to me. Sometimes I can answer it; sometimes
8 I can't. It just depends on what the inquiry is.

9 I'm going to ask you to return to your jury
10 room in just a second. Your food is back there.
11 You can deliberate while you eat. You can eat and
12 then deliberate. You can do it however you want to.
13 You're the boss. All of you are the boss. He's
14 sort of in charge.

15 When you've reached a unanimous decision as to
16 all three indictments knock on the door and we'll
17 receive you back here in the courtroom to receive
18 the verdict. As I said, the verdict must be
19 unanimous.

20 This is a huge civic duty that you have all
21 been chose to serve on. You've paid excellent
22 attention. You've done a great job. The lawyers
23 have done good jobs. They've prepared. They've
24 presented it to you. And now we're going to turn it
25 over to you.

1 Obviously, we have no enemies to punish, no
2 friends to reward. You're to make a careful
3 deliberation of the facts, determine what those
4 facts are, apply it to the law and then speak the
5 truth with your verdict. If you have any questions
6 let me know.

7 THE FOREMAN: Do the alternates have anything
8 to say or any question to ask?

9 THE COURT: No, sir. The law on that is -- and
10 that's a good question. It's sort of like going to
11 the dance and not being asked to dance. They will
12 be separated from you. It's only the 12 jurors who
13 do the deliberation. Probably after it gets going
14 in just a few minutes and they have a chance to eat
15 I'll let them go. But they will be separated from
16 you.

17 So Mr. Bailiff, when you go back, put the
18 alternates in that separate room. Make sure they
19 get their hands on the lunch. Once they finish
20 their lunch let me know and we'll go from there.

21 (Jury exits the courtroom at 1:26.)

22 THE COURT: Any objections, requested additions
23 or deletions to the charge?

24 MR. MILLER: Nothing from the State, Your
25 Honor.

1 THE COURT: Mr. Chesser?

2 MR. CHESSER: Nothing from the defense.

3 THE COURT: Mr. Chesser, if you and Mr. Miller
4 would please come forward and make sure we have all
5 of the exhibits accounted for. These are the
6 verdict forms.

7 MR. MILLER: We've reviewed the exhibits. They
8 all appear to be in order and also the verdict form.
9 The State does not object.

10 MR. CHESSER: We're in agreement with the
11 verdict form, Your Honor.

12 THE COURT: And you've reviewed the evidence
13 and it's all accounted for?

14 MR. CHESSER: Yes, sir.

15 THE COURT: All right. Ma'am, if you would
16 take that into the jury room with the exhibits and
17 tell them they can start their deliberation. And
18 let's everybody sort of stand at ease.

19 (Jury begins deliberations at 1:28 p.m.)

20 THE COURT: All right. Is the State ready to
21 receive the verdicts?

22 MR. MILLER: Yes, Your Honor.

23 THE COURT: Mr. Chesser?

24 MR. CHESSER: Yes, Your Honor.

25 THE COURT: All right. Let me make this

1 statement: Everyone has behave themselves admirably
2 all week long. I don't know what the verdict is
3 going to be. Obviously it's going to be either
4 guilty or not guilty. If you are unable to control
5 your emotions as to whether it's guilty or not
6 guilty, I'm asking that you leave now.

7 I will not tolerate any outward display of
8 emotion whatsoever. If any displays are made, you
9 will be immediately confined and I will deal with
10 you being in contempt of court. If you can't
11 control your emotions, I'm asking that you step out
12 now.

13 By staying I assume you're telling me you can.
14 Bring the jury in please.

15 (The jury enters the courtroom at 2:27 p.m.)

16 THE COURT: Mr. Foreman, have y'all reached a
17 verdict on all three indictments?

18 THE FOREMAN: Yes, sir, we have.

19 THE COURT: If you would hand it to the bailiff
20 please and hand the exhibits to my deputy right here
21 please.

22 Madam clerk.

23 THE CLERK: In the matters of State of South
24 Carolina vs. Michael Paul Buckmon in the Court of
25 General Sessions for the Second Judicial Circuit as

1 to the offense of criminal sexual conduct first
2 degree the jury finds the defendant guilty. Signed
3 by Porter Clayter, dated October 19th, 2016.

4 In the matter of the State vs. Michael Paul
5 Buckmon in the Court of General Sessions for the
6 Second Judicial Circuit as to the offense of arson
7 first degree we the jury find the defendant guilty.
8 Unanimously agree. Signed by Porter Clayter, dated
9 October 19th, 2016.

10 As to the matter of the State of South Carolina
11 vs. Michael Paul Buckmon in the Court of General
12 Sessions for the Second Judicial Circuit as to the
13 offense of murder we the jury find the defendant
14 guilty. We unanimously agree. Signed by Porter
15 Clayter, dated October 19th, 2016.

16 THE COURT: Anything for the jury before we
17 dismiss them by the State?

18 MR. MILLER: Nothing from the State, Your
19 Honor.

20 MR. CHESSER: We would ask -- respectfully
21 request that the jury be polled, Your Honor.

22 THE COURT: Okay. Mr. Foreman, ladies and
23 gentlemen of the jury, what that means is we will
24 ask you individually, is this your verdict and is it
25 still your verdict? So when I ask you the question

1 answer it accordingly. You will be called by name
2 and number. Please stand and the clerk will ask you
3 that question.

4 Madam clerk.

5 Hold on a second. You all right back there?
6 Do you need to step out?

7 UNIDENTIFIED SPEAKER: I'm okay, sir. I'll
8 step out if you need me to.

9 THE COURT: No, sir. If you have a medical
10 condition, let us know.

11 Ma'am.

12 THE CLERK: Juror No. 82, Jerry James. Sir,
13 was that your verdict?

14 JUROR NUMBER 82: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR NUMBER 82: Yes.

17 THE CLERK: Juror No. 41, Porter Clayter. Sir,
18 was that your verdict?

19 JUROR NUMBER 41: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR NUMBER 41: Yes.

22 THE CLERK: Juror No. 158, David Ryans. Sir,
23 was that your verdict?

24 JUROR NUMBER 158: Yes.

25 THE CLERK: Is it still your verdict?

1 JUROR NUMBER 158: Yes.

2 THE CLERK: Juror No. 118, Valerie Moody.

3 Ma'am, was that your verdict?

4 JUROR NUMBER 118: Yes, ma'am.

5 THE CLERK: It still your verdict?

6 JUROR NUMBER 118: Yes, ma'am.

7 THE CLERK: Juror No. 95, Alex Kennedy. Sir,

8 was that your verdict?

9 JUROR NUMBER 95: Yes, ma'am.

10 THE CLERK: Is it still your verdict?

11 JUROR NUMBER 95: Yes, ma'am.

12 THE CLERK: Juror No. 58, Johnny Faust. Sir,

13 was that your verdict?

14 JUROR NUMBER 58: Yes, ma'am.

15 THE CLERK: Is it still your verdict?

16 JUROR NUMBER 58: Yes, ma'am.

17 THE CLERK: Juror No. 109, David Martin. Sir,

18 was that your verdict?

19 JUROR NUMBER 109: Yes, ma'am.

20 THE CLERK: Is it still your verdict?

21 JUROR NUMBER 109: Yes, ma'am.

22 THE CLERK: Juror No. 125, Ronald Neville.

23 Sir, was that your verdict?

24 JUROR NUMBER 125: Yes, ma'am.

25 THE CLERK: Is it still your verdict?

1 JUROR NUMBER 125: Yes, ma'am.

2 THE CLERK: Juror No. 108, Stephanie Mahuron.

3 Ma'am, was that your verdict?

4 JUROR NUMBER 108: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR NUMBER 108: Yes.

7 THE CLERK: Juror No. 26, Betty Burch. Ma'am,
8 was that your verdict?

9 JUROR NUMBER 26: Yes, it was.

10 THE CLERK: Is it still your verdict?

11 JUROR NUMBER 26: Yes.

12 THE CLERK: Juror No. 185, Ethel Washington.

13 Ma'am, was that your verdict?

14 JUROR NUMBER 185: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR NUMBER 185: Yes.

17 THE CLERK: And Juror No. 91, Thomas Johnson.

18 Sir, was that your verdict?

19 JUROR NUMBER 91: Yes, ma'am.

20 THE CLERK: Is it still your verdict?

21 JUROR NUMBER 91: Yes, ma'am.

22 THE COURT: Anything else, Mr. Chessser?

23 MR. CHESSER: No, Your Honor.

24 THE COURT: Mr. Foreman, ladies and gentlemen,
25 on behalf of the citizens of Barnwell and the State

1 and of the judiciary, I appreciate your service.
2 You've done a wonderful job. You paid close
3 attention. Couldn't ask for anything more. I
4 appreciate all.

5 What is left I have to now sentence him as soon
6 as we get all of the paperwork. There will be a
7 presentation by the defendant and the victims have a
8 right to speak. You're welcome to stay for that.
9 If you would like to leave, you're obviously welcome
10 to leave.

11 We have all of the sentence sheets signed,
12 Mr. Miller?

13 MR. MILLER: We passed them to the defense,
14 Your Honor.

15 THE COURT: Y'all are welcome to stay or leave.
16 It will take us about 15 or 20 minutes to do the
17 little sentencing proceedings. Whatever your
18 pleasure is.

19 THE FOREMAN: Are we supposed to leave and then
20 come back if we want to stay?

21 THE COURT: No, sir. You can stay right there.
22 We're getting ready to do it right now.

23 THE FOREMAN: I want to stay personally.

24 THE COURT: Okay. And when we finish if you
25 would go into the jury room for just a few seconds

1 I'd like to speak to you. When we finish this.

2 THE CLERK: And I'll need a signature from you
3 as well.

4 THE COURT: All right. Mr. Buckmon, if you'd
5 come forward please.

6 (The defendant comes forward.)

7 THE COURT: Mr. Chesser, Mr. Routzong, I'd be
8 glad to hear from you.

9 MR. CHESSER: Your Honor, I've been working
10 with Michael for -- it seems like about eight
11 months. This case was set for trial about three
12 months ago and it came up for trial today. He's
13 been extremely cooperative with me. He's been good
14 to work with. He's intelligent.

15 So I can just say it's been my pleasure to work
16 with him. He has -- as you heard, he has a prior
17 ABHAN conviction. He's 36 years old and he's got
18 some support here today. And at this point, Your
19 Honor, we would just ask for a merciful and just
20 sentence.

21 THE COURT: Mr. Routzong, anything you want to
22 say?

23 MR. ROUTZONG: No, sir.

24 THE COURT: Mr. Buckmon, anything you want to
25 tell me?

1 THE DEFENDANT: Yes, sir. I apologize to what
2 happened to the victim's mother. I actually didn't
3 commit those crimes and I ask, could you please be
4 as lenient as possible so I can see my kids one day?
5 That's all I ask.

6 THE COURT: Thank you. It appears you are
7 currently on probation.

8 I sentenced him in 2009?

9 PROBATION AGENT: Yes, sir.

10 THE COURT: I don't remember him.
11 February 24th, 2009 for assault and battery of a
12 high and aggravated nature. You were given an
13 eight-year sentence suspended to four years with
14 five years of probation. You've had prior
15 violations in January of 2012, February of 2011,
16 June of 2013, July 2013, September 2013, September
17 2013, October 2013. And this conviction will also
18 violate the terms of your probation.

19 You need to serve him?

20 PROBATION AGENT: Yes, sir, Your Honor.

21 Mr. Buckmon, by being found guilty of these new
22 charges you have violated Conditions 6 and 10 of
23 your probation.

24 THE COURT: Anybody from the victim's family
25 like to say anything?

1 MR. MILLER: Yes, Your Honor. The victim's
2 daughter Tracy Dempsey would like to address the
3 Court.

4 THE COURT: Ms. Dempsey?

5 MS. DEMPSEY: I've never been through anything
6 like this before. I want to thank everybody
7 involved. I don't think anybody is ever going to
8 really know exactly what happened but I do know -- I
9 hope that God can reach him and God can -- I don't
10 want to keep his kids from him but whatever part he
11 had in it --

12 THE DEFENDANT: Don't y'all know I ain't do
13 that, man? Tripping, man.

14 MS. DEMPSEY: God knows and God will make sure
15 everything is okay. I just pray that everybody -- I
16 don't wish death on anybody.

17 THE COURT: Thank you, ma'am.

18 Well, we may not know exactly what happened but
19 we do know what happened. This lady suffered a
20 horrible death, totally uncalled for. And obviously
21 civilized society cannot condone this type of
22 behavior, treatment of other individuals.

23 Anything else by any other victims?

24 MR. MILLER: No, sir, Your Honor.

25 THE DEFENDANT: I apologize, Your Honor.

1 THE COURT: You and I have gotten along fine.

2 THE DEFENDANT: Judge, please have mercy on me.

3 I didn't commit that crime.

4 THE COURT: As to your probation violation, I
5 revoke you in full, convert any monetary obligation
6 to civil judgment.

7 PROBATION AGENT: Yes, sir.

8 THE COURT: Terminate the probation. It will
9 run concurrent to 16-GS-06-210 which is the murder
10 indictment.

11 All right. Mr. Buckmon, as to the indictment
12 for murder 16-GS-06-210, the sentence of this Court
13 is that you be committed to the state department of
14 corrections for the balance of your natural life.
15 As to the criminal sexual conduct in the first
16 degree, that's a 30-year sentence. As to the first
17 degree arson with death, that's a 30-year sentence.
18 All run concurrent. Good luck to you.

19 MR. MILLER: Thank you, Your Honor.

20 THE COURT: Everybody remain seated.

21 THE DEFENDANT: I didn't fucking kill nobody.
22 Get off me. Get the fuck off me, man.

23 THE COURT: Everybody remain seated.

24 Deputy, let's let them get out please.

25 (The defendant exits the courtroom.)

1 THE COURT: Everybody okay?

2 Obviously that concludes your jury service.

3 Normally, we don't have that type of reaction to a
4 verdict. But I'll talk with you in the jury room in
5 just a second. I want to thank you personally.

6 THE CLERK: I need to put my six carryovers on
7 the record.

8 THE COURT: I'll do that in just a second when
9 I come back out.

10 MR. MILLER: And Your Honor, we do have one
11 matter, Ms. Alvis and Mr. Emert have.

12 THE CLERK: I'll be back out in just a few
13 minutes. I'm going to speak to them in the jury
14 room.

15 Officers, I'm going to let everybody clear out,
16 get him in the paddy wagon, family out before I let
17 my jurors go down, and I want security on the street
18 when they go down.

19 -- END OF TRANSCRIPT OF RECORD --

20

21

22

23

24

25

C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

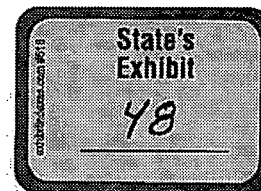
I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Barnwell County, South Carolina, on the 17th, 18th, 19th of October, 2016.

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

January 22, 2017

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter



MIRANDA RIGHTS

PLACE: Barnwell Co. S.O. DATE: Nov 10, 2013 TIME: 3:13 P.M.

BEFORE WE ASK YOU QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

M.P.B.

You have the right to remain silent.

M.P.B.

Anything you say can be used in court as evidence against you.

M.P.B.

You are entitled to talk to a lawyer now and have him present now or at any time during questioning.

M.P.B.

If you cannot afford an attorney, one will be appointed for you without cost.

M.P.B.

If you decide to answer questions now, without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

M.P.B.

Do you understand these rights?

M.P.B.

Do you wish to talk to us at this time?

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to talk now without a lawyer present. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed:

Michael P. B...

Witness:

[Signature]

Witness:

[Signature]



VOLUNTARY STATEMENT

CASE # 35-13-0106

LEAD #

LAST NAME Buckman		FIRST NAME Michael		MIDDLE NAME Paul	AGE 36	D.O.B. [REDACTED]
NICKNAME/AKA MP		M ☒ F ☐ SSN [REDACTED]	STREET ADDRESS [REDACTED]			
CITY Bainwell		STATE SC	ZIP 29812	MAILING ADDRESS IF DIFFERENT		
HOME TELEPHONE 671-9072	WORK TELEPHONE	CELL TELEPHONE	OCCUPATION			
EMPLOYER		EMPLOYER ADDRESS				
DRIVER'S LICENSE NUMBER/STATE [REDACTED] / SC		DATE AND TIME OF INTERVIEW 11/10/13 - 4:15 p.m.				
LOCATION OF INTERVIEW Bainwell County Sheriff's Office.						
INTERVIEWING AGENT Lt. T.C. Collier, Sr.		DEPARTMENT SLED	INTERVIEWING AGENT		DEPARTMENT	

I, Michael Paul Buckman understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can cannot read and write and completed the 11th grade in school.

On Oct 31ST 2013 AROUND 9:30 MS. DONNA DEMPSEY NEEDED A RIDE TO REIDS FOR BEER AND WHINE. TO MICHAEL PAUL BUCKMAN AND MATTHEW T. BOLEY GAVE HER A RIDE TO REIDS THEN SHE PAID ME \$20 FOR THAT, THEN SHE STATED SHE WANTED SOME COCAINE SO SHE GOT ME SOME MONEY OUT THE TELLER AT SRP BANK. HER AND MATTHEW AKA. MATT TATT BECAME INTIMATE IN THE CAR RUBBING ON EACH OTHER. WE PULLED BEHIND MY MOTHERS HOUSE AND THEY WALKED TO HER HOUSE WHILE I LEFT AND PICKED UP SOME COCAINE. MATTHEW AND DONNA WAS LEFT AT THE HOUSE FOR BOUT AN HR. ALONE. WHEN I GOT BACK MATT WANTED TO STEAL HER BELONGINGS I TOLD HIM NO AND THAT I WAS COOL WITH LOYD AND HIS WIFE BECAUSE SHE KNEW MY MOTHER AND BABY MOM ASHLEY KOUNTREE. WHEN I GOT BACK WITH THE COCAINE MATT STATED HE WAS READY TO GO. SO WE LEFT AND WENT TO A HOUSE PARTY AND DURING THAT TIME MATT TOLD ME HE NEEDED TO GET SOME OTHER STUFFS OUT MY MOMS BACK YARD BEFORE MY MOM FINDS OUT. THESE ITEMS SUPPOSELY CAME FROM NEXT DOOR FROM MS. DEMPSEY.

I have read each page of this statement consisting of 3 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 11/10/13 Time: 5:30pm

Signature of person giving voluntary statement

WITNESS:

WITNESS:

I certify that I have been given a copy of this statement consisting of 3 pages.



**VOLUNTARY STATEMENT
SUPPLEMENTAL**

CASE # 35-13-2106

LEAD # _____

Michael Paul Buckman

Statement of, Continued

house. I was just cause I told him not to do it. I had no choice but to move the items cause they was on my mother's property. I forgot that a rifle was left in my mom's house so I had to go back and pick it back up. We left to go to Greenville and he decide he wanted to trade the items in exchange for money to buy cocaine from me. I went along with him. While there Matt also took items from his grandmother's house in Piedmont and took her items to the scrap yard. The drum set and a key board was taken to the good shop call Father He Pond in the Eastly area. While there I was looking for a job and Matthew only wanted to rob people I told him I'm not with it. He always stayed in the phone worrying about was he hot in Barrowell. Then one morning he said he is wanted for a homicide. I told him if he is he going have to man up on his charges cause I'm not falling for no ones acters. I did not know the homicide was pertaining to Ms. Peapser, till Friday morning on the 8th of Nov. 2013. All that day we was arguing cause not only he took items from my neighbors, he probably killed her as well. I then began doing my research and started calling back home. That's when I found out she was dead. From the following people Willaema Buckman Ashley Kunkree And Ms. Brenda Buckman. Tasha Williams. When I ask him about it he just said I need to leave the state. I told him I was going back home to clear my name. We got into an argument, at a small country store I went in to charge my phone and when I came out he was gone. I was stranded. I called investigator Mr. Wayne Martin and told him I will be back in Barrowell to

Date: 11/10/13 Time: 5:29pm

Michael P. Buck
Signature of person giving voluntary statement

Person giving statement to place initials behind
last word of statement as appears on last page.

VOLUNTARY STATEMENT
SUPPLEMENTALMichael Paul Buckman

Statement of, Continued.

cooperated with any questions, and my only involvement which is in possession of someone's stolen goods. M.P.B.

Question & Answer:

①^Q: Did you participate in the death of Donna Dempsey?

A: NO

②^Q: Did you participate in the fire at Donna Dempsey's house?

A: NO

③^Q: Did you engage in sexual intercourse with Donna Dempsey on October 31st, 2013, or November 1st, 2013?

A: ~~YES~~ M.P.B. NO

④^Q: When was the last time you engaged in sexual intercourse with Donna Dempsey?

A: Wednesday Oct 30 2013

⑤^Q: ~~Have~~^{How} long have you been engaging in sexual intercourse with Donna Dempsey?

A: Roughly 2 months

⑥^Q: When you engaged in sexual intercourse with Donna Dempsey on October 30, 2013, did you use a condom?

A: Yes and I pulled them OFF AND THREW IT AWAY.



MIRANDA RIGHTS

PLACE: Barnwell Police Dept DATE: Nov 11, 2013 TIME: 5:52 PM

BEFORE WE ASK YOU QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

M.P.B.

You have the right to remain silent.

M.P.B.

Anything you say can be used in court as evidence against you.

M.P.B.

You are entitled to talk to a lawyer now and have him present now or at any time during questioning.

M.P.B.

If you cannot afford an attorney, one will be appointed for you without cost.

M.P.B.

If you decide to answer questions now, without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

M.P.B.

Do you understand these rights?

M.P.B.

Do you wish to talk to us at this time?

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to talk now without a lawyer present. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed: Michael P.B.

Witness: [Signature]

Witness: [Signature]





MIRANDA RIGHTS

PLACE: Barnwell County Sheriff's Office DATE: 02/18/2014 TIME: 1:35 PM

BEFORE WE ASK YOU QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

M.P.B.

You have the right to remain silent.

M.P.B.

Anything you say can be used in court as evidence against you.

M.P.B.

You are entitled to talk to a lawyer now and have him present now or at any time during questioning.

M.P.B.

If you cannot afford an attorney, one will be appointed for you without cost.

M.P.B.

If you decide to answer questions now, without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

M.P.B.

Do you understand these rights?

M.P.B.

Do you wish to talk to us at this time?

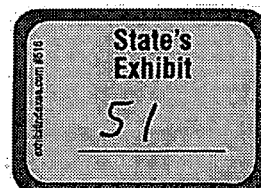
WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to talk now without a lawyer present. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed: Michael P. Buckner

Witness: [Signature]

Witness: [Signature]



33
WITNESSES

State Law Enforcement Division

Sterling Seals

Law Enforcement Case #: 35-13-0106

JWH

ARREST WARRANT NUMBER

2013A0620100381

ACTION OF GRAND JURY

TRUE BILL

Cynthia Balz
Foreperson of Grand Jury
Date: November 13, 2014

VERDICT

Guilty

Portia H.C. Carter

Foreperson of Petit Jury
Date: 10-19-16

DOCKET NO. 2014GS0600359

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2014

**THE STATE
vs.**

MICHAEL PAUL BUCKMON

CDR #: 0160

Indictment for

CRIMINAL SEXUAL CONDUCT

§ 16-03-0652

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)
)

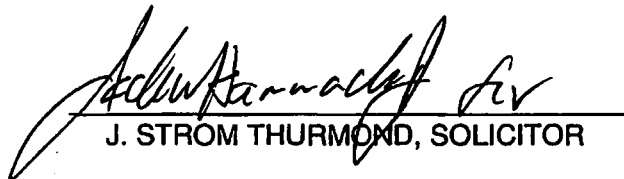
INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT

§ 16-03-0652

At a Court of General Sessions, convened on November 17, 2014, the Grand Jurors of Barnwell County present upon their oath:

That **MICHAEL PAUL BUCKMON**, did between October 31, 2013 and November 1, 2013, in Barnwell County, South Carolina commit the crime of Criminal Sexual Conduct In The First Degree, in that the Defendant did commit a sexual battery, to wit: oral, vaginal and/or anal intercourse, upon and with the body of Donna Dempsey. Such sexual battery was accomplished by the use of force of a high and aggravated nature and/or the victim submitted to the sexual battery under circumstances where she was also the victim of forcible confinement, kidnapping, robbery, extortion, or burglary. All in violation of §16-3-652 Code of Laws of South Carolina (1976), as amended.

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


 J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

395

COUNTY OF Barnwell
 STATE VS.
Michael Paul Buckmon

AKA:

Race: Black Sex: M Age: 39DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Sumter, SC 29150-7210DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Sex / Criminal sexual conduct - First degreeINDICTMENT/CASE#: 2014GS0600359A/W#: 2013A0620100381Date of Offense: 11/1/2013S.C. Code §: 16-03-0652CDR Code #: 0160

SENTENCE SHEET

≤ 30 years☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: David Warren 19553 12/12

Miller, David Warren

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 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: 16-65-06-210☐ 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/ Deputy Clerk Sharon H. RitchieCourt Reporter: Bethanie Creeppan

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 0136Sentence Date: Oct 19, 2016

WITNESSES

State Law Enforcement Division

Sterling Seals

Law Enforcement Case #: 35-13-0106

DWM

ARREST WARRANT NUMBER

16-DI06-0007

ACTION OF GRAND JURY

True Bill

[Signature]

Foreperson of Grand Jury
Date: July 14, 2016

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury
Date: 10-19-16

DOCKET NO. 2016GS0600205

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

JULY TERM 2016

THE STATE

vs.

MICHAEL PAUL BUCKMON

CDR #: 3535

Indictment for

ARSON FIRST DEGREE

§ 16-11-110(A)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)

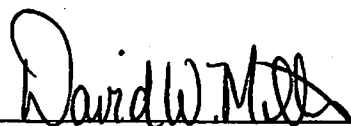
INDICTMENT FOR
ARSON FIRST DEGREE

§ 16-11-110(A)

At a Court of General Sessions, convened on July 18, 2016, the Grand Jurors of Barnwell County present upon their oath:

That **MICHAEL PAUL BUCKMON**, along with another, did in Barnwell County on or between October 31, 2013 and November 1, 2013, wilfully and maliciously set fire to, burn, or cause to be burned, or did aid, counsel, or procure a burning that resulted in damage to a dwelling house, building, or structure, which resulted, either directly or indirectly in the death of Donna Dempsey, in violation of Section 16-11-110(A) of the South Carolina Code of Laws (1976 as amended).

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



J. STROM THURMOND, SOLICITOR

398

STATE OF SOUTH CAROLINA

COUNTY OF Barnwell

STATE VS.

Michael Paul Buckmon

AKA:

Race: Black Sex: M Age: 39

DOB: 1977 SS#

Address:

City, State, Zip: Sumter, SC 29150-7210

DL#: SID#:

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

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

TO: Arson-First Degree with death

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS0600205

A/W#: 16-DI06-0007

Date of Offense: 11/1/2013

S.C. Code § : 16-11-110(A)

CDR Code #: 3535

SENTENCE SHEET

30 years

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-110(A) of the S.C. Code of Laws, bearing CDR Code # 3535

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

ATTEST:

Miller, David Warren

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(I) (Vehicle Assessment) \$40/ca \$

3% to County (if paid in installments) \$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter: Bethanie Creppon

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 0136

Sentence Date: Oct 19, 2016

WITNESSES

State Law Enforcement Division

Sterling Seals

Law Enforcement Case #: 35-13-0106

DWM

ARREST WARRANT NUMBER

16-DI06-0008

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: July 14, 2016

VERDICT

Guilty

Foreperson of Petit Jury
Date: 10-19-16

DOCKET NO. 2016GS0600210

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

JULY TERM 2016

THE STATE
vs.

MICHAEL PAUL BUCKMON

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)

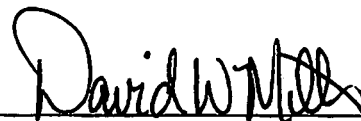
INDICTMENT FOR
MURDER

§ 16-03-0010

At a Court of General Sessions, convened on July 18, 2016, the Grand Jurors of Barnwell County present upon their oath:

That **MICHAEL PAUL BUCKMON**, along with another, did in Barnwell County on or about November 1, 2013, feloniously, wilfully and with malice aforethought, murder Donna Dempsey by means of incapacitating her before setting her residence on fire, and that the victim did die in Barnwell County at [REDACTED], Barnwell, South Carolina as a proximate result thereof on November 1, 2013. All in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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



J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

401

COUNTY OF Barnwell
 STATE VS.
Michael Paul Buckmon

AKA:

Race: Black Sex: M Age: 39DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Sumter, SC 29150-7210DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: Murder / MurderINDICTMENT/CASE#: 2016GS0600210A/W#: 16-DI06-0008Date of Offense: 11/1/2013S.C. Code § : 16-03-0010; 16-03-0020CDR Code #: 0116

SENTENCE SHEET

30-life☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

David Warren
Miller, David Warren69553
SC Bar#[Signature]
Defendant[Signature]
Attorney for Defendant1212
SC Bar#

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

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SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
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§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.75</u>

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter: Bethanie Creppan

SCCA/217 (07/2016)

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

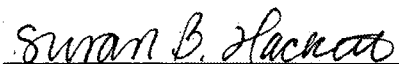
Presiding Judge

Judge Code: 0136Sentence Date: Oct 19, 2016

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 the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 25th day of July, 2017.

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 the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

JUL 25 2017

Susan B. Hackett

Susan B. Hackett
Appellate Defender

SC Court of Appeals

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

ATTORNEY FOR APPELLANT

This 25th day of July, 2017.