

Volume II

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2009-CP-40-00235

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S.C. SUPREME COURT

State of South Carolina

Petitioner,

v.

Shanna M. Kranchick,
#283157

Respondent.

APPENDIX

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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Reginald I. Lloyd, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHANNA M. KRANCHICK,

APPELLANT

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1 A YES SIR.

2 Q WHY DO YOU SAY THAT?

3 A BECAUSE HE SNATCHED THE STEERING WHEEL.

4 Q HE SNATCHED THE STEERING WHEEL?

5 A YEAH, YES SIR.

6 Q NOW, DID YOU HAVE AN OPPORTUNITY TO TELL THE POLICY
7 ABOUT THIS THE DAY AFTER?

8 A YES SIR.

9 Q OKAY. BOTH YOU AND DONALD WARD?

10 A YES SIR.

11 Q WHAT DREW YOUR ATTENTION TO WHAT WAS HAPPENING IN
12 THE FRONT SEAT? HOW DID YOU HAPPEN TO PAY ATTENTION TO
13 THAT? YOU'RE IN THE BACK SEAT.

14 A I BEEN LOOKING. YOU KNOW WHAT IM SAYING. I BEEN
15 LOOKING UP FRONT, LISTENING TO THE RADIO, LOOKING OUT
16 FRONT, JUST CHILLING. YOU KNOW WHAT I'M SAYING?.

17 Q YOU DIDN'T HAVE HEAD PHONES ON OR ANYTHING LIKE
18 THAT?

19 A NO SIR.

20 Q OKAY.

21 A I BEEN LOOKING UP FRONT.

22 Q OKAY. SO, YOU SAW THIS TRUCK START TO COME IN FRONT
23 OF Y'ALL?

24 A I SEEN, LIKE, RIGHT THERE ON THE SIDE OF MY FACE,
25 THE BIG, WHITE, THE THING ON THE BACK. YOU KNOW WHAT I'M

1 SAYING?. COMING ACROSS, LIKE, PASS US, RIGHT HERE. YOU
2 KNOW WHAT I'M SAYING?.

3 Q WHAT DO YOU MEAN BIG THING ON THE BACK?

4 A ONE OF THEM BIG...

5 Q BIG, LONG THINGS LIKE THE TRAILER?

6 A THE TRAILER, YES SIR.

7 Q ON THE BACK OF THE TRUCK. SO, IT WAS A TRUCK WITH A
8 TRAILER ON IT, STARTED TO COME OUT IN FRONT OF YOU?

9 A YES SIR.

10 Q YOU SAW THE TRAILER COMING BY YOU?

11 A YES SIR.

12 Q OKAY. AND THEN YOU SAW SHANNA KIND OF EASING OVER?

13 A I SEEN IT, AND I FELT LIKE IT WAS JUST VEERING OFF
14 RIGHT THERE. I KNEW WHAT SHE WAS DOING. YOU KNOW WHAT
15 I'M SAYING?. SHE WAS DELIVERING, LIKE,... YOU KNOW WHAT
16 I'M SAYING?. YOU KNOW HOW TO DRIVE.

17 Q YOU UNDERSTOOD WHAT SHE WAS TRYING TO DO?

18 A YES SIR.

19 Q AND THEN DID YOU OR DID YOU NOT SEE DNALD ADAMS
20 REACH ACROSS AND JERK THE WHEEL?

21 A I DID.

22 Q OKAY. AND THAT WAS THE LAST THING THAT HAPPENED
23 BEFORE THE CAR RAN ACROSS THE ROAD?

24 A YES SIR.

25 Q IS THAT RIGHT?

1 A YES SIR.

2 Q NO DRUG USE IN THE CAR?

3 A NO SIR.

4 Q YOU ATTEMPTED TO GO AHEAD AND GET HIGH?

5 A YES SIR.

6 Q BUT IT HADN'T HAPPENED YET?

7 A NO SIR.

8 Q PASANTE, THANK YOU. ANSWER ANY QUESTIONS THE

9 PROSECUTION MIGHT HAVE. THANK YOU.

10 THE COURT: THANK YOU, MR. STRICKLER.

11 MR. STICKLER: YES SIR.

12 THE COURT: MS. CAMPBELL.

13 MS. CAMPBELL: THANK YOU, YOUR HONOR.

14 THE COURT: YES MA'AM..

15 CROSS EXAMINATION BY MS. CAMPBELL:

16 Q HEY, MR. TRAPP.

17 A HEY.

18 Q PASANTE OR MR. TRAPP, WHICH DO YOU PREFER?

19 A PASANTE.

20 Q PASANTE.

21 A YES MA'AM.

22 Q MY NAME IS LUCK CAMPBELL. I WORK FOR THE

23 SOLICITOR'S OFFICE. I HAVE SOME QUESTIONS TO ASK YOU. I

24 DON'T THINK YOU AND I HAVE EVER HAD THE OPPORTUNITY TO

25 MEET BEFORE, HAVE WE?

1 A NO MA'AM.

2 Q I JUST WANT TO CLEAR UP ABOUT THE RELATIONSHIPS AND
3 THE PEOPLE INVOLVED. THEY ASKED YOU A LOT OF QUESTIONS.
4 I DON'T MEAN TO BE PICKY. IF YOU DON'T UNDERSTAND ME,
5 JUST TELL ME TO REPEAT IT. OKAY? I JUST NEED TO
6 UNDERSTAND EXACTLY WHAT YOU UNDERSTOOD HAPPENED THAT DAY.
7 OKAY?

8 JUST FOR CLARIFICATION, AND THE DEFENSE ATTORNEY
9 ASKED YOU SOMETHING ABOUT THIS. BUT YOU WERE CONVICTED
10 BACK IN 2001 FOR SHOPLIFTING?

11 A YES MA'AM.

12 Q YOU SAID THAT IT WAS IN EXCHANGE FOR SOME OTHER
13 CHARGE BEING DROPPED?

14 A YES.

15 Q AND THEN, OF COURSE, IN 2002, YOU GOT CONVICTED OF
16 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE?

17 A YES MA'AM.

18 Q IN FACT, YOU WERE CONVICTED OF THAT OFFENSE JUST
19 FIVE DAYS AFTER THIS OCCURRED. IS THAT CORRECT?

20 A YES MA'AM.

21 Q THE RELATIONSHIPS OF EVERYBODY IN THE CAR, I JUST
22 WANT TO TALK ABOUT THAT A LITTLE BIT. MR. STRICKLER
23 ASKED YOU SOME QUESTIONS, WHICH YOU SAID, AND YOU
24 REFERRED TO SHANNA IN YOUR DIRECT TESTIMONY AS YOUR HOME
25 GIRL?

- 1 A YES.
- 2 Q AND WHAT DO YOU MEAN BY THAT, SIR?
- 3 A FRIEND.
- 4 Q SHE IS A FRIEND?
- 5 A (NODS IN THE AFFIRMATIVE)
- 6 Q BUT YOUR RELATIONSHIP WITH SHANNA-- AND HOW OLD IS
- 7 SHANNA?
- 8 A PROBABLY EIGHTEEN, NINETEEN.
- 9 Q EIGHTEEN, NINETEEN?
- 10 A EIGHTEEN.
- 11 Q EIGHTEEN AT THE TIME?
- 12 A YES MA'AM.
- 13 Q AND, OF COURSE, THERE IS YOU, PASANTE.
- 14 A YES MA'AM.
- 15 Q AND HOW OLD WERE YOU?
- 16 A FIFTEEN.
- 17 Q AND THERE WAS DONALD WARD, I THINK YOU REFERRED TO
- 18 HIM AS YOUR LITTLE COUSIN?
- 19 A YES MA'AM.
- 20 Q AND HOW OLD WAS HE?
- 21 A FOURTEEN.
- 22 Q AND THEN THERE WAS THIS OTHER COUSIN YOU DON'T EVEN
- 23 KNOW. RIGHT? I NEED THE JURY JUST TO UNDERSTAND THAT.
- 24 YOU DIDN'T HAVE A RELATIONSHIP WITH DONALD ADAMS?
- 25 A HUH-UH.
-

1 Q NO RELATIONSHIP WITH DONALD ADAMS. DID YOU KNOW
2 HIM?

3 A I KNEW HIM. HE WAS SOMEBODY I BE, YOU KNOW WHAT I'M
4 SAYING, SMOKE MARIJUANA WITH HIM.

5 Q YOU SMOKED MARIJUANA WITH HIM?

6 A A MONTH BEFORE.

7 Q SO, YOU DID HAVE A RELATIONSHIP WITH DONALD ADAMS?

8 A NOT, LIKE, KNOWING HIM, BUT I SMOKED WITH HIM
9 BEFORE.

10 Q OKAY. SO, IT WAS DIFFERENT FROM YOUR RELATIONSHIP--
11 I'M JUST TRYING TO-- I DON'T MEAN TO BE PICKY, BUT I'M
12 TRYING TO UNDERSTAND YOUR RELATIONSHIP WITH SHANNA
13 KRANCHIK. IT'S DIFFERENT FROM YOUR RELATIONSHIP WITH
14 DONALD ADAMS.

15 A NO, NOT REALLY.

16 Q YOU JUST SMOKED MARIJUANA WITH BOTH OF THEM?

17 A BASICALLY.

18 Q BUT WITH SHANNA, IT WAS MORE THAN THAT KIND OF A
19 RELATIONSHIP?

20 A KIND OF.

21 Q KIND OF?

22 A YES MA'AM.

23 Q WHAT KIND OF RELATIONSHIP WOULD YOU DESCRIBE YOU HAD
24 WITH SHANNA KRANCHIK?

25 A MORE INTIMATE.

1 Q WHEN YOU SAY INTIMATE, SIR, WHAT DO YOU MEAN?

2 A SEX.

3 Q SEX? SO, YOU WEREN'T BOYFRIEND AND GIRLFRIEND?

4 A NO.

5 Q YOU MADE THAT CLEAR. YOU JUST HAD SEX WITH HER?

6 A YES.

7 Q WHEN YOU WOULD SMOKE MARIJUANA?

8 A NO. JUST...

9 Q DIFFERENT TIMES?

10 A JUST TWICE, BUT IT WASN'T LIKE THAT.

11 Q OKAY. SO, IT WAS INTIMATE, BUT, CLEARLY, THERE WAS
12 MORE OF A RELATIONSHIP THAT YOU HAD WITH SHANNA KRANCHIK
13 THAN YOU DID DONALD ADAMS?

14 A NO.

15 Q AND HOW MANY TIMES DID YOU SMOKE MARIJUANA WITH
16 DONALD ADAMS PRIOR TO THAT DAY?

17 A THAT DAY OR BEFORE?

18 Q BEFORE, BEFORE THAT DAY, INCLUDING THAT DAY.

19 A ABOUT A COUPLE OF TIMES.

20 Q A COUPLE OF TIMES. WHAT ABOUT WITH SHANNA?

21 A A COUPLE OF TIMES.

22 Q A COUPLE OF TIMES. AND WHERE WOULD YOU SMOKE
23 MARIJUANA WITH SHANNA?

24 A IN THE NEIGHBORHOOD.

25 Q IN THE NEIGHBORHOOD. IN HER HOUSE?

- 1 A LIKE, ON THE STREET.
- 2 Q ON THE STREET?
- 3 A OR UP AT MY HOME BOY'S HOUSE.
- 4 Q AT ANOTHER FRIEND'S HOUSE?
- 5 A (NODS IN THE AFFIRMATIVE)
- 6 Q AND YOU SMOKED MARIJUANA AT HER HOUSE?
- 7 A KIND OF IN THE BACK YARD.
- 8 Q IN THE BACK YARD. YOU WOULD GO OUT IN THE BACK
- 9 YARD? YOU DIDN'T SMOKE IT AT YOUR HOUSE?
- 10 A UH-UH.
- 11 Q YOU SMOKED IT AT YOUR HOUSE, TOO. SO, YOU SMOKED ON
- 12 LOTS OF OCCASIONS?
- 13 A YES.
- 14 Q AND THEN YOU SMOKED WITH DONALD ADAMS ON A COUPLE OF
- 15 OCCASIONS. WERE YOU HELPING OUT AND GIVING YOUR LITTLE
- 16 COUSIN, DONALD WARD, SOME MARIJUANA, TOO?
- 17 A I WASN'T HELPING HIM. HE SAID HE SMOKED LIKE I WAS
- 18 SMOKING. SO, IF I MIGHT SMOKE, HE'LL SMOKE WITH ME.
- 19 Q I UNDERSTAND. SO, IT WAS A RECREATIONAL THING?
- 20 A YES SIR. I MEAN, YES MA'AM.
- 21 Q AND WHEN YOU SMOKE MARIJUANA, WHY DO YOU SMOKE IT?
- 22 A NOTHING TO DO. I JUST-- I SMOKE JUST TO CHILL.
- 23 Q CHILL. DOES IT GET YOU HIGH?
- 24 A NOT HIGH, BUT IT MAKES ME FEEL LIKE I'M JUST
- 25 CHILLING.

1 Q LIKE YOU'RE CHILLING. IT'S BETTER THAN LISTENING
2 TO MUSIC WHEN YOU'RE HIGH, ISN'T IT?

3 A NO.

4 Q IT'S NOT.

5 A LIKE, IF YOU'RE HIGH, IF YOU WANT TO LISTEN TO
6 MUSIC, YOU CAN LISTEN TO MUSIC. IT'S SOMETHING TO DO.

7 Q SOMETHING TO DO?

8 A YES MA'AM.

9 Q I UNDERSTAND. ON THIS DAY, THAT DAY YOU HAD-- HAD
10 DONALD SPENT THE NIGHT WITH YOU THAT NIGHT?

11 A THAT NIGHT BEFORE, OR THE SAME WEEK? THAT WEEK HE
12 WAS STAYING WITH ME.

13 Q THAT WEEK HE WAS STAYING WITH YOU?

14 A YES MA'AM.

15 Q WAS THIS ON A WEEKEND?

16 A I CAN'T REMEMBER.

17 Q YOU CAN'T REMEMBER. HE WAS FOURTEEN AND YOU WERE
18 FIFTEEN, BUT WHATEVER THE DAY OF THE WEEK IT WAS, YOU
19 WENT AROUND THERE AT 11:00 A.M.?

20 A SOMETIME IN THE MORNING.

21 Q SO, WHATEVER DAY OF THE WEEK IT WAS, IT WASN'T A
22 SCHOOL DAY BECAUSE YOU WEREN'T IN SCHOOL, WERE YOU?

23 A NO, IT WASN'T A SCHOOL DAY.

24 Q NO SCHOOL THAT DAY?

25 A IT WASN'T. WELL, IF IT WAS, IT PROBABLY WAS.

1 Q WELL, I DON'T KNOW. DO YOU REMEMBER?

2 A NO.

3 Q WELL, DID YOU GO TO SCHOOL THAT DAY?

4 A UH-UH.

5 Q AND JUST LIKE YOU CLARIFIED, TOO, BEFORE I GET ANY

6 FURTHER, DO YOU SEE DONALD WARD, WHO'S YOUR COUSIN?

7 A UH-UH.

8 Q HE LIVES HERE IN COLUMBIA?

9 A UH-UH.

10 Q HE STILL LIVES HERE, DOESN'T HE?

11 A YES MA'AM.

12 Q DO YOU SEE HIM HERE IN THE COURTROOM TODAY?

13 A NO.

14 Q IS HE HERE?

15 A NO.

16 Q NO. BUT HE STILL LIVES HERE IN TOWN. RIGHT?

17 A YES.

18 Q WELL, YOU HAVE SEEN HIM IN THE PAST WEEK OR TWO,

19 HAVEN'T YOU?

20 A YES, I HAVE.

21 Q OKAY. AND JUST LIKE, TO BE SURE, TOO, SHANNA, HER

22 HOUSE WAS IN YOUR NEIGHBORHOOD?

23 A UH-UH.

24 Q AND DO YOU KNOW HER PARENTS?

25 A NOT REALLY, BUT I KNOW I SPOKE TO THEM.

1 Q BUT THEY'RE HERE IN THE COURTROOM TODAY?

2 A UH-UH.

3 Q THEY'RE THE ONES THE BAILIFF IS OVER THERE POINTING
4 TO?

5 A HUH?

6 Q IS THAT THE LADY IN THE WHITE, IN THE BLUE SHIRT,
7 AND THE MAN IN THE STRIPED SHIRT, NEXT TO HER? I'D JUST
8 LIKE TO BE STRAIGHT. WHEN THE FOUR OF YOU CONGREGATED
9 THAT MORNING TO BUY MARIJUANA, THEY AREN'T THERE, ARE
10 THEY?

11 A I CAN'T REMEMBER, REALLY.

12 Q OKAY.

13 A I THINK HER MOM WOULD HAVE BEEN OVER THERE.

14 Q SHE WAS THERE?

15 A THAT MORNING. I CAN'T REMEMBER.

16 Q OKAY. SO, ON THAT MORNING, NOW-- AND I BELIEVE
17 YOU'VE GIVEN SEVERAL STATEMENTS TO DIFFERENT PEOPLE IN
18 THIS CASE, HAVEN'T YOU?

19 A MEANING.

20 Q STATEMENTS TELLING THE TRUTH ABOUT WHAT HAPPENED?

21 A YES, YES.

22 Q OKAY. I'M GONNA GET TO THOSE IN A MINUTE. BUT ON
23 ONE OCCASION YOU SAID YOU HAD BEEN OVER THERE THE DAY
24 BEFORE SMOKING MARIJUANA. RIGHT?

25 A DID I SAY THAT?

1 Q I DON'T KNOW; I'M ASKING YOU.

2 A PROBABLY DID IT.

3 Q PROBABLY DID. ON THE DAY BEFORE, WAS DONALD, YOUR
4 LITTLE COUSIN, WITH YOU?

5 A I DON'T THINK SO.

6 Q SO, ON THE DAY BEFORE IT WAS JUST YOU?

7 A UH-UH.

8 Q DID YOU GET INTIMATE ON THAT DAY BEFORE? DO YOU
9 REMEMBER?

10 A UH-UH.

11 Q OKAY. AND AGAIN, IN DESCRIBING YOUR RELATIONSHIP
12 WITH DONALD ADAMS YOU JUST SMOKED WITH HIM MAYBE A COUPLE
13 OF TIMES. THAT WAS THE EXTENT OF YOUR RELATIONSHIP?

14 A UH-UH.

15 Q AND WITH DONALD, OF COURSE, LITTLE DONALD, HE'S YOUR
16 COUSIN, --

17 A UH-HUH.

18 Q AND, OF COURSE, WITH SHANNA. YOU'RE INTIMATE WITH
19 HER, BUT IT'S NOT A FRIENDSHIP OR A BOYFRIEND-GIRLFRIEND
20 THING?

21 A UH-UH.

22 Q BUT YOU JUST GO TO HER HOUSE TO HANG OUT?

23 A WE GOING-- IT WASN'T NO EVERYDAY THING. I PROBABLY
24 GO MAYBE ONCE A WEEK OR A COUPLE OF TIMES A MONTH, MAYBE.

25 Q YOU WERE AWARE THAT SHANNA LIKE TO SMOKE POT?

1 A YES.

2 Q OKAY. ON A DAILY BASIS?

3 A YES.

4 Q AND I'M GOING TO TURN-- I'M GOING TO GET SOME OF
5 THOSE STATEMENTS YOU GAVE IN A MINUTE. YOU SAID THAT
6 THIS WAS A WEEKEND? YOU WEREN'T IN SCHOOL?

7 A I DIDN'T SAY IT WAS NO WEEKEND. I CAN'T REMEMBER
8 WHAT PART OF THE WEEK IT WAS DURING.

9 Q WELL, YOU WENT TO SCHOOL BACK THEN IN JANUARY OF
10 2002?

11 A NO MA'AM.

12 Q WELL, YOU TESTIFIED YOU'RE IN THE TWELFTH GRADE.
13 DID YOU GRADUATE?

14 A YES.

15 Q BUT YOU WEREN'T IN SCHOOL THEN?

16 A NO.

17 Q AND WHEN YOU GAVE YOUR STATEMENT IN MARCH OF THIS
18 YEAR YOU WEREN'T IN SCHOOL THEN, EITHER?

19 A NO.

20 Q SO, WHEN DO GO TO SCHOOL?

21 A I GO TO ADULT EDUCATION, THE SCHOOL THAT GOES FROM
22 SIX TO EIGHT.

23 MR. STRICKLER: I'M SORRY. I ASK THAT HE BE
24 PERMITTED TO FINISH THE QUESTION.

25 THE COURT: FINE. HE CAN FINISH.

1 Q YOU'RE IN ADULT EDUCATION NOW?

2 A YES MA'AM.

3 Q SO, YOU HAVEN'T BEEN AT SCHOOL OVER THE LAST TWO
4 YEARS?

5 A NOT REALLY, NOT PUBLIC SCHOOLS, BUT I HAVE BEEN TO
6 EDUCATIONAL SCHOOLS.

7 Q EDUCATIONAL SCHOOLS? YOU'RE NOT ALLOWED TO GO TO
8 PUBLIC SCHOOLS?

9 A NOT THIS YEAR, NO.

10 Q AND THIS HAPPENED IN JANUARY OF 2002, JANUARY 23.
11 ISN'T THAT RIGHT? DO YOU REMEMBER THE DATE OR DO YOU
12 NOT?

13 A I DON'T REMEMBER THE DATE.

14 Q IF I TOLD YOU JANUARY 23, WAS A WEDNESDAY, YOU
15 WOULDN'T DISPUTE THAT, WOULD YOU?

16 A NO.

17 Q AND YOUR COUSIN, DONALD, HE DOESN'T GO TO SCHOOL,
18 EITHER?

19 A NO.

20 Q NO. OKAY. NOW THAT I HAVE THAT, I JUST NEEDED TO
21 CLEAR THAT UP. WHEN YOU ALL GO OVER THERE THAT DAY,
22 DONALD WAS STAYING WITH YOU THAT WEEK?

23 A YES.

24 Q AND HOW DID YOU END UP DECIDING TO GO OVER TO
25 SHANNA'S HOUSE?

1 A WE JUST WOKE UP. THERE WASN'T NOTHING TO DO.

2 Q YOU DON'T GO TO SCHOOL?

3 A NO.

4 Q THERE WASN'T ANYTHING TO DO, SO YOU DECIDED TO GO TO
5 SHANNA'S HOUSE?

6 A WELL,...

7 Q IS THAT AN UNUSUAL THING FOR YOU DECIDE TO DO?

8 A UNUSUAL MEANING HOW?

9 Q DID YOU GO OVER THERE A LOT OF TIMES WHEN YOU DIDN'T
10 HAVE STUFF TO DO?

11 A NO. IT JUST POPPED UP. LIKE, I JUST GO DOWN THE
12 STREET TO SHANNA'S HOUSE. MY HOME BOY, STAY, LIKE,
13 ACROSS THE STREET FROM HER. I HAVE A FRIEND DOWN THERE,
14 TOO. THAT'S HOW I REALLY MET HER.

15 Q SO, IT WAS THROUGH ANOTHER GUY THAT LIVED ACROSS THE
16 STREET?

17 A HUH?

18 Q AND SHANNA DIDN'T GO TO SCHOOL EITHER, DID SHE?

19 A NO, NOT DURING THIS TIME.

20 Q AND WHEN YOU GOT OVER THERE AT THAT POINT SHE JUST
21 HAPPENED TO BE THERE?

22 A YES.

23 Q OKAY. YOU DIDN'T CALL AHEAD OR ANYTHING?

24 A I CAN'T REMEMBER IF I CALLED HER.

1 Q YOU CAN'T REMEMBER, BUT, ANYWAY, YOU ENDED UP DOWN
2 THERE?

3 A YES.

4 Q DID YOU TAKE DONALD WITH YOU?

5 A UH-HUH.

6 Q DID YOU GET OVER THERE AROUND ELEVEN IN THE MORNING?

7 A UH-HUH.

8 Q AND YOU WERE OVER THERE AND YOU TESTIFIED, I
9 BELIEVE, EARLIER THAT YOU WERE WATCHING TV?

10 A UH-HUH.

11 Q BORED. AT WHAT POINT DID YOU DECIDE IT WAS TIME TO
12 GO BUY THE MARIJUANA?

13 A WE DECIDED-- OLD DONALD HAD POPPED UP.

14 Q OLD DONALD?

15 A THE ONE THAT HAD BEEN SITTING BY THE FRONT,
16 PASSENGER SIDE.

17 Q YOU DON'T REALLY CARE MUCH FOR DONALD, DO YOU?

18 A YOU KNOW WHAT I'M SAYING?. I DON'T REALLY KNOW HIM.
19 HE JUST...

20 Q HE POPPED UP?

21 A HE POPPED UP.

22 Q YOU DON'T KNOW HIM OTHER THAN SMOKING MARIJUANA?

23 A NOT REALLY.

24 Q AND HE POPPED UP. WHEN HE POPPED UP, DID YOU HAVE A
25 DISCUSSION? DID YOU TALK TO HIM?

1 A NOT REALLY, BUT I WAS INVOLVED IN A CONVERSATION.

2 Q OKAY. AND THE PURPOSE OF YOUR LEAVING THAT HOUSE
3 THAT DAY WAS TO DO WHAT?

4 A GO BUY SOME MARIJUANA.

5 Q OKAY. AND WHO WAS THE MARIJUANA FOR?

6 A DONALD.

7 Q FOR DONALD?

8 A DONALD.

9 Q IT WASN'T FOR YOU?

10 A HUH-UH.

11 Q IT WASN'T FOR LITTLE DONALD?

12 A HUH-UH.

13 Q IT WASN'T FOR SHANNA?

14 A HUH-UH. IT WAS HIS, BUT HE WAS GONNA SMOKE IT WITH
15 US.

16 Q OKAY. SO, EVERYBODY WAS GOING TO SMOKE MARIJUANA
17 THAT DAY LIKE YOU ALWAYS DID?

18 A UH-HUH.

19 THE COURT: SIR, I JUST NEED TO REMIND YOU AGAIN—

20 A YES MA'AM. OKAY, I'M SORRY.

21 THE COURT: YOU NEED TO SAY YES OR NO. OKAY?

22 Q I'M JUST TRYING TO GET SOME OF THE DETAILS DOWN NOW.

23 OKAY? WHEN YOU GET OVER THERE THAT DAY DONALD SHOWS UP
24 AND YOU LEAVE THE HOUSE?

25 A UH-HUH.

- 1 Q WHOSE CAR ARE YOU IN?
- 2 A DONALD'S.
- 3 Q DONALD'S?
- 4 A UH-HUH.
- 5 Q WHAT KIND OF CAR IS THAT?
- 6 A TAURUS.
- 7 Q OKAY. AND THEN YOU LEAVE, AND ACCORDING TO YOUR
- 8 TESTIMONY WHERE DO YOU GO?
- 9 A WE WENT TO SOME APARTMENTS.
- 10 Q SOME APARTMENT?
- 11 A UH-HUH.
- 12 Q DO YOU REMEMBER THE NAME OF THE NEIGHBORHOOD?
- 13 A I HEARD HIM SAY ARBORWOOD, THAT WOULD BE THE
- 14 APARTMENT NAME.
- 15 Q AND THAT IS WHAT YOU HEARD HIM SAY?
- 16 A YEAH.
- 17 Q BUT YOU DON'T KNOW WHAT AREA IT WAS?
- 18 A I KNOW THE AREA IT WAS IN, BUT I DIDN'T KNOW ABOUT
- 19 THE APARTMENT COMPLEX.
- 20 Q THAT'S FINE. YOU JUST DON'T KNOW THE NAME OF THE
- 21 APARTMENTS. RIGHT?
- 22 A NO MA'AM.
- 23 Q AND WHEN YOU GOT OVER THERE, YOU TESTIFIED EARLIER
- 24 TODAY, THAT BOTH OF THEM GOT OUT OF THE CAR?
- 25 A UH-HUH.
-

1 Q AND BOTH OF THEM WENT IN?

2 A I DON'T KNOW WHO WENT IN. I KNOW...

3 Q OKAY. DID YOU KNOW WHY THEY WERE GOING IN?

4 A TO BUY MARIJUANA.

5 Q AND WHO GOT OUT OF THE CAR TO GO BUY THE MARIJUANA?

6 A SHANNA AND DONALD ADAMS.

7 Q AND HOW LONG WERE THEY-- WHO ALL WAS STAYING IN THE
8 CAR WHEN THEY WENT IN?

9 A ME AND MY COUSIN.

10 Q WHILE YOU AND YOUR COUSIN WERE WAITING, HOW LONG
11 WERE THEY INSIDE BUYING THE MARIJUANA?

12 A I DON'T KNOW. I WASN'T REALLY TRYING TO TIME IT OR
13 NOTHING. I KNOW IT WASN'T THAT LONG. IT WAS AN IN AND
14 OUT THING, SOMETHING LIKE THAT.

15 Q DO YOU KNOW WHETHER OR NOT THEY SMOKED MARIJUANA
16 WHILE THEY WERE IN THERE?

17 A NO.

18 Q YOU DIDN'T SMELL MARIJUANA WHEN THEY GOT BACK IN?

19 A NO.

20 Q AND DID YOU KNOW THAT WHEN THEY WENT IN THERE THEY
21 WERE BUYING A TEN DOLLAR BAG FOR DONALD AND A TEN DOLLAR
22 BAG FOR SHANNA?

23 A NO. WE JUST BOUGHT ONE BAG.

24 Q YOU JUST BOUGHT ONE BAG?

25 A I THINK SO, YEAH.

1 Q YOU DIDN'T SEE THE MARIJUANA, DID YOU?

2 A I KNOW WE GOT MARIJUANA, BUT HE SAID HE WAS GONNA TO
3 COP A BAG. I WAS GOING, ALL RIGHT.

4 Q I'M NOT FAMILIAR WITH THAT. I'M SORRY.

5 A THEY DIDN'T BRING IT BACK IN THE CAR. IT WAS,
6 LIKE-- YOU KNOW WHAT I'M SAYING -- A LITTLE BIT. I KNOW
7 THEY HAD MARIJUANA.

8 Q OKAY. AND YOU DON'T KNOW WHAT THEY DID WHILE THEY
9 WERE IN THERE?

10 A HUH-UH.

11 Q BUT YOU KNOW THEY CAME BACK IN THE CAR AND AT THAT
12 POINT SOMEBODY AGAIN WAS DRIVING. RIGHT?

13 A UH-HUH.

14 Q WHERE DID YOU GO THEN?

15 A WE WENT TO WAL-MART.

16 Q OKAY. AND YOU'RE SURE YOU WENT TO BUY THE MARIJUANA
17 FIRST AND THEN WENT TO WAL-MART. IS THAT RIGHT?

18 A YES MA'AM.

19 Q WHY WERE YOU GOING TO WAL-MART THAT DAY?

20 A TO GO PICK UP SOME COUGH AND COLD MEDICINE.

21 Q OH. YOU WERE GOING TO PICK UP SOME COUGH AND COLD
22 MEDICINE?

23 A UH-HUH.

24 Q WHO HAD A COLD?

25 A I HAD NO COLD.

1 Q WHO WENT IN THE STORE AT WAL-MART?

2 A ALL FOUR OF US.

3 Q ALL FOUR OF YOU. DO YOU REMEMBER YOU GAVE A
4 STATEMENT BEFORE? I'LL GET BACK TO IT.

5 A UH-HUH.

6 Q SO, SHANNA WENT IN THE STORE WITH YOU?

7 A UH-HUH. ALL FOUR OF US WENT INTO THE STORE.

8 Q AND WHO BOUGHT THE COUGH AND COLD MEDICINE?

9 A THERE WASN'T NONE THERE.

10 Q THERE WASN'T NONE THERE, WAS THERE?

11 A UH-UH, HUH-UH.

12 Q WHAT WAS THE PURPOSE IN BUYING COUGH AND COLD
13 MEDICINE?

14 A (WITNESS SHAKES IN THE NEGATIVE)

15 Q WAS IT FOR YOU?

16 A NO.

17 Q WAS IT FOR DONALD?

18 A I DON'T KNOW WHO IT WAS FOR. I JUST...

19 Q DO YOU KNOW IF IT WAS FOR SHANNA?

20 A NOT SPECIFICALLY. I KNOW WE WERE GOING TO THE STORE
21 TO GET SOME MEDICINE, COUGH AND COLD MEDICINE.

22 Q COUGH AND COLD MEDICINE?

23 A YES.

24 Q AND YOUR TESTIMONY HERE TODAY NOW IS THAT IT WASN'T
25 FOR SHANNA?

1 A YOU KNOW WHAT I'M SAYING?. I AIN'T SAYING IT WAS
2 FOR HER. I AIN'T SAYING IT WASN'T FOR ME. I'M JUST
3 SAYING IT WAS... YOU KNOW WHAT I'M SAYING?. I WASN'T
4 INTENDING ON GOING UP AND JUST BUYING THE MEDICINE
5 BECAUSE I WAS BROKE.

6 Q I UNDERSTAND YOU WERE BROKE. I'M NOT SAYING ANYBODY
7 BOUGHT ANY. BUT YOU WERE GOING TO GET MEDICINE, WEREN'T
8 YOU?

9 A UH-HUH.

10 Q AND WHEN YOU WERE BROKE-- WELL, DO YOU REMEMBER
11 GIVING A STATEMENT EARLIER THIS YEAR?

12 A UH-HUH, SAYING....

13 Q AND IT WAS-- THEY SWORE YOU TO TELL THE TRUTH, JUST
14 LIKE YOU DID TODAY?

15 A UH-HUH.

16 Q IT WAS IMPORTANT TO TELL THE TRUTH?

17 A UH-HUH.

18 Q AND YOU HAD AN OPPORTUNITY TO LOOK AT THE STATEMENT?

19 A NO, THEY DIDN'T LET ME LOOK OVER IT.

20 Q THEY DIDN'T?

21 A EARLIER, WHEN THEY-- YOU KNOW WHAT I'M SAYING?.

22 THEY DIDN'T LET ME LOOK OVER THAT. IT WAS, LIKE, OH,

23 YEAH, WHEN THEY TOLD ME TO WRITE THE STATEMENT DOWN.

24 THAT'S THE ONLY TIME I SEEN IT. IT WAS, LIKE, SEVEN OR
25 EIGHT MONTHS AGO.

1 Q SEVEN OR EIGHT MONTHS AGO. RIGHT?

2 A SOME TIME.

3 Q SO, YOU HAVE SEEN IT? I'M NOT TRYING TO TRICK YOU.

4 A I AIN'T SAYING THAT.

5 Q IS THAT WHAT YOUR TESTIMONY WAS BACK THEN?

6 A I AIN'T SAYING THAT.

7 Q LET ME ASK YOU THIS: HAVE YOU SEEN THIS, THE FIRST
8 STATEMENT YOU GAVE?

9 A YEAH. THAT WAS BEFORE I HAD GOT INCARCERATED.

10 Q THAT WAS BEFORE YOU WERE INCARCERATED, WASN'T IT?

11 A UH-HUH.

12 Q WELL, LET ME JUST TALK ABOUT A FEW OF YOUR
13 STATEMENTS AND YOUR TESTIMONY HERE TODAY. I'LL GET BACK
14 TO THOSE IN A MINUTE. IS THAT EVERYBODY THAT WENT INTO
15 THE STORE?

16 A UH-HUH.

17 Q BUT, BACK WHEN THEY WERE TAKING YOUR SWORN TESTIMONY
18 ON MARCH 24, OF THIS YEAR, THAT WASN'T YOUR TESTIMONY?

19 A WHEN WAS IT?

20 Q WHAT DID YOU GO TO WAL-MART FOR?

21 MR. STRICKLER: AT THIS POINT IN TIME I OBJECT TO
22 THE FORM OF THE QUESTION, IMPROPER PROCEDURE.

23 THE COURT: YES SIR. I'LL LET HER LAY A FOUNDATION.

24 Q DO YOU KNOW WHAT YOUR TESTIMONY WAS?

25 A YEAH. IT'S (UNINTELLIGIBLE)

1 Q SOME (UNINTELLIGIBLE) DO YOU REMEMBER THE FIRST
2 STATEMENT YOU GAVE RIGHT AFTER THIS HAPPENED BEFORE YOU
3 GOT INCARCERATED?

4 A I DON'T REMEMBER DOING THAT. I REMEMBER WRITING IT
5 DOWN, BUT I DON'T REMEMBER READING IT.

6 Q AND THIS WAS EVEN CLOSER IN TIME THAN EVEN THIS ONE,
7 OR YOUR TESTIMONY TODAY AS TO WHAT HAPPENED. RIGHT?

8 A I BELIEVE SO.

9 Q AND YOU MADE A STATEMENT THAT SAID YOU AND SHANNA
10 HAD ENTERED THE STORE?

11 A UH-HUH.

12 Q TO ACCOMPLISH A TASK?

13 A UH-HUH.

14 Q AND IN YOUR PRIOR STATEMENT YOU SAID YOU WENT TO THE
15 STORE TO BUY PILLS?

16 A UH-HUH.

17 Q PILLS TO GET HIGH?

18 A UH-UH.

19 Q DO YOU REMEMBER THAT?

20 A UH-HUH.

21 Q AND THOSE WERE COLD PILLS?

22 A UH-HUH.

23 Q AND YOU PERSONALLY DIDN'T GET ANY COLD PILLS THAT
24 DAY?

25 A AIN'T NOBODY GOT NONE.

1 Q NOBODY GOT NONE. THAT'S WHY YOU HAD TO GO TO CVS?

2 A WE DIDN'T GO TO CVS.

3 Q NO, YOU NEVER GOT THERE, DID YOU?

4 A NO.

5 Q OKAY. SO, YOU GO TO WAL-MART, BUT IT'S YOUR

6 TESTIMONY THAT YOU DON'T REMEMBER SHA GETTING THE PILLS?

7 A AIN'T NOBODY GOT NO PILLS.

8 Q BECAUSE YOUR TESTIMONY IS THAT WAL-MART WAS OUT OF

9 COLD MEDICINE?

10 A UH-HUH.

11 Q SO, YOU WEREN'T THERE WHEN SHA TOOK THOSE PILLS?

12 A WHAT DO YOU MEAN?

13 Q I'M JUST ASKING YOU IF YOU WERE OR IF YOU WEREN'T?

14 A I'M JUST....

15 Q DID YOU SEE HER TAKE THE PILLS OR GET THE PILLS?

16 A NO.

17 Q AND YOUR TESTIMONY TODAY IS THAT ALL FOUR OF YOU

18 WENT IN?

19 A YES.

20 Q AND YOUR TESTIMONY BACK IN JANUARY OF 2002, WAS THAT

21 ONLY YOU AND SHA WENT IN?

22 A UH-HUH.

23 Q AND THEN YOUR TESTIMONY IS DIFFERENT IN MARCH OF

24 2003?

- 1 A THE SAME. IN THIS ONE THIS SAME. WHAT THIS ONE WAS
2 SAYING, WHAT THIS WAS SAYING. THAT WHAT?
- 3 Q WELL, YOU COULDN'T REMEMBER AND I'M NOT TRYING TO
4 TRICK YOU.
- 5 A NO. AIN'T NO TRICK OR NOTHING.
- 6 Q OKAY.
- 7 A I'M JUST TRYING TO GET THINGS CLEAR.
- 8 Q SO, YOUR TESTIMONY IS THAT ALL FOUR OF YOU WENT?
- 9 A UH-HUH.
- 10 Q AND YOUR TESTIMONY IS THAT THERE WAS NO COLD
11 MEDICINE IN WAL-MART?
- 12 A HUH-UH.
- 13 Q AND YOU LEFT WAL-MART. RIGHT?
- 14 A UH-HUH.
- 15 Q YOUR TESTIMONY IS THAT YOU LEAVE WAL-MART. RIGHT?
- 16 A UH-HUH.
- 17 Q AGAIN, ALL FOUR OF YOU GET BACK IN THE SAME CAR?
- 18 A UH-HUH.
- 19 Q AND AFTER THE FOUR OF YOU WENT IN. RIGHT?
- 20 A UH-HUH.
- 21 Q WHEN YOU GOT BACK TO THE CAR WHO WAS DRIVING?
- 22 A SHANNA.
- 23 Q SHANNA WAS DRIVING. SHE SAID, NOW, I'LL DRIVE, OR
24 SOMETHING LIKE THAT?
- 25 A SHE WAS DRIVING.

1 Q SHE WAS DRIVING. WHERE WERE YOU ALL GOING?

2 A BACK HOME, I GUESS.

3 Q BACK HOME?

4 A UH-HUH.

5 Q AND YOU'VE BEEN INCLUDED ALL CONVERSATIONS THAT DAY.

6 ACCORDING TO YOU, YOU'RE GOING BACK HOME?

7 A NOT-- WE WERE GOING BACK TOWARDS MY WAY. YOU KNOW

8 WHAT I'M SAYING?. TOWARDS MY WAY. I WASN'T MUCH AWARE

9 THAT WE WERE GOING STRAIGHT TO CVS. YOU KNOW WHAT I'M

10 SAYING?. I THOUGHT WE HAD MISSED AN EXIT OR SOMETHING.

11 I DON'T KNOW.

12 Q I UNDERSTAND YOU MAY NOT KNOW.

13 A UH-HUH.

14 Q I'M NOT TRYING-- I'M JUST TRYING TO GET TO WHAT YOU

15 DO KNOW. OKAY? CONFUSING, ISN'T IT? BUT YOU'RE SAYING

16 THAT YOU DID KNOW YOU WERE HEADED TO ANOTHER DRUG STORE?

17 A NO, I'M NOT. I KNEW WE WERE SUPPOSED TO GO TO CVS.

18 Q OKAY. SO, WHEN YOU SAID EARLIER YOU WERE HEADING

19 HOME AND THINGS LIKE THAT, THAT WASN'T REALLY WHERE YOU

20 WERE HEADING?

21 A WE WERE SUPPOSED TO BE HEADING BACK HOME. I WAS

22 READY TO GO BACK HOME AND SMOKE, YOU KNOW.

23 Q AND YOU WERE JUST STOPPING BY CVS ON YOUR WAY TO GET

24 SOME MORE COLD PILLS?

- 1 A NO, WE DIDN'T STOP. WE DIDN'T GET NO CHANCE TO GO
2 BACK.
- 3 Q THAT'S RIGHT. YOU NEVER GOT TO YOUR PART OF TOWN.
4 RIGHT?
- 5 A HUH-UH.
- 6 Q SO, WHEN YOU LEFT, DID YOU GET ON THE HIGHWAY?
- 7 A UH-HUH.
- 8 Q DO YOU REMEMBER WHEN YOU GAVE YOUR TESTIMONY
9 EARLIER? I KNOW I KEEP REFERRING TO IT.
- 10 A UH-HUH.
- 11 Q DO YOU REMEMBER TALKING TO THEM ABOUT WHAT YOU WERE
12 DOING WHILE SHANNA WAS DRIVING AND HOW SHE WAS DRIVING?
- 13 A YES. I REMEMBER GIVING THAT TESTIMONY.
- 14 Q HOW DID YOU DESCRIBE HOW SHANNA WAS DRIVING?
- 15 A DO YOU REMEMBER TALKING ABOUT HER SPEEDING?
- 16 A SPEEDING? LIKE AS IN?
17 Q GOING OVER THE SPEED LIMIT?
18 A LIKE AS IN HOW?
19 Q TOO FAST?
20 A NOT TOO FAST. BUT SHE WASN'T SPEEDING. SHE WAS
21 DRIVING ON THE HIGHWAY.
- 22 Q OKAY. SO, YOU DIDN'T SAY IN YOUR STATEMENT OVER AND
23 OVER THAT SHE WAS SPEEDING?
- 24 A WHERE?

1 Q JUST GIVE ME A SECOND. WHILE WE'RE HERE BEFORE I
2 GET TO PAGE EIGHTEEN, WHERE IT TALKS ABOUT YOU WENT INTO
3 WAL-MART, DO YOU SEE THE HIGHLIGHTED PART DOWN THERE AT
4 THE BOTTOM?

5 A OKAY.

6 Q WHO DID YOU SAY WENT IN WAL-MART?

7 A SHANNA.

8 Q AND WHO?

9 A AND ME.

10 Q AND THOSE ARE THE ONLY TWO PEOPLE YOU INDICATED BACK
11 THEN WENT INTO WAL-MART?

12 A UH-HUH.

13 Q BUT NOW IT'S A LITTLE DIFFERENT?

14 A THEY ASKED ME WHO WENT IN THE STORE, LIKE, ME AND

15 SHA.

16 Q YES.

17 A I JUST...

18 Q AND NOW, IT'S DIFFERENT?

19 A I MEAN,... MA'AM?

20 Q RIGHT BEFORE THAT, IT SAYS LISTENED TO LOUD MUSIC
21 AND SPEEDING. IS THAT RIGHT?

22 A I DIDN'T SAY THAT WE WERE LISTENING TO LOUD MUSIC.

23 THEY PROBABLY PUT THAT FOR ME. I SAID WE WAS LISTENING
24 TO MUSIC.

25 Q THE COURT REPORTER PUT IT DOWN WRONG FOR YOU?

1 A I GUESS. I DIDN'T SAY LISTENING TO LOUD MUSIC.

2 Q YOU DIDN'T SAY LISTENING TO LOUD MUSIC AND SPEEDING?

3 A NO.

4 Q WHEN THEY ASKED YOU WERE YOU LISTENING TO LOUD MUSIC
5 AND SPEEDING AND YOU SAID YEAH?

6 A I SAID WE WERE LISTENING TO MUSIC.

7 Q AND WHO WAS DRIVING, AND YOU SAID SHA?

8 A YEAH, YES MA'AM.

9 Q YOU WERE DOING DOWN THAT, WHAT HIGHWAY? DO YOU
10 REMEMBER?

11 A ON THAT, LIKE, THERE. I DIDN'T SAY WE WERE
12 SPEEDING.

13 Q I UNDERSTAND THAT'S YOUR TESTIMONY NOW. THEY MAY
14 HAVE WRITTEN IT DOWN WRONG ABOUT WHAT YOU SAID. OKAY.

15 A (NO RESPONSE)

16 Q BUT TODAY--

17 MR. STRICKLER: IS THAT A QUESTION? I OBJECT TO
18 HER STATEMENTS.

19 THE COURT: I THINK IT WAS A QUESTION. I THINK MR.
20 TRAPP DIDN'T RESPOND.

21 Q IT'S OKAY. THEN, YOU WERE GOING DOWN WHAT HIGHWAY?

22 A GOING DOWN I-20.

23 Q YES SIR.

24 A AND...

1 Q I-20 FROM-- DO YOU GET ON I-20 RIGHT THERE AT WAL-
2 MART?

3 A WE GOT ON SOME HIGHWAY.

4 Q I UNDERSTAND YOU MAY NOT KNOW THE NAME OF IT. I
5 DON'T KNOW THE NAME OF A LOT OF THEM. WHEN YOU GOT ON
6 THE HIGHWAY WHAT HAPPENED?

7 A WE GOT INTO A CRASH.

8 Q A CRASH. SO YOU WERE ON THE SAME HIGHWAY THE WHOLE
9 TIME BEFORE THE CRASH?

10 A ME?

11 Q DID YOU STAY THERE ON THE HIGHWAY BEFORE THE CRASH?

12 A UH-HUH.

13 Q AFTER YOU GOT ON AT WAL-MART. SO, YOU'RE ON THE
14 SAME HIGHWAY AS FAR AS YOU KNOW?

15 A UH-HUH.

16 Q AND I BELIEVE YOUR TESTIMONY IS, AND CORRECT ME IF
17 I'M WRONG, BUT WHAT WERE TELLING ME, YOU SAID THAT RIGHT
18 BEFORE THE CRASH. OKAY. I'M GOING TO TURN YOUR
19 ATTENTION TO RIGHT BEFORE THE CRASH. OKAY.

20 YOUR TESTIMONY NOW IS THAT SHANNA WAS DRIVING
21 STRAIGHT, I BELIEVE. IS THAT TRUE?

22 A UH-HUH.

23 Q AND RIGHT BEFORE THE CRASH SHE WAS DRIVING STRAIGHT.
24 RIGHT?

25 A UH-HUH.

1 Q AND WHAT LANE IS SHE IN?

2 A IN THE LEFT, LEFT LANE.

3 THE COURT: MS. CAMPBELL, I DON'T MEAN TO INTERRUPT.
4 MR. TRAPP, AGAIN, YOUR HEAD MOVEMENTS. THE JURY CAN SEE
5 THOSE, BUT THE RECORD CANNOT REFLECT WHAT YOUR TESTIMONY
6 IS UNLESS YOU SAY YES, YOU KNOW, RESPOND IN SOME VERBAL
7 COMMUNICATION OF WHAT YOUR ANSWER IS.

8 A YES MA'AM.

9 Q THANK YOU. I'M GOING TO DRAW LINES JUST TO
10 REPRESENT THE HIGHWAY. OKAY?

11 A UH-HUH.

12 Q THERE'S THE MEDIAN, OKAY, WHICH IS THIS PART.
13 RIGHT? DO YOU REMEMBER THERE BEING A GRASS MEDIAN?

14 A WHERE IS THE—

15 Q I'M MAKING ANOTHER LANE. HOW MANY LANES ARE ON YOUR
16 SIDE OF THE ROAD?

17 A I THINK TWO OR THREE. I CAN'T REMEMBER.

18 Q TWO OR THREE, PROBABLY TWO. IS THAT WHAT YOU JUST
19 SAID?

20 A MAYBE.

21 Q THERE WAS ANOTHER LANE OF TRAFFIC COMING THE OTHER
22 WAY?

23 A UH-HUH.

24 Q AND THAT WOULD HAVE TWO?

25 A YEAH.

1 Q I MEAN, THIS ISN'T TO SCALE OR ANYTHING AND I CAN'T
2 DRAW.

3 A IT LOOKS LIKE IT, THOUGH.

4 Q BUT WHICH WAY WERE YOU GOING?

5 A WE WERE IN THIS LANE UP THIS WAY.

6 Q THE LEFT LANE GOING UP THIS WAY?

7 A UH-HUH.

8 Q SO, IF I DRAW THIS ARROW THAT SHOWS WHAT DIRECTION
9 YOU WERE GOING?

10 A (NODS IN THE AFFIRMATIVE)

11 Q OKAY. AND THEN I MENTIONED THAT THE NEXT THING YOU
12 NOTICED-- AND YOU HAD BEEN ON THAT HIGHWAY FOR A WHILE.
13 RIGHT?

14 A I AIN'T SAYING A WHILE, BUT, TOO, LIKE THAT.

15 Q SINCE WAL-MART?

16 A YEAH, SINCE WAL-MART.

17 Q I'M NOT PINNING YOU DOWN ON TIME, BUT SINCE WAL-MART
18 YOU HAD BEEN ON THIS HIGHWAY. RIGHT?

19 A YES MA'AM.

20 Q YOU HADN'T EXITED OR GONE ON THE SIDE OF THE ROAD OR
21 ANYTHING LIKE THAT?

22 A HUH-UH.

23 Q OKAY. SO, YOU'RE JUST STAYING ON THAT HIGHWAY AND
24 YOU HAD BEEN PAYING ATTENTION. RIGHT?

25 A TOWARD?

1 Q YOU TESTIFIED ON DIRECT THAT YOU HAD BEEN WATCHING.
2 EVEN AS YOU WERE LISTENING TO MUSIC YOU WERE WATCHING?

3 A I WAS WATCHING, YEAH.

4 Q AS FAR AS THE DRIVING WAS GOING?

5 A YEAH.

6 Q WHY WERE YOU WATCHING?

7 A BECAUSE I WAS JUST LOOKING FORWARD.

8 Q FORWARD, THAT'S UNDERSTANDABLE, JUST LIKE LOOKING
9 FORWARD, LISTENING TO MUSIC?

10 A YES MA'AM.

11 Q HOW LOUD WAS THE MUSIC THAT DAY?

12 A AT THE STATE WHERE I COULD LISTEN TO IT.

13 Q WHERE EVEN I COULD LISTEN TO IT?

14 A NOT ROCK AND ROLL, WHICH IS A LITTLE-- YOU KNOW,
15 HOW YOU TURN UP MUSIC WHEN YOU LIKE SOMETHING, SOMETHING
16 LIKE THAT.

17 Q IT'S PRETTY LOUD AND YOU'RE CHILLING, LISTENING TO
18 MUSIC, I BELIEVE WAS YOUR TESTIMONY. I'M NOT TRYING TO
19 PUT WORDS IN YOUR MOUTH.

20 A YEAH, OKAY.

21 Q OKAY. YOU WERE PAYING ATTENTION TO THE DRIVING AND
22 YOU HAD BEEN ON THIS HIGHWAY FOR A WHILE. HOW LONG HAD
23 YOU BEEN IN THAT LEFT-HAND LANE? DO YOU REMEMBER?

24 A I CAN'T REMEMBER.

25 Q YOU CAN'T REMEMBER, THOUGH?

1 A HUH-UH.

2 Q IT COULD HAVE BEEN YOU WERE IN THAT LEFT LANE FOR A
3 MILE OR LESS THAN A MILE. DO YOU REMEMBER?

4 A MAYBE.

5 Q HAD SHE BEEN SWITCHING BACK AND FORTH LANES OR HAD
6 SHE BEEN PRETTY STEADY, LIKE I SAID, DRIVING STRAIGHT?

7 A SHE WAS-- I AIN'T SAYING SHE WAS DRIVING STRAIGHT.
8 SHE KNOWS HOW TO DRIVE. THAT'S WHAT I WAS SAYING WHEN I
9 SAID DRIVING STRAIGHT. THAT'S WHAT I WAS SAYING.

10 Q BUT SHE HADN'T BEEN VEERING IN AND OUT OF LANES AND
11 DRIVING RECKLESSLY OR ANYTHING, HAD SHE?

12 A NO. SHE CAME OVER TO THE LEFT LANE. AFTER SHE GOT
13 IN THE LEFT LANE SHE STAYED THERE.

14 Q SHE STAYED THERE?

15 A UH-HUH.

16 Q SO, SHE HAD BEEN IN THIS LEFT LANE A GOOD WHILE
17 BEFORE THIS WRECK HAPPENED, A LITTLE WHILE, THIRTY
18 SECONDS OR A MINUTE?

19 A NOT LONG AND NOT SHORT. NOT LONG. I THINK IT WAS
20 TWENTY.

21 Q OKAY. BUT SHE DIDN'T HAVE TO SUDDENLY VEERING TO
22 THE LEFT LANE?

23 A MEANING?

24 Q I JUST WANT TO MAKE SURE SHE WASN'T DRIVING
25 RECKLESSLY.

- 1 A NO, SHE WASN'T DRIVING RECKLESS.
- 2 Q SHE DIDN'T HAVE TO VEER SUDDENLY INTO THAT LEFT
- 3 LANE, DID SHE?
- 4 A MEANING, WHAT DO YOU MEAN?
- 5 Q TURN THE WHEEL AND GO IN THE LEFT LANE SUDDENLY.
- 6 A YEAH, SHE DROVE. SHE GOT IN HER LEFT LANE.
- 7 Q SHE HAD BEEN IN THE LEFT LANE?
- 8 A SO, YOU WERE SAYING? I'M SAYING SHE GOT IN THE
- 9 LEFT LANE AND SHE WAS JUST, LIKE, JUST PUSHING, LIKE,
- 10 DRIVING THE CAR.
- 11 Q STRAIGHT DOWN THE LEFT LANE?
- 12 A YEAH, STRAIGHT DOWN THE LEFT LANE.
- 13 Q I KNOW I'M CONFUSING. I'M SORRY. I DIDN'T MEAN TO
- 14 CONFUSE YOU. SHE WAS DRIVING STRAIGHT DOWN THE LEFT
- 15 LANE. SHE HAD BEEN THERE FOR A LITTLE BIT.
- 16 A UH-HUH.
- 17 Q THEN YOU SAID THE NEXT THING THAT CATCHES YOUR
- 18 ATTENTION WAS OUT OF THE CORNER OF YOUR EYE. RIGHT?
- 19 A YES MA'AM.
- 20 Q WHICH WAS WHAT?
- 21 A A TRUCK.
- 22 Q A TRUCK?
- 23 A UH-HUH.
- 24 Q WHAT KIND OF TRUCK? DO YOU REMEMBER WHAT COLOR IT
- 25 WAS?

1 A A LONG, WHITE.

2 Q A LONG, WHITE TRUCK. WHERE WAS THE LONG, WHITE
3 TRUCK WHEN YOU FIRST SAW IT?

4 A I KNOW IT WAS ON THIS SIDE.

5 Q IT WAS IN THIS LANE RIGHT NEXT TO YOU. I JUST NEED
6 TO KNOW IF IT'S ON THE RIGHT.

7 A IT WAS ON OUR RIGHT SIDE.

8 Q ON YOUR RIGHT SIDE. RIGHT? IN THE LANE NEXT TO
9 YOU?

10 A I DON'T-- SOMEBODY SAID...

11 Q NO. YOU CAN TALK ABOUT WHAT OTHER PEOPLE TOLD YOU.
12 WE'RE TALKING ABOUT WHAT YOU SAW.

13 A I SEEN THE TRUCK. I CAN'T SAY WHETHER IT WAS IN MY
14 RIGHT LANE, RIGHT NEXT TO ME. OR WAS IT-- THEY SAY IT
15 WAS THREE LANES, OR WHATEVER.

16 Q NO SIR. I'M JUST ASKING YOU WHAT YOU KNOW, NOT WHAT
17 THEY TOLD YOU.

18 A OKAY. THE WHITE TRUCK WAS IN THE WHITE LANE.

19 MR. STRICKLER: I'LL OBJECT. NO ONE HAS EVER--

20 THERE'S NO TESTIMONY ANYONE COULD HAVE EVER TOLD HIM TO
21 SAY A THING.

22 A NO, NOT TELLING ME THAT.

23 MR. STRICKLER: I OBJECT TO THAT STATEMENT.

1 THE COURT: ALL RIGHT. HOLD ON A SECOND, MR. TRAPP.
2 I UNDERSTAND. I THINK I UNDERSTAND. I THINK THE JURY
3 UNDERSTANDS.

4 Q NOT ANYTHING THAT ANYBODY ELSE SAID OR TOLD YOU TO
5 SAY, IS ALL I'M TRYING TO SAY.

6 MR. STRICKLER: OBJECT AGAIN.

7 Q WHERE DID YOU SEE IT?

8 THE COURT: YES SIR. OVERRULED.

9 A MA'AM?

10 Q WE'RE BACK TO THE TRUCK. I'M SORRY. WHERE DID YOU
11 SEE THE TRUCK THAT YOU REMEMBERED?

12 A ON THIS SIDE OF US.

13 Q IN THIS LANE?

14 A YES MA'AM.

15 Q AND IF I PUT IT HERE, IS THAT ABOUT HOW IT WOULD BE
16 NEXT TO YOU ALL?

17 A NO. I THOUGHT IT'S--

18 Q IT WAS LONGER?

19 A YEAH, ABOUT.

20 Q WENT UP FURTHER?

21 A NO, NOT LIKE THAT. YEAH, YOU COULD SAY IT LOOKED
22 LIKE THAT.

23 Q LIKE WHAT, LIKE THAT?

24 A YEAH.

25 Q WOULD THAT BE ABOUT RIGHT?

1 A UH-HUH.

2 Q OKAY. AND I BELIEVE YOUR TESTIMONY ON DIRECT WAS
3 SOMETHING ABOUT WHEN SHE VEERED OFF TO THE LEFT OR
4 SOMETHING. I DIDN'T UNDERSTAND THAT. CAN YOU EXPLAIN
5 THAT TO ME?

6 A LIKE, THE TRUCK, IT WAS COMING UP, LIKE, A LITTLE
7 SIGNAL, LIKE, A SIGNAL TRYING TO COME OVER THERE. I
8 GUESS IT'S LIKE A LONG THING ON THE BACK. IT WAS TOO
9 LONG. IT WAS GETTING CLOSE TO THE FRONT. RIGHT. LIKE,
10 THE FRONT, RIGHT END AND STUFF. SHE WAS, LIKE, VEERING
11 TO THE LEFT JUST A LITTLE BIT. THAT'S WHEN DONALD
12 SNATCHED THE STEERING WHEEL AND STARTED EVERYTHING OUT OF
13 CONTROL.

14 Q I WANT TO MAKE SURE THAT I UNDERSTAND THIS. THIS
15 TRUCK WAS RIGHT HERE. RIGHT? AND IT'S A LONG TRUCK?

16 A UH-HUH.

17 Q AND SO, ALL THIS HAPPENS LIKE THAT. RIGHT? JUST
18 LIKE THAT? JUST WHEN HE GRABS THE WHEEL, IT HAPPENED
19 JUST LIKE THAT, DIDN'T IT?

20 A (WITNESS NODS IN THE AFFIRMATIVE)

21 Q AND SHE'S VEERING TO GO OVER INTO THE MEDIAN A
22 LITTLE BIT BECAUSE HE'S GOT HIS BLINKER ON? RIGHT?
23 SHE'S DRIVING. RIGHT? I MEAN, YOU UNDERSTOOD WHAT SHE
24 WAS DOING. SHE WAS MANEUVERING, I BELIEVE WAS YOUR WORD.

1 SHE'S PUTTING ON THE BRAKES. DID YOU FEEL THE CAR
2 BRAKING?

3 A I FEEL IT, LIKE-- IT WAS, LIKE-- YOU KNOW HOW IT
4 IS.

5 Q I KNOW. AND THEN IT'S CAUGHT. SHE IS SWERVING JUST
6 A LITTLE TO THE LEFT BECAUSE OF THIS BLINKER. RIGHT?

7 A YEAH, LIKE A LITTLE TOO CLOSE, LIKE HE WAS ABOUT TO
8 HIT HER.

9 Q LIKE TOO CLOSE?

10 A IF SHE WOULD HAVE STAYED RIGHT THERE.

11 Q AND THEN BEFORE YOU KNOW IT, HE'S GRABBING THE
12 WHEEL?

13 A YES MA'AM.

14 Q AND HE JERKS IT ALL THE WAY TOWARDS THE RIGHT,
15 TOWARDS HIM. RIGHT?

16 A BEFORE I SEEN HIM DO LIKE THIS RIGHT HERE, HE HAD
17 HIT THE OTHER CAR. IT HAD HIT THE THING. BEFORE THE
18 TRUCK EVEN CRASHED, HE SNATCHED IT BACK THE OTHER WAY,
19 TOO.

20 Q OH, I DIDN'T GET THAT.

21 A HE KEPT HIS HAND ON IT. I SEEN IT. IT WAS LIKE WE
22 WENT THIS WAY AND THAT'S WHEN WE JUST-- WE STARTED JUST
23 GOING ON AND CRASHED.

24 Q SO, YOUR TESTIMONY NOW IS THAT HE SNATCHES THE WHEEL
25 IN THIS DIRECTION. RIGHT?

1 A UH-HUH.

2 Q AND THEN HE SNATCHES THE WHEEL BACK IN THAT
3 DIRECTION?

4 A UH-HUH.

5 Q AND THEN YOU HAD THE WRECK. RIGHT?

6 A UH-HUH. WE DIDN'T REALLY ASK HIM ABOUT WHEN HE
7 STUCK HIS HAND ON THE STEERING WHEEL BUT HE SNATCHED IT.
8 IT HAD HIT THE WHITE PART.

9 Q THAT'S WHEN HE SNATCHED BACK IS WHEN IT HIT THE
10 TRUCK?

11 A NO. HE HAD SNATCHED TO THE RIGHT. THAT'S WHEN WE
12 HIT THE TRUCK. WHEN HE SNATCHED TO THE LEFT THAT'S WHAT
13 CAUSED US TO, LIKE, STARTING THE COLLISION.

14 Q SO, HE DIDN'T SNATCH IT LEFT UNTIL AFTER HE HIT THE
15 TRUCK?

16 A UNTIL AFTER HE HIT THE TRUCK, THAT'S WHEN HE
17 SNATCHED IT BACK LEFT.

18 Q THAT'S WHAT I DIDN'T UNDERSTAND. SO, YOU HIT THE
19 TRUCK, LIKE, RIGHT HERE?

20 A UH-HUH.

21 Q AND THEN HE SNATCHES BACK TO THE LEFT?

22 A UH-HUH. WE JUST....

23 Q SO, THERE'S NO QUESTION THAT HE JUST SNATCHED TO THE
24 RIGHT AND YOU IMMEDIATELY HIT THE TRUCK?

25 A UH-HUH.

1 Q AND DID YOU HIT THE TRACTOR TRAILER PART OF THE
2 TRUCK, THE TRAILER PART?

3 A LIKE, THE WHITE PART?

4 Q YES.

5 A YES.

6 Q THE TRAILER PART?

7 A YES MA'AM.

8 Q WHICH IS THE PART THAT'S PULLED BEHIND?

9 A YES, THE REAR, YES MA'AM.

10 Q HIT THE TRACTOR. AND THAT WAS THE ONLY TRUCK OUT
11 THERE CAUSING YOU ALL ANY PROBLEMS THAT DAY, WASN'T IT?

12 A I KNOW SOMEHOW WE ENDED UP ON THE SAME SIDE RIGHT
13 HERE.

14 Q THAT'S RIGHT.

15 A NOT ROOM ENOUGH FOR THE CAR TO STOP WHEN I OPENED MY
16 EYES.

17 Q SOMEWHERE ON THE SIDE, SOMEWHERE OVER HERE?

18 A I OPENED MY EYES. IT WAS ALL-- THE COLLISION, IT
19 WAS, LIKE, THE TRUCK ON THIS SIDE. THERE WERE BAD
20 ACCIDENTS, TOO.

21 Q OKAY. I JUST WANT TO MAKE SURE I UNDERSTOOD EXACTLY
22 WHAT YOU DID AND EVERYTHING. THAT WAS THE ONLY TRUCK
23 CAUSING YOU ANY PROBLEMS THAT DAY THAT YOU SAW?

24 A YEAH, I GUESS.

- 1 Q YEAH. AND THEN THE CRASH HAPPENED. WERE YOU HURT,
2 SIR?
- 3 A NO MA'AM.
- 4 Q WAS ANYBODY IN YOUR CAR HURT?
- 5 A DONALD HAD SOME GLASS IN HIS FACE.
- 6 Q DONALD DID?
- 7 A DONALD ADAMS HAD GLASS IN HIS FACE.
- 8 Q DONALD ADAMS HAD GLASS IN HIS FACE?
- 9 A UH-HUH. AND SHANNA HAD SOME SCRATCHES AND BRUISES
10 AND STUFF LIKE THAT.
- 11 Q THE SCRATCH ON HER ARM?
- 12 A I THINK SO. YOU DON'T REMEMBER. SO, WAS EVERYONE
13 PRETTY MUCH OKAY IN YOUR CAR?
- 14 A YEAH, PRETTY MUCH.
- 15 Q DID YOU HAVE YOUR SEAT BELT ON?
- 16 A I DIDN'T HAVE MY SEAT BELTS ON.
- 17 Q OKAY. BUT ONCE YOU GOT OUT OF THE CAR DID THE
18 POLICE COME?
- 19 A ABOUT FIFTEEN MINUTES LATER.
- 20 Q FIFTEEN, TWENTY MINUTES LATER?
- 21 A UH-HUH.
- 22 Q AND THEN WHEN THE POLICE CAME, DID YOU TALK TO THEM.
- 23 A (WITNESS SHAKES IN THE NEGATIVE)
- 24 Q DO YOU REMEMBER TALKING TO THIS OFFICER BRIEFLY AT
25 THE SCENE?

1 A NO REALLY. I THINK I TALKED TO HIM, BUT NOT TALKED
2 TO, YOU KNOW.

3 Q DO YOU REMEMBER TALKING TO HIM RIGHT AFTER THE WRECK
4 HAPPENED?

5 A HUH-UH.

6 Q DO YOU REMEMBER HIM ASKING YOU WHAT HAPPENED THAT
7 DAY?

8 A HUH-UH.

9 Q DO YOU REMEMBER TELLING HIM THE TRUCK VEERED IN
10 FRONT OF YOU AND CAUSED THE WRECK?

11 A YES, I THINK I REMEMBER TELLING HIM THAT, BUT I
12 DON'T THINK HE WROTE NOTHING DOWN. HE JUST ASKED ME A
13 FEW QUESTIONS AND JUST TOLD ME SOMETHING ABOUT LEAVING OR
14 SOMETHING LIKE THAT.

15 Q TOLD YOU NOT TO LEAVE?

16 A NO. HE TOLD ME I COULD LEAVE.

17 Q HE TOLD YOU TO LEAVE?

18 A AND ONE OTHER OFFICER, I COULD JUST LEAVE.

19 Q HE TOLD YOU THAT YOU COULD LEAVE THE SCENE OF THIS
20 CRASH?

21 A ONE OFFICER DID.

22 Q ONE OF THE OFFICERS DID. THAT'S YOUR TESTIMONY. DO
23 YOU REMEMBER THAT OFFICER TELLING YOU NOT TO LEAVE, THAT
24 HE NEEDED TO GET A STATEMENT FROM YOU THAT DAY?

25 A NO, I DON'T REMEMBER THAT.

1 Q DO YOU REMEMBER TELLING ONE OFFICER, THOUGH, THAT
2 THE TRUCK THAT CAUSED THE WRECK, THAT IT WAS THE TRUCK'S
3 FAULT AND HE NEEDED TO FIND YOU AND ASK WHAT CAUSED THE
4 WRECK?

5 A I BELIEVE SO.

6 Q JUST TO GET THE RECORD STRAIGHT, WHO WAS DRIVING
7 THAT CAR WHEN THE WRECK OCCURRED?

8 A SHANNA.

9 Q YOU DIDN'T TELL ANYBODY THAT DAY RIGHT WHEN THIS
10 HAPPENED, AND YOU UNDERSTOOD THIS WAS A SERIOUS ACCIDENT?

11 A I WAS TRYING TO STAY THERE. YOU KNOW WHAT I'M
12 SAYING?. TRYING TO STAY AND THEY WEREN'T LISTENING TO
13 ME.

14 Q YOU WERE TRYING TO STAY?

15 A I DIDN'T HAVE NO RIDE. I HAD NO CHOICE BUT TO STAY.

16 Q OKAY. DO YOU REMEMBER GIVING YOUR STATEMENT BACK IN
17 MARCH OF THIS YEAR? YOU TOLD THE REASON YOU HAD TO LEAVE
18 IS THAT YOU WERE SUPPOSED TO BE HOME WASHING DISHES?

19 A YES.

20 Q THAT'S NOT THE REASON YOU LEFT, THOUGH, IS IT?

21 A I DIDN'T TELL THEM I HAD TO BE HOME WASHING NO
22 DISHES. I TOLD SOMEBODY ELSE THAT, THOUGH.

23 Q OKAY. YOU TOLD THESE PEOPLE THAT BACK IN MARCH?

24 A YEAH, THEM, YEAH.

1 Q OKAY.. YOUR TESTIMONY IS NOW YOU LEFT THE SCENE JUST
2 BECAUSE THEY TOLD YOU TO?

3 A YEAH. THEY TOLD ME.. MY PURPOSE OF GOING...

4 Q SO, THEY GAVE YOU A RIDE TO THE SCENE?

5 A NO, THEY DID NOT.

6 Q THE POLICE OFFICERS TOLD YOU JUST TO LEAVE THE SCENE
7 AND THEY DIDN'T GIVE YOU A RIDE, YOU AND YOUR FOURTEEN-
8 YEAR OLD COUSIN?

9 A YES.

10 Q HOW DID YOU LEAVE?

11 A WHAT'S HIS NAME, DONALD ADAMS, AFTER THEY HAD TOOK
12 HIM, THEY TOLD US-- YOU KNOW WHAT I'M SAYING?. AFTER
13 THEY TOLD HIS FAMILY, THEY TOLD ME I COULD CATCH A RIDE
14 WITH HIS FAMILY. THAT'S WHO REALLY TOOK ME HOME, HIS,
15 DONALD'S SISTER, THE OWNER OF THAT TAURUS.

16 Q THE OWNER OF THE TAURUS SHOWED UP AT THE SCENE---

17 A NO.

18 Q ---GAVE YOU A RIDE HOME?

19 A HIS SISTER GAVE ME A RIDE HOME.

20 Q HIS SISTER, DONALD'S SISTER, GAVE YOU A RIDE HOME?

21 A UH-HUH.

22 Q AND YOU DON'T REMEMBER THE POLICE ASKING YOU TO STAY
23 AND GIVE A STATEMENT TO THEM BECAUSE OF THE ACCIDENT,
24 IT'S IMPORTANT?

25 A HUH-UH.

1 Q THEY DIDN'T GIVE YOU A RIDE HOME?

2 A THEY SAID I COULD BE DISMISSED.

3 Q BE DISMISSED?

4 A WHEN THEY TOLD ME I COULD LEAVE, I BOUNCED.

5 Q DID YOU THINK THAT IT WAS IMPORTANT TO TELL THE
6 POLICE THERE THAT DAY ABOUT WHAT HAD HAPPENED, ABOUT WHAT
7 DONALD HAD DONE, AND HOW IT CAUSED THE WRECK?

8 A YEAH, IT WAS IMPORTANT, BUT THEY DIDN'T GIVE ME THE
9 TIME. THEY DIDN'T WANT ME FOR QUESTIONING. THEY WAS
10 WORRIED ABOUT SHANNA AND DONALD. THEY REALLY WEREN'T TRY
11 TO CRASH ON ME OR MY LITTLE COUSIN.

12 Q LET ME MAKE SURE I DIDN'T MISUNDERSTAND YOU. YOU DO
13 REMEMBER TALKING TO THE OFFICERS?

14 A YEAH. I REMEMBER TALKING TO HIM, BUT NOT, LIKE,
15 TALKING TO HIM ABOUT THE ACCIDENT. HE ASKED ME LIKE TWO
16 OR THREE BRIEF QUESTIONS.

17 Q DO YOU REMEMBER TELLING HIM ON THAT DAY NOTHING
18 ABOUT DONALD SNATCHING IT? YOU DIDN'T TELL HIM THE THING
19 ABOUT DONALD SNATCHING THE WHEEL THAT DAY?

20 A HE DIDN'T ASK ME ANYTHING.

21 Q HE DIDN'T ASK YOU WHAT HAPPENED. YOU TOLD HIM THAT
22 THE TRUCK HAD CUT YOU OFF AND IT WAS THE TRUCK'S FAULT.

23 A UH-HUH.

24 Q DO YOU REMEMBER SAYING THAT?

25 A UH-HUH.

- 1 Q AND THAT'S WHAT YOU TOLD HIM THAT DAY?
- 2 A UH-HUH.
- 3 Q IT WASN'T UNTIL THE NEXT DAY, THE NEXT AFTERNOON---
- 4 A UH-HUH.
- 5 Q ---AFTER YOU TALKED, I BELIEVE, TO THE MEDIA?
- 6 A NO, I DIDN'T TALK TO NO MEDIA.
- 7 Q YOU WEREN'T?
- 8 A NO.
- 9 Q YOU REMEMBER ONE OF THE LOCAL NEWS STATIONS, I THINK
- 10 IT WAS WIS, WAS THERE?
- 11 A UH-HUH.
- 12 Q AND TALKING TO YOU?
- 13 A YES.
- 14 Q AT THAT POINT.
- 15 A THEY ASKED ME WHAT HAD HAPPENED INSIDE THE CAR AND I
- 16 HAD TOLD THEM WHAT HAD HAPPENED.
- 17 Q OKAY. AT THAT POINT DID YOU HAVE AN OPPORTUNITY TO
- 18 MEET WITH SHANNA'S FATHER. DO YOU REMEMBER THAT?
- 19 A (NO RESPONSE)
- 20 Q I'M JUST ASKING YOU IF YOU REMEMBER. YOU MAY NOT.
- 21 A I REMEMBER SEEING HIM UP THERE.
- 22 Q DO YOU REMEMBER TALKING TO HIM?
- 23 A PROBABLY SO.
- 24 Q DO YOU REMEMBER TALKING TO HIM ABOUT WHAT YOU HAD
- 25 SAID HAPPENED IN THAT CAR THAT DAY?

1 A MAYBE.

2 Q MAYBE. AT THAT POINT IS WHEN YOU CAME FORWARD AND
3 SAID DONALD SNATCHED THE WHEEL?

4 A NO.

5 Q OKAY.

6 A NO, NO, NO. I ALREADY KNOW WHAT HAPPENED FROM THE
7 FIRST TIME IT HAPPENED.

8 Q YOU JUST HADN'T TOLD THE POLICE THAT?

9 A THEY REALLY DIDN'T GIVE ME THE TIME.

10 Q OKAY. DO YOU REMEMBER GIVING YOUR STATEMENT BACK IN
11 MARCH - AND I HATE TO KEEP HARPING ON THIS, TALKING ABOUT
12 HOW-- I'LL TURN TO PAGE 50 OF YOUR STATEMENT. THEY
13 ASKED YOU HOW WAS SHANNA DRIVING BEFORE MR. ADAMS GRABBED
14 THE WHEEL. DO YOU REMEMBER WHAT YOU REPLIED?

15 A WHAT DID I REPLY?

16 Q SHE WAS SPEEDING?

17 A UH-HUH. COULD YOU SHOW ME THAT AGAIN, PLEASE?

18 Q NOW, LET'S JUST MAKE SURE, FOR THE RECORD, TOO, THAT
19 YOU'VE GOT-- THERE WAS A TRAILER ON THAT TRUCK THAT
20 YOU HIT. RIGHT?

21 A YES.

22 Q AND SHANNA HAD BEEN IN THAT LEFT-HAND LANE DRIVING
23 GOOD, AND THEN SHE WAS FAILING TO MANEUVER IT. LET'S GET
24 ONE THING STRAIGHT. IN YOUR STATEMENT IN MARCH YOU
25 DIDN'T SAY THE TRUCK DIDN'T DO ANYTHING WRONG, DID IT?

1 A I SAID WHAT?

2 Q YOU SAID THE TRUCK HADN'T VEERED IN YOUR LANE OR DID
3 ANYTHING WRONG, DID YOU?

4 A YES, I DID. I SAID IT TRIED TO GET IN FRONT OF US.

5 Q YOU SAID IT HAD A BLINKER ON, NOT THAT IT DID
6 ANYTHING WRONG.

7 A YEAH, IT GOT IN FRONT OF US.

8 Q LET ME GET THAT.

9 A I HAD TWO STATEMENTS. AS A MATTER OF FACT, THIS IS
10 ONE RIGHT HERE, TOO.

11 Q THAT'S RIGHT. YOU SAID DIFFERENT SOMETHING
12 HAPPENED, TOO.

13 MR. STRICKLER: I OBJECT TO HER COMMENTS ON THAT.
14 THAT'S AN ISSUE FOR THE JURY.

15 THE COURT: I'LL ASK THE JURY TO DISREGARD THAT LAST
16 STATEMENT.

17 MS. CAMPBELL: I APOLOGIZE, YOUR HONOR.

18 THE COURT: ALL RIGHT.

19 Q PAGE 44. I'M GOING TO ASK YOU ABOUT-- DID YOU SEE
20 THE TRUCK SWERVE OR HER SWERVE. YOU ANSWERED, NO, THE
21 TRUCK WAS DRIVING FINE.

22 A UH-HUH. BUT SHE WAS NO SWERVING.

23 Q THAT'S RIGHT. THE TRUCK WASN'T SWERVING?

24 A NO, HE DID NOT SWERVE.

1 Q HE DIDN'T CUT OVER IN FRONT OF YOU ALL OR ANYTHING,
2 DID HE?

3 A HE WAS TRYING TO GET IN FRONT OF HER, BUT THE
4 TRAILER WAS...

5 Q THAT'S ALL I'M ASKING.

6 A OKAY.

7 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

8 Q THANK YOU, MR. TRAPP.

9 THE COURT: THANK YOU, MS. CAMPBELL. MR. STRICKLER.
10 MR. STRICKLER: THANK YOU, SIR.

11 RE-DIRECT EXAMINATION BY MR. STRICKLER:

12 Q PASANTE, JUST A COUPLE OF THINGS. OKAY? MS.
13 CAMPBELL TALKED ABOUT STATEMENTS-THIS, STATEMENTS-THAT.
14 LET ME ASK YOU THIS: HAVE YOU EVER TOLD ANYONE THIS
15 STATEMENT, THE ONE GIVEN THE DAY AFTER THIS INCIDENT,
16 THAT WRITTEN STATEMENT?

17 A UH-HUH.

18 Q THAT YOU GAVE TO THE HIGHWAY PATROL. THE WRITTEN
19 STATEMENT RIGHT HERE, THAT'S FROM, I BELIEVE, MARCH OF
20 THIS YEAR. DID YOU EVER TELL ANYONE ANYTHING OTHER THAN
21 DONALD ADAMS JERKED THE WHEEL ON THE CAR?

22 A WHEN THE ACCIDENT HAPPENED?

23 Q RIGHT.

24 A NO.

25 Q THAT'S WHAT YOU SAID ABOUT IT. RIGHT?

1 A YES SIR.

2 Q OKAY. NOW, YOU INDICATED THAT THE TRUCK WAS COMING
3 BY, THE WHITE TRUCK WITH THE TRAILER ON IT. RIGHT?

4 A (NODS IN THE AFFIRMATIVE)

5 Q SHANNA SLOWED DOWN. RIGHT? EVEN THOUGH IT'S A LEFT
6 TO GET IN FRONT AND THAT'S WHEN DONALD ADAMS JERKED THE
7 WHEEL?

8 A UH-HUH.

9 Q AND THEN YOU HIT A TRUCK. RIGHT?

10 A YEAH.

11 Q THE TRUCK ENDS UP GETTING HIT. IT DOESN'T HAVE A
12 TRAILER ON IT. DO YOU UNDERSTAND NOW?

13 MS. CAMPBELL: OBJECTION, YOUR HONOR. HE CAN'T TELL
14 HIM WHAT TO SAY.

15 THE COURT: YES, THAT'S A LITTLE BIT OF TESTIMONY.
16 THIS IS RE-DIRECT. I'LL LET YOU REPHRASE IT, SIR.

17 Q WELL, LET ME ASK YOU THIS: IF THE TRUCK THAT ENDS
18 UP GETTING HIT DOESN'T HAVE A TRAILER ON IT---

19 MS. CAMPBELL: OBJECTION, YOUR HONOR, TO THE
20 LEADING.

21 THE COURT: JUST---

22 A I WASN'T---

23 THE COURT: JUST TRY NOT TO LEAD THE WITNESS.

24 A I KNOW YOU SAID A TRUCK.

1 THE COURT: JUST A SECOND, MR. TRAPP. JUST A
2 SECOND, SIR. JUST TRY NOT TO LEAD THE WITNESS, SIR.
3 THIS IS RE-DIRECT.

4 MR. STRICKLER: EXCUSE ME.

5 Q SHE HAD MADE A POINT OF THE FACT THAT EVERYTHING
6 HAPPENED REAL FAST?

7 A UH-HUH.

8 Q THAT'S CORRECT. RIGHT?

9 A YES SIR.

10 Q WHEN THE TRUCK WAS PASSING YOU WITH THE SIGNAL
11 LIGHT, DID SHANNA COME DOWN, SLOW DOWN TO IT?

12 A UH-HUH.

13 Q DID THAT TRUCK HAVE A TRAILER ON IT?

14 A YES, IT DID.

15 Q OKAY. THAT'S A WHITE TRUCK WITH A WHITE TRAILER?

16 A YES SIR.

17 Q OKAY. AND THAT WAS COMING FROM WHERE? RIGHT BY THE
18 SEAT YOU WERE SITTING IN?

19 A YES SIR.

20 Q OKAY. THAT TRUCK HAD A TRAILER ON IT?

21 A YES SIR.

22 Q OKAY. DID DONALD ADAMS PULL ON THAT WHEEL AT THAT
23 POINT?

24 A YES SIR.

1 Q OKAY. AND THEN AFTER THAT, THE TRUCK GOT HIT. IS
2 THAT RIGHT?

3 A YES SIR.

4 Q NOW, YOU WENT ON AND ON ABOUT STOPPING BY PLACES TO
5 GET COLD MEDICINE OR, YOU KNOW, VARIOUS STUFF AT WAL-MART
6 IN STATEMENTS HERE AND THE STATEMENT YOU GAVE THE DAY
7 AFTER THIS INCIDENT. HAVE YOU EVER TOLD ANYONE THAT YOU
8 ACTUALLY GOT SOME COLD MEDICINE AT THOSE PLACES?

9 A NO.

10 Q OKAY. IT'S NOT IN YOUR STATEMENT YOU GAVE THE
11 POLICE THE DAY AFTER; NOT THIS DEPOSITION THAT WAS GIVEN
12 IN MARCH OF THIS YEAR. RIGHT?

13 A YES SIR.

14 Q YOU NEVER TOLD ANYONE THAT YOU GOT ANY. HAVE YOU
15 EVER TOLD ANYONE IN EITHER OF THESE STATEMENTS THAT YOU
16 ALL WERE INVOLVED IN SMOKING MARIJUANA THAT DAY?

17 A SAY THAT AGAIN, SIR.

18 Q HAVE YOU EVER TOLD ANYONE IN EITHER OF THESE
19 STATEMENTS THAT YOU ALL WERE INVOLVED IN SMOKING
20 MARIJUANA THAT DAY, THE DAY OF THE WRECK?

21 A NO SIR.

22 Q OKAY, PASANTE. THANK YOU VERY MUCH.

23 THE COURT: THANK YOU, MR. STRICKER.

24 (WHEREUPON THE READING OF THE TESTIMONY WAS CONCLUDED)

25 THE COURT: ANYTHING FURTHER, MS. AHRENS:

1 MS. AHRENS: NO, YOUR HONOR.

2 THE COURT: OKAY. LADIES AND GENTLEMAN, WE WERE
3 GOING TO TRY TO GET IN ALL THE TESTIMONY TODAY. AT THE
4 VERY LEAST WE SHOULD BE ON TRACK TO HAVE THE CLOSING
5 ARGUMENTS IN THE MORNING AND THE CHARGING OF THE LAW, AND
6 YOU CAN BEGIN DELIBERATIONS AFTER THAT IN THE MORNING.

7 WE'LL TAKE ABOUT FIVE MINUTES WHILE WE PREPARE
8 SOMETHING FOR THE NEXT TESTIMONY. SO, WE'LL SEE YOU ALL
9 IN ABOUT TEN MINUTES.

10 (WHEREUPON THE JURY EXITED THE COURTROOM AT 4:40 P.M.)

11 THE COURT: AS I UNDERSTAND, MS. AHRENS, THIS WAS
12 YOUR LAST WITNESS?

13 MS. AHRENS: FROM WHAT I UNDERSTAND, YES, YOUR
14 HONOR.

15 THE COURT: EITHER WAY, WE WILL BE ON TRACK FOR
16 CLOSINGS TOMORROW. SO, WE'LL DISCUSS WHAT WE'LL DO ABOUT
17 CLOSING AND CHARGES.

18 DOES THE STATE ANTICIPATE ANY REPLY? THEY HAVEN'T
19 FINISHED THEIR CASE YET.

20 MS. CAMPBELL: I CAN'T SAY FOR SURE WITHOUT HAVING
21 HEARD ALL OF THE DEFENSE'S WITNESSES. BUT I DO NOT
22 ANTICIPATE ANY AT THIS POINT.

23 THE COURT: WE'LL TAKE ABOUT TEN MINUTES.

24 MS. AHRENS: THANK YOU, YOUR HONOR.

25 (WHEREUPON THE COURT WAS IN RECESS AT 4:43 P.M.)

COURT IN SESSION - 4:55 P.M.

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THE COURT: MS. AHRENS.

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MS. AHRENS: YOUR HONOR, I GUESS NOW IS AS GOOD A TIME AS ANY TO TELL YOU THAT I HAVE DISCUSSED THE CASE WITH MS. KRANCHIK. AND WHEN YOU RETURN THE JURY WE'RE ACTUALLY GOING TO REST.

THE COURT: WILL MS. KRANCHIK TESTIFY?

MS. AHRENS: MS. KRANCHIK IS NOT GOING TO TESTIFY, YOUR HONOR.

THE COURT: MS. KRANCHIK, IS THAT RIGHT?

MS. KRANCHIK: YES SIR, THAT'S CORRECT.

THE COURT: HAS ANYONE FORCED YOU OR COERCED YOU NOT TO TESTIFY?

MS. KRANCHIK: NO SIR.

THE COURT: THIS IS YOUR OWN DECISION, YOU'RE TELLING ME?

MS. KRANCHIK: YES SIR.

THE COURT: THANK YOU, MS. KRANCHIK. PLEASE BRING IN THE JURY.

(WHEREUPON THE JURY ENTERED THE COURTROOM AT 4:58 P.M.)

THE COURT: MS. AHRENS.

MS. AHRENS: YOUR HONOR, AT THIS TIME THE STATE RESTS.

THE COURT: LADIES AND GENTLEMEN, AT THIS POINT YOU'VE NOW HEARD ALL THE EVIDENCE AND TESTIMONY THAT YOU

1 ARE GOING TO RECEIVE IN THIS CASE. IN THE MORNING WHEN
2 YOU COME IN YOU WILL HEAR ARGUMENTS, CLOSING ARGUMENTS
3 FORM BOTH SIDES AT THAT POINT. AFTER THAT, I WILL CHARGE
4 YOU ON THE LAW WHICH YOU WILL APPLY AND YOU WILL BEGIN
5 YOUR DELIBERATIONS. YOU WILL HAVE ALL THE EXHIBITS WHICH
6 HAVE BEEN ADMITTED INTO EVIDENCE BACK IN THE JURY ROOM
7 WITH YOU. AND YOU WILL BEGIN YOUR DELIBERATIONS THEN.

8 SIR, YOU HAVE FORTUNATELY, OR UNFORTUNATELY SAT IN
9 THAT CHAIR THE LAST FEW TIMES YOU'VE COME OUT, SO I WILL
10 MAKE YOU JURY FOREMAN. YOU ARE MR. WILLIAMS?

11 MR. WILLIAMS: YES SIR.

12 THE COURT: YOU ARE GOING TO BE THE JURY FOREMAN.
13 I'LL EXPLAIN TO YOU WHEN I CHARGE Y'ALL ON THE LAW OF
14 YOUR DUTIES AS A JURY FOREMAN. THEY WON'T BE THAT HARD,
15 I PROMISE YOU. YOU WILL BE CHARGED WITH LEADING THE JURY
16 IN THEIR DELIBERATIONS AND ALSO FILLING OUT SOME
17 PAPERWORK WITH REGARD TO THE VERDICT. I'LL EXPLAIN THAT
18 TO YOU LATER.

19 LADIES AND GENTLEMEN, AS I TOLD YOU WE HAVE FINISHED
20 THE TESTIMONY AND EVIDENCE TODAY. WE HAVE SOME MATTERS
21 TO TAKE UP OUT OF YOUR PRESENCE AT THIS POINT. SO, AT
22 THIS TIME, I WILL DISMISS YOU FOR THE EVENING. AND WE
23 WILL SEE YOU IN THE MORNING AT 9:30.

24 (WHEREUPON THE JURY EXITED THE COURTROOM AT 5:00 P.M.)

25 THE COURT: ANYTHING FURTHER?

1 MS. AHRENS: YES, YOUR HONOR. AT THIS TIME, THE
2 DEFENSE MAKES A RENEWED MOTION FOR A DIRECTED VERDICT.
3 WE HAVE PRESENTED OUR CASE AND TAKING ALL THE EVIDENCE IN
4 THE LIGHT MOST FAVORABLE TO THE STATE, WE FEEL THERE IS
5 NOT SUFFICIENT EVIDENCE TO CONVICT MS. KRANCHIK OF THESE
6 CHARGES AGAINST HER. WE FEEL THAT THE STATE HAS FAILED
7 TO PROVE THAT MS. KRANCHIK CAUSED THIS ACCIDENT. SO,
8 AGAIN, FOR THE RECORD, I DO WANT TO PUT THAT ON THE
9 RECORD TO PRESERVE IT FOR APPEAL.

10 THE COURT: I RESPECTFULLY DENY YOUR MOTION. I FIND
11 THERE IS SUFFICIENT EVIDENCE FOR THIS CASE TO GO TO THE
12 JURY.

13 MS. AHRENS: THANK YOU, YOUR HONOR.

14 THE COURT: AS TO THE CHARGE, ANY REQUESTS?

15 MS. AHRENS: YOUR HONOR, I AM GOING TO HAVE A
16 REQUEST FOR PROXIMATE CAUSE. I HAVE A COPY OF WHAT MR.
17 STRICKLER REQUESTED AT THE LAST TRIAL, WHICH IS WHAT WE
18 WOULD LIKE CHARGED. AND I WILL GIVE THE STATE A COPY OF
19 THESE, AS WELL.

20 MS. CAMPBELL: WE WOULD JUST ASK FOR THE STANDARD
21 CHARGE. I THINK IT'S PART OF THE FELONY DUI
22 ESTABLISHMENT, THAT CHARGE.

23 (WHEREUPON THE REMAINDER OF THE CHARGE CONFERENCE TOOK
24 PLACE AT THE BENCH OUTSIDE OF THE HEARING OF THE COURT
25 REPORTER)

1 THE COURT: IF EACH OF YOU WILL SEND ME A COPY OF
2 YOUR REQUESTS TO CHARGE, I WILL INCORPORATE THEM IN MY
3 CHARGE.

4 MS. CAMPBELL: THANK YOU, YOUR HONOR.

5 MS. AHRENS: YES, YOUR HONOR.

6 THE COURT: I'M NOT GOING TO RESTRICT YOU ON YOUR
7 CLOSINGS, BUT HOW LONG DO YOU ANTICIPATE TAKING?

8 MS. CAMPBELL: ABOUT TWENTY MINUTES FOR THE STATE,
9 YOUR HONOR.

10 MS. AHRENS: ABOUT THE SAME FOR THE DEFENSE, YOUR
11 HONOR.

12 THE COURT: ARE YOU GOING TO OPEN ON THE LAW, MS.
13 CAMPBELL?

14 MS. CAMPBELL: I'LL OPEN ON THE LAW, YOUR HONOR. IT
15 SHOULD BE ABOUT TWENTY MINUTES.

16 THE COURT: YOU'LL OPEN AND CLOSE?

17 MS. CAMPBELL: YES SIR.

18 THE COURT: OKAY. IF THERE'S NOTHING FURTHER, I'LL
19 SEE Y'ALL AT NINE-THIRTY IN THE MORNING.

20 (WHEREUPON COURT WAS ADJOURNED AT 5:30 P.M.)

21

22

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
: COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
: PLAINTIFF,)

VERSUS)

SHANNA MARIE KRANCHIK)

DEFENDANT.)

TRANSCRIPT OF RECORD

02-GS-40-894

02-GS-40-895

02-GS-40-897

VOLUME IV

JULY 14, 2005
COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE REGINALD I. LLOYD, JUDGE, AND A JURY

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

FOR THE STATE:

KATHRYN LUCK CAMPBELL, ESQ., ASSISTANT SOLICITOR

AARON S. JOPLIN, ESQ., ASSISTANT SOLICITOR

FOR THE DEFENSE:

DEBORAH AHRENS, ESQ., ASSISTANT PUBLIC DEFENDER

LAUREN H. MOBLEY, ESQ., ASSISTANT PUBLIC DEFENDER

PHYLLIS S. BARRETT
CIRCUIT COURT REPORTER

1 THURSDAY, JULY 14, 2005 - COURT IN SESSION - 10:00 A.M.

2 THE COURT: THANK YOU, AND BE SEATED. MA'AM, WILL
3 YOU COME DOWN, PLEASE?

4 (WHEREUPON JUROR NUMBER 102, AVA GOODWIN, CAME
5 BEFORE THE COURT)

6 WHAT HAPPENED TO YOU YESTERDAY?

7 JUROR: I GOT A FLAT TIRE. AND I CALLED THE NUMBER
8 THAT I WAS SUPPOSED TO CALL AND IT HAD THE MESSAGE THAT
9 ALL JURORS WHO WERE SUPPOSED TO REPORT FOR JURY DUTY WERE
10 CANCELLED, IT WAS CANCELLED FOR THE REST OF THE WEEK.

11 THE COURT: MS. GOODWIN, YOU SENT A NOTE OUT RIGHT
12 BEFORE WE BROKE THE DAY BEFORE SAYING YOU

13 MS. GOODWIN: I HAD

14 THE COURT: WHEN DID YOU GET YOUR FLAT TIRE?

15 MS. GOODWIN: I GOT IT ON THE WAY HOME.

16 THE COURT: DID YOU FIX IT YOURSELF?

17 MS. GOODWIN: NO. I GOT MY BOYFRIEND TO DO THAT.

18 THE COURT: WHERE'D YOU GET YOUR FLAT TIRE?

19 MS. GOODWIN: IT WAS ON THE BACK.

20 THE COURT: WHERE WERE YOU?

21 MS. GOODWIN: I WAS COMING DOWNTOWN FROM RIVER
22 STREET. I DON'T KNOW WHAT IT WAS. IT JUST WENT FLAT.

23 THE COURT: AND YOU CALLED FOR HELP?

1 MS. GOODWIN: NO, I DIDN'T CALL FOR HELP. SOMEBODY
2 LET ME USE THEIR CELL PHONE BECAUSE MINE WAS CURRENTLY
3 OFF.

4 THE COURT: SOMEBODY WHO WAS JUST PASSING BY?

5 MS. GOODWIN: YEAH. I HAD MY EMERGENCY BLINKERS ON
6 AND THEY STOPPED AND ASKED IF I NEEDED HELP.

7 THE COURT: AND YOU CALLED YOUR BOYFRIEND?

8 MS. GOODWIN: YEAH, THEY LET ME USE THEIR PHONE.

9 THE COURT: HOW FAR AWAY FROM HERE WERE YOU?

10 MS. GOODWIN: WHERE I GOT MY FLAT TIRE?

11 THE COURT: YES MA'AM.

12 MS. GOODWIN: ABOUT FIVE MINUTES BECAUSE I'M ONLY
13 ABOUT TEN MINUTES FROM HERE.

14 THE COURT: WHAT TIME DID YOU CALL THE CLERK'S
15 OFFICE?

16 MS. GOODWIN: I CAN'T REMEMBER. IT WAS AFTER I GOT
17 TO ANOTHER PHONE, AND THAT'S WHEN I GOT THAT MESSAGE
18 ABOUT COURT BEING CANCELLED.

19 THE COURT: DO YOU NOW UNDERSTAND NOW THAT MESSAGE
20 DID NOT APPLY TO YOU?

21 MS. GOODWIN: I KNOW THAT NOW.

22 THE COURT: JUST HAVE A SEAT, MA'AM. DID YOU GET
23 YOUR TIRE FIXED YET?

24 MS. GOODWIN: YES SIR.

25 THE COURT: I MEAN THE ONE THAT WENT FLAT.

1 MS. GOODWIN: YES SIR, HE FIXED IT RIGHT THERE.

2 THE COURT: RIGHT THEN. HE USED THE SPARE.

3 MS. GOODWIN: YEAH.

4 THE COURT: WHAT DID YOU DO WITH THE FLAT TIRE?

5 MS. GOODWIN: MY BOYFRIEND, HE TOOK IT SOMEWHERE TO
6 GET IT FIXED.

7 THE COURT: HAVE A SEAT. COUNSEL, ANYTHING ELSE WE
8 NEED TO TAKE UP?

9 MS. AHRENS: NOTHING FROM THE DEFENSE, YOUR HONOR.

10 THE COURT: WE HAD A CONFERENCE BACK IN CHAMBERS
11 REGARDING THE LESSER, INCLUDED OFFENSES. AS I
12 UNDERSTAND FROM THE STATE, THE STATE IS NOT PROSSING THE
13 CHILD ENDANGERMENT CHARGE.

14 MS. CAMPBELL: YES SIR, THAT'S CORRECT.

15 THE COURT: BRING THE JURY IN.

16 (WHEREUPON THE JURY ENTERED AT 10:09 A.M.)

17 GOOD MORNING, LADIES AND GENTLEMEN. WE HAVE REACHED
18 THE POINT IN THIS TRIAL WHERE WE HAVE THE CLOSING
19 ARGUMENTS FROM THE ATTORNEYS, AND AFTER THAT MY CHARGE TO
20 YOU ON THE LAW. MS. CAMPBELL.

21 MS. CAMPBELL: GOOD MORNING, LADIES AND GENTLEMEN.
22 YOU MAY REMEMBER WHEN I MADE MY OPENING STATEMENT TO YOU
23 I TOLD YOU THAT WHAT WE SAY IS NOT THE EVIDENCE. THE
24 ONLY EVIDENCE YOU SHOULD CONSIDER IS THE SWORN TESTIMONY
25 AND THE EVIDENCE PRESENTED. IF I MISQUOTE, AND I'M

1 TALKING ABOUT THE LAW, IF I SAY SOMETHING THAT'S
2 DIFFERENT FROM WHAT THE JUDGE TELLS YOU, YOU TAKE IT AS
3 THE JUDGE TELLS YOU. IT'S NOT INTENTIONAL ON MY PART.
4 BUT THE JUDGE IS THE ONLY PERSON WHO CAN GIVE YOU THAT
5 LAW. AND IN THAT SAME FASHION, LADIES AND GENTLEMEN, IF
6 ANYONE, EITHER SIDE, EITHER MYSELF OR THE DEFENSE,
7 MISQUOTE OR MISREPRESENT THE FACTS IN THIS CASE, YOU
8 REMEMBER THE FACTS. BECAUSE THE ROLES IN THE COURTROOM,
9 AS THE JUDGE TOLD YOU AT THE BEGINNING OF THIS TRIAL ARE
10 VERY, VERY WELL DEFINED. THE PROSECUTION'S ROLE IS TO
11 BRING YOU ALL RELEVANT, CREDIBLE EVIDENCE TO SHOW YOU
12 WHAT HAPPENED BACK ON JANUARY 23, 2002. AND THE
13 DEFENSE'S ROLE IS TO DEFEND THEIR CLIENT.

14 THE JUDGE'S ROLE IS TO DECIDE WHAT EVIDENCE AND
15 FACTS IS ACTUALLY ADMISSIBLE AND TO ADVISE YOU WHAT THE
16 LAW IS. BUT THE MOST IMPORTANT ROLE, LADIES AND
17 GENTLEMEN, IN THIS COURTROOM IS YOURS. EACH OF YOU,
18 INDIVIDUALLY, AND ULTIMATELY, WHEN YOU GET BACK THERE,
19 COLLECTIVELY. YOUR ROLE IS TO DETERMINE BASED ON THE
20 CREDIBLE EVIDENCE WHAT HAPPENED IN THOSE HOURS LEADING UP
21 THREE O'CLOCK AND IN THAT MOMENT ABOUT THREE P.M. ON THAT
22 WEDNESDAY AFTERNOON WHEN ONE MAN WAS PERMANENTLY DISABLED
23 AND ANOTHER MAN LOST HIS LIFE. THAT IS YOUR JOB AND
24 NOBODY IS GOING TO DISPUTE THAT YOUR JOB IS MOST
25 IMPORTANT.

1 NOW, AS I HAVE SAID, YOU MUST BASE YOUR VERDICT ON
2 THE TESTIMONY, THE CREDIBLE TESTIMONY. NOT ON QUESTIONS
3 BY THE LAWYERS, NOT INNUENDO, SPECULATION, FISHING
4 EXPEDITIONS, OR JUST PLAIN WISHFUL THINKING. YOUR
5 VERDICT MUST BE BASED ON THE CREDIBLE EVIDENCE.

6 NOW, I ALSO WANT TO TAKE THIS OPPORTUNITY TO
7 APOLOGIZE IF I HAVE IN ANY WAY OFFENDED YOU OVER THE LAST
8 SEVERAL DAYS. SOMETIMES WE GET CAUGHT IN LEGAL
9 WRANGLING. IT WAS NOT MY INTENTION IF EITHER OF US HAVE
10 DONE ANYTHING TO OFFEND YOU. PLEASE DON'T HOLD THAT
11 AGAINST MR. CROFT OR MR. OWENS. WE ARE JUST SIMPLY, AS
12 IS ANYONE IN THIS COURTROOM, TRYING TO DO OUR JOB TO THE
13 BEST OF OUR ABILITY.

14 NOW, IN CRIMINAL CASES, THEY ARE SOMEWHAT UNIQUE.
15 BECAUSE, AS YOU HAVE NOTICED OVER THE LAST SEVERAL DAYS,
16 THERE HAVE BEEN REPORTS THAT HAVE BEEN REFERRED TO,
17 STATEMENTS THAT HAVE BEEN REFERRED TO. AND ONLY IN
18 SPECIAL SITUATIONS ARE THOSE THINGS ADMISSIBLE.

19 WE HAD SOME DEPOSITIONS IN THIS CASE. THERE WAS A
20 HEARING BACK IN MARCH OF 2003, WHERE WITNESSES WERE CROSS
21 EXAMINED. WE WERE ABLE TO BRING FORTH THAT TESTIMONY
22 BECAUSE THOSE WITNESSES, MR. SHAW, MR. TRAPP, THEY
23 WEREN'T AVAILABLE, AND LIEUTENANT MAFFETT WAS OVERSEAS.
24 BECAUSE THEY HAVE BEEN CROSS EXAMINED WE ARE ABLE TO
25 BRING THAT BEFORE YOU SO THAT YOU WILL HAVE A FULL

1 PICTURE OF WHAT WAS SAID AT ALL, AND WHAT THE TESTIMONY
2 IS IN THIS CASE.

3 BUT THE DEFENDANT HAS AN ABSOLUTE RIGHT, AS SHE
4 SHOULD HAVE, UNDER OUR CONSTITUTION TO CONFRONT EACH AND
5 EVERY WITNESS AGAINST HER. AND THAT IS WHY THE DOCTOR
6 HAD TO COME IN HERE AND TESTIFY. IT WASN'T BECAUSE WE
7 HAD A REPORT SAYING HE IS A HUNDRED PERCENT DISABLED.
8 THE DOCTOR HAS TO COME HERE AND TELL YOU WHAT HAPPENED.
9 WHY LIEUTENANT MAFFETT'S TESTIMONY, SERGEANT DAY,
10 SERGEANT LEE, HAD TO COME IN HERE. WE COULDN'T JUST GIVE
11 YOU THEIR REPORTS. THE DEFENDANT HAS AN ABSOLUTE RIGHT,
12 AS SHE SHOULD, TO CONFRONT EACH AND EVERY WITNESS.

13 YOU'VE ALSO HEARD FROM SOME WITNESSES THAT WE CALL A
14 CHAIN OF WITNESSES. YOU HEARD FROM THE NURSE WHO
15 ACTUALLY DREW THE BLOOD IN THIS CASE, WHICH WAS LATER
16 ANALYZED AT SLED. AND THE REASON YOU HEARD FROM HER IS
17 THAT WE'VE HAD ALL THIS LANGUAGE ABOUT TAMPERING OF
18 EVIDENCE. WE MUST PROVE WHAT WE CALL THE CHAIN OF
19 EVIDENCE. AND WE HAVE THE EVIDENCE TO PROVE IN THIS CASE
20 THAT NO ONE TAMPERED WITH ANY OF THE EVIDENCE IN THIS
21 CASE, THAT ANYONE MAY HAVE MIXED IT UP, OR IT WAS IN ANY
22 WAY COMPROMISED. THE INTEGRITY OF THE EVIDENCE WAS
23 IMPORTANT IN THIS CASE AND THAT'S WHY YOU HEARD FROM
24 THOSE WITNESSES. AND THAT'S WHY YOU HEARD US ASK THOSE

1 QUESTIONS THAT MAY HAVE NOT SOUNDED LIKE THEY WERE
2 NECESSARY.

3 ALSO, YOU HAVE HEARD ABOUT THE DEFENDANT GIVING A
4 STATEMENT IN THIS CASE. AND YOU'RE GOING TO HAVE IT BACK
5 THERE. IF A DEFENDANT IS ADVISED OF THEIR RIGHTS AND
6 GIVEN AN OPPORTUNITY TO GIVE A STATEMENT AND THEY CHOOSE
7 TO DO SO, THEN IT IS ADMISSIBLE. AND YOU MUST DECIDE,
8 LADIES AND GENTLEMEN, AND THE JUDGE WILL INSTRUCT YOU
9 BEFORE YOU BEGIN YOUR DELIBERATIONS, WHETHER OR NOT
10 SHANNA KRANCHIK VOLUNTARILY GAVE A STATEMENT; WHETHER OR
11 NOT SHE WAS ADVISED OF WHAT WE CALL HER MIRANDA RIGHTS.
12 THE RIGHT TO REMAIN SILENT, HER RIGHT TO HAVE AN
13 ATTORNEY, ALL THOSE RIGHTS.

14 AND I ONCE AGAIN SUBMIT, LADIES AND GENTLEMEN, IN
15 THIS CASE, NO ONE IS GOING TO GET UP HERE TODAY AND SAY
16 THAT SHE WAS DEPRIVED OF ANY OF HER CONSTITUTIONAL
17 RIGHTS. THE POLICE JUMPED THROUGH EACH AND EVERY HOOP,
18 JUST LIKE THEY SHOULD HAVE TO, EVERY TIME. JUMPED
19 THROUGH EACH HOOP THEY NEEDED TO IN ORDER TO LET HER GIVE
20 HER VERSION OF WHAT HAPPENED.

21 BUT YOU MUST DECIDE WHETHER OR NOT IT WAS VOLUNTARY,
22 WHETHER SHE WAS ADVISED OF HER RIGHTS, AND IT IS THE
23 STATE'S POSITION THAT SHE VOLUNTARILY GAVE THAT
24 STATEMENT.

1 IN ALL CRIMINAL CASES, THE BURDEN OF PROOF IS ON THE
2 STATE OF SOUTH CAROLINA TO PROVE THIS DEFENDANT GUILTY
3 BEYOND A REASONABLE DOUBT. LET ME REPEAT THAT. THE
4 BURDEN OF PROOF IS ON THE STATE, AS IT SHOULD BE, TO
5 PROVE THIS DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.
6 AND I SUBMIT, LADIES AND GENTLEMEN, IN THIS CASE, PERHAPS
7 MORE THAN ANY OTHER, THE STATE WELCOMES THAT BURDEN.

8 AND WHAT IS GUILT BEYOND A REASONABLE DOUBT? OUR
9 COURTS HAVE DECIDED, THE SIMPLEST EXPLANATION THAT OUR
10 LAWS HAVE GIVEN IS A REASONABLE DOUBT IS A DOUBT THAT
11 CAUSES A REASONABLE MAN TO HESITATE TO ACT. THAT'S HOW
12 IT'S VERY SIMPLY PUT. IT'S A REASONABLE DOUBT.

13 BUT OUR COURTS IN THEIR WISDOM HAVE GONE A LITTLE
14 BIT FURTHER IN DEFINING REASONABLE DOUBT. AND VERY
15 SIMPLY, LADIES AND GENTLEMEN, YOU WILL HEAR THE JUDGE
16 WHEN YOU LISTEN CAREFULLY TO HIS CHARGE. THIS IS JUST AN
17 AID FOR YOU IN DETERMINING WHAT IS REASONABLE DOUBT.

18 PROOF IN CIVIL CASES IS PREPONDERANCE OF THE
19 EVIDENCE. AND PROOF IN CRIMINAL CASES IS A LITTLE MORE
20 THAN THAT. BUT AS YOU WILL HEAR THE JUDGE INSTRUCT YOU,
21 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU
22 FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.

23 THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW
24 WITH ABSOLUTE CERTAINTY. AND IN CRIMINAL CASES, THE LAW

1 DOES NOT REQUIRE, DOES NOT REQUIRE PROOF THAT OVERCOMES
2 EVERY POSSIBLE DOUBT.

3 IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU
4 ARE FIRMLY CONVINCED, FIRMLY CONVINCED THAT THE DEFENDANT
5 IS GUILTY OF THE CRIME CHARGED, YOU MUST FIND HIM, OR IN
6 THIS CASE, HER, GUILTY. IF, ON THE OTHER HAND, YOU THINK
7 THERE IS A REAL POSSIBILITY THAT HE IS NOT GUILTY, IF YOU
8 THINK THERE IS A REAL POSSIBILITY THAT SHANNA KRANCHIK
9 WAS NOT DRIVING UNDER THE INFLUENCE AND CAUSED THIS
10 WRECK, THEN YOU MUST FIND HER NOT GUILTY. IF YOU ARE
11 FIRMLY CONVINCED OF THIS DEFENDANT'S GUILT. THAT IS THE
12 STANDARD WHICH YOU WILL HEAR IN THE JUDGE'S INSTRUCTION
13 ON THE LAW.

14 NOW, IN THIS CASE, YOU HAVE TWO INDICTMENTS AND
15 WE'LL GO OVER THOSE. ONE HAS TO BE INCLUDED WITH THE
16 OTHER. IT'S JUST THE RESULTS WILL BE DIFFERENT. YOU
17 WILL HAVE THE INDICTMENTS, ONE OF WHICH ALLEGES FELONY
18 DUI, CAUSING GREAT BODILY INJURY. FELONY DUI CAUSING
19 DEATH. AND I'M NOT GOING TO SIT HERE AND DEFINE DEATH.
20 THERE IS NO DISPUTE THAT MR. CROFT WAS DECLARED DEAD AT
21 THE SCENE. IT TOOK THEM HOURS TO EVEN GET HIS BODY OUT
22 OF THE TRUCK. THERE'S NO DISPUTE. I'M NOT GOING TO
23 DEFINE DEATH.

1 BUT EACH OF THEM HAVE THE SAME ELEMENTS. IT'S THE
2 RESULTING INJURY AND DEATH. THAT IS THE ONLY DIFFERENCE
3 BETWEEN THE TWO.

4 WHAT IS FELONY DUI? CAUSING GREAT BODILY INJURY OR
5 DEATH BY OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF
6 DRUGS OR ALCOHOL. AND LADIES AND GENTLEMEN, LET ME TELL
7 YOU THIS RIGHT NOW, IF YOU LISTEN TO THE JUDGE, HE'S NOT
8 GOING TO SAY THAT YOU HAVE TO BE UNDER THE INFLUENCE OF
9 ALCOHOL ONLY. HE'S NOT GOING TO SAY THAT YOU HAVE TO BE
10 UNDER THE INFLUENCE OF ILLEGAL DRUGS ONLY. HE'S NOT
11 GOING TO SAY THAT YOU HAVE TO BE UNDER THE INFLUENCE OF
12 PRESCRIPTION DRUGS, OR OVER THE COUNTER DRUGS. ANY DRUG,
13 AND YOU HEARD FROM THE TOXICOLOGIST, THAT IMPAIRS YOUR
14 ABILITY TO OPERATE A MOTOR VEHICLE SAFELY, IS A DRUG.

15 AND THE LEGISLATURE, IN THEIR WISDOM, DIDN'T JUST
16 SAY, OH, IT'S GOTTA BE MARIJUANA; OH, IT'S GOTTA BE
17 ALCOHOL. THEY REALIZE THAT DIFFERENT PEOPLE-- AND THIS
18 HAS BEEN GOING ON FOR AGES. AND MAYBE THIS IS ONE OF THE
19 NEWER TRENDS. I THINK IT WAS SNIFFING GLUE AT ONE POINT.
20 DIFFERENT THINGS CAN INHIBIT YOUR ABILITY. AND THEY
21 RECOGNIZED IT AND THEY DIDN'T LIMIT IT JUST TO ILLEGAL
22 DRUGS. ALTHOUGH IT CAN BE ILLEGAL DRUGS, BUT I'LL GET
23 BACK TO THAT. AND IT CAN BE ANY KIND OF COMBINATION, A
24 COMBINATION OF LEGAL AND ILLEGAL DRUGS.

1 YOU ARE NOT GOING TO HEAR ONE WORD FROM JUDGE LLOYD
2 THAT SAYS IT HAS TO BE A CERTAIN KIND OF DRUG. SO,
3 LISTEN TO THAT. BUT ANY PERSON WHO WHILE UNDER THE
4 INFLUENCE OF ALCOHOL, DRUGS, OR THE COMBINATION OF
5 ALCOHOL OR DRUGS-- IN THIS CASE, IT'S JUST DRUGS. NO
6 ONE'S EVER ALLEGED SHANNA KRANCHIK WAS JUST DRINKING THAT
7 DAY. SHE HAD OTHER MEANS TO GET HIGH. DRIVES A VEHICLE,
8 AND WHEN DRIVING, DOES ANY ACT FORBIDDEN BY LAW.

9 OR NEGLECT ANY DUTY IMPOSED BY LAW WHILE DRIVING A
10 VEHICLE. AND WHICH ACT OR NEGLECT PROXIMATELY CAUSES
11 GREAT BODILY INJURY OR DEATH TO ANY PERSON. AND WHAT IS
12 THE DEFINITION OF GREAT BODILY INJURY? NOBODY HERE WOULD
13 GET UP AND ARGUE THAT MR. OWEN IS NOT PERMANENTLY
14 DISABLED FROM THIS INCIDENT, THAT HE SUFFERED GREAT
15 BODILY INJURY. THE MIRACLE IN THIS CASE IS HE ISN'T IN A
16 WHEELCHAIR. HE'S PERMANENTLY DISABLED. HE'LL NEVER WALK
17 WITHOUT A CANE.

18 GREAT BODILY INJURY MEANS BODILY INJURY WHICH
19 CREATES A SUBSTANTIAL RISK OF DEATH OR WHICH CAUSES
20 SERIOUS, PERMANENT DISFIGUREMENT OR IMPAIRMENT OF THE
21 FUNCTIONS OF ONE'S BODILY FUNCTIONS OR ORGANS.

22 THAT, LADIES AND GENTLEMEN, IS BASICALLY THE
23 DEFINITION OF FELONY DUI.

24 NOW, IMPAIRMENT, WHAT DOES THAT MEAN? AND THIS IS
25 DEFINED BY STATUTE AS WELL, LADIES AND GENTLEMEN. AND

1 THE JUDGE WILL TELL YOU ALL THIS. THE STATE MUST PROVE
2 BEYOND A REASONABLE DOUBT, JUST LIKE IT DID WITH
3 EVERYTHING, THAT THE DEFENDANT WAS SUFFICIENTLY UNDER THE
4 INFLUENCE, JUST SUFFICIENTLY UNDER THE INFLUENCE TO
5 IMPAIR HIS OR HER ABILITY TO DRIVE WITH REASONABLE CARE,
6 WITHOUT DUE REGARD FOR OTHERS OR HIMSELF, OR AS A
7 REASONABLY PRUDENT PERSON WOULD DRIVE.

8 THE JUDGE WILL GO ON, FURTHER THAN THAT, BECAUSE
9 IT'S JUST WHAT A REASONABLY PRUDENT PERSON WILL DO. AND
10 I SUBMIT, LADIES AND GENTLEMAN, A REASONABLY PRUDENT
11 PERSON DOESN'T SMOKE MARIJUANA, EITHER THAT DAY OR THE
12 DAY BEFORE, AND THEN COMBINE THAT WITH TWO DIFFERENT
13 DRUGS AND COLD MEDICINES. AND SHE HAD TO TAKE-- I MEAN,
14 THIS ISN'T LIKE SHE TOOK FOUR TIMES THE AMOUNT. SHE HAD
15 TO TAKE BOXES OF PILLS. SHE HAD TO DRINK A BOTTLE OF
16 COUGH SYRUP. IT'S TWENTY TO THIRTY DOSES. THIS WASN'T
17 THAT SHE HAD A BAD COLD. THIS IS A DELIBERATE,
18 INTENTIONAL ATTEMPT TO GET HIGH. AND WE KNOW SHE MUST
19 HAVE LIKED IT BECAUSE SHE WAS ON HER WAY TO CVS TO GET
20 SOME MORE.

21 WHY WOULD ANYBODY TAKE TWENTY TABLETS---

22 MS. AHRENS: YOUR HONOR, I'M GOING TO OBJECT. THIS
23 CLOSING IS SUPPOSED TO BE ON THE LAW. I THINK WE'RE
24 GETTING INTO OTHER MATTERS.

25 THE COURT: MS. CAMPBELL.

1 MS. CAMPBELL: YOUR HONOR, I'VE THE CASE THAT SAYS I
2 CAN GO INTO SOME OF THE FACTS WITH THE LAW.

3 THE COURT: SOME OF THEM, BUT I THINK YOU NEED TO
4 MOVE ON.

5 MS. CAMPBELL: I'LL BE GLAD TO MOVE ON, YOUR HONOR.
6 BUT, AS A REASONABLE PERSON WOULD DRIVE. IT IS NOT
7 NECESSARY TO SHOW THAT THE DEFENDANT WAS IN A HELPLESS
8 CONDITION, PASSED OUT, OR EVEN INTOXICATED. ON THE OTHER
9 HAND, THE FACT THAT THE DEFENDANT AT SOME TIME PRIOR TO
10 THIS INCIDENT DRANK AN ALCOHOLIC BEVERAGE OR TOOK A DRUG,
11 DOES NOT PROVE THAT THE DEFENDANT WAS DRIVING UNDER THE
12 INFLUENCE. THE LAW ALSO RECOGNIZES THAT IF YOU KNEW TO
13 TAKE SOME DRUGS FOR YOUR COLD, THAT DOESN'T MEAN YOU WERE
14 DRIVING UNDER THE INFLUENCE. IT WOULD ONLY BE WHEN YOU
15 THEN TAKE SO MUCH OR IMBIBE SO MUCH THAT HIS ABILITY TO
16 DRIVE WAS REASONABLY IMPAIRED, WITHOUT DUE REGARD FOR
17 OTHERS AND HIMSELF, OR AS A REASONABLY PERSON WOULD
18 DRIVE. THAT IS THE STANDARD, LADIES AND GENTLEMEN, IS
19 THAT HER ABILITY TO DRIVE WAS IMPAIRED.

20 THE STATE MUST ALSO PROVE BEYOND A REASONABLE DOUBT
21 THAT THE DEFENDANT THEN ACTIVELY VIOLATED THE LAW BY
22 NEGLECTING HER DUTY. AND LADIES AND GENTLEMEN, A DUTY IS
23 NOT ENDANGERING ANYONE OR SPEEDING. IN THIS CASE WE HAVE
24 MULTIPLE DUTIES. ON THAT AFTERNOON SHE WAS SPEEDING.
25 YOU KNOW WHAT THE TESTIMONY IS ABOUT THAT. SHE WAS

1 DRIVING TOO FAST FOR CONDITIONS AS FAR AS THE KIND OF
2 ROADWAY, RECKLESS DRIVING OR IMPROPER LANE CHANGE.

3 WE DON'T HAVE TO PROVE ALL THESE, LADIES AND
4 GENTLEMEN. WE JUST HAVE TO PROVE ONE. BUT I SUBMIT WE
5 HAVE PROVEN MORE THAN ONE. THESE ARE ALL POSSIBLE AND I
6 DON'T THINK THERE'S ANY DISPUTE THAT THERE WERE MULTIPLE
7 VIOLATIONS THAT DAY.

8 NOW, WHAT IS PROXIMATE CAUSE? BECAUSE THE STATUTE
9 DEFINES IT, WE MUST PROVE THAT HER ACTIONS PROXIMATELY
10 CAUSED THE WRECK, CAUSED THE INJURY OR THE DEATH OR THE
11 GREAT BODILY INJURY. AGAIN, BEYOND A REASONABLE DOUBT,
12 THE ACT OR NEGLIGENCE OF THE DEFENDANT PROXIMATELY CAUSED
13 GREAT BODILY INJURY. AND I SUBMIT, LADIES AND GENTLEMEN,
14 BUT FOR HER SPEEDING ON THAT ROAD THAT DAY, NONE OF THIS
15 EVER WOULD HAVE HAPPENED.

16 AND THAT'S AN EASIER WAY TO LOOK AT WHAT IS
17 PROXIMATE CAUSE. IT'S A BUT FOR. BUT FOR WHAT SHANNA
18 KRANCHIK CHOSE TO DO THAT DAY, BUT FOR THE FACT SHE WAS
19 IMPAIRED AND LOST CONTROL OF HER CAR, NONE OF THIS WOULD
20 HAVE HAPPENED.

21 PROXIMATE CAUSE IS THE DIRECT CAUSE. IT IS THE
22 IMMEDIATE CAUSE. IT IS THE EFFICIENT CAUSE. IT IS THE
23 CAUSE WITHOUT WHICH THE INJURY OR DEATH OF THE VICTIMS
24 WOULD NOT HAVE RESULTED.

1 THERE MUST BE A CHAIN OF CAUSATION FROM THE TIME OF
2 THE INJURY INFLICTED BY THE DEFENDANT UNTIL THE TIME OF
3 THE VICTIM'S DEATH. PROXIMATE CAUSE DOES NOT NECESSARILY
4 MEAN THAT IT OCCURRED IMMEDIATELY PRIOR TO DEATH. IT IS
5 THE ACTS OR THE MOTIONS THAT PRECEDED THE DEATH. IN THIS
6 CASE THERE WERE MULTIPLE COLLISIONS. BECAUSE MR. OWENS'
7 TRUCK WAS NOT STRUCK BY HER VEHICLE, BUT FOR HER STRIKING
8 MR. CROFT'S TRUCK, MR. OWENS WOULD NOT HAVE BEEN INJURED.
9 THAT'S THE BUT FOR I WAS TALKING ABOUT.

10 IT GOES A LITTLE FURTHER THAN THAT. THERE MAY BE
11 MORE THAN ONE PROXIMATE CAUSE. THE ACTS OF TWO OR MORE
12 PERSONS. THERE ARE ALLEGATIONS IN THIS CASE BY THE
13 DEFENSE THAT SOMEBODY GRABBED THE STEERING WHEEL. THEY
14 MAY COMBINE TOGETHER AND BE A PROXIMATE CAUSE OR INJURY
15 OR DEATH OF A PERSON. THE DEFENDANT'S ACTS MUST BE
16 REGARDED AS A PROXIMATE CAUSE, A CONTRIBUTING CAUSE OF
17 INJURY OR DEATH TO THE VICTIM. THE FACT THAT OTHER
18 CAUSES ALSO CONTRIBUTED TO THE INJURY OR DEATH OF THE
19 VICTIM DOES NOT RELIEVE THE DEFENDANT OF HER
20 RESPONSIBILITY.

21 THE DEFENDANT'S ACT MAY NOT BE THE SOLE CAUSE OF THE
22 INJURY OR DEATH, BUT IT MUST BE A PROXIMATE,
23 CONTRIBUTING, A PROXIMATE CAUSE CONTRIBUTING TO THE
24 INJURY OR DEATH. NOW, THE JUDGE WILL CHARGE YOU ON THE
25 LAW REGARDING PROXIMATE CAUSE. SO, EVEN IF TWO OR MORE

1 DISSECT SOMEONE'S BRAIN AND LOOK IN AND SEE WHAT THEY
2 WERE THINKING AT THE TIME. BUT WHAT YOU DO IS YOU LOOK
3 AT THE CIRCUMSTANCES LEADING UP TO THE ACTIONS THERE AT
4 THE ACCIDENT AND WHAT WAS DONE AFTERWARDS. AND WE'LL
5 GET BACK TO THAT.

6 CRIMINAL INTENT RELIES ON AN ACTION OR A FAILURE TO
7 ACT. IT MAY ARISE FROM NEGLIGENCE, RECKLESSNESS OR AN
8 INDIFFERENCE TO DUTY OR TO CONSEQUENCES THAT IS
9 CONSIDERED BY THE LAW TO BE THE EQUIVALENT OF CRIMINAL
10 INTENT. AND I SUBMIT TO YOU, LADIES AND GENTLEMEN,
11 SHANNA KRANCHIK'S CHOICES THAT DAY WERE RECKLESS
12 INDIFFERENCE TO DUTY, OR TO THE CONSEQUENCES CONSIDERED
13 BY THE LAW TO BE THE EQUIVALENT OF CRIMINAL INTENT. THE
14 LAW ITSELF, FELONY DUI ITSELF, RECOGNIZES THAT IT'S NOT A
15 DIRECT INTENT TO GO OUT THERE AND CRASH INTO SOMEONE.
16 BUT BECAUSE OF THE RECKLESS NATURE, THE INDIFFERENCE TO
17 HUMAN LIFE, THE INDIFFERENCE TO THE CONSEQUENCES TO
18 OTHERS, IT IS A CRIME. AND THAT, LADIES AND GENTLEMEN,
19 IS THE DEFINITION OF CRIMINAL INTENT.

20 YOU ALSO HEARD IN THIS CASE FROM SOME EXPERT
21 WITNESSES. AND LADIES AND GENTLEMEN, LISTEN TO THE
22 JUDGE, BECAUSE YOU'VE HEARD FROM SOME ACCIDENT
23 RECONSTRUCTIONISTS, DOCTORS, A PATHOLOGIST, AND DIFFERENT
24 PEOPLE. AND NORMALLY WHEN A PERSON COMES INTO COURT,
25 SUCH AS MYSELF, I WOULD NOT BE ALLOWED TO GET UP ON THE

1 STAND AND GIVE AN OPINION BECAUSE I DON'T HAVE THE
2 EXPERTISE.

3 BUT IN CERTAIN CASES, THE JUDGE WILL TELL YOU,
4 BECAUSE OF A PERSON'S TRAINING, OR THEIR EDUCATION, THEY
5 ARE ABLE TO COME IN, IF SO QUALIFIED BY THE JUDGE, TO
6 GIVE YOU AN OPINION. AND THAT'S WHY YOU WERE ABLE TO
7 HEAR FROM THE DOCTORS, YOU WERE ABLE TO HEAR FROM THE
8 ACCIDENT RECONSTRUCTIONISTS ABOUT WHAT WAS GOING ON.

9 AND LADIES AND GENTLEMEN, YOU'VE NOW HEARD ALL THE
10 EXPERT TESTIMONY YOU CAN CONSIDER IN THIS CASE. AND THE
11 JUDGE WILL TELL YOU, YOU DON'T HAVE TO CONSIDER OF IT IF
12 YOU DON'T FIND IT CREDIBLE. BUT I SUBMIT, LADIES AND
13 GENTLEMEN, EVERY PIECE OF EVIDENCE IN THIS CASE WAS
14 TOTALLY CORROBORATED THE CREDIBLE EVIDENCE, THE CREDIBLE
15 TESTIMONY.

16 THE LAST THING I WANT TO TALK TO YOU ABOUT A LITTLE
17 BIT IS CREDIBILITY. AND THERE ARE MANY FACTORS YOU CAN
18 DETERMINE FROM JUDGING SOMEONE'S CREDIBILITY. AND THE
19 JUDGE WILL TELL YOU SOME OF THESE FACTORS. YOU CAN
20 BELIEVE ALL OF A WITNESS, SOME OF A WITNESS, NONE OF A
21 WITNESS. THAT IS TOTALLY WITHIN YOUR PROVINCE, AS IT
22 SHOULD BE.

23 BUT, WHEN CONSIDERING A PERSON'S CREDIBILITY, YOU
24 LOOK AT CERTAIN THINGS. THEIR APPEARANCE ON THE STAND.
25 WERE THEY FORTHRIGHT OR HESITANT? WAS THEIR TESTIMONY

1 CONSISTENT WITH PRIOR STATEMENTS? WHAT WAS THE ABILITY
2 OF THE WITNESS TO ACTUALLY KNOW WHAT THEY WERE TESTIFYING
3 ABOUT? WAS THEY BIASED OR PREJUDICED?

4 AND THAT LAST ONE, WERE THEY BIASED OR PREJUDICED.
5 DID THEY HAVE A REASON TO TESTIFY A CERTAIN WAY? WAS
6 THEIR TESTIMONY CORROBORATED BY THE OTHER TESTIMONY OR
7 CORROBORATED BY THE EVIDENCE?

8 AND FINALLY, LADIES AND GENTLEMEN, AND ONLY FOR THIS
9 PURPOSE, WE HEARD FROM MR. TRAPP. YOU HEARD ABOUT HIS
10 PRIOR CONVICTIONS FOR CRIMES. AND THAT DOES GO TO WEIGH
11 IN ON DETERMINING HIS CREDIBILITY. AND THAT'S THE REASON
12 YOU WERE ABLE TO HEAR ABOUT THAT.

13 BIAS OR PREJUDICE, SOMETHING TO GAIN OR SOMETHING TO
14 LOSE. YOU HEARD FROM INDEPENDENT EYEWITNESSES FROM THE
15 STATE, WHO TOLD YOU WHAT THEY SAW; WHO CALLED THE POLICE
16 THAT DAY AND TOLD THEM; WHO DON'T HAVE SOMEBODY THEY'VE
17 BEEN FRIENDLY WITH. THEY CAME AND TOLD YOU WHAT THEY
18 SAW.

19 YOU HAVE HIGHWAY PATROL OFFICERS WHO DON'T GET PAID
20 MORE TO SAY SHANNA KRANCHIK WAS NOT IN CONTROL OF THAT
21 VEHICLE. THAT'S NOT THEIR JOB. THEIR JOB IS TO BE
22 CREDIBLE AND BRING FORTH CREDIBLE EVIDENCE BECAUSE AT
23 THAT TIME THEY DON'T KNOW WHO DID WHAT, OTHER THAN WHAT
24 THEY LEARN FROM EYEWITNESSES.

1 AND WHAT IN THIS CASE, LADIES AND GENTLEMEN, IS SO
2 IMPORTANT IS EVIDENCE THAT WE'VE SEEN THAT TELLS THE
3 STORY.

4 I'M GOING TO SIT DOWN NOW AND MS. AHRENS IS GOING TO
5 GET UP AND TALK TO YOU FOR A FEW MINUTES. AND I WANT YOU
6 TO REMEMBER THAT CREDIBILITY, IT IS CRUCIAL IN THIS CASE
7 BECAUSE IT'S EITHER ONE WAY OR THE OTHER. THANK YOU.

8 THE COURT: MS. AHRENS.

9 MS. AHRENS: BEG THE COURT'S INDULGENCE ONE MOMENT.

10 (PAUSE)

11 MS. AHRENS: THANK YOU, YOUR HONOR. MAY IT PLEASE
12 THE COURT.

13 THE COURT: YES MA'AM.

14 MS. AHRENS: GOOD MORNING, LADIES AND GENTLEMEN.

15 (WHEREUPON JURORS RETURN GREETING)

16 MS. AHRENS: THIS IS THE FIRST TIME IN THE CASE THAT
17 I GET TO ACTUALLY ADDRESS YOU MYSELF. MY NAME IS DEBORAH
18 AHRENS. YOU WERE INTRODUCED TO ME EARLIER. I AM THE
19 ATTORNEY FOR SHANNA KRANCHIK, WHO'S SITTING OVER THERE AT
20 THE DEFENSE'S TABLE, ALONG WITH LAUREN MOBLEY, WHO IS
21 ALSO REPRESENTING MS. KRANCHIK. AND I WANT TO THANK YOU,
22 AS WELL. I WANT TO THANK YOU ALL ON BEHALF OF MS.
23 KRANCHIK, FOR WATCHING, FOR PAYING THE ATTENTION THAT
24 YOU'VE BEEN PAYING. AND I KNOW IT HASN'T BEEN EASY.

1 I WISH THAT EVERY WITNESS COULD HAVE ACTUALLY BEEN
2 HERE ON THE STAND. I'M SURE BOTH THE STATE AND I WOULD
3 PREFER THAT. IT'S A LOT MORE ENTERTAINING AND I THINK A
4 LOT MORE EFFECTIVE WHEN YOU CAN ACTUALLY HEAR FROM A
5 WITNESS WHO'S SITTING UP HERE AND SPEAKING TO YOU.

6 BUT I'VE BEEN WATCHING YOU AND YOU HAVE BEEN PAYING
7 ATTENTION, EVEN WHEN THERE HAS BEEN READING FROM THE
8 TRANSCRIPT, AND MS. KRANCHIK APPRECIATES THAT. WE THANK
9 YOU FOR YOUR SERVICE. YOU'RE NOT HERE TO SERVE ME OR MS.
10 KRANCHIK. YOU'RE HERE TO SERVE THE LAW. YOU'RE HERE TO
11 JUDGE THE FACTS, TO LISTEN TO ALL THE EVIDENCE IN THE
12 CASE.

13 AS THE JUDGE WILL TELL YOU AND AS THE STATE HAS
14 TOLD YOU, NOTHING I SAY IS EVIDENCE. NOTHING I'VE SAID
15 IN THIS ENTIRE TRIAL IS GOING TO BE EVIDENCE. WHAT I'M
16 GOING TO TRY TO DO IS SORT OF GUIDE YOU THROUGH THE
17 EVIDENCE THAT'S BEEN PRESENTED IN THIS CASE AND
18 DEMONSTRATE TO YOU WHY MS. KRANCHIK'S NOT GUILTY.

19 WHAT DO WE MEAN BY NOT GUILTY? YOU'VE HEARD A
20 DEFINITION PROVIDED BY THE STATE THAT'LL BE PROVIDED BY
21 THE JUDGE AS WELL, WHAT'S BEYOND A REASONABLE DOUBT.
22 THAT'S THE HIGHEST STANDARD OF PROOF THAT'S AVAILABLE IN
23 COURT.

24 YOU MIGHT HAVE SERVED AS CIVIL JURORS AND YOU MIGHT
25 HAVE HEARD THE STANDARD OF EVIDENCE, PREPONDERANCE OF

1 EVIDENCE. IN SOME CASES IT MIGHT BE CLEAR AND CONVINCING
2 EVIDENCE, AS THE HIGHEST STANDARD. BEYOND A REASONABLE
3 DOUBT IS THE HIGHEST STANDARD WE HAVE AND IT'S RESERVED
4 FOR CRIMINAL COURT BECAUSE OF HOW IMPORTANT THIS IS.
5 BECAUSE A DEFENDANT COMES IN HERE PRESUMED TO BE NOT
6 GUILTY. AND THEY ONLY BECOME GUILTY IF ALL TWELVE OF YOU
7 AGREE BEYOND A REASONABLE DOUBT THAT THEY'RE GUILTY.

8 NOW, THE JUDGE IS GOING TO INSTRUCT YOU ON WHAT
9 BEYOND A REASONABLE DOUBT MEANS. BUT MAYBE IT MIGHT BE
10 HELPFUL TO CONSIDER WHAT IT DOESN'T MEAN. HERE'S WHAT IT
11 DOESN'T MEAN: IT DOESN'T MEAN THAT THE PERSON WHO'S
12 BEFORE YOU, SHANNA KRANCHIK IN THIS CASE, ACTED
13 SUSPICIOUSLY. OKAY?

14 IT DOESN'T MEAN MAYBE SHE'S GUILTY. IT DOESN'T
15 MEAN MS. KRANCHIK ACTED REALLY SUSPICIOUS. IT DOESN'T
16 MEAN SHE'S PROBABLY GUILTY. IT DOESN'T MEAN SHE'S MOST
17 LIKELY GUILTY. AND PLEASE FORGIVE MY WRITING, IT'S NOT
18 MY STRONG POINT.

19 BEYOND A REASONABLE DOUBT, AND THAT'S FOR EACH AND
20 EVERY ELEMENT OF THE OFFENSE, FOR BOTH OF THESE OFFENSES.
21 YOU'RE GOING TO SEE WHY THAT MATTERS IN A MOMENT.

22 NOW, MS. MOBLEY TOLD YOU IN HER OPENING THIS IS
23 GOING TO BE A TOUGH CASE. THE STATE TOLD YOU THE SAME
24 THING. IT'S A TOUGH CASE BECAUSE IT'S A TRAGIC CASE.
25 IT'S AN INCREDIBLY TRAGIC CASE. YOU'RE GOING TO REVIEW

1 BACK IN THE JURY ROOM - AND YOU'LL HAVE ALL THIS PHYSICAL
2 EVIDENCE WITH YOU BACK IN THE JURY ROOM - ANY NUMBER OF
3 PHOTOGRAPHS THAT LOOK VERY SIMILAR TO THIS: PHOTOGRAPHS
4 OF VEHICLES THAT ARE CRASHED UP AND CRUSHED UP BEYOND
5 RECOGNITION. ISN'T THIS YOUR WORST NIGHTMARE, TRAVELING
6 DOWN THE HIGHWAY AND SOMETHING LIKE THIS HAPPENS? IT'S
7 GOING TO APPEAL TO THAT CERTAINLY.

8 YOU'VE HEARD TESTIMONY FROM DOCTORS, YOU'VE HEARD
9 TESTIMONY FROM SANFORD OWENS, YOU'VE HEARD TESTIMONY FROM
10 A PATHOLOGIST, ALL OF WHICH, I'M SURE, WAS VERY DIFFICULT
11 TO SIT THROUGH. NO ONE'S DOUBTING, WE TOLD YOU IN
12 OPENING, CERTAINLY WE'RE NOT DOUBTING THAT PEOPLE WERE
13 SERIOUSLY INJURED AND THAT GENE CROFT LOST HIS LIFE IN
14 THIS SERIES OF COLLISIONS.

15 IT'S EASY, IT'S EASY, ONCE YOU HEAR ALL THAT TO WANT
16 TO BLAME SOMEONE. AND THE STATE HAS OFFERED YOU SOMEONE
17 WHO IS ADMITTEDLY A CLASSIC CANDIDATE TO BE BLAMING IN
18 THIS CASE. SHANNA KRANCHIK, YOU'VE HEARD TESTIMONY FROM
19 THE WITNESS THAT THE DEFENSE PUT IN, PASANTE TRAPP, THIS
20 IS A YOUNG LADY WHO SMOKES MARIJUANA ON A REGULAR BASIS.
21 THAT'S WHAT HER FRIEND TELLS YOU. RIGHT?

22 THIS IS A YOUNG LADY WHO IS TRAVELING AROUND ON THIS
23 PARTICULAR DAY, MIDDLE OF THE DAY, WITH A COUPLE OF YOUNG
24 PEOPLE IN HER CAR, FOURTEEN, FIFTEEN YEARS OLD. SHE
25 TAKES THEM SOMEWHERE WHERE THEY ARE GOING TO BUY

1 MARIJUANA. THAT'S WHAT HER OWN ACQUAINTANCE SAID. SHE'S
2 A VERY ATTRACTIVE CANDIDATE TO BLAME HERE.

3 THAT'S AN EASY THING TO DO, AN EASY THING TO DO IS
4 TO FIND HER GUILTY. BUT IT'S CERTAINLY HARDER TO PROVE
5 WHAT SHE ACTUALLY DID, ISN'T IT? BUT THE THING IS, THE
6 STATE HAS TO PROVE EVERY ELEMENT OF THE OFFENSE BEYOND A
7 REASONABLE DOUBT.

8 AND HERE'S WHAT I WANT YOU TO ASK YOURSELF: WOULD
9 WE BE HERE TODAY, WOULD WE BE HAVING THIS TRIAL, WITH
10 THESE VICTIMS, THESE PARTICULAR VICTIMS, THESE PARTICULAR
11 CHARGES, IF IT WEREN'T FOR ONE THING: DONALD ADAMS, WHO
12 YOU HAVEN'T HEARD FROM; DONALD ADAMS WHO WAS SITTING IN
13 THE FRONT SEAT OF THE CAR, JERKS THE WHEEL OUT OF SHANNA
14 KRANCHIK'S HAND. THAT'S WHAT CAUSES HER CAR TO GO INTO
15 THE BACK OF THE BOBTAIL TRUCK. THAT'S WHAT SETS THESE
16 MOTIONS INTO EFFECT. IF IT HADN'T BEEN FOR THAT
17 MOVEMENT. IF IT HADN'T BEEN FOR THAT JERK, THAT JERK OF
18 THE WHEEL, THAT TAKING CONTROL BY SOMEONE IN THE CAR
19 WHO'S NOT DRIVING, WHO HAS NO BUSINESS DOING THAT, WE
20 WOULD NOT BE SITTING HERE TODAY, I WOULD NOT BE SPEAKING
21 TO YOU. THIS WOULD NOT HAVE HAPPENED, LADIES AND
22 GENTLEMEN.

23 THE STATE'S DONE A GOOD JOB OF PROVING A LOT OF
24 THINGS IN THIS CASE. I WANT TO BE CLEAR ABOUT THAT. THE
25 STATE'S DONE AN EXCELLENT JOB OF PROVING HOW THE ACCIDENT

1 TOOK PLACE IN TERMS OF WHERE DID THE CAR GO FIRST. THE
2 TAURUS CRASHES INTO THE BACK OF THE BOBTAIL TRUCK. AND
3 YOU'VE HEARD WITNESS AFTER WITNESS, AND THEY WERE ALL
4 PART OF THE SAME TEAM. YOU HEARD THEM. THEY ALL USE
5 THE SAME WORDS. THEY ALL GIVE THE SAME TESTIMONY.
6 YOU'VE HEARD OVER AND OVER AGAIN, AND I DON'T THINK
7 THERE'S A WHOLE LOT OF DISPUTE ABOUT THIS.

8 THE FORD TAURUS, MS. KRANCHIK'S IN THE DRIVER'S
9 SEAT. DONALD ADAMS IS IN THE PASSENGER'S SEAT. TWO
10 YOUNG MEN IN THE BACK SEAT, PASANTE TRAPP, DONALD WARD.
11 YOU'VE HEARD FROM PASANTE TRAPP, UP HERE ON THE WITNESS
12 STAND. DRIVING ALONG IN THE CAR. THE CAR GOES INTO THE
13 BACK OF THE BOBTAIL TRUCK. THE BOBTAIL TRUCK GOES ACROSS
14 THE HIGHWAY, CROSSES THE CABLE MEDIAN, CRASHES INTO
15 ANOTHER CAR. EXCELLENT JOB OF PROVING THAT, NO DISPUTE
16 ABOUT THAT.

17 EXCELLENT JOB OF PROVING THAT PEOPLE SUFFERED GREAT
18 BODILY INJURY AND SOMEONE SUFFERED DEATH IN THIS CASE.
19 THERE'S NO DISPUTE ABOUT THAT. THEY DID AN EXCELLENT JOB
20 OF PROVING THAT.

21 BUT THERE'S THE QUESTION: WHY DID THAT HAPPEN; HOW
22 DID THAT HAPPEN? WHAT I WANT TO DO FIRST IS TAKE YOU
23 THROUGH SOME OF THE WITNESSES YOU HEARD PRESENTED. DOES
24 IT MATTER THAT YOU HEARD DOCTORS GET UP HERE AND TELL YOU
25 ABOUT THE INJURIES AND ABOUT THE DEATH? IT MATTERS, BUT

1 THE STATE NEEDS TO PROVE THOSE THINGS. IS THAT IN
2 DISPUTE HERE? NO.

3 YOU HEARD LIEUTENANT COLLINS GET UP HERE. HE WAS IN
4 CHARGE OF THE TEAM THAT WENT OUT TO THE SCENE. HE WAS
5 SUPERVISING. HE TOLD YOU ABOUT CARS HERE, CARS THERE,
6 CARS OVER HERE. THERE WERE PEOPLE STANDING ALL OVER THE
7 PLACE AND THAT THERE WAS CHAOS AT THE SCENE; TRAFFIC'S
8 BACKED UP. IT DOESN'T REALLY HAVE ANYTHING TO DO WITH
9 WHAT ACTUALLY HAPPENED HERE. THAT'S NOT SOMETHING THAT'S
10 GOING TO HELP YOU TOO MUCH IN DECIDING WHAT EXACTLY
11 HAPPENED.

12 YOU ALSO HEARD, AND I'M GOING TO TALK ABOUT THIS FOR
13 A MOMENT, FROM THE STATE'S TOXICOLOGIST. LET'S TALK
14 ABOUT THIS A FEW MINUTES. THE STATE PUTS UP AN EXPERT
15 WITNESS. THIS IS A TOXICOLOGIST, SOMEONE WHO IS TRAINED
16 IN THE FIELD OF TOXICOLOGY, SOMEONE WHO ANALYZED BLOOD
17 SAMPLES IN THIS CASE. AND ONE OF THE QUESTIONS WAS, WAS
18 MS. KRANCHIK DRIVING UNDER THE INFLUENCE, WAS SHE
19 ACTUALLY IMPAIRED. THE TOXICOLOGIST GETS UP HERE AND HE
20 TELL YOU ON DIRECT EXAMINATION WHEN THE STATE IS ASKING
21 HIM QUESTIONS, OH, MS. KRANCHIK MUST HAVE CONSUMED
22 MARIJUANA IN THE LAST ONE TO EIGHT HOURS; THAT MUST BE
23 WHAT HAPPENED; I'M SURE OF THAT.

24 WHAT'S HE DO ON CROSS EXAMINATION? WHEN THE
25 QUESTION WAS: WHAT IF SOMEONE WAS AN HABITUAL MARIJUANA

1. USER? WE KNOW THAT FROM PASANTE TRAPP GETTING UP HERE
2. AND, OR, HIS PREVIOUSLY RECORDED TESTIMONY, TESTIFYING,
3. TELLING YOU THAT MS. KRANCHIK, FOR BETTER OR WORSE, WAS
4. AN HABITUAL SMOKER OF MARIJUANA. WELL, WHAT DOES THAT
5. MEAN? WE ASK THE TOXICOLOGIST? WHAT DOES THAT MEAN IN
6. TERMS OF WHEN SHE LAST SMOKED MARIJUANA? WELL, IN THAT
7. CASE, IT COULD HAVE BEEN UP TO TWENTY-FOUR HOURS. AND HE
8. SAID, I CAN'T BE SURE, THE LAST TWENTY-FOUR HOURS, IT'S
9. PROBABLY IN THERE AND ONE TO EIGHT HOURS, I GUESS I CAN'T
10. BE SURE ABOUT THAT. AND HIS TESTIMONY IS UP TO YOU THE
11. JURY TO DECIDE THE CREDIBILITY OF THAT WITNESS. BUT,
12. CERTAINLY, BASED ON WHAT HE TOLD YOU, YOU CERTAINLY CAN'T
13. BE SURE THAT THERE WAS ANY MARIJUANA ACTIVE IN MS.
14. KRANCHIK'S SYSTEM AT THE TIME THIS ACCIDENT OCCURRED.

15. I'M NOT SURE HE REALLY EXPLAINED TO YOU EXACTLY WHAT
16. THAT COLD MEDICATION WOULD BE DOING. WOULD IT BE MAKING
17. SOMEBODY SPEED DOWN THE HIGHWAY. I'M NOT SURE, NOT
18. REALLY SURE. IT'S UP TO YOU THE JURY TO DECIDE.

19. WHO ELSE DID YOU HEAR FROM? YOU HEARD FROM LANCE
20. CORPORAL BAKER WHO WAS AT THE SCENE. HE WAS THE ONLY
21. OFFICER AT THE SCENE WHO TALKED TO WITNESSES AND SO FORTH
22. THAT YOU HEARD FROM. I THINK THAT'S IMPORTANT.

23. WHAT DOES HE TELL YOU? WELL, FIRST OF ALL, WOULD
24. YOU LIKE TO ACTUALLY KNOW WHAT WAS SAID AT THE SCENE.
25. DID YOU HAVE A VIDEO ON THE SCENE? WELL, NO, IT WASN'T

1 FUNCTIONING. DID YOU TAKE A STATEMENT FROM MS. KRANCHIK?
2 WELL, NO. IT MIGHT BE HELPFUL TO WRITE DOWN WHAT YOU'RE
3 SAYING, ESPECIALLY IF THERE IS NO AUDIO AND THE VIDEOTAPE
4 IS NOT FUNCTIONING.

5 WHEN DID HE WRITE A REPORT? WELL, HE ORIGINALLY
6 SAID, I WROTE IT THAT NIGHT. IT TURNS ACTUALLY THAT HE
7 WROTE IT THE NEXT DAY. HE ADMITTED THAT HE WROTE IT THE
8 FOLLOWING DAY. WHY DOES THAT MATTER? IS THAT A HUGE
9 ISSUE IN HIS CREDIBILITY? WELL, MAYBE. BUT HERE'S WHY
10 IT REALLY MATTERS: BECAUSE THERE ARE INDIVIDUAL WORDS,
11 THERE ARE INDIVIDUAL THINGS THAT ARE SUPPOSED TO HAVE
12 TAKEN PLACE, INDIVIDUAL CONVERSATIONS HE SUPPOSEDLY HAD
13 WITH MS. KRANCHIK. AND THOSE ARE SUPPOSED TO MATTER
14 HERE.

15 LET'S START WITH THE FIRST ONE. THE FIRST ONE THAT
16 WAS SUPPOSED TO MATTER WAS MR. BAKER SAID I WENT UP TO
17 THE CAR WHEN MS. KRANCHIK WAS IN THE DRIVER'S SEAT.
18 LET'S BE CLEAR ON THAT. SHE WAS SITTING IN THE DRIVER'S
19 SEAT, SAYS BAKER. THE OTHER TWO PASSENGERS IN HER CAR,
20 WHERE DID THEY GO? ACROSS THE HIGHWAY. THEY TOOK OFF.
21 SHE'S SITTING IN THE DRIVER'S SEAT.

22 BAKER SAYS, I COME OVER TO HER AND ASK WHO'S DRIVING
23 AND SHE POINTS ACROSS THE HIGHWAY. NOW, LET ME ASK YOU A
24 COUPLE OF QUESTIONS. FIRST OF ALL, IF YOUR INTENTION IS

1 TO SAY, THE IMPLICATION THERE IS SHE'S LYING ABOUT WHO
2 WAS DRIVING, AND WE'LL GET BACK TO THAT IN A SECOND.

3 BUT IF THE IMPLICATION IS SHE'S LYING ABOUT WHO'S
4 DRIVING, WHERE DID HE SIT? WHERE DID HE GO, IF YOU WANT
5 TO CONVINCE THE INVESTIGATOR THAT YOU'RE NOT DRIVING THE
6 CAR? I ASKED LIEUTENANT BAKER, IS IT POSSIBLE YOU WERE
7 ASKING HER WHOSE CAR IT WAS. WE KNOW FROM OTHER
8 TESTIMONY THAT IT WAS NOT HER CAR. COULD YOU POSSIBLY
9 HAVE ASKED HER WHOSE CAR IT WAS? NO, IT'S NOT POSSIBLE.

10 HE SAYS THE WHOLE TIME HE'S SPEAKING TO HER-- WELL,
11 I WANT TO BACK UP JUST A MINUTE. HE GOES ACROSS THE
12 HIGHWAY. HE TALKS TO THE THREE YOUNG MEN WHO HAD BEEN IN
13 HER CAR AND HE COMES BACK. AND HE TOLD YOU THAT'S THE
14 LAST TIME HE TALKED TO THEM. I JUST WANT TO MAKE SURE
15 YOU REMEMBER THAT. HE COMES BACK AND TALKS TO HER AND
16 SAYS SHE MELLOW, SHE'S COMPLETELY MELLOW. THE WHOLE TIME
17 HE'S TALKING TO HER SHE'S JUST MELLOW.

18 I'M NOT REALLY SURE WHAT THE IMPLICATION OF THAT IS.
19 I'M NOT SURE IF THE IMPLICATION IS SUPPOSED TO BE THAT
20 SHE'S INTOXICATED, OR REACTING TO TRAUMA. ANYBODY WHO'S
21 EVER BEEN INVOLVED IN A TRAFFIC ACCIDENT KNOWS THAT WE
22 ALL ACT IN VERY DIFFERENT WAYS. SOME PEOPLE GET VERY
23 UPSET, SOME PEOPLE GET VERY QUIET. WE REACT IN DIFFERENT
24 WAYS. I THINK THAT'S FAIRLY EVIDENT. BUT HE SAYS SHE'S
25 MELLOW THE WHOLE TIME.

1 SO, WHAT DOES HE SAY? I LEAVE AT SOME POINT TO
2 ALLOW HER TO COMPOSE HERSELF. WHAT'S THAT SUPPOSED TO
3 MEAN? I MEAN, YOU COMPOSE YOURSELF WHEN YOU'RE EXCITED,
4 YOU'RE UPSET. SOMETHING'S GOING ON WITH YOU AND YOU NEED
5 TO COMPOSE YOURSELF. IS SHE NOT MELLOW? IS SHE EXCITED?
6 IS SHE UPSET? IF YOU HAVE TO COMPOSE YOURSELF, I THINK
7 YOU PROBABLY WOULDN'T BE MELLOW.

8 BUT THEN THE OFFICER STARTS TALKING ABOUT HE'S
9 SPEAKING TO HER, SHE ORIGINALLY DENIES SHE'S DRIVING. AT
10 THIS POINT HE SAYS SHE SAYS THE BOBTAIL TRUCK GOT IN
11 FRONT OF HER WAY, IN HER LANE, INTO HER AND THAT'S HOW
12 THIS CRASH HAPPENED.

13 WELL, YOU'RE GOING TO HAVE A COPY OF MS. KRANCHIK'S
14 STATEMENT TO TAKE BACK WITH YOU. YOU LISTENED TO PASANTE
15 TRAPP'S TESTIMONY WHEN IT WAS BEING READ TO YOU, AND IF
16 YOU DON'T REMEMBER WHAT IT WAS ALL ABOUT, WE CAN HAVE IT
17 READ BACK. BUT I WANT YOU TO BE SURE, BECAUSE SHE
18 DIDN'T SAY THE TRUCK, THAT BOBTAIL TRUCK, OR THAT TRUCK
19 THAT RIDING ALONG, AN EMPTY TRACTOR TRAILER. SHE SAYS A
20 MACK TRUCK.

21 AND WHAT MR. TRAPP TOLD YOU IN HIS TESTIMONY WAS
22 THAT A DIFFERENT TRUCK GOT IN FRONT OF HER. OKAY? THE
23 MACK TRUCK, A MACK TRUCK. THIS IS WHAT I MEAN WHERE IT
24 MATTERS A WHOLE LOT WHAT EXACTLY SOMEONE IS SAYING, WHAT
25 COULD HAVE BEEN REPORTED, WHAT COULD HAVE BEEN WRITTEN

1 DOWN. IT MAKES A DIFFERENCE WHETHER A MACK TRUCK OR THE
2 MACK TRUCK.

3 AND YOU KNOW WHAT I THINK? I THINK THE TRUCK SHE
4 ORIGINALLY COLLIDED WITH WAS THE TRUCK THAT GOT IN FRONT
5 OF HER. YOU REMEMBER THAT A MEMBER OF THE MAIT TEAM, THE
6 MIDLANDS RECONSTRUCTION TEAM, HE TESTIFIED THAT'S
7 POSSIBLE, THAT'S POSSIBLE.

8 HE SAID HE DIDN'T WRITE THINGS DOWN. WHY WAS SHE
9 CONFUSED AT THAT POINT? WAS SHE INTOXICATED? IS THAT
10 THE IMPLICATION?

11 YOU WILL HAVE THESE PHOTOGRAPHS TO TAKE BACK WITH
12 YOU IN THE JURY ROOM. YOU WILL BE ABLE TO TAKE A LOOK AT
13 MS. KRANCHIK'S CAR. I WANT YOU TO PUT THIS IN CONTEXT
14 BECAUSE I KNOW THAT THIS IS DIFFICULT.

15 THESE PHOTOGRAPHS SHOWS A COUPLE OF TRUCKS THAT ARE
16 CRASHED ALMOST BEYOND RECOGNITION. YOU CAN SEE THAT.
17 AND YOU HAVE A PHOTOGRAPH OF A CAR THAT COMPARATIVELY,
18 IT'S NOT CRUSHED, IT'S NOT LANDED ON THE WRONG SIDE. IT
19 DOESN'T LOOK NEARLY AS BAD. OKAY? SO, I WANT YOU TO
20 TAKE A CLOSE LOOK AT IT. JUST PUT IT NEXT TO THE OTHER
21 PHOTOGRAPHS. TAKE A LOOK AT IT BY ITSELF.

22 YOU HEARD THE INVESTIGATOR TELL YOU THAT IT HAD
23 MAJOR BODY DAMAGE, MAJOR. IF YOU TAKE A LOOK AT THE
24 PHOTOGRAPH YOU CAN SEE IT DOES AS WELL.

1 THE EYEWITNESSES TELL YOU, AND THESE ARE NOT
2 EYEWITNESSES WHO KNOW PASSENGERS IN THE CAR. YOU HAVE
3 INDEPENDENT EYEWITNESSES WHO TELL YOU THAT CAR ROLLED UP
4 ON ITS SIDE. THAT SOMEHOW IT DROPPED BACK DOWN AND
5 THAT'S UNCLEAR HOW. BUT IT ROLLED UP ON ITS SIDE. WE
6 KNOW EVERY SINGLE PERSON WHO INVESTIGATED TOLD YOU THAT
7 THE AIR BAGS IN THAT VEHICLE DEPLOYED. THE ONE ON THE
8 DRIVER'S SIDE LEFT A BURN ON MS. KRANCHIK. SHE'S BEEN IN
9 A MAJOR COLLISION. SHE'S NOT THE MOST INJURED PERSON AT
10 THE SCENE BY ANY MEANS. BUT JUST BECAUSE YOU'RE NOT THE
11 MOST INJURED PERSON THERE DOESN'T MEAN THIS WHOLE THING
12 HASN'T AFFECTED YOU.

13 THINK ABOUT WHAT THAT SCENE WAS LIKE. YOU'VE HEARD
14 SEVERAL PEOPLE WHO WERE THERE DESCRIBE IT TO YOU. THERE
15 WERE A LOT OF PEOPLE THERE, A LOT OF EMERGENCY PERSONNEL;
16 A LOT OF BACKED-UP TRAFFIC; A LOT OF CHAOS. THIS WAS A
17 VERY UPSETTING SCENE FOR ANYONE. AND WE'RE TALKING ABOUT
18 A YOUNG LADY, EIGHTEEN YEARS OLD, DRIVING SOME CAR THAT'S
19 NOT HERS WHO'S JUST BEEN IN A VERY, VERY SERIOUS
20 COLLISION. THINK ABOUT THAT WOULD AFFECT HER. THINK
21 ABOUT HOW THAT MIGHT AFFECT HER ABILITIES. SHE'S CLEARLY
22 SAYING VARIOUS THINGS THAT SUDDENLY CAME TO HER.

23 I ASKED SOME OF THE EXPERT WITNESSES, DON'T PEOPLE
24 GET CONFUSED AT SOME OF THESE ACCIDENTS. ISN'T IT TRUE
25 THAT SOMETIMES PEOPLE JUST DON'T REMEMBER WHAT ORDER

1 THINGS HAPPEN IN. THEY MIGHT THINK THAT THEY DID A 360
2 AND THEN WENT INTO A TRUCK, BUT REALLY THEY HIT THE TRUCK
3 AND THEN DID A 360? WELL, YES. THE STATE ASKED COULD
4 THEY BE LYING ABOUT THAT? YES.

5 AND THAT'S SOMETHING THAT I WANT TO SHOW YOU A
6 PICTURE ABOUT. OKAY? BECAUSE I THINK THIS SAYS A LOT
7 ABOUT THIS CASE. ALL RIGHT? I WANT YOU TO TELL ME WHAT
8 YOU ACTUALLY SEE WHEN YOU SEE THIS PICTURE. BUT I'LL
9 TELL YOU, DEPENDING ON WHO YOU ARE, YOU MAY SEE IT ONE OF
10 TWO DIFFERENT WAYS. SOME OF YOU MAY HAVE LOOKED AT THIS,
11 AND YOU MAY HAVE SEEN THE FACE. AND SOME OF YOU MAY LOOK
12 AT THIS AND WHAT YOU MAY SEE ARE TWO FACES. WELL, IT
13 DEPENDS ON WHAT YOU ARE LOOKING FOR, I SUPPOSE. IT
14 DEPENDS ON WHAT YOUR PERSPECTIVE IS.

15 IF YOU COME TO MS. KRANCHIK ASSUMING, WELL, YOU
16 KNOW, SHE SEEMS TO BE ACTING STRANGELY. MAYBE SHE'S
17 DRIVING UNDER THE INFLUENCE. SO, YOU TEST THE BLOOD.
18 SHE MIGHT HAVE BEEN INTOXICATED. MAYBE IF YOU COME TO
19 THAT SITUATION THINKING ALL THAT AND LOOK AT WHAT SHE HAS
20 TO SAY, YOU MIGHT SAY, OH, WELL, THE REASON SHE SAYS,
21 SHE'S BLAMING IT ON THE TRUCK, LOOK AT THE PHOTO. AND
22 THEN SHE DOES A 360 AND GOES INTO THE BACK OF THE TRUCK
23 AND WE KNOW SHE DOESN'T DO A 360 AND GO BACK INTO THE
24 TRUCK. THE REASON THAT SHE'S SAYING THAT IS BECAUSE
25 SHE'S LYING. SHE'S LYING.

1 BUT IF YOU LOOK AT IT FROM ANOTHER PERSPECTIVE, IF
2 YOU COME INTO THINKING SHE DID SOMETHING WRONG, IT ALL
3 MAKES PERFECT SENSE. THERE'S A PERFECTLY, REASONABLE
4 EXPLANATION. SHE'S BEEN IN A SERIOUS CAR ACCIDENT. YOU
5 HEARD EVERY SINGLE PERSON GET UP HERE AND TESTIFY THIS
6 HAPPENED REALLY QUICKLY. THEY USED DIFFERENT WORDS FOR
7 IT, A SPLIT-SECOND, INSTANTANEOUS, JUST A FEW SECONDS.
8 IT HAPPENED INCREDIBLY QUICKLY. IT ALL HAPPENED SO FAST.

9 I SUBMIT TO YOU THE PART TO REMEMBER IN A SITUATION
10 LIKE THAT IS THAT SHE DID A 360 FIRST AND GOES BACK INTO
11 A TRUCK. AND I ASK COULD IT HAPPEN THAT WAY. IS SHE
12 LYING? IF YOU THINK SHE'S LYING; YEAH, I GUESS SHE'S
13 LYING. IS SHE TELLING THE TRUTH? WELL, YOU KNOW WHAT,
14 HER STATEMENT'S TOTALLY CONSISTENT WITH THAT AS WELL.

15 MOSTLY WHAT I WANT TO TALK TO YOU ABOUT AND POINT
16 OUT TO YOU IS THEY FRANKLY DON'T SAY MUCH, THE EXPERTS
17 DON'T SAY WHAT THEY SEE, AND WHAT THEY START OUT SAYING.
18 AND YOU'RE GOING TO HAVE SOME PHOTOGRAPHS OF THIS CASE
19 WHEN YOU GO BACK IN THE JURY ROOM.

20 THE FIRST TIME THAT ANYONE SEES THIS CAR IS WHEN IT
21 ALREADY LOOKS LIKE IT'S ABOUT TO GO INTO THE MEDIAN.
22 OKAY? I ASKED MR. PROCTOR, IF YOU REMEMBER, ON CROSS
23 EXAMINATION, WELL, DID YOU NOTICE THE CAR WAS DRIVING
24 DOWN THE HIGHWAY NOT DOING ANYTHING WRONG? WELL, NO.
25 AND YOU KNOW, CARS, WHEN THEY'RE JUST KIND OF SWITCHING

1 LANES AND THEY'RE NOT REALLY DOING ANYTHING UNUSUAL.
2 WELL, NO. YOU NOTICE THE CAR DOING SOMETHING STRANGE IN
3 THIS PARTICULAR CASE.

4 APPARENTLY WHAT WAS HAPPENING WAS THE CAR AT SOME
5 POINT STARTS SWERVING INTO THE MEDIAN. NOW, THE STATE
6 CHARACTERIZED AND SOME OF THE EXPERTS HAVE CHARACTERIZED
7 THE CAR BEING OUT OF CONTROL AT THAT POINT. AT THE POINT
8 WHERE IT STARTS HEADING TOWARDS THE MEDIAN OR GETS IN THE
9 MEDIAN IT'S ALREADY OUT OF CONTROL. AND YOU'LL HAVE THE
10 PHOTOGRAPHS AND YOU'LL SEE THAT THAT CAR DIDN'T GET VERY
11 FAR INTO THE MEDIAN. THE CAR WAS RIGHT THERE ON THE
12 RUMBLE STRIP, AND ANYBODY WHO'S TRAVELED DOWN THE HIGHWAY
13 AND YOU HIT THE RUMBLE STRIP AND OH, NO, I'M IN THE
14 RUMBLE STRIP, AND THAT SORT OF JERKS YOU AROUND, OR
15 WHATEVER AND YOU GET THINGS RIGHT. AND THEY'VE BEEN
16 TALKING ABOUT YAW MARKS AND SKID MARKS.

17 WHAT DON'T YOU SEE? YOU DON'T SEE ANY SKID MARKS
18 BEFORE THAT. YOU DON'T SEE ANYTHING TO INDICATE THAT FAR
19 DOWN-- THERE ARE SEVERAL WAYS THAT AN AUTOMOBILE CAN BE
20 OUT OF CONTROL DESCRIBED BY THESE WITNESSES, THE EXPERT
21 WITNESSES AND THE ACCIDENT RECONSTRUCTION TEAM. YOU
22 MIGHT HAVE A STEERING PROBLEM. THAT WOULD BE ONE YAW
23 MARK, AS YOU'VE HEARD DESCRIBED.

24 AND THAT'S WHAT THE CAR DID, AFTER THE STEERING
25 WHEEL WAS JERKED OUT OF MS. KRANCHIK'S HAND. AND YOU

1 MIGHT SEE IF SOMEONE SLAMS ON THE BRAKES, OR THE CAR'S
2 OUT OF CONTROL, YOU MIGHT SEE A SKID MARK RELATED TO
3 THAT. NO MARKS, NO MARKS AT ALL UNTIL YOU HIT THAT
4 RUMBLE STRIP AND THE WHEEL GETS JERKED.

5 USE YOUR COMMON SENSE. IS THE CAR REALLY OUT OF
6 CONTROL AT THAT POINT? AND THIS IS SOMETHING I WANT YOU
7 TO THINK ABOUT. EVEN THOUGH I KNOW YOU ALL WERE
8 LISTENING VERY, VERY CLOSELY, VERY, VERY CLOSELY, THIS IS
9 SOMETHING THAT COULD HAVE BEEN MISSED. YOU HAD THREE
10 DIFFERENT MEMBERS OF THE ACCIDENT RECONSTRUCTION TEAM GET
11 UP HERE AND TESTIFY FOR YOU. OKAY? TWO OF THEM HAVE
12 BEEN PHYSICALLY HERE IN THE COURTROOM. YOU GOT TO
13 ACTUALLY SEE THEM. THEY WERE SITTING OVER THERE THE
14 WHOLE TRIAL. ONE OF THEM YOU HAVE HEARD HAS BEEN
15 DEPLOYED TO IRAQ AND WAS NOT ABLE TO TESTIFY. AND FOR
16 THE MOST PART, AS I TOLD YOU AND THE STATE TOLD YOU, THEY
17 ALL SAY THE SAME THING. THEIR TESTIMONY IS VERY
18 CONSISTENT. CERTAINLY, THE TWO YOU HEARD TESTIFY LIVE
19 SAID THINGS THAT WERE VERY CONSISTENT WITH ONE ANOTHER.

20 AND MOST OF THE TESTIMONY OF LIEUTENANT MAFFETT, WHO
21 YOU HEARD READ - HE WASN'T PHYSICALLY HERE - WAS
22 CONSISTENT WITH THAT AS WELL.

23 THERE ARE A COUPLE OF DIFFERENCES IF YOU WERE
24 LISTENING. THERE WERE A COUPLE OF DIFFERENCES. WELL,
25 WHAT WERE THEY AND WHY WERE THEY IMPORTANT?

1 WELL, THE FIRST ONE WAS, IF YOU HEARD BOTH WE AND
2 THEY GET UP HERE AND TELL YOU MS. KRANCHIK COULD NOT HAVE
3 BRAKED. IT SAID IN HER STATEMENT SHE BRAKED. MS.
4 KRANCHIK COULD NOT HAVE BRAKED. A COUPLE OF THINGS ABOUT
5 THAT. SOMETIMES PEOPLE HIT THE GAS PEDAL WHEN THEY THINK
6 THEY'RE HITTING THE BRAKE PEDAL. THAT'S UNFORTUNATE AND
7 I THINK MOST OF US HAVE DONE THAT AT SOME POINT. IT
8 HAPPENS.

9 BUT WHAT ELSE OTHER THAN THAT? IF YOU LISTEN TO THE
10 TESTIMONY OF LIEUTENANT MAFFETT, WHAT HE TOLD YOU, HE
11 SAYS YOU CAN'T SLAM ON BRAKES IN THIS PROCESS, MAYBE
12 THAT'S WHAT SHE DID; BUT SHE COULD TAP THE BRAKES. SHE
13 COULD HIT THE BRAKES JUST HARD ENOUGH TO MAKE THE YAW.
14 SHE COULD HAVE BRAKED. MAYBE SHE HIT THE GAS PEDAL. WHO
15 KNOWS? BUT SHE COULD HAVE BRAKED, JUST NOT ONCE SHE'S
16 ALREADY IN THAT SKID.

17 SO, IF SHE DID BRAKE, MAYBE AT THAT POINT, THAT'S
18 WHEN THE WHEEL GOT JERKED OUT OF HER HAND, IT MAKES NO
19 SENSE IN BRAKING. LIEUTENANT MAFFETT TOLD YOU THAT.

20 WHAT ELSE DID HE TELL YOU? AND THIS IS THE REALLY
21 IMPORTANT THING THAT HE TOLD YOU. REMEMBER YOU HEARD - I
22 BELIEVE BOTH WE AND THEY GOT UP THERE AND TOLD YOU - BY
23 THE TIME THAT CAR WAS AT THE RUMBLE STRIP IT WAS OUT OF
24 CONTROL AND NOBODY COULD HAVE DONE ANYTHING ABOUT IT. AND
25 THEY COMPARED THE CAR TO A VEHICLE IN THE INDY 500. BUT

1 I WANT TO BE CLEAR ABOUT THIS. I'M NOT GOING TO CLAIM TO
2 YOU THAT I AM SOME BIG RACE CAR FAN. BUT THIS CAR WAS
3 GOING SIXTY-NINE MILES AND HOUR AND RACE CARS ARE GOING
4 OVER A HUNDRED. OKAY? THIS IS NOT THE INDY 500. ALL
5 RIGHT? THAT IS NOT THE SORT OF SITUATION WE'RE TALKING
6 ABOUT.

7 NO, NO, NO. ONCE THAT CAR IS GOING INTO THAT RUMBLE
8 STRIP IT WAS ALREADY OUT OF CONTROL AND THERE WASN'T A
9 THING ANYBODY COULD HAVE DONE ABOUT IT. THAT'S NOT WHAT
10 LIEUTENANT MAFFETT SAID. THAT'S NOT WHAT HE SAID. HE
11 SAID THE DRIVER COULD BRING THE CAR AROUND. IT'S NOT
12 NECESSARILY OUT OF CONTROL AT THAT POINT. IT'S NOT
13 NECESSARILY OUT OF CONTROL.

14 WHY IS THAT IMPORTANT? THINK OF THIS WAY: SET A
15 BALL IN MOTION AND IT'S ROLLING; YOU THINK IT'S GONNA GO
16 ONE WAY. SOMEONE COMES ALONG AND KICKS IT BACK IN THE
17 OTHER DIRECTION. THAT'S BASICALLY WHAT HAPPENED HERE.
18 WHO KNOWS WHAT MS. KRANCHIK'S CAR MIGHT HAVE DONE HAD
19 SOMEONE NOT JERKED THE WHEEL OUT OF HER HAND.

20 SOMETHING ELSE MIGHT HAVE HAPPENED. ACCORDING TO
21 LIEUTENANT MAFFETT SHE MIGHT HAVE BEEN ABLE TO GET HER
22 CAR BACK UNDER CONTROL AND JUST CONTINUE ON HER MERRY
23 WAY. NOTHING WOULD HAVE HAPPENED. NOTHING WOULD HAVE
24 HAPPENED. WE WOULDN'T BE HERE.

1 ALTERNATIVELY, MAYBE SHE WOULD HAVE GONE STRAIGHT
2 INTO THAT MEDIAN EVENTUALLY. WHO KNOWS WHAT WOULD HAVE
3 HAPPENED. THOSE CABLES STOP MOST PEOPLE. IT STOPPED A
4 TRACTOR TRAILER. MAYBE THAT WOULD HAVE BEEN THE END OF
5 HER JOURNEY. I DON'T KNOW. THERE'S NO WAY TO KNOW.
6 MAYBE IF SHE WOULD HAVE MOVED THE CAR BUT NOT MOVED IT
7 QUITE SO EXTREMELY, IF THERE WASN'T THE JERKING OF THE
8 WHEEL, THE CAR WOULDN'T HAVE SHOT LIKE A ROCKET, YOU'VE
9 HEARD SEVERAL EYEWITNESSES SAY, RIGHT ACROSS THE ROAD.
10 IT WOULD HAVE BEEN A VERY DIFFERENT SITUATION AND WE
11 WOULDN'T BE HERE.

12 HERE'S THE THING: END OF THE DAY, EVERYTHING IN
13 THIS CASE IS CONSISTENT WITH SOMEONE JERKING THE WHEEL
14 OUT OF SHANNA KRANCHIK'S HAND, EVERYTHING. YOU'VE HEARD
15 FROM THE EYEWITNESSES. YOU'VE HEARD FROM THE LIVE ONES
16 WHO WERE HERE TO TESTIFY AND THE REPORTED ONES. THEY ALL
17 SAY THE SAME THING. THE CAR WAS TRAVELING ONE WAY. ALL
18 OF A SUDDEN, OUT OF NOWHERE IT JERKED, ALL OF A SUDDEN.
19 THERE'S BEEN ABSOLUTELY NOTHING TO CONTRADICT THAT.

20 AND YOU HAVE THE STATEMENT OF MS. KRANCHIK THAT
21 YOU'LL BE ABLE TO TAKE BACK WITH YOU, AS WELL AS THE
22 TESTIMONY OF PASANTE TRAPP, WHICH YOU'VE HEARD READ, THAT
23 DONALD ADAMS IS THE PERSON WHO DID THAT. AND IT'S HARD
24 TO ANTICIPATE WHAT THE STATE'S GONNA SAY. I IMAGINE THAT
25 PART OF WHAT THE STATE'S GONNA SAY ABOUT MS. KRANCHIK IS

1 THAT IS SELF-SERVING. SHE'S JUST TRYING TO HELP HERSELF
2 OUT.

3 AND IF THIS IS SUPPOSED TO BE A SELF-SERVING
4 STATEMENT, HERE'S THE THING: IF I'VE BEEN ARRESTED FOR
5 FELONY DRIVING UNDER THE INFLUENCE, I'VE GONE INTO THE
6 HOSPITAL. AND YOU REMEMBER THE SEQUENCE OF EVENTS.
7 BEFORE SHE'S GIVEN THE STATEMENT SHE'S ALREADY GONE TO
8 THE HOSPITAL. SHE'S HAD HER BLOOD DRAWN. SHE'S DOWN, AS
9 THE OFFICER TOLD YOU, AT THE DETENTION CENTER BEING
10 VIDEOTAPED. SHE GIVES A STATEMENT. WHAT SHE SAYS IN THE
11 STATEMENT, HAD BEEN DRIVING FOR A WHILE, GO TO WAL-MART
12 ON FOREST DRIVE, THE NOT THE KINDS OF THINGS I WOULD PUT
13 IN MY STATEMENT IF I WERE TRYING TO HELP MYSELF OUT, AND
14 SOMEONE SAYS I'M DRIVING WHILE INTOXICATED. THAT'S NOT
15 WHAT I WAS GONNA SAY. OKAY?

16 I SUPPOSE THAT THE IMPLICATION ABOUT PASANTE TRAPP
17 IS GOING TO BE, OH, HE'S TRYING TO HELP OUT HIS
18 GIRLFRIEND. YOU HEARD HIM CHARACTERIZE HIS RELATIONSHIP.
19 AND MAYBE IT'S NOT QUITE AS EFFECTIVE AS WHEN I HAVE
20 SOMEONE UP HERE WHO'S BEING WELL-PRESENTED BY ONE OF THE
21 CLERKS FROM MY OFFICE. MAYBE IT'S NOT QUITE AS EFFECTIVE
22 WHEN SHE'S SAYING IT. BUT YOU HEARD THE WORDS THAT HE
23 WAS SAYING. HOW WAS HE CHARACTERIZING THEIR
24 RELATIONSHIP? BOYFRIEND-GIRLFRIEND, DO THEY HANG OUT,

1 ARE THEY BEST FRIENDS. SHE'S A GIRL HE SEES, THEY HOOK-
2 UP TOGETHER AND SOMETIMES THEY HAVE SEXUAL RELATIONS.

3 BUT THAT'S MAYBE NOT THE PERSON HE'S GOING TO BE
4 PUTTING HIS CREDIBILITY ON, BUT MORE IMPORTANTLY, HE'S
5 TRYING TO HELP HER OUT. AGAIN, HE KNOWS WHAT SHE'S
6 UNDER ARREST FOR, FELONY DRIVING UNDER THE INFLUENCE.
7 WHY, WHY WOULD YOU PUT IN YOUR STATEMENT, IN YOUR
8 TESTIMONY, WHY ON EARTH WOULD YOU BE TALKING ABOUT MS.
9 KRANCHIK GETTING OUT OF THE CAR TO GO BUY MARIJUANA. SHE
10 GOT OUT OF YOUR SIGHT. YOU DON'T KNOW WHAT SHE WAS
11 DOING. WE WENT TO THE WAL-MART. WE WERE GETTING COLD
12 MEDICINE. DID SHE HAVE A COLD? NO. DID ANYONE ELSE
13 HAVE A COLD? NO.

14 WHY ON EARTH WOULD YOU DO THAT, TO TRY AND HELP
15 SOMEONE OUT, KNOWING THEY'RE BEING ACCUSED OF HAVING
16 DRIVEN UNDER THE INFLUENCE? THAT DOESN'T MAKE ANY SENSE.
17 THAT JUST DOESN'T MAKE ANY SENSE. I THINK EVEN A
18 FIFTEEN-YEAR OLD KID CAN COME UP WITH A BETTER STORY THAN
19 THAT, TO SAY THAT ABOUT SOMEONE WHO'S SUPPOSED TO BE
20 DRIVING UNDER THE INFLUENCE.

21 BUT THERE'S JUST NOTHING, NOTHING, NOTHING TO
22 CONTRADICT THE IDEA THAT DONALD ADAMS JERKED THE WHEEL
23 OUT OF SHANNA KRANCHIK'S HANDS. AND HERE'S THE THING:
24 CRIMINAL LAW IS VERY, VERY SPECIFIC. WE CONVICT SPECIFIC
25 PEOPLE FOR SPECIFIC CRIMES. WE HOLD THEM RESPONSIBLE FOR

1 THE SPECIFIC DECISIONS THAT THEY MAKE AND THE SPECIFIC
2 ACTIONS THAT THEY TAKE.

3 THIS WAS NOT AN INEVITABLE COLLISION. THIS WAS NOT
4 AN INEVITABLE CASE, EXCEPT IN THE SENSE THAT SHANNA
5 KRANCHIK-- IN THIS WORLD EVERYTHING'S EVENTUAL OR
6 PREDETERMINED, OR YOU GET UP IN THE MORNING AND ANYTHING
7 CAN HAPPEN. IT'S NOT THAT KIND OF A CASE.

8 SOMEONE IN HER VEHICLE AT A POINT WHERE YOU HEARD
9 TESTIMONY FROM SOMEONE INSIDE THE CAR. SHE'S NOT OUT OF
10 CONTROL, NOT NECESSARILY OUT OF CONTROL. JERKS THE WHEEL
11 OUT OF HER HANDS. SOMEONE ELSE MAKES THAT INDEPENDENT
12 DECISION. SOMEONE ELSE TAKES THAT INDEPENDENT ACTION.
13 AND HERE WE ARE. WE JUDGE PEOPLE FOR THE ACTIONS THEY
14 TAKE.

15 THIS IS THE LAST TIME THAT I'M GOING TO HAVE TO
16 SPEAK TO YOU, BECAUSE OF THE RULES. AND THIS ISN'T
17 SOMETHING THAT THE STATE SET UP. THIS IS NO CONSPIRACY,
18 BUT BECAUSE OF THE RULES OF COURT, WE DON'T GET TO TALK
19 TO YOU LAST. I KNOW WHAT THEY'RE GONNA GET UP HERE AND
20 SAY. I KNOW HOW THEY'RE GONNA RESPOND TO WHAT I SAID.
21 YET, THIS ISN'T A CONTEST. THIS IS A COURT OF LAW.

22 YOU'VE HEARD ALL THE EVIDENCE IN THIS CASE. YOU'VE
23 HEARD THE FACTS. YOU'VE HEARD WHAT THE STANDARD IS AND
24 WHAT IT'S NOT. AND THE JUDGE IS GOING TO INSTRUCT YOU ON
25 THE LAW. I THINK WHEN YOU GO BACK IN THAT JURY ROOM AND

1 REVIEW ALL THE EVIDENCE IN THIS CASE, WHAT IT WILL SHOW
2 IS SHANNA KRANCHIK'S ACTIONS. SHE'S NOT GUILTY. THANK
3 YOU.

4 THE COURT: THANK YOU, MS. AHRENS.

5 MS. CAMPBELL: MAY IT PLEASE THE COURT.

6 THE COURT: YES MA'AM.

7 MS. CAMPBELL: THANK YOU. IN EVERY CASE, WHEN WE'RE
8 GETTING READY FOR TRIAL WE TRY AND ANTICIPATE WHAT THE
9 DEFENSE IS GONNA DO. AND TYPICALLY, IN A FELONY DUI
10 CASE, IT'S MORE THAN TWO, BECAUSE THERE ARE REALLY ONLY
11 TWO POSSIBLE WAYS YOU COULDN'T BE GUILTY.

12 NUMBER ONE: IT'S NOT YOU; YOU WEREN'T DRIVING.
13 SHANNA KRANCHIK WASN'T DRIVING THAT CAR. OR, NUMBER TWO:
14 YOU WEREN'T UNDER THE INFLUENCE. YOU WEREN'T IMPAIRED.
15 YOU ONLY HAD ONE BEER. THAT DIDN'T IMPAIR YOUR ABILITY
16 TO REACT. THIS WAS HONESTLY A TRUE ACCIDENT TO WHICH YOU
17 DIDN'T VIOLATE A LAW OR CONTRIBUTE.

18 BUT, LADIES AND GENTLEMEN, THIS CASE IS COMPLETELY
19 UNIQUE. THIS CASE, SHE CAN'T GET AROUND THE FACT THAT
20 SHE'S DRIVING. SHE'S STUCK WITH THAT. EVEN THE THREE
21 PEOPLE WHO WERE TRYING TO HELP HER OUT IN THE CAR SAY
22 THAT.

23 AND SHE CAN'T GET AROUND THE TOXICOLOGY BECAUSE IT'S
24 OVERWHELMING THAT ON THAT DAY SHE CHOSE BY ANY MEANS YOU
25 ARGUE. YOU CAN THROW THE MARIJUANA OUT IN THIS CASE,

1 EVEN THOUGH HE TOLD YOU BECAUSE OF THE HIGH AMOUNT THAT
2 IT'S MOST LIKELY THERE'S A CHANCE SHE COULD HAVE STILL
3 BEEN UNDER.

4 AND BY THE WAY, I FIND IT INTERESTING, PASANTE
5 TRAPP, WHO WAS THEIR STAR WITNESS, SAID SHE SMOKES AND
6 GETS HIGH EVERY SINGLE DAY, BUT THIS ONE. THIS IS THE
7 ONE DAY THAT SHANNA KRANCHIK CHANGED HER LIFE AND DIDN'T
8 GET HIGH. MAYBE THE COLD MEDICINE WAS ENOUGH. THAT'S
9 THEIR DEFENSE?

10 SHE'S DRIVING, SHE'S IMPAIRED. SO, IF THAT DOESN'T
11 WORK, WHAT DOES SHE DO? SHE'S STUCK WITH THAT. SO, JUST
12 POINT THE FINGER AT SOMEBODY ELSE. AND SHE DOES A GOOD
13 JOB BECAUSE SHE'S THINKING ABOUT IT AS SHE'S SITTING
14 THERE IN THAT DRIVER'S SEAT WITH HER LEGS HANGING OUT,
15 BLAMING SOMEBODY ELSE.

16 THE FIRST PERSON SHE BLAMES IS DONALD ADAMS. AND
17 YOU'RE JUST SUPPOSED TO THINK SHE MISUNDERSTOOD THE
18 QUESTION. THAT'S NOT THE TESTIMONY, BUT THAT'S WHAT
19 YOU'RE SUPPOSED TO THINK.

20 AND WHY ON EARTH WOULD CORPORAL BAKER GO ACROSS THE
21 ROAD, AND SPEAK TO THOSE PEOPLE IF SHE HADN'T SAID DONALD
22 ADAMS WAS THE DRIVER? THAT DOESN'T MAKE ANY SENSE.

23 BUT SHE CAN'T BLAME DONALD ADAMS AS THE DRIVER,
24 BECAUSE THAT'S NOT GONNA WORK. SO, SHE COMES BACK WITH,
25 WELL, THERE'S THE WHITE TRUCK. AND YOU CAN BELIEVE WHICH

1 EVER WHITE TRUCK IT CAN BE. SHE HAS A MISSING TRUCK THAT
2 PULLS OUT IN FRONT OF HER, EVEN THOUGH PASANTE TRAPP
3 TESTIFIED DIFFERENTLY.

4 YOU CAN BELIEVE ANY OF THAT. SHE BLAMES THE TRUCK.
5 BUT THEN WHEN SHE GETS DOWN FOUR HOURS LATER-- AND THIS
6 TAPE, LADIES AND GENTLEMEN, YOU TAKE IT BACK AND REVIEW
7 IT, BECAUSE IT'S CRUCIAL. BECAUSE IT'S NOT ONLY WHAT IT
8 SAYS, IT'S WHAT IT DOESN'T SAY.

9 BUT IN THIS TAPE, NOT ONLY DOES THE TRUCK PULL OUT
10 IN FRONT OF HER THAT CAUSED THE WRECK, BUT THEN SUDDENLY,
11 DONALD ADAMS, SINCE HE WASN'T THE DRIVER, HE'S STILL AT
12 FAULT; HE GRABBED THE WHEEL WHEN SHE WAS MANEUVERING INTO
13 THE MEDIAN.

14 THAT'S THEIR STORY. OH, AND IF THAT DOESN'T WORK,
15 THEN GET YOUR LAWYER TO GET UP HERE AND THROW UP SOME
16 SMOKE AND MIRRORS. THIS, SMOKE AND MIRRORS. WHAT DO YOU
17 SEE, WHAT DO YOU NOT SEE. WE AREN'T PLAYING A GAME HERE,
18 LADIES AND GENTLEMEN. THIS WAS A CRIME THAT COST ONE MAN
19 HIS LIFE AND ANOTHER MAN HIS LEG.

20 SHE WANTS TO PLAY SMOKE AND MIRRORS. YOU KNOW,
21 THERE'S A JOKE, IN LAW SCHOOL, A JOKE THAT TALKS ABOUT
22 TWO PEOPLE, A LAWYER AND A PRIEST WALKING DOWN THE
23 STREET. I LEARNED THIS ALMOST TWENTY YEARS AGO. WHEN
24 THEY'RE WALKING DOWN THE STREET, IT HAD BEEN RAINING THE
25 DAY BEFORE, THERE'S A PUDDLE IN THE DIRT RIGHT NEXT TO

1 THE SIDEWALK. AND THE PRIEST LOOKS DOWN AND SAYS, LOOK,
2 THERE'S A SILVER DOLLAR IN THE PUDDLE. THERE'S A SILVER
3 DOLLAR, PLAIN AS DAY, RIGHT IN THAT PUDDLE. AND THE
4 LAWYER PICKS UP A STICK AND STIRS IT UP. AND THE SILT
5 AND THE MUD CLOUD IT UP AND YOU CAN'T SEE IT ANYMORE; IT
6 JUST LOOKS LIKE A MUDDY PUDDLE. AND HE LOOKS AT THE
7 STREET AND HE SAYS, WHAT, WHAT SILVER DOLLAR.

8 WELL, LADIES AND GENTLEMEN, I DON'T WANT TO TALK
9 ABOUT SMOKE AND MIRRORS. I WANT TO TALK ABOUT THE FACT,
10 THE UNCONTROVERTED, INDISPUTABLE FACT IN THIS CASE; NOT
11 ABOUT WHAT SOMEBODY MAY HAVE SAID OR COULD HAVE SAID OR
12 SHOULD HAVE SAID. IT'S NOT ABOUT, OH, AND THE STATE
13 DIDN'T CALL THE OTHER WITNESSES IN THE CAR. AND I'LL BE
14 THE FIRST TO TELL YOU, LADIES AND GENTLEMAN, THE STATE'S
15 NOT GONNA CALL UNRELIABLE, UNCORROBORATED WITNESSES TO
16 GIVE THEIR DIFFERENT STATEMENTS OVER AND OVER, TRYING TO
17 HELP OUT THEIR FRIEND.

18 YOU KNOW, THEY DON'T HAVE A DUTY TO PUT UP A
19 DEFENSE. THE WORK THEY DO, THEY CAN PUT ANYBODY. AND
20 WHAT DO THEY PUT UP? PASANTE TRAPP'S TESTIMONY.

21 THE FACTS, THE TESTIMONY, THE SWORN TESTIMONY FROM
22 CREDIBLE WITNESSES, LADIES AND GENTLEMEN. AND WHO DID
23 YOU HEAR FROM? AND THE FIRST PEOPLE YOU HEARD FROM,
24 LADIES AND GENTLEMEN,-- WELL, I WANT TO TALK ABOUT THE
25 VICTIMS IN THIS CASE, BECAUSE I SUBMIT, LADIES AND

1 GENTLEMEN, TAKING THEIR TESTIMONY ALONE, AND IT'S
2 UNCONTRADICTED. NOTICE, SHE DIDN'T TALK ABOUT THEM
3 BECAUSE SHE CAN'T, EVEN AS HARD AS SHE TRIES, GET AROUND
4 TRACY PROCTOR, CHRIS DEARLOVE, OR DANNY SHARPE. BECAUSE,
5 WHY ARE THEY IMPORTANT? BECAUSE THEY TOTALLY CORROBORATE
6 WHAT THE EXPERT TESTIMONY IS, WHAT THEY SAW.

7 AND WHAT DID DANIEL SHARPE TELL YOU? THAT HE'S
8 RIDING DOWN THE ROAD. HE AND MR. CROFT ARE WORKING THAT
9 DAY. THEY'RE DOING THEIR JOB AS RESPONSIBLE CITIZENS IN
10 OUR COMMUNITY. THEY'RE DRIVING THEIR TRAILER IN A SAFE
11 AND NORMAL MANNER, ENTERING THE HIGHWAY LIKE A NORMAL
12 PERSON DOES, ONE THAT'S NOT HIGH ON MARIJUANA AND COLD
13 MEDICINE.

14 DANIEL SHARPE SEES IN THE MIRRORS THE CAR COMING AT
15 AN ANGLE TOWARDS THEM. AND YOU KNOW WHAT'S SIGNIFICANT,
16 LADIES AND GENTLEMEN? SHE DIDN'T WANT TO GO INTO THAT.
17 DANIEL SHARPE HAD TO LOOK IN MIRRORS ACROSS TWO LANES OF
18 TRAFFIC AT A CAR ADMITTEDLY COMING AT AN ANGLE, THERE IN
19 THE FAR, RIGHT LANE.

20 HER STORY, THE TRUCK, THE WHITE TRUCK, AND I'LL GET
21 BACK TO MR. SHARPE IN A MINUTE. HER STORY, TAKE IT. HE
22 CANNOT SEE THAT CAR COMING TOWARDS HIM IF THERE IS A BIG,
23 WHITE TRACTOR TRAILER. IF THERE IS A TRACTOR, TRUCK,
24 WHATEVER IT IS, THAT SHE'S TRYING TO AVOID, IT WOULD

1 BLOCK HIS VIEW. USE YOUR COMMON SENSE. THAT MAKES
2 SENSE.

3 BUT EVEN IF YOU DON'T WANT TO BELIEVE THAT-- AND
4 YOU HEARD FROM MR. OWENS. AND WHAT MR. OWENS TOLD YOU IS
5 THE ONLY THING HE KNOWS, THAT HE LOOKED UP, HE SAW THAT
6 TRUCK COMING TOWARDS HIM. THE TRUCK THAT HAD BEEN HIT BY
7 HER CAR AND HE DID EVERYTHING IN HIS POWER TO TRY TO
8 BRAKE. AT LEAST HE KNOWS WHEN SOMEBODY IS COMING TOWARDS
9 YOU, YOU APPLY THE BRAKES, IF THAT HAPPENS. WE'VE GOT
10 SKID MARKS FROM HIM.

11 AND THEN THERE'S TRACY PROCTOR AND CHRIS DEARLOVE.
12 THANK GOODNESS FOR THEM. THANK GOODNESS FOR THEIR BEING
13 RESPONSIBLE CITIZENS, WORKING AND WILLING TO COME TO
14 COURT AND TELL YOU WHAT THEY SAW. AND WHAT DID THEY SEE?
15 TRACY PROCTOR TOLD YOU. HE'S A RESPONSIBLE BUSINESSMAN.
16 HE LOOKS UP AND HE'S IN THAT LANE COMING TOWARDS THEM.
17 AND AS HE LOOKS UP HE DOESN'T NOTICE MS. KRANCHIK BECAUSE
18 SHE IS OPERATE HER VEHICLE IN A SAFE AND NORMAL MANNER.
19 HE NOTICES IT BECAUSE HE THINKS HE'S ABOUT TO GET IN A
20 HEAD-FIRST COLLISION WITH IT.

21 BUT SHE'S DRIVING SAFELY AT THAT POINT? AND THE
22 OTHER THING, BOTH OF THEM SAID, THERE ARE NO OTHER TRUCKS
23 ANYWHERE AROUND THEM. SHE IS CAREENING FROM ONE LANE -
24 AND THIS IS IMPORTANT, LADIES AND GENTLEMEN. SHE'S NOT

1 DRIVING DOWN THAT INNER LANE STRAIGHT. BOTH OF THEM,
2 UNCONTRADICTED, THEY CORROBORATE EACH OTHER.

3 HER STORY CAN'T BE TRUE. THEY DON'T HAVE A BONE.
4 THEY DON'T HAVE A DOG IN THIS FIGHT. THEY DON'T HAVE ANY
5 INTEREST IN THIS CASE. THEY TOLD THE POLICE WHAT THEY
6 SAW BACK THERE AND THEY CAME AND THEY TOLD YOU AGAIN.
7 LET ME TELL YOU, IF THEY HAD SAID ANYTHING DIFFERENT, YOU
8 WOULD HAVE HEARD ABOUT IT.

9 TRACY PROCTOR TOLD US - AND THIS IS IMPORTANT - THE
10 CAR IS COMING TOWARD THE MEDIAN, AS IF IT IS GONNA CROSS
11 THE MEDIAN FROM THE MIDDLE LANE TO THE OUTER LANE. AND
12 THE REASON SHE DOESN'T MENTION EITHER OF THESE TWO PEOPLE
13 IS BECAUSE SHE CAN'T EXPLAIN THAT BECAUSE THAT DOESN'T
14 WORK FOR HER. BECAUSE IF THAT'S TRUE, THEN SHANNA
15 KRANCHIK IS GUILTY. NO MATTER HOW HARD SHE TRIES TO
16 TWIST THINGS.

17 TRACY PROCTOR AND CHRIS DEARLOVE CAME BEFORE YOU AND
18 SWORE AN OATH TO TELL THE TRUTH. AND THEIR TESTIMONY
19 REEKS OF THE TRUTH BECAUSE WHY ELSE WOULD HE NOTICE IT.
20 WHY ELSE WOULD HE SUDDENLY NOTICE A RED TAURUS? HE
21 DIDN'T REMEMBER IT WAS RED. HE JUST KNEW IT WAS A THREAT
22 TO HIM. REMEMBER THEIR TESTIMONY. AND LADIES AND
23 GENTLEMEN, THEIR TESTIMONY ALONE IS ENOUGH TO FIND HER
24 GUILTY.

1 BUT THE STATE HAS MUCH MORE THAN THAT. BECAUSE YOU
2 ALSO HEARD FROM THE LAW ENFORCEMENT THERE AT THE SCENE.
3 AND LET'S GET ONE THING STRAIGHT, LADIES AND GENTLEMEN,
4 WHEN THEY GO TO THE SCENE THAT DAY, ALL THEY KNOW IS
5 THERE IS A MULTI-VEHICLE COLLISION. AND WHEN THEY GET
6 THERE INITIALLY ALL THEY'RE TRYING TO DO IS DETERMINE
7 WHAT HAPPENED AND MAKE SURE EVERYONE'S OKAY.

8 AND NOW, THEIR DEFENSE IS, HE DIDN'T VIDEOTAPE WHEN
9 HE WENT UP TO MAKE SURE SHANNA KRANCHIK WAS OKAY, AND ASK
10 HER WHO WAS DRIVING? THAT YOU CAN'T CONVICT? THAT'S
11 THEIR DEFENSE? THAT WE DIDN'T VIDEOTAPE? AT THAT POINT
12 SHE'S A VICTIM. WE DIDN'T VIDEOTAPE HER AS WE'RE GOING
13 AROUND TO CHECK TO SEE WHO ALL'S DIED IN THIS CRASH? WHO
14 ALL WAS GONNA LOSE THEIR LEGS IN THIS CRASH? SO, YOU
15 CAN'T BELIEVE CORPORAL BAKER.

16 AND SHE MENTIONS LIEUTENANT COLLINS, AND SHE'S
17 RIGHT, LIEUTENANT COLLINS WAS BASICALLY THE SUPERVISOR OF
18 THE SCENE, AND YOU ALL HEARD FROM HIM. AND THEN SHE
19 SAYS, WE DON'T KNOW WHY THEY PUT THESE PEOPLE UP. I
20 MEAN, THERE'S NO DISPUTE. WE DON'T KNOW WHAT THE DISPUTE
21 IS, LADIES AND GENTLEMEN, UNTIL WE GET IN COURT.

22 YOU HEARD FROM CORPORAL JEFF BAKER, AND I WANT TO
23 TALK ABOUT HIM BECAUSE HE'S VERY IMPORTANT. CORPORAL
24 JEFF BAKER, WHO IS A SEASONED TROOPER WITH THE HIGHWAY
25 PATROL. AND ACCORDING TO THEM, YOU JUST CAN'T BELIEVE

1 HIM BECAUSE HE DIDN'T VIDEOTAPE WHEN HE FIRST APPROACHED
2 SHANNA KRANCHIK. AND I SUBMIT, LADIES AND GENTLEMEN, IF
3 HE HAD VIDEOTAPED HER WHEN HE FIRST APPROACHED HER, THEN
4 YOU BETTER RUN, BECAUSE WHY ON EARTH WOULD THEY WANT THAT
5 IN EVIDENCE.

6 WHEN HE WALKS UP TO THAT CAR, SHE'S SITTING THERE
7 SMOKING HER CIGARETTE-- AND THERE IS NO DISPUTE, LADIES
8 AND GENTLEMEN, DIFFERENT PEOPLE HANDLE STRESS DIFFERENT
9 WAYS. BUT HE'S DOING THIS FOR WHAT, THIRTEEN YEARS,
10 FOURTEEN, FIFTEEN? AND HER ACTIONS THAT DAY WEREN'T
11 CONSISTENT WITH ANYONE WHO WAS JUST UPSET. SHE NEVER
12 EVEN ASKED HOW MANY HAD DIED.

13 MS. AHRENS: OBJECTION, YOUR HONOR.

14 THE COURT: SUSTAINED.

15 MS. CAMPBELL: SHE JUST SAT THERE AND SMOKED HER
16 CIGARETTE. AND WHEN HE ASKED HER WERE YOU DRIVING THE
17 CAR, SHE KNEW - AND THIS IS TELLING - SHE KNEW TO POINT
18 ACROSS THE ROAD TO SOMEBODY ELSE. BECAUSE HE'S RIGHT, HE
19 DOES NEED TO LEAVE HER TO COMPOSE HERSELF FOR A FEW
20 MINUTES BECAUSE SHE'S GOT TO GET A STORY BECAUSE SHE
21 KNOWS WHAT SHE'S BEEN DOING, AND SHE KNOWS WHAT CONDITION
22 SHE'S IN.

23 AND IT GOES FURTHER THAN THAT. HE GOES ACROSS THE
24 ROAD AND COMES BACK OVER. AND AT THAT POINT HE'S, LIKE,
25 ALL THREE OF THEM SAY YOU'RE THE DRIVER. AND THAT POINT,

1 SHE, OH, MY GOSH, YOU KNOW, THAT DIDN'T WORK BECAUSE SHE
2 HASN'T HAD TIME TO GET HER STORY STRAIGHT. SO, AT THAT
3 POINT, AND I DON'T CARE IF YOU THINK IT'S THE WHITE
4 TRUCK, THE MACK TRUCK, THE BOBTAIL TRUCK, IT WAS NOT MY
5 FAULT BECAUSE A TRUCK PULLED OUT IN FRONT OF ME. THIS
6 MYSTERY TRUCK THAT NONE OF THE EYEWITNESSES SAW, THAT NO
7 ONE SAW IN THE CAR UNTIL LATER.

8 CORPORAL BAKER GIVES HER SOME MORE TIME THINKING SHE
9 MAY BE UPSET. AND YOU'RE SUPPOSED TO NOT BELIEVE HIM
10 BECAUSE OF THAT? AND HE DID DESCRIBE HER DEMEANOR. SHE
11 WAS MELLOWED OUT. AND WHEN HE GOT HER UP OUT OF THE CAR,
12 AFTER SHE GETS TREATED, BECAUSE SHE SHOULD BE TREATED FOR
13 HER INJURIES, SHE'S BEEN IN A MAJOR WRECK, EVEN THOUGH,
14 SHE AND THE OCCUPANTS OF HER CAR FORTUNATELY WERE NOT
15 FATALLY INJURED.

16 AND HE APPROACHES HER AGAIN AND HE ASKS HER TO STAND
17 UP. AND SHE SAYS I'M STANDING UP. AND AT THAT POINT HE
18 NOTICED AN ODOR OF MARIJUANA. AND REMEMBER THIS? HE
19 WANTED TO SEE IF IT WAS ABOUT HER OR THE CAR. AND WHEN
20 HE GETS AWAY FROM THE CAR, IT'S COMING FROM HER. WELL,
21 IF SHE HASN'T SMOKED HER DAILY RATION, WHY DOES SHE SMELL
22 LIKE IT? SHE SMOKES ON A DAILY BASIS, BUT NOT THAT DAY,
23 ACCORDING TO THESE PEOPLE.

24 BAKER THEN TAKES HER OVER, AND AT THAT POINT, HE'S
25 BECOMING SUSPICIOUS. HE DOESN'T SMELL ALCOHOL BECAUSE

1 THAT'S ALWAYS A DEAD GIVEAWAY. NO ALCOHOL, HE NEVER SAYS
2 THAT. THAT'S WHAT MAKES HIM CREDIBLE. HE DIDN'T TRY TO
3 MAKE IT BETTER THAN IT IS, HE JUST TELLS YOU WHAT
4 HAPPENED.

5 AND AT THAT POINT HE FEELS IT'S PRUDENT TO DO SOME
6 FIELD SOBRIETY TESTS. THANK GOODNESS. AND THEN HE DOES
7 THE HORIZONTAL NISTAGMUS TEST, AND HE DOES THE VERTICAL
8 ONE. AND BOTH OF THOSE INDICATE, INDEPENDENT OF EACH
9 OTHER, INDICATE THAT SHE'S UNDER THE INFLUENCE. BUT HE
10 IS GOING TO GIVE HER MORE TESTS TO GIVE HER THE BENEFIT.
11 BUT SHE'S STARTING TO THINK NOW. WHY ARE YOU DOING THIS?
12 WHY DO YOU WANT ME TO STAND ON ONE LEG. AND YOU KNOW
13 WHAT'S THE MOST TELLING? SHE WON'T.

14 IF SHE'S NOT UNDER THE INFLUENCE OR IF SHE WASN'T
15 THE DRIVER OR SHE'S NOT RESPONSIBLE, THEN WHY WON'T SHE
16 DO THE TEST. AND HE ASKS HER TO SAY HER ABC'S. MAYBE
17 SHE'S UNSTEADY ON HER FEET; THAT'S A POSSIBILITY. BUT
18 THAT DOESN'T AFFECT HER ABILITY TO SAY HER ABC'S. BUT
19 ALL SHE WANTS TO DO, NO, I'M NOT GOING TO DO IT. SHE
20 WON'T EVEN SAY HER ABC'S BECAUSE SHE KNOWS SHE'S
21 INTOXICATED.

22 SO, AT THAT POINT HE PLACES HER UNDER ARREST AND HE
23 TAKES HER DOWN TO THE HOSPITAL. AND THAT IS HIS PRIMARY
24 JOB AT THE SCENE. AND AT THAT POINT, LADIES AND
25 GENTLEMEN, IT'S SIGNIFICANT, BECAUSE BASED ON THIS TEST--

1 AND SHE'S REFUSES, HE CAN'T MAKE HER TAKE THE TESTS. SHE
2 FAILS TWO; SHE WON'T DO THE OTHER TWO. HE TAKES HER DOWN
3 TO GIVE HER A BLOOD TEST. AND THAT'S NOT TO BE USED IN
4 COURT TO CONVICT HER; IT'S LATER TO BE USED IN COURT TO
5 EXONERATE HER. IT GOES BOTH WAYS. IT'S USED BOTH WAYS.

6 AND WHAT HAPPENS THEN? SHE GOES DOWN. THE NURSE
7 TAKES THE BLOOD. THERE'S NO DISPUTE IN THIS CASE.
8 EVERYTHING WAS DONE PROPERLY. AND AT THAT POINT THE
9 NURSE EVEN HAS HER SIGN A WAIVER THAT SHE DOESN'T NEED
10 ANY MORE MEDICAL TREATMENT. SHE'S FINE. ALL SHE'S GOT
11 IS A SCRATCH ON HER ARM FROM THE AIR BAG BECAUSE THE AIR
12 BAG DID ITS JOB THAT DAY FOR HER.

13 THEN HE TAKES HER BACK TO THE DETENTION CENTER TO
14 OFFER HER A BREATHALYZER AGAIN. WE BROUGHT IT UP. IT
15 WAS NEGATIVE. WE'RE TRYING TO FRAME HER WITH A NEGATIVE
16 BLOOD ALCOHOL? NO ONE IS TRYING TO FRAME SHANNA
17 KRANCHIK. NO ONE IS TRYING TO MAKE IT BETTER THAN IT IS.
18 WE ARE SIMPLY BRINGING FORTH THE FACTS AS THEY ARE.

19 AT THAT POINT HE SITS HER DOWN. AND THIS IS
20 IMPORTANT. AND HE GIVES HER THE OPPORTUNITY TO GIVE A
21 STATEMENT AFTER ADVISING HER. REMEMBER, THREE DIFFERENT
22 TIMES HE READ HER HER RIGHT TO MAKE SURE SHE UNDERSTOOD
23 THEM. AND AT THAT POINT SHE KNOWS THAT PERHAPS THE
24 MYSTERIOUS WHITE TRUCK ISN'T GOOD ENOUGH. SO, SHE GOES
25 BACK TO PLAN A BECAUSE PLAN B MIGHT NOT BE GOOD ENOUGH.

1 BECAUSE THE ONE CONSISTENT THING ABOUT SHANNA KRANCHIK IS
2 IT'S NEVER HER FAULT. THAT'S THE ONLY CONSISTENT THING.

3 SHE GIVES THREE DIFFERENT STATEMENTS. HER FIRST
4 STORY, DONALD WAS DRIVING. HE COMES BACK, THAT DOESN'T
5 FLY. HER SECOND STORY, IT'S NOT THE TRUCK SHE HIT, SOME
6 TRUCK PULLED OUT IN FRONT OF ME; PULLED OUT IN FRONT OF
7 HER. HER THIRD STORY, DONALD GRABBED THE WHEEL AND THE
8 TRUCK PULLED OUT IN FRONT OF ME.

9 BUT WHAT'S SIGNIFICANT ABOUT THESE STATEMENTS,
10 LADIES AND GENTLEMEN. THEY SAID THAT WE SAID THESE WERE
11 SELF-SERVING STATEMENTS. WHY WOULD SHE WRITE THIS AND
12 PUT ALL THIS IN HERE. WELL, NOTICE ONE THING ABOUT HER
13 STATEMENTS. SHE NEVER ADMITS SHE DID A THING WRONG. SHE
14 NEVER PUTS IN HERE, WE WENT TO BUY MARIJUANA, I WENT TO
15 BUY MARIJUANA. REMEMBER PASANTE'S TESTIMONY. SHE GOT
16 OUT OF THE CAR AND THEN TRIED TO BACK UP AND SAY, WELL,
17 SHE MIGHT NOT HAVE GONE IN BECAUSE THAT WOULD GIVE HER
18 THE OPPORTUNITY TO SMOKE MARIJUANA.

19 SHE DIDN'T PUT THAT SHE WENT TO BUY MARIJUANA.
20 DONALD, YOU KNOW. DONALD, WHO SHE'S SELLING DOWN THE
21 RIVER FASTER THAN SHE CAN PADDLE. DONALD BUYS MARIJUANA.

22 AND THEN, I LIKE THIS STATEMENT, TOO. AND THEY SAY,
23 WELL, WHY WOULD SHE WRITE THIS STATEMENT, IT'S SO
24 INCRIMINATING. SHE DOESN'T INCRIMINATE HERSELF ONE BIT.
25 WHEN SHE EVEN TALKS ABOUT THE WAL-MART. AFTER WE LEFT WE

1 WENT TO THE WAL-MART ON FOREST DRIVE. WE, AND I GUESS
2 THAT'S SHE AND PASANTE, ACCOMPLISHED OUR TASK.

3 SHE DOESN'T SAY WHEN WE, THAT'S PASANTE AND I, HAD
4 SHOPLIFTED OUR COLD MEDICINE BECAUSE I NEEDED SOME MORE
5 BECAUSE YOU HAVE TO TAKE TWENTY TO THIRTY DOSES AT A
6 TIME; YOU GOT TO KEEP A REGULAR SUPPLY; IT TAKES
7 SHOPLIFTING AT A LOT OF DIFFERENT STORES. SHE DOESN'T
8 PUT THAT IN HERE.

9 THEIR DEFENSE IS OH, THIS STATEMENT MUST BE TRUE
10 BECAUSE SHE ACTUALLY INCRIMINATES HERSELF. ALL IN THIS
11 STATEMENT SHE DOES IS SAY DONALD'S THE BAD GUY. THE
12 MYSTERIOUS WHITE TRUCK PULLED OUT IN FRONT OF ME. DONALD
13 GRABBED THE STEERING WHEEL. AND I'LL GET BACK TO
14 PASANTE IN A MINUTE.

15 YOU HEARD FROM SERGEANT ROBERT LEE, LIEUTENANT
16 MAFFETT, SERGEANT DAY. AND SUDDENLY THERE'S THIS
17 TESTIMONY, AND AT ONE POINT, MAFFETT JUST SAYS HE
18 COULDN'T SAY WHETHER OR NOT SHE'S BRAKING BEFORE BECAUSE
19 THERE'S NO SKID MARKS. HE DOESN'T FINISH THE SENTENCE.
20 BUT WE KNOW AT THE TIME A YAW OCCURRED. YOU CAN'T HAVE
21 A YAW MARK AND YOU CAN'T HAVE BRAKING OCCURRING.

22 SO, THEY HAVE SEVERAL THEORIES. SHE STEPPED ON THE
23 WRONG PEDAL OR DONALD SNATCHED THE WHEEL OR WHATEVER.
24 LADIES AND GENTLEMEN, EVEN HER OWN BEST SELF-SERVING
25 STATEMENT, THE UNDISPUTED EYEWITNESS PUT THE CAR OUT OF

1 CONTROL. WE KNOW SHE'S SPEEDING AT LEAST SIXTY-NINE
2 MILES AN HOUR AND THEY SAY THE SLIDING MOTION WOULD SLOW
3 IT DOWN. AT THAT POINT SHE'S GOING OVER SIXTY-NINE MILES
4 AN HOUR AND SHE COMES OFF IT EFFORTLESSLY, CROSSING THREE
5 LANES OF TRAFFIC ILLEGALLY.

6 AND YOU HEARD FROM THE EYEWITNESSES. SHE WAS HEADED
7 TOWARDS THE MEDIAN OUT OF CONTROL. THAT'S WHY THEY
8 NOTICED IT. AND IT WAS ONLY AS SHE STARTED INTO THE
9 MEDIAN THAT EITHER SHE, AND I'LL AGREE, EITHER SHE OR
10 DONALD GRABBED THAT WHEEL. BUT SHE WAS DRIVING UP TO
11 THAT POINT AND THERE WASN'T A MYSTERIOUS TRUCK THAT
12 PULLED OUT IN FRONT OF HER. AND IT SURE WASN'T MR.
13 CROFT'S FAULT.

14 AND I'M NOT GOING TO GO OVER ALL THE TESTIMONY
15 AGAIN. YOU HEARD IT ALL. THEY ALL TOTALLY CORROBORATED
16 IT. SHE'S OUT OF CONTROL. SHE'S SPEEDING. SHE'S
17 CROSSING LANES OF TRAFFIC. SHE COULD NOT HAVE DONE ANY
18 OF THAT LEGALLY. AND NO MATTER HOW HARD THEY TRY TO
19 FOCUS ON DONALD GRABBING THE WHEEL, THEY DON'T TALK ABOUT
20 THAT PART. AND THEY GET UP HERE AND SAY OH, SHE COULD
21 HAVE BROUGHT IT BACK SAFELY AND WE COULD BE TOOLING DOWN
22 THE ROAD, I THINK IS HOW THEY PUT IT. SOMEONE WAS
23 GETTING IN A WRECK THAT DAY BECAUSE OF HER DRIVING.

24 YOU ALSO HEARD FROM SOME OTHER EXPERT WITNESSES,
25 TOO, LADIES AND GENTLEMEN. YOU HEARD FROM DOCTOR EADY

1 BUT, LADIES AND GENTLEMEN, IN THIS CASE, THESE ARE NOT
2 THE ONLY DRUGS. YOU CAN EVEN THROW THAT OUT. YOU DON'T
3 EVEN HAVE TO CONSIDER IT, ALTHOUGH I'M CONVINCED IT'S
4 LEGITIMATE SHE WAS SMOKING MARIJUANA THAT DAY, HIGH, WITH
5 THIS AMOUNT IN HER BLOOD.

6 HE THEN TOLD YOU ABOUT THESE OTHERS, THE
7 ANTIHISTAMINES AND THE COUGH SUPPRESSANTS, TWO DIFFERENT
8 DRUGS. EITHER ONE HAS THE SAME EFFECT. EUPHORIA. IT
9 SLOWS IT DOWN. YOU AREN'T ABLE TO REACT PROPERLY. AND I
10 ASKED HIM OVER AND OVER AGAIN, AND THERE'S NO DISPUTE
11 ABOUT THIS. WAS HER ABILITY TO DRIVE HAVE BEEN IMPAIRED.
12 YES. IT'S A MIRACLE THAT SHE DIDN'T GET IN A WRECK
13 SOONER, AS SHE SWERVED DOWN THE HIGHWAY. SHE HAD TO GO,
14 WHAT, TWO EXITS BEFORE SHE EVEN WENT OFF THE ROAD.

15 IT'S UNDISPUTED SHE WAS UNDER THE INFLUENCE. HER
16 ABILITY TO DRIVE WAS IMPAIRED. AND THAT'S WHY THEY'RE
17 USING THE DEFENSE THAT THEY'RE GOING FOR, THAT IT WAS
18 DONALD ADAMS' FAULT.

19 I WANT TO TALK ABOUT PASANTE TRAPP FOR JUST A
20 SECOND. HIS TESTIMONY WAS READ TO YOU BECAUSE HE'S NOT
21 AVAILABLE FOR COURT. AND WHAT CAME OUT DURING THAT
22 TESTIMONY? WE KNOW THAT PASANTE TRAPP GAVE THREE
23 DIFFERENT STATEMENTS OR TESTIMONY, SWORN TESTIMONY. ONE
24 THAT DAY AFTERWARDS; THEN ONE IN MARCH OF '03; AND THEN
25 ONE IN OCTOBER OF '03.

1 HIS TESTIMONY WAS THAT THEY WERE ON I-20. THEY
2 NEVER EXITED. REMEMBER HE SAID THEY NEVER EXITED.
3 THAT'S WHAT HE COULD REMEMBER OR WHAT HE COULD COME UP
4 WITH. THAT THEY WERE IN THE LEFT LANE. AND I'M SURE YOU
5 REMEMBER THE SERIES OF QUESTIONS I ASKED HIM. IN THE
6 LEFT LANE AND THEY HAD BEEN IN THAT LEFT LANE FOR A
7 WHILE, WHICH TOTALLY CONTRADICTS THE OTHER WITNESSES.
8 THAT THE TRUCK PUT THE BLINKER ON, WENT BACK AND FORTH.
9 DID THE TRUCK VEER IN FRONT OF YOU OR DID THE TRUCK PUT
10 THE BLINKER ON? HIS FINAL VERSION WAS NO, THE TRUCK
11 DIDN'T VEER INTO THE LANE, IT JUST PUT A BLINKER ON,
12 WHICH CONTRADICTS HER. AND THERE WAS A TRACTOR AND A
13 TRAILER. REMEMBER A WHITE TRACTOR AND A WHITE TRAILER,
14 AND THAT THEY HIT THE BACK OF THE TRAILER PART. THAT WAS
15 HIS TESTIMONY.

16 AND LADIES AND GENTLEMEN, I DO SUBMIT WHEN YOU'RE
17 TRYING TO MANUFACTURE A STORY SOMETIMES THE DETAILS CAN
18 GET LOST. HE SAID HE HAD NO RELATIONSHIP WITH DONALD
19 ADAMS; THAT HE WAS FRIENDS WITH SHANNA, SHE WAS HIS HOME
20 GIRL; THAT THEY WERE OCCASIONALLY INTIMATE. THAT'S HOW
21 HE DESCRIBED IT. SO, WE KNOW HE SHOWED UP AT HER BOND
22 SETTING THE NEXT AFTERNOON.

23 AT THE SCENE, HE TOLD AN OFFICER THE TRUCK VEERED IN
24 THE LANE. HE LEFT THE SCENE BEFORE THEY COULD EVEN GET A
25 FORMAL STATEMENT. HE WOULDN'T EVEN HANG AROUND. HE

1 CAUGHT A RIDE. AT ONE POINT HE SAID BECAUSE HE HAD TO GO
2 HOME AND WASH SOME DISHES.

3 THE NEXT DAY, AFTER, AND YOU LISTENED TO THIS,
4 HAVING A CONVERSATION WITH SHANNA'S FATHER, HE THEN SAYS
5 DONALD ADAMS GRABBED THE WHEEL. HE TELLS THE MEDIA AND
6 THEN GIVES A STATEMENT TO THE HIGHWAY PATROL.

7 MARCH, 2003: THE TRUCK JUST PUT ON A BLINKER.
8 SHANNA WAS SPEEDING. REMEMBER HOW HE TRIED TO BACK INTO
9 THAT? TALKING ABOUT SHANNA WAS SPEEDING. OR, NO, SHE
10 WASN'T SPEEDING. SHE WAS DRIVING STRAIGHT. WELL, THAT'S
11 WHAT I MEANT.

12 ADMITS WHEN THEY WENT TO BUY MARIJUANA,
13 CONTRADICTING SHANNA AGAIN, THAT BOTH SHANNA AND DONALD
14 WENT IN. AND REMEMBER HOW HE TRIED TO BACKTRACK, I DON'T
15 KNOW IF SHE WENT IN. DONALD WAS SUPPOSED TO BUY IT.
16 ADMITS THEY WENT TO WAL-MART TO GET THE COUGH MEDICINE.
17 HE WAS VERY CAREFUL TO SAY WAL-MART WAS OUT OF COUGH
18 MEDICINE THAT DAY. BECAUSE HE DOESN'T WANT TO ADMIT THAT
19 THEY HAD ACCOMPLISHED THEIR TASK. BECAUSE HE'S TRYING TO
20 HELP HER. YOU CAN'T BLAME HIM. HE SAID THEY WERE GOING
21 HOME, OR MAYBE THEN, THEY WERE GOING TO CVS.

22 AND LADIES AND GENTLEMEN, WHEN YOU HAVE A WAY TO GET
23 HIGH THAT REQUIRES TWO OR THREE BOXES, TWO OR THREE
24 BOTTLES, YOU CAN ONLY GRAB SO MUCH IN EACH STORE. HE
25 SAID SHANNA GETS HIGH EVERYDAY, BUT NOT THAT ONE.

1 AS I WAS LOOKING AT THIS CASE, AND AS I WAS
2 LISTENING TO THE EVIDENCE IN THIS CASE, IT WAS PAINFUL TO
3 HEAR ABOUT THE ACTIONS OF THESE PEOPLE. NOT ONLY PASANTE
4 TRAPP AND DONALD WARD, JUST NOT GOING TO SCHOOL, IN THE
5 SEVENTH AND EIGHTH GRADE; WAS HOOKING UP WITH SHANNA SO
6 THEY COULD GO GET HIGH. THAT'S WHAT THEY DO ON A DAILY
7 BASIS, ON MARIJUANA, ON COLD MEDICINE, ON WHATEVER.

8 AND THEN I THOUGHT ABOUT SHANNA KRANCHIK. SHE
9 HASN'T EVEN REACHED HER NINETEENTH BIRTHDAY. AND SHOULD
10 SHE BE EXCUSED BECAUSE SHE'S EIGHTEEN YEARS OLD. AND
11 THEN I WAS WATCHING THE NEWS LAST NIGHT ABOUT THE
12 MILITARY WHO HAVE BEEN DEPLOYED TO KUWAIT AND TO IRAQ AND
13 I THOUGHT ABOUT ALL THE OTHER EIGHTEEN YEAR OLDS---

14 MS. AHRENS: OBJECTION, YOUR HONOR.

15 THE COURT: SUSTAINED.

16 MS. CAMPBELL: MAY WE APPROACH?

17 THE COURT: YES MA'AM.

18 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

19 THE COURT: SUSTAINED.

20 MS. AHRENS: THANK YOU, YOUR HONOR.

21 MS. CAMPBELL: AND I THOUGHT ABOUT SHANNA KRANCHIK
22 AND THE CHOICES SHE MADE. SHE DOESN'T GO TO SCHOOL---

23 MS. AHRENS: YOUR HONOR, MAY WE APPROACH AGAIN?

24 THE COURT: YES MA'AM.

25 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

1 MS. CAMPBELL: ON JANUARY 23, OF 2002, SHANNA
2 KRANCHIK MADE CHOICES. SHE WOKE UP THAT MORNING AND SHE
3 GOT WITH HER FRIENDS. AND HER CHOICE THAT DAY, AS THEY
4 WERE EVERY DAY, WAS TO GET HIGH. LUCKILY, AND I'VE
5 THOUGHT ABOUT IT, SHOULD SHE BE HELD TO A STANDARD THAT
6 OUR LEGISLATURE RECOGNIZES THAT AT EIGHTEEN YOU ARE AN
7 ADULT. THERE IS NO DISPUTE ABOUT THAT. EVEN A PERSON
8 WHO IS SIXTEEN OR SEVENTEEN YEARS OLD, OR EIGHTY, IN OUR
9 LAW, IS HELD RESPONSIBLE AS AN ADULT. SHE CAN VOTE. SHE
10 CAN DO ANYTHING AND LEAD HER ADULT LIFE.

11 AND HER CHOICES ON JANUARY 23, WERE TO GET UP, GET
12 HIGH, BUY SOME MARIJUANA, GO TO WAL-MART AND SHOPLIFT HER
13 COLD MEDICINE TO REPLENISH HER SUPPLY, AND THEN HEAD TO
14 THE CVS. AND TO SHANNA KRANCHIK ON THAT DAY, THAT'S ALL
15 THAT MATTERED. NOTHING ELSE MATTERED.

16 AND I SUBMIT, LADIES AND GENTLEMEN, WHEN SHE CHOSE
17 TO GET IN THAT CAR AND DRIVE IN A RECKLESS MANNER AND
18 CAUSE THE DEATH OF ONE MAN AND SERIOUS BODILY INJURY TO
19 ANOTHER, IT MATTERED.

20 ON JANUARY 23, OF 2002, AT THREE O'CLOCK IN THE
21 AFTERNOON, SANFORD OWENS, WHO WAS JUST DOING HIS JOB,
22 WORKING. A FATHER, A GRANDFATHER. HE WAS TRYING TO DO
23 HIS JOB WHEN SHANNA KRANCHIK CAME INTO HIS LIFE. HE PUT
24 IT BEST. THAT'S WHEN HIS WORLD STOPPED TURNING. I DON'T
25 THINK YOU COULD PUT IT ANY BETTER THAN THAT.

1 AND GENE CROFT. AT THREE O'CLOCK THAT AFTERNOON HE
2 WAS WORKING. HE WAS DOING HIS JOB. HE'S MOVING TRUCKS.
3 HE'S OBEYING THE LAW WHEN SHANNA KRANCHIK MADE HIM PAY
4 THE ULTIMATE PRICE. SHE ENTERED HIS LIFE. HE HAS NO
5 MORE HOLIDAYS, NO MORE VACATIONS, NOTHING. AND ALL SHE
6 CAN DO IS SAY IT WASN'T HER FAULT. SHE'S NOT
7 RESPONSIBLE.

8 LADIES AND GENTLEMEN, I SUBMIT THAT IF THIS IS THE
9 BEST STORY THAT SHE CAN COME UP WITH, SHE'S STILL GUILTY
10 OF FELONY DRIVING UNDER THE INFLUENCE. BECAUSE WHEN SHE
11 CAME DOWN THAT HIGHWAY, I-77, AND CAME OFF THAT EXIT
12 RAMP, GOING DOWN THAT FEEDER LANE, AND CAME UP, I SUBMIT,
13 ON THE TRAFFIC IN FRONT OF HER, AND SHE DIDN'T HAVE TIME
14 TO WAIT AROUND BECAUSE SHE NEEDED TO GET HER NEXT BATCH
15 OF DRUGS. AND SHE TOOK A LEFT, CAREENED INTO THE OTHER
16 TWO LANES AND SHE LOST CONTROL. AND IT DOESN'T MATTER
17 AS SHE WAS LOSING CONTROL AND GOING INTO THE MEDIAN
18 WHETHER SHE GRABBED THE WHEEL OR DONALD ADAMS GRABBED THE
19 WHEEL. SHE COST GENE CROFT HIS LIFE. SHE COST SANFORD
20 OWENS HIS LEG. BECAUSE SHE CHOSE TO GET INTOXICATED,
21 INEBRIATED, IMPAIRED, AND DRIVE A VEHICLE AT LEAST
22 SEVENTY MILES AN HOUR.

23 ALL THE STATE IS ASKING YOU, ALL I'M ASKING YOU TO
24 DO IS JUST TO HOLD HER RESPONSIBLE FOR HER CHOICES AS AN
25 ADULT THAT DAY. IT MATTERS. THANK YOU.

1 THE COURT: LADIES AND GENTLEMEN, NOW I AM GOING TO
2 GIVE YOU THE CHARGE ON THE LAW FOR YOU TO APPLY TO THE
3 FACTS AS YOU FIND THOSE FACTS DURING THE COURSE OF YOUR
4 DELIBERATIONS.

5 DURING THE COURSE OF THIS TRIAL, LADIES AND
6 GENTLEMEN, AND COUPLE OF TIMES DURING CLOSING ARGUMENTS,
7 OBJECTIONS WERE MADE. THOSE WERE MATTERS OF LAW
8 OBVIOUSLY, MATTERS THAT I HAVE TO ADDRESS. BUT I WILL
9 ASK BASED ON THE OBJECTIONS THAT WERE RAISED DURING THE
10 CLOSING ARGUMENTS THAT YOU DISREGARD ANY OF THOSE MATTERS
11 WHERE THE OBJECTIONS WERE SUSTAINED, INCLUDING ANY
12 INFERENCES OR COMPARISONS TO BE MADE BETWEEN THE
13 DEFENDANT, MS. KRANCHIK, AND THE OTHER YOUNG PEOPLE OF
14 HER AGE.

15 LADIES AND GENTLEMEN, I WILL TELL YOU NOW AND CHARGE
16 YOU THE FACT THAT A DEFENDANT, AND I TOLD YOU ALL THIS AT
17 THE VERY BEGINNING, PARTICULARLY THOSE OF YOU WHO ARE
18 SERVING AS JURORS IN THIS CASE WHEN YOU ALL WERE BROUGHT
19 UP HERE MONDAY AFTERNOON, I BELIEVE AT THIS POINT, THAT
20 THE FACT THAT ANY DEFENDANT ARRESTED, CHARGED, OR EVEN
21 INDICTED IN THIS CASE, IS NOT EVIDENCE TO BE CONSIDERED
22 BY YOU AS THE JURY AS THE EVIDENCE OF GUILT IN THIS CASE,
23 NOR DOES IT CREATE ANY PRESUMPTION OR INFERENCES OF
24 GUILT.

1 THE INDICTMENTS THAT YOU WILL HAVE BACK IN THE JURY
2 ROOM WITH YOU ARE SIMPLY THE FORMAL, WRITTEN INSTRUMENT
3 CONTAINING THE CHARGES AGAINST THE DEFENDANT, AND THOSE
4 ARE THE FORMAL DOCUMENTS THAT ACTUALLY BRING THIS CASE
5 AGAINST THIS DEFENDANT BY THE STATE INTO THIS COURTROOM.

6 THE INDICTMENTS, I THINK I TOLD YOU ALL AT THE VERY
7 BEGINNING WHEN WE WERE PICKING YOU ALL TO SERVE AS
8 JURORS, THAT SHE WAS CHARGED UNDER THREE INDICTMENTS,
9 WHICH, MR. FOREMAN AND LADIES AND GENTLEMEN OF THE JURY,
10 THOSE INDICTMENTS WERE FELONY DUI, RESULTING IN GREAT
11 BODILY INJURY; FELONY DUI RESULTING IN DEATH; AND CHILD
12 ENDANGERMENT. MR. FOREMAN, YOU WILL NOT HAVE THE THIRD
13 INDICTMENT, CHILD ENDANGERMENT. YOU WILL NOT CONSIDER
14 THAT INDICTMENT IN YOUR DELIBERATION. THAT IS NOT AN
15 INDICTMENT THAT YOU WILL BE DELIBERATING ON. YOU WILL
16 ONLY BE DELIBERATING ON THE FELONY DUI INDICTMENT,
17 RESULTING IN DEATH, AND THE FELONY DUI RESULTING IN GREAT
18 BODILY INJURY INDICTMENT. THOSE TWO INDICTMENTS, MR.
19 FOREMAN, YOU WILL HAVE BACK IN THE JURY ROOM WITH YOU.

20 NOW, LADIES AND GENTLEMEN, BECAUSE THERE ARE TWO
21 INDICTMENTS, THERE ARE TWO SEPARATE CHARGES. EACH
22 INDICTMENT CHARGES A SEPARATE AND DISTINCT OFFENSE. NOW,
23 YOU AS A JURY MUST DECIDE EACH INDICTMENT SEPARATELY ON
24 THE EVIDENCE AND THE LAW APPLICABLE TO IT, UNINFLUENCED
25 BY YOUR DECISION AS TO THE OTHER INDICTMENT.

1 THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON ANY
2 OR ALL THE DEFENSES CHARGED IN THE INDICTMENTS. MR.
3 FOREMAN AND LADIES AND GENTLEMEN OF THE JURY, YOU WILL BE
4 ASKED TO WRITE AND COME TO A SEPARATE VERDICT OF GUILTY
5 OR NOT GUILTY FOR EACH INDICTMENT.

6 MR. FOREMAN AND LADIES AND GENTLEMEN OF THE JURY,
7 THE DEFENDANT HAS PLEAD NOT GUILTY TO THESE INDICTMENTS
8 AND THAT PLEA PUTS THE BURDEN ON THE STATE OF SOUTH
9 CAROLINA TO PROVE THE DEFENDANT'S GUILT. I CHARGE YOU AT
10 THIS POINT THAT A PERSON CHARGED WITH COMMITTING A
11 CRIMINAL OFFENSE IN THE STATE OF SOUTH CAROLINA IS NEVER
12 REQUIRED TO PROVE HIMSELF OR HERSELF INNOCENT.

13 FURTHER, LADIES AND GENTLEMEN, IT IS AN IMPORTANT
14 RULE OF LAW THAT THE DEFENDANT IN ANY CRIMINAL TRIAL, NO
15 MATTER WHAT THE SERIOUSNESS OF THE CHARGES MAY BE, WILL
16 ALWAYS BE PRESUMED TO BE INNOCENT OF THOSE CHARGES FOR
17 WHICH THOSE INDICTMENTS HAVE BEEN ISSUED UNLESS AND UNTIL
18 GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING YOU AS THE
19 JURY OF THAT DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

20 THAT PRESUMPTION, LADIES AND GENTLEMEN, OF INNOCENCE
21 DOES NOT END ONCE YOU BEGIN YOUR DELIBERATION IN THIS
22 CASE, BUT RATHER, ACCOMPANIES THE DEFENDANT THROUGHOUT
23 THE TRIAL UNLESS AND UNTIL YOU AS A JURY REACH A VERDICT
24 OF GUILT BASED ON EVIDENCE SATISFYING YOU OF THE
25 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

1 NOW, THE PRESUMPTION OF INNOCENCE, LADIES AND
2 GENTLEMEN, HAS BEEN DESCRIBED IN CRIMINAL CASES LIKE A
3 ROBE OF RIGHTEOUSNESS THAT IS PLACED ABOUT THE SHOULDERS
4 OF THE DEFENDANT AND WHICH REMAINS WITH THE DEFENDANT
5 UNLESS AND UNTIL IT HAS BEEN STRIPPED FROM HIM OR HER BY
6 EVIDENCE SATISFYING THE JURY OF THE DEFENDANT'S GUILT
7 BEYOND A REASONABLE DOUBT.

8 THE PRESUMPTION OF INNOCENCE, LADIES AND GENTLEMEN
9 OF THE JURY, IS NOT A MERE LEGAL THEORY. IT IS NOT JUST
10 A LEGAL PHRASE. IT IS, RATHER, A VERY SUBSTANTIAL RIGHT
11 TO WHICH EVERY DEFENDANT IS ENTITLED UNLESS AND UNTIL YOU
12 AS A JURY ARE SATISFIED FROM THE EVIDENCE OF THE
13 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.

14 NOW, THE STATE HAS THE BURDEN OF PROVING THE
15 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. AS WAS
16 EXPLAINED TO YOU EARLIER, SOME OF YOU WHO MAY HAVE SERVED
17 AS JURORS IN CIVIL CASES ARE MAYBE FAMILIAR WITH THE
18 STANDARD IN CIVIL CASES WHERE IT IS ONLY NECESSARY TO
19 PROVE THAT A FACT IS MORE LIKELY TRUE THAN NOT TRUE, BY
20 WHAT WE CALL THE GREATER WEIGHT OR PREPONDERANCE OF THE
21 EVIDENCE.

22 IN CRIMINAL CASES, THE STATE'S PROOF MUST BE MORE
23 POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE
24 DOUBT. LADIES AND GENTLEMEN, A REASONABLE DOUBT IS THE
25 KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO

1 HESITATE TO ACT. PROOF BEYOND A REASONABLE DOUBT IS
2 PROOF THAT LEAVES YOU AS A JURY FIRMLY CONVINCED OF THE
3 DEFENDANT'S GUILT.

4 NOW, LADIES AND GENTLEMEN, THERE ARE VERY FEW THINGS
5 IN THIS WORLD THAT ANY OF US CAN KNOW WITH ABSOLUTE
6 CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE
7 PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT.

8 IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU
9 ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE
10 CRIMES CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF,
11 ON THE OTHER HAND, YOU THINK THERE IS A REAL POSSIBILITY
12 THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE
13 DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HER NOT
14 GUILTY.

15 LADIES AND GENTLEMEN, DURING THE COURSE OF THIS
16 TRIAL YOU AND I, LIKE EVERYBODY ELSE, HAVE HAD CERTAIN
17 DUTIES TO PERFORM. I'M TELLING YOU NOW THAT AS A TRIAL
18 JUDGE IT HAS BEEN MY RESPONSIBILITY TO PRESIDE OVER THE
19 TRIAL OF THIS CASE AND ALSO HAVE THE DUTY TO RULE ON THE
20 ADMISSIBILITY OF EVIDENCE THAT HAS BEEN OFFERED DURING
21 THE COURSE OF THIS TRIAL.

22 YOU ARE TO CONSIDER DURING YOUR DELIBERATIONS ONLY
23 THE COMPETENT EVIDENCE THAT IS BEFORE YOU. IF THERE WAS
24 ANY TESTIMONY OR OTHER MATTERS ORDERED STRICKEN FROM THE
25 RECORD DURING THE COURSE OF THIS CASE YOU MUST DISREGARD

1 THAT TESTIMONY OR MATTER. YOU ARE TO ONLY CONSIDER THE
2 TESTIMONY WHICH HAS BEEN PRESENTED FROM THE WITNESS
3 STAND, AND ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF
4 THE RECORD IN THIS CASE, OR ANY STIPULATIONS OR AGREEMENT
5 OF COUNSEL.

6 AS I TOLD YOU ALL DURING THE COURSE OF THIS TRIAL,
7 ANY EXHIBITS WHICH ARE IN EVIDENCE IN THIS CASE YOU WILL
8 HAVE BACK IN THE JURY ROOM WITH YOU DURING YOUR
9 DELIBERATIONS.

10 NOW, LADIES AND GENTLEMEN, I HAVE AN ADDITIONAL DUTY
11 DURING THIS PART OF THE TRIAL TO CHARGE YOU THE LAW
12 APPLICABLE TO THIS CASE. AS PRESIDING JUDGE, I AM THE
13 SOLE JUDGE OF THE LAW IN THIS CASE AND IT IS YOUR DUTY AS
14 JURORS TO ACCEPT AND APPLY THE LAW EXACTLY AS I SAY IT TO
15 YOU DURING THE COURSE OF THIS CHARGE.

16 IF YOU ALREADY HAVE ANY IDEA OF WHAT THE LAW IS OR
17 WHAT THE LAW OUGHT TO BE, AND IT DOES NOT AGREE WITH WHAT
18 I TELL YOU THE LAW IS, YOU MUST ABANDON YOUR IDEA OF WHAT
19 THE LAW IS OR SHOULD BE. I TELL YOU, LADIES AND
20 GENTLEMEN, THAT UNDER YOUR OATH, YOU ARE SWORN TO ACCEPT
21 AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU DURING THE
22 COURSE OF THESE CHARGES.

23 IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY THE
24 JURY BECOMES THE SOLE AND EXCLUSIVE JUDGES OF THE FACTS
25 OF THE CASE. THE TRIAL JUDGE CANNOT INTIMATE, STATE OR

1 COMMENT ON OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT
2 THE FACTS OF THE CASE. SINCE YOU AS THE JURY ARE THE
3 SOLE JUDGES OF THE FACTS IN THIS CASE YOU ARE NOT TO
4 INFER FROM WHAT I HAVE SAID DURING THE COURSE OF THIS
5 TRIAL IN RULING ON THE ADMISSIBILITY OF EVIDENCE, OR
6 OTHERWISE, OR ANYTHING THAT I SAY TO YOU DURING THE
7 COURSE OF THIS TRIAL, OR THIS INSTRUCTION, THAT I HAVE
8 ANY OPINION ABOUT THE FACTS OF THIS CASE.

9 THE LAW DOES NOT ALLOW ME OR ANY OTHER JUDGE TO
10 HAVE AN OPINION ABOUT THE FACTS OF THE CASE. THAT IS
11 BECAUSE THAT IS A MATTER SOLELY FOR YOU AS THE JURY TO
12 DETERMINE. AS JURORS IT IS YOUR DETERMINE THE EFFECT,
13 THE VALUE, THE WEIGHT AND TRUTH OF THE EVIDENCE PRESENTED
14 DURING THE COURSE OF THE TRIAL.

15 NOW, THERE ARE TWO TYPES OF EVIDENCE GENERALLY
16 PRESENTED DURING A TRIAL: DIRECT EVIDENCE AND
17 CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS THE
18 TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE
19 OF A FACT, SUCH AN EYEWITNESS. IT IS EVIDENCE WHICH
20 IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.

21 CIRCUMSTANTIAL EVIDENCE, ON THE OTHER HAND, IS PROOF
22 OF A CHAIN OF FACTS OR CIRCUMSTANCES INDICATING THE
23 EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY
24 ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY
25 BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON

1 INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR OBSERVATION.
2 NOW, THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE
3 WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
4 CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF
5 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
6 DIRECT EVIDENCE.

7 YOU AS A JURY SHOULD WEIGH ALL OF THE EVIDENCE IN
8 THIS CASE. AFTER WEIGHING ALL OF THE EVIDENCE, IF YOU
9 ARE NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A
10 REASONABLE DOUBT YOU MUST FIND THE DEFENDANT NOT GUILTY.

11 NOW, NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY
12 OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE.
13 CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR
14 DUTY AS JURORS TO ANALYZE AND EVALUATE THE EVIDENCE AND
15 DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH.

16 IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO
17 HAVE TESTIFIED IN THIS CASE, YOU AS A JURY MAY BELIEVE
18 ONE WITNESS OVER SEVERAL WITNESSES, OR SEVERAL WITNESSES
19 OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE
20 TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF
21 THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE
22 TESTIMONY OF A WITNESS IN ITS ENTIRETY, OR REJECT THE
23 TESTIMONY OF A WITNESS IN ITS ENTIRETY.

24 YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED
25 TO YOU ANY INTEREST, BIAS, PREJUDICE OR OTHER MOTIVE IN

1 THIS CASE. YOU MAY ALSO CONSIDER THE APPEARANCE AND
2 MANNER OF A WITNESS WHILE ON THE WITNESS STAND.

3 NOW, SHOULD YOU AS A JURY FIND THAT THERE HAS BEEN
4 ANY EVIDENCE PRESENTED THAT WITNESSES HAVE MADE PRIOR
5 STATEMENTS THAT ARE NOT CONSISTENT WITH THE WITNESS'
6 TESTIMONY TO YOU FROM THE WITNESS STAND, YOU MAY USE THAT
7 EVIDENCE IN DECIDING WHETHER TO BELIEVE A WITNESS.

8 YOU MAY ALSO USE EVIDENCE OF THEIR EARLIER,
9 CONTRADICTORY STATEMENT TO DETERMINE THE TRUTH OF THAT
10 STATEMENT. IT IS UP TO YOU AS A JURY TO DECIDE WHETHER
11 TO BELIEVE THE EARLIER STATEMENTS OR TESTIMONY GIVEN AT
12 TRIAL.

13 IF A WITNESS IS SHOWN TO HAVE KNOWINGLY TESTIFIED
14 UNTRUTHFULLY CONCERNING ANY MATERIAL MATTER, YOU AS A
15 JURY MAY CONSIDER THIS IN DETERMINING WHETHER TO TRUST A
16 WITNESS' TESTIMONY AS TO OTHER MATTERS.

17 YOU MAY REJECT ALL TESTIMONY OF THAT WITNESS OR GIVE
18 ALL OR ANY PART OF THE TESTIMONY THE WEIGHT THAT YOU AS A
19 JURY THINK THAT IT DESERVES.

20 YOU'VE ALSO HEARD THAT THERE MAY HAVE BEEN WITNESSES
21 WHO HAVE TESTIFIED THAT MAY HAVE HAD A PRIOR RECORD. I
22 TELL YOU AND CHARGE YOU THAT A PERSON WHO HAS A PAST
23 CRIMINAL RECORD IS COMPETENT TO TESTIFY DURING A TRIAL.
24 A PAST RECORD DOES NOT AFFECT THE ABILITY OF THAT WITNESS
25 TO TESTIFY. THE PAST RECORD MAY ONLY BE CONSIDERED BY

1 YOU AS A JURY, IF AT ALL, IN DETERMINING THE WITNESS'
2 BELIEVABILITY.

3 REMEMBER, LADIES AND GENTLEMEN OF THE JURY, YOU ARE
4 THE SOLE JUDGES OF THE FACTS IN THIS CASE, AND OF THE
5 BELIEVABILITY OF ANY AND ALL WITNESSES WHO TESTIFY.

6 AS I EXPLAINED TO YOU EARLIER, LADIES AND GENTLEMEN,
7 THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT WITNESSES
8 TO TESTIFY TO OPINIONS OR CONCLUSIONS. ONE EXCEPTION TO
9 THIS RULE EXISTS FOR WITNESSES THAT WE CALL EXPERT
10 WITNESSES. A WITNESS WHO BY EDUCATION AND EXPERIENCE HAS
11 BECOME EXPERT IN SOME ART, SCIENCE, PROFESSION OR CALLING
12 MAY STATE AN OPINION AS TO RELEVANT AND MATERIAL MATTERS
13 IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT. THEY MAY
14 ALSO STATE THE REASONS FOR THAT OPINION.

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

23 AND EXPERT WITNESS' TESTIMONY IS TO BE GIVEN NO
24 GREATER WEIGHT BY A JURY THAN THAT BY ANY OTHER WITNESS
25 SIMPLY BECAUSE THE WITNESS IS AN EXPERT. FURTHER, YOU AS

1 A JURY ARE NOT REQUIRED TO ACCEPT AN EXPERT'S OPINION
2 EVEN THOUGH IT IS NOT CONTRADICTORY.

3 NOW, LADIES AND GENTLEMEN, I INSTRUCT YOU AND
4 EMPHASIZE AT THIS POINT THE FACT THAT THE DEFENDANT IN
5 THIS CASE DID NOT TESTIFY IS NOT A FACTOR TO BE
6 CONSIDERED BY YOU IN ANY WAY DURING THE COURSE OF YOUR
7 DELIBERATION AND IN YOUR CONSIDERATION OF THE QUESTION OF
8 GUILT OR INNOCENCE OF THE DEFENDANT. IT MAY NOT AND MUST
9 NOT BE CONSIDERED BY YOU IN ANY MANNER WHATSOEVER.

10 A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO REMAIN
11 SILENT, LADIES AND GENTLEMEN. AND THE ASSERTION OF THAT
12 RIGHT MUST NOT BE CONSIDERED BY YOU DURING YOUR
13 DELIBERATION. UNDER YOUR OATH AS JURORS IN THIS CASE YOU
14 ARE TO DRAW NO CONCLUSION WHATSOEVER FROM THE FACT THAT
15 THE DEFENDANT IN THIS CASE DID NOT TESTIFY. THE FACT
16 THAT THE DEFENDANT DID NOT TESTIFY SHOULD NOT EVEN BE
17 CONSIDERED, RAISED OR DISCUSSED IN THE JURY ROOM.

18 THE BURDEN OF PROOF UNDER OUR LAW, AS I STATED TO
19 YOU, IS ON THE STATE OF SOUTH CAROLINA. THE DEFENDANT IS
20 NOT REQUIRED TO PROVE HER INNOCENCE. THE BURDEN OF PROOF
21 REMAINS ON THE STATE TO PROVE GUILT BEYOND A REASONABLE
22 DOUBT.

23 NOW, THE STATEMENTS ALLEGED TO HAVE BEEN MADE BY THE
24 DEFENDANT HAVE BEEN ADMITTED INTO EVIDENCE IN THIS CASE.
25 WHILE THE COURT HAS DETERMINED THAT ANY STATEMENT IS

1 ADMISSIBLE, I INSTRUCT YOU AND TELL YOU THAT YOU AS A
2 JURY MAKE THE ULTIMATE DECISION OF WHETHER OR NOT THE
3 DEFENDANT MADE THE STATEMENTS.

4 IF YOU FIND THAT THE DEFENDANT DID MAKE THE
5 STATEMENT, YOU MUST DETERMINE WHETHER THE STATEMENT WAS
6 MADE BY THE DEFENDANT VOLUNTARILY AND OF HER OWN FREE
7 WILL. THIS MEANS THAT THE STATEMENT WAS NOT CAUSED BY
8 PRESSURE, FORCE, FEAR, THREATS, COERCION OR INTIMIDATION;
9 OR BY A HOPE OR A PROMISE OF LENIENCY OR ANY REWARD OF
10 ANY KIND.

11 IN DETERMINING WHETHER THE STATEMENT WAS VOLUNTARY
12 YOU AS A JURY SHOULD CONSIDER BOTH THE CHARACTERISTICS OF
13 THE DEFENDANT AND THE DETAILS OF THE QUESTION. SOME OF
14 THE FACTORS THAT YOU AS A JURY MUST CONSIDER ARE THE AGE
15 OF THE DEFENDANT; THE DEFENDANT'S EDUCATION OR LACK OF
16 EDUCATION; THE DEFENDANT'S MENTAL ABILITY OR CAPACITY;
17 THE DEFENDANT'S IQ OR INTELLIGENCE; THE DEFENDANT'S
18 BACKGROUND AND ENVIRONMENT; PLACE AND LENGTH OF
19 DETENTION; THE NATURE OF THE QUESTIONING; AND THE ADVICE
20 OR LACK THEREOF OF THE DEFENDANT OF ANY CONSTITUTIONAL
21 RIGHTS, INCLUDING BUT NOT LIMITED TO, THE RIGHT TO REMAIN
22 SILENT, THAT ANY STATEMENT COULD BE USED AGAINST HER IN A
23 COURT OF LAW; THE RIGHT TO HAVE A LAWYER PRESENT; THAT IF
24 SHE COULD NOT AFFORD A LAWYER, A LAWYER WOULD BE

1 APPOINTED TO REPRESENT HER WITHOUT ANY COST; AND THAT SHE
2 COULD STOP MAKING A STATEMENT AT ANY TIME.

3 YOU MUST CAREFULLY CONSIDER ALL OF THE SURROUNDING
4 CIRCUMSTANCES BEFORE YOU GIVE ANY WEIGHT TO ANY ALLEGED
5 STATEMENT. THE STATE HAS THE BURDEN OF PROVING BEYOND A
6 REASONABLE DOUBT THAT THE ALLEGED STATEMENT WAS MADE WAS
7 VOLUNTARY.

8 IF YOU AS A JURY DETERMINE IT WAS YOU MAY GIVE THE
9 STATEMENT ANY FURTHER CONSIDERATION THAT YOU AS A JURY
10 FEEL PROPER. YOU MUST DECIDE WHAT WEIGHT IF ANY SHOULD
11 BE GIVEN TO THE ALLEGED STATEMENT. IF YOU DETERMINE THE
12 ALLEGED STATEMENT WAS NOT A FREE AND VOLUNTARY STATEMENT
13 OF THE DEFENDANT, YOU SHOULD NOT CONSIDER THE STATEMENT
14 AT ALL DURING YOUR DELIBERATIONS.

15 IN ORDER TO ESTABLISH CRIMINAL LIABILITY, CRIMINAL
16 INTENT IS REQUIRED. FOR EXAMPLE, THE MENTAL STATE
17 REQUIRED TO BE PROVEN BY THE STATE FOR A PARTICULAR TIME
18 MIGHT BE PURPOSE, INTENT, KNOWLEDGE, RECKLESSNESS, OR
19 CRIMINAL NEGLIGENCE.

20 CRIMINAL INTENT WAS BE PROVEN BY THE STATE BEYOND A
21 REASONABLE DOUBT. CRIMINAL INTENT IS ALWAYS A MATTER
22 THAT MUST BE DETERMINED BY THE JURY FROM CIRCUMSTANCES
23 SURROUNDING THE SITUATION.

24 THERE IS NOT WAY TO PROVE INTENT TO ANY MATHEMATICAL
25 CERTAINTY. THERE IS NOT WAY, FOR EXAMPLE, LADIES AND

1 GENTLEMEN, THAT MEDICAL SCIENCE WILL ALLOW US TO LOOK
2 INSIDE A PERSON'S BRAIN AND DETERMINE WHAT THAT PERSON
3 HAD IN MIND. THE LAW SIMPLY SAYS THAT CRIMINAL INTENT
4 MAY BE INFERRED FROM THE CIRCUMSTANCES SHOWN TO HAVE
5 EXISTED. THAT IS HOW YOU THE JURY MAKE A DETERMINATION
6 OF WHETHER OR NOT THE ELEMENT REQUIRING INTENT WAS
7 PRESENT.

8 IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT
9 AND POSITIVE EVIDENCE, RATHER INTENT MAY BE ESTABLISHED
10 BY INFERENCE IN THE SAME WAY AS ANY OTHER FACT BY YOU ALL
11 TAKEN INTO CONSIDERATION ON BEHALF OF THE PARTIES AND ALL
12 OF THE FACTS AND CIRCUMSTANCES OF THE CASE.

13 CRIMINAL INTENT IS A CONSCIOUS WRONGDOING. IT IS UP
14 TO YOU AS THE JURY TO DETERMINE WHAT THE DEFENDANT
15 INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE
16 EXISTED.

17 CRIMINAL INTENT CAN ARISE FROM ACTION OR A FAILURE
18 TO ACT. IT MAY ARISE FROM NEGLIGENCE, RECKLESSNESS, OR
19 AN INDIFFERENCE TO DUTY OR TO CONSEQUENCES THAT IS
20 CONSIDERED BY THE LAW TO BE THE EQUIVALENT OF CRIMINAL
21 INTENT.

22 MR. FOREMAN, AS I SAID, YOU WILL HAVE THE TWO
23 INDICTMENTS IN THE JURY ROOM WITH YOU, AS WELL AS THE
24 VERDICT FORM. THE FIRST INDICTMENT, AS I SAID, ALLEGES

1 THE CRIME OF FELONY DUI, RESULTING IN GREAT BODILY
2 INJURY. THE SECOND, FELONY DUI, RESULTING IN DEATH.

3 I CHARGE YOU AND TELL YOU THAT AS TO BOTH OF THOSE
4 INDICTMENTS, LADIES AND GENTLEMEN, THE STATE MUST FIRST
5 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT DROVE
6 A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR
7 DRUGS.

8 DRIVING A MOTOR VEHICLE MEANS THAT THE VEHICLE WOULD
9 BE IN MOTION. THIS MAY BE PROVED BY DIRECT OR
10 CIRCUMSTANTIAL EVIDENCE. A MOVEMENT OF A VEHICLE MIGHT
11 OCCUR WITHOUT ANY AFFIRMATIVE ACT BY A DRIVER, OR IN
12 FACT, BY A PERSON. IF A VEHICLE IS MOVED BY SOME POWER
13 BEYOND THE CONTROL OF THE DEFENDANT, OR BY ACCIDENT, THIS
14 WOULD BE DRIVING.

15 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT
16 THE DEFENDANT WAS SUFFICIENTLY UNDER THE INFLUENCE TO
17 IMPAIR HER ABILITY TO DRIVE WITH REASONABLE CARE WITH DUE
18 REGARD FOR HERSELF AND OTHERS, OR AS A REASONABLY PRUDENT
19 PERSON WOULD DRIVE.

20 IT IS NOT NECESSARY TO SHOW THAT THE DEFENDANT WAS
21 IN A HELPLESS CONDITION, PASSED OUT, OR EVEN INTOXICATED.
22 ON THE OTHER HAND, THE FACT THAT THE DEFENDANT AT
23 SOMETIME PRIOR TO THE INCIDENT EITHER DRANK AN ALCOHOLIC
24 BEVERAGE OR TOOK A DRUG DOES NOT PROVE THAT THE DEFENDANT
25 WAS DRIVING UNDER THE INFLUENCE.

1 NEXT, LADIES AND GENTLEMEN, THE STATE MUST PROVE
2 BEYOND A REASONABLE DOUBT THAT WHILE DRIVING THE
3 DEFENDANT DID AN ACT FORBIDDEN BY LAW OR NEGLECTED A DUTY
4 IMPOSED BY LAW.

5 NOW, LADIES AND GENTLEMEN, THE INDICTMENTS ALLEGE
6 CERTAIN VIOLATIONS OF LAW. I WILL CHARGE YOU ON THOSE AS
7 WELL. ONE OF THE ALLEGED VIOLATIONS IS IMPROPER LANE
8 CHANGE WHICH IS UNDER SOUTH CAROLINA CODE SECTION 56-5-
9 2150. LADIES AND GENTLEMEN, THAT SAYS THAT NO PERSON
10 SHALL TURN A VEHICLE OR MOVE RIGHT OR LEFT ON A ROADWAY
11 UNLESS AND UNTIL SUCH MOVEMENT CAN BE MADE WITH
12 REASONABLE SAFETY, NOR WITHOUT GIVING AN APPROPRIATE
13 SIGNAL AS PROVIDED FOR IN THE LAW.

14 A SIGNAL OF INTENTION TO TURN, TO MOVE RIGHT OR LEFT
15 WHEN REQUIRED SHALL BE GIVEN CONTINUOUSLY DURING NOT LESS
16 THAN THE LAST ONE HUNDRED FEET TRAVELED BY THE VEHICLE
17 BEFORE TURNING.

18 NOW, LADIES AND GENTLEMEN, THE NEXT STATUTE WOULD BE
19 THE INDICTMENT ALLEGED TO HAVE VIOLATED-- AND YOU MAY
20 FIND THAT EITHER ALL OR ANY OF THESE WERE VIOLATED BY THE
21 DEFENDANT. AGAIN, THE STATE MUST PROVE ALL OF THESE
22 BEYOND A REASONABLE DOUBT.

23 SECTION 56-5-2920 SAYS, RELATES TO RECKLESS DRIVING.
24 QUITE SIMPLY, LADIES AND GENTLEMEN, THE STATUTE CHARGES
25 THAT ANY PERSON WHO DRIVES ANY VEHICLE IN SUCH A MANNER

1 AS TO INDICATE EITHER A WILLFUL OR WANTON DISREGARD FOR
2 THE SAFETY OF PERSONS OR PROPERTY IS GUILTY OF RECKLESS
3 DRIVING.

4 LAST, LADIES AND GENTLEMEN, THE INDICTMENT CHARGING
5 THE VIOLATION OF SECTION 56-5-1520, DRIVING TOO FAST FOR
6 CONDITIONS AND/OR SPEEDING, CHARGES THAT A PERSON SHALL
7 NOT DRIVE A VEHICLE ON A HIGHWAY AT A SPEED GREATER THAN
8 REASONABLE AND PRUDENT UNDER THE CONDITIONS AND HAVING
9 REGARD FOR THE ACTUAL AND INTENTIONAL HAZARDS THEN
10 EXISTING.

11 SPEED MUST BE SO CONTROLLED SO AS TO AVOID COLLIDING
12 WITH A PERSON, VEHICLE OR OTHER CONVEYANCE ON OR ENTERING
13 THE HIGHWAY UNDER THE LEGAL REQUIREMENTS AND THE DUTY OF
14 THE PERSON TO USE CARE.

15 FURTHER, LADIES AND GENTLEMEN, EXCEPT WHEN A SPECIAL
16 HAZARD EXISTS THAT REQUIRES LOWER SPEED FROM THIS SAME
17 SECTION, IT LIMITS SPECIFIED IN THIS SECTION OR AS
18 ESTABLISHED AS HEREINAFTER AUTHORIZED A MAXIMUM LAWFUL
19 SPEED, THAT A PERSON SHALL NOT DRIVE A VEHICLE ON A
20 HIGHWAY AT A SPEED IN EXCESS OF THESE LIMITS.

21 LADIES AND GENTLEMEN, FOR YOUR DELIBERATIONS, I
22 CHARGE YOU THAT SIXTY MILES AN HOUR ON A MULTI-LANE,
23 DIVIDED, PRIMARY HIGHWAY, WHERE ADDITIONAL SIGNS GIVING
24 NOTICE OF THE SPEED ARE POSTED WOULD BE THE MAXIMUM SPEED

1 LIMIT THAT YOU WOULD CONSIDER UNDER THAT SECTION THAT I
2 JUST READ TO YOU OF SAID STATUTE, SECTION 56-5-1520.

3 FINALLY, LADIES AND GENTLEMEN, THE STATE MUST PROVE
4 BEYOND A REASONABLE DOUBT THAT THE ACT OR NEGLECT OF THE
5 DEFENDANT PROXIMATELY CAUSED GREAT BODILY INJURY AND/OR
6 DEATH TO ANOTHER PERSON.

7 NOW, LADIES AND GENTLEMEN, PROXIMATE CAUSE IS THE
8 DIRECT CAUSE. IT IS THE IMMEDIATE CAUSE. IT IS THE
9 EFFICIENT CAUSE. IT IS THAT CAUSE WITHOUT WHICH THE
10 INJURY OR DEATH OF THE VICTIM WOULD NOT HAVE RESULTED.

11 THERE MUST BE A CHAIN OF CAUSATION FROM THE TIME OF
12 THE INJURY INFLICTED BY THE DEFENDANT UNTIL THE TIME OF
13 THE DEFENDANT'S, OR THE VICTIM'S DEATH. PROXIMATE CAUSE
14 DOES NOT NECESSARILY MEAN THAT IT OCCURRED IMMEDIATELY
15 PRIOR TO DEATH.

16 NOW, LADIES AND GENTLEMEN, THERE MAY BE MORE THAN
17 ONE PROXIMATE CAUSE. THE ACTS OF TWO OR MORE PERSONS MAY
18 COMBINE TOGETHER TO BE A PROXIMATE CAUSE OF INJURY TO OR
19 DEATH OF A PERSON. A DEFENDANT'S ACT MUST BE REGARDED AS
20 A PROXIMATE CAUSE IF IT IS A CONTRIBUTING CAUSE OF INJURY
21 TO OR DEATH OF THE VICTIM.

22 THE FACT THAT OTHER CAUSES ALSO CONTRIBUTED TO ANY
23 INJURY OR DEATH OF A VICTIM DOES NOT RELIEVE THE
24 DEFENDANT FROM RESPONSIBILITY. THE DEFENDANT'S ACTS MAY
25 NOT BE THE SOLE CAUSE OF THE INJURY OR DEATH, BUT MUST BE

1 A PROXIMATE CAUSE CONTRIBUTING TO THE INJURY OR DEATH OF
2 THE VICTIM.

3 THE PROXIMATE CAUSE OF AN INJURY OR DEATH IS THAT
4 CAUSE WHICH IS A NATURAL AND CONTINUANCE SEQUENCE
5 UNBROKEN BY ANY EFFICIENT, INTERVENING CAUSE PRODUCING
6 THE INJURY AND WITHOUT WHICH THE RESULT WOULD NOT HAVE
7 OCCURRED.

8 THUS, IN ORDER TO SHOW THAT AN ACCIDENT RESULTING IN
9 INJURY OR DEATH WAS PROXIMATELY CAUSED BY THE CONDUCT OF
10 FELONY DRIVING UNDER THE INFLUENCE BY THE DEFENDANT, THE
11 STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THERE
12 WOULD HAVE BEEN NO ACCIDENT AND RESULTING INJURIES BUT
13 FOR THE CONDUCT OF FELONY DRIVING UNDER THE INFLUENCE BY
14 THE DEFENDANT.

15 GREAT BODILY INJURY MEANS BODILY INJURY WHICH
16 CREATES SUBSTANTIAL RISK OF DEATH, OR WHICH CAUSES
17 SERIOUS, PERMANENT DISFIGUREMENT, OR EXTENDED LOSS OR
18 IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN.

19 NOW, LADIES AND GENTLEMEN, THAT CONCLUDES THE CHARGE
20 ON THE LAW THAT I'M GOING TO GIVE YOU. MR. FOREMAN, YOU
21 ALL MAY BEGIN YOUR DELIBERATIONS SHORTLY. BUT ONCE I
22 SEND YOU TO THE JURY ROOM, DO NOT BEGIN YOUR
23 DELIBERATIONS AT THAT POINT, BUT RATHER, WAIT UNTIL THE
24 BAILIFF BRINGS TO YOU ALL THE EXHIBITS WHICH HAVE BEEN

1 ADMITTED INTO THIS CASE, AND AT THAT POINT HE WILL TELL
2 YOU THAT YOU CAN BEGIN YOUR DELIBERATIONS.

3 MR. FOREMAN, I TOLD YOU THAT YOUR DUTIES WOULD NOT
4 BE HARD DUTIES AND I PROMISE YOU THEY ARE NOT, SIR.
5 DURING THE DELIBERATIONS YOU ARE TO LEAD THE JURY IN THE
6 DELIBERATION AND DISCUSSION OF THE FACTS AND EVIDENCE IN
7 THIS CASE AND MAKE SURE THAT EVERY JUROR THAT WANTS TO
8 HAVE A SAY ABOUT ANY EVIDENCE OR TESTIMONY GETS TO HAVE
9 THAT SAY.

10 YOUR JOB, SIR, IS ALSO TO MAKE SURE SHOULD THE JURY
11 HAVE ANY QUESTIONS OR NEED THE PLAY BACK OF ANY
12 TESTIMONY, FOR EXAMPLE, THAT YOU ARE TO WRITE THOSE
13 QUESTIONS DOWN; LET THE BAILIFF KNOW THAT YOU HAVE A
14 QUESTION OR YOU WANT TO REPLAY TESTIMONY AND WE WILL
15 RETURN TO DEAL WITH YOUR QUESTION OR ALLOW YOU ALL TO RE-
16 LISTEN TO ANY TESTIMONY.

17 MR. FOREMAN, I WANT TO MAKE SURE THAT SHOULD YOU
18 HAVE ANY QUESTION YOU'RE NOT CREATING ANY INCONVENIENCE
19 FOR US. YOU MAY RETURN AS MANY TIMES AS YOU ALL NEED OR
20 WRITE AS MANY QUESTIONS AS YOU NEED.

21 MR. FOREMAN, LASTLY, IT IS YOUR DUTY, SIR, TO FILL
22 OUT THE VERDICT FORM. AND THERE ARE TWO QUESTIONS ON THE
23 FORM FOR YOU TO CONSIDER. YOU WILL NOT CONSIDER, AS I
24 SAID, THE INDICTMENT ON CHILD ENDANGERMENT. YOU WILL

1 ONLY CONSIDER THE INDICTMENT ON FELONY DUI, RESULTING IN
2 DEATH AND FELONY DUI, RESULTING IN GREAT BODILY INJURY.

3 QUITE SIMPLY, THOSE QUESTIONS ON THE VERDICT FORM,
4 MR. FOREMAN, STATE THAT WE THE JURY FIND AS TO THE
5 DEFENDANT, SHANNA MARIE KRANCHIK, ON THE CHARGE OF, BOTH
6 FELONY DUI, DEATH; AND THEN THERE'S A SECOND QUESTION,
7 FELONY DUI, GREAT BODILY INJURY. THAT IS A PLACE FOR
8 YOU, MR. FOREMAN, FOR YOU TO MARK GUILTY OR NOT GUILTY.

9 AS I SAID, YOU ALL MAY DECIDE EACH CHARGE
10 SEPARATELY, INDEPENDENT OF THE OTHER. MR. FOREMAN, ONCE
11 YOU ALL HAVE REACHED A UNANIMOUS VERDICT ON EACH
12 INDICTMENT, IF YOU WILL LET THE BAILIFF KNOW WE WILL
13 RETURN YOUR VERDICT.

14 YOUR VERDICT ON EACH INDICTMENT MUST BE UNANIMOUS.
15 ALL TWELVE OF YOU MUST AGREE ON THE VERDICT IN EACH CASE.

16 MR. FOREMAN, LET ME JUST CHECK WITH COUNSEL AND SEE
17 IF THERE'S ANYTHING ELSE I NEED TO COVER WITH YOU. AND
18 AFTER THAT I WILL SEND YOU ALL OUT TO BEGIN YOUR
19 DELIBERATIONS.

20 JUST LOOKING AT THE HOUR, MR. FOREMAN, I WILL SEND
21 THE CLERK BACK AND SHE'LL TAKE LUNCH ORDERS FOR YOU ALL
22 AND YOU CAN DELIBERATE WHILE YOU ARE WAITING ON LUNCH TO
23 ARRIVE. I DO ASK THAT ONCE I SEND YOU BACK DO NOT BEGIN
24 YOUR DISCUSSIONS AND DELIBERATIONS UNTIL YOU ACTUALLY SEE
25 THE EXHIBITS, ALONG WITH THE INDICTMENTS AND THE VERDICT

1 FORM, AND AT THAT POINT THE BAILIFF WILL TELL YOU TO
2 BEGIN YOUR DELIBERATIONS.

3 SHOULD YOU NEED TO TAKE A BREAK AT ANY TIME DURING
4 THE COURSE OF YOUR DELIBERATIONS, IF ANYONE STEPS OUT OF
5 THE JURY ROOM FOR A RESTROOM BREAK OR ANYTHING, I DO ASK
6 THAT YOU STOP YOUR DELIBERATIONS UNTIL ALL TWELVE OF YOU
7 HAVE REASSEMBLED AND CAN BEGIN YOUR DELIBERATIONS.

8 COUNSEL, APPROACH.

9 (WHEREUPON A BENCH CONFERENCE TOOK PLACE)

10 MR. FOREMAN, JUST TO BE SURE I TELL YOU ALL, THE
11 CHARGES, THE STATUTES THAT IN THE BODY OF THE INDICTMENT,
12 AND YOU SEE THESE THAT I HAVE CHARGED YOU ON, IMPROPER
13 LANE CHANGE AND RECKLESS DRIVING, DRIVING TOO FAST FOR
14 CONDITIONS AND/OR SPEEDING, THE STATE MUST PROVE AT LEAST
15 ONE OF THOSE; THAT THEY HAVE SATISFIED THAT FOR YOU; THAT
16 THEY'VE PROVED ALL FOUR OF THEM OR ANY ONE OF THEM
17 BETWEEN ONE AND FOUR. BUT THEY MUST PROVE AT LEAST ONE
18 OF THOSE.

19 I THINK I TOLD YOU ALL IN THE CHARGE, WHAT THEY MUST
20 DO IS, THOSE STATUTES IN THE BODY OF THOSE TWO
21 INDICTMENTS MUST BE PROVEN LIKE EVERYTHING ELSE BY THE
22 STATE ALSO BEYOND A REASONABLE DOUBT. THAT BURDEN IS
23 ALWAYS WITH THE STATE TO PROVE ANYTHING BEYOND A
24 REASONABLE DOUBT.

1 SO, THAT'S JUST TO MAKE CLEAR TO YOU ALL THEY DO
2 HAVE TO PROVE AT LEAST ONE OF THOSE BEYOND A REASONABLE
3 DOUBT TO FIND ON THE INDICTMENTS.

4 LADIES AND GENTLEMEN, I AM GOING TO SEND YOU ALL OUT
5 AT THIS POINT. WE WILL COLLECT THE EXHIBITS AND SEND
6 THOSE BACK TO YOU. AT THAT POINT YOU MAY BEGIN YOUR
7 DELIBERATIONS.

8 WHILE WE MAKE SURE THAT EVERYTHING IS TOGETHER THAT
9 IS GOING TO COME BACK TO YOU, THE CLERK IS GOING TO TAKE
10 YOUR LUNCH ORDERS FROM YOU. ONCE WE SEND EVERYTHING BACK
11 TO YOU, YOU CAN START YOUR DELIBERATIONS. THANK YOU.

12 (WHEREUPON THE JURY EXITED THE COURTROOM AT 12:14 P.M.)

13 (PAUSE TO COLLECT EXHIBITS)

14 THE COURT: HAVE WE GOT ALL THE EXHIBITS TOGETHER?

15 MS. CAMPBELL: YES SIR.

16 MS. AHRENS: YES, YOUR HONOR.

17 THE COURT: ALL RIGHT. TAKE THOSE BACK AND TELL
18 THEM TO BEGIN THEIR DELIBERATIONS. WE'LL BE AT EASE IN
19 THIS CASE UNTIL WE GET A QUESTION OR A VERDICT.

20 (WHEREUPON DELIBERATIONS BEGAN AT 12:21 P.M.)

21 COURT IN SESSION

22 THE COURT: FOR THE RECORD, WE GOT TWO QUESTIONS
23 FROM THE JURY. ONE IS AN EASY QUESTION. THEY WANT THE
24 DEFINITION OF GREAT BODILY INJURY. AND THE SECOND ONE
25 THEY ASKED, WHAT INJURIES WERE SUSTAINED BY DANIEL

1 SHARPE. THAT MEANS THAT THE INDICTMENT OF GREAT BODILY
2 INJURY THAT WENT BACK WAS FOR DANIEL SHARPE. APPARENTLY,
3 THERE'S ANOTHER INDICTMENT STILL THERE THAT WAS SUPPOSED
4 TO BE PULLED BY THE CLERK.

5 MS. CAMPBELL: HERE'S WHAT I HANDED UP. THERE'S A
6 LIST. AND I BELIEVE THERE WAS A DISCUSSION TO MAKE SURE
7 SHE PULLED THE RIGHT INDICTMENT.

8 MR. JOPHLIN: YES SIR. THE CLERK APPROACHED ME THE
9 FIRST DAY OF TRIAL TO SEE IF THE INDICTMENT NUMBERS ON
10 THE POTENTIAL WITNESS LIST WERE THE ONLY INDICTMENTS SHE
11 HAD IN THE FILE. I DID CLARIFY THAT THE ONLY INDICTMENTS
12 THAT WE WERE GOING FORWARD ON WERE THE ONES ON OUR
13 POTENTIAL WITNESS LIST.

14 MS. AHRENS: I'VE NEVER SEEN THIS HAPPEN BEFORE.
15 THE JURY'S BACK THERE WITH AN INDICTMENT THAT THE STATE
16 DID NOT PROCEED UNDER, THE VICTIM THAT THE STATE IS NOT
17 PROCEEDING ON. I'M REALLY CONCERNED ABOUT THAT. I'M
18 NOT REALLY SURE WHAT THE REMEDY IS AT THIS POINT. I
19 THINK ON THE RECORD, THEY'RE DELIBERATING ON CHARGES THAT
20 MS. KRANCHIK DOESN'T EVEN HAVE, THAT THE STATE HAS NOT
21 ELECTED TO MOVE FORWARD ON. I DON'T KNOW HOW TO CURE
22 THAT, OR EVEN IF IT CAN BE. BUT I'M VERY CONCERNED ABOUT
23 THAT, YOUR HONOR. AND CERTAINLY, I AM NOT SAYING IT IS
24 IN ANY WAY, SHAPE OR FORM THE STATE'S FAULT.

25 THE COURT: NO.

1 MS. CAMPBELL: I UNDERSTAND HER CONCERN AND
2 EVERYTHING, BUT IF SHE WANTS TO REQUEST A CURATIVE CHARGE
3 YOU CAN TELL THE JURY THAT BASICALLY IT'S JUST A CLERICAL
4 MISTAKE.

5 MS. AHRENS: YOUR HONOR, I THINK THEY NEED TO KNOW
6 THAT'S A CHARGE THAT THE STATE'S NOT PROCEEDING FORWARD
7 ON. IT'S NOT CLEAR AT THIS POINT THAT IT'S A CLERICAL
8 ERROR.

9 MS. CAMPBELL: YOU CAN INSTRUCT THE JURY NOT TO
10 CONSIDER---

11 THE COURT: WELL, I DID INSTRUCT THEM ON CHILD
12 ENDANGERMENT, THAT THAT WAS NOT GOING TO BE CONSIDERED.

13 MS. CAMPBELL: YOU CAN INSTRUCT THEM WE'RE NOT
14 PROCEEDING ON THAT AND NOT TO CONSIDER IT. THAT'S THE
15 STATE'S POSITION.

16 MS. AHRENS: WELL, THEY'VE ALREADY BEEN DELIBERATING
17 ON THAT CHARGE. AND THEY NEED TO BE INSTRUCTED THEY
18 CAN'T DELIBERATE ON A CHARGE THAT SHE DOESN'T HAVE. I
19 THINK IF THEY'RE INSTRUCTED ON THAT, WE'LL BE OKAY.

20 THE COURT: YOUR CONTENTION IS THAT... WHAT DO YOU
21 BELIEVE THE HARM IS TO MS. KRANCHIK?

22 MS. AHRENS: YOUR HONOR, MY POINT IS THAT THE JURY'S
23 BEEN DELIBERATING ON A CHARGE THAT SHE DOES NOT HAVE AND
24 CONSIDERING HER GUILT ON A CHARGE THAT SHE IS NOT FACING
25 TRIAL ON TODAY. AND IT'S NOT THAT THE STATE HAS ELECTED

1 TO PROCEED ON, IT'S THAT IT WAS NEVER SUPPOSED TO BE
2 BEFORE THE JURY IN THE FIRST PLACE. THEY'RE DELIBERATING
3 ON MY CLIENT'S GUILT OR INNOCENCE WITH RESPECT TO THAT
4 CHARGE. AND I THINK THAT---

5 THE COURT: I CAN EXPLAIN THAT TO THEM, ON THE
6 DIFFERENT CHARGE.

7 MS. AHRENS: I UNDERSTAND THAT, YOUR HONOR, BUT
8 THERE'S A DIFFERENT INDICTMENT WITH DIFFERENT VICTIMS
9 THAT REQUIRE DIFFERENT CONSIDERATION BY THE JURY.

10 THE COURT: WHY DON'T I CHARGE THEM TO DISREGARD THE
11 OTHER INDICTMENT ON DANIEL SHARPE AND JUST START ANEW
12 THEIR DELIBERATIONS, TO CURE IT?

13 MR. AHRENS: WELL, THEY NEED TO BE CHARGED THAT SHE
14 CANNOT BE GUILTY OF SOMETHING THAT SHE'S NOT BEING
15 CHARGED WITH.

16 MS. CAMPBELL: I DON'T THINK THIS CAUSES ANY
17 PREJUDICE TO THE JURY. IF IT CAUSES PREJUDICE TO
18 ANYTHING, IT MAY CAUSE PREJUDICE TO THE STATE IF YOU GIVE
19 THAT CHARGE.

20 MS. AHRENS: I THINK THAT MORE CHARGES AGAINST MY
21 CLIENT IS NOT SOMETHING FOR THE JURY CONSIDER, WHETHER OR
22 NOT THE STATE WAS PROCEEDING ON THEM TODAY.

23 THE COURT: WHAT WAS SAID ON THE SHARPE INDICTMENT?

24 MS. CAMPBELL: IT'S STILL PENDING. WE ELECTED NOT
25 TO GO FORWARD WITH REGARD TO MR. SHARPE. WHEN WE ELECTED

1 TO CALL THE CASE, JUDGE, BECAUSE THERE WERE WITNESSES
2 THAT WERE GOING TO BE UNAVAILABLE, I THOUGHT IT PRUDENT
3 NOT TO GO FORWARD ON THAT.

4 MS. AHRENS: AND YOUR HONOR, I THINK THEY HAVE TO
5 TRY ALL THESE TOGETHER IF THEY'RE GOING TO TRY THEM AT
6 ALL.

7 THE COURT: THERE WAS SOME TESTIMONY ABOUT DANIEL
8 SHARPE.

9 MS. CAMPBELL: YES, THERE WAS TESTIMONY AND IT'S IN
10 EVIDENCE THAT HE WAS A PASSENGER WITH MR. CROFT.

11 THE COURT: THERE WERE DISCUSSIONS ABOUT HIS STATUS,
12 AND I THINK THERE WERE SOME DISCUSSIONS ABOUT HIS
13 INJURIES.

14 MS. CAMPBELL: YES SIR.

15 MS. AHRENS: YES, YOUR HONOR. THAT WAS TWO OR THREE
16 YEARS AGO. IF HE HAD APPEARED WE WOULD HAVE HAD
17 QUESTIONS FOR HIM, BUT BECAUSE HE WAS NOT HERE WE COULD
18 NOT ASK QUESTIONS. BUT CERTAINLY IF THERE HAD BEEN A
19 DOCTOR WHO TESTIFIED AS TO THOSE ALLEGATIONS-- UNDER
20 GREAT BODILY INJURY, IT NEEDS TO BE EITHER LIFE
21 THREATENING OR A PERMANENT DISABILITY. WHAT I'M SAYING
22 IS THERE WAS NO TESTIMONY IN ANY SHAPE OR FORM THAT ON
23 THIS DATE, AT THIS TIME, THEY WOULD HAVE BEEN ABLE TO
24 PROVE HER GUILTY OF THAT.

1 THE COURT: I'M GOING TO BRING THE BACK OUT AND
2 CHARGE THEM AT THIS POINT THAT THEY ARE NOT TO CONSIDER
3 THE INDICTMENT, WHAT I TOLD THEM ON CHILD ENDANGERMENT,
4 THAT'S NOT AN ISSUE THAT'S BEFORE THEM. AND THAT THEY ARE
5 TO START OVER WITH THEIR DELIBERATIONS WITHOUT
6 CONSIDERING THAT. I'M GOING TO RECHARGE THEM ON GREAT
7 BODILY INJURY AGAIN.

8 MS. CAMPBELL: WILL YOU ALSO BE TELLING THEM THAT
9 IT'S NO FAULT OF EITHER SIDE THAT THE WRONG INDICTMENT
10 WAS SENT BACK?

11 THE COURT: YES, I'LL DO THAT.

12 MS. AHRENS: YOUR HONOR, AT THIS POINT I WANT TO
13 ENTER MY OBJECTION AND MAKE AN EXCEPTION TO YOUR CURATIVE
14 INSTRUCTION.

15 THE COURT: IS YOUR OBJECTION THAT THEIR
16 CONSIDERATION OF THIS INDICTMENT WOULD WARRANT A MISTRIAL
17 ON BOTH CHARGES?

18 MS. AHRENS: I DO BELIEVE AT THIS POINT, YOUR HONOR,
19 FOR THE RECORD, THAT THE JURY DELIBERATION PROCESS HAS
20 BEEN INCURABLY AFFECTED.

21 THE COURT: I'LL BRING THEM BACK IN AND RE-INSTRUCT
22 THEM.

23 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 1:14 P.M.)

24 THE COURT: MR. FOREMAN, I HAVE RECEIVED YOUR
25 REQUEST FROM THE JURY TO GO OVER A FEW THINGS WITH YOU

1 REGARDING THOSE. I THINK THIS MAY ANSWER YOUR QUESTIONS.
2 DUE TO A CLERICAL ERROR, WE GAVE YOU INDICTMENTS THAT YOU
3 ARE NOT TO CONSIDER IN THIS CASE, LIKE THE CHILD
4 ENDANGERMENT INDICTMENT. I AM TELLING YOU THAT THAT IS
5 NOT AN INDICTMENT THAT YOU ALL ARE TO CONSIDER, MUCH LIKE
6 THE CHILD ENDANGERMENT INDICTMENT THAT YOU WERE TOLD
7 ABOUT AT THE BEGINNING OF THE CASE.

8 THE ONLY TWO INDICTMENT THAT YOU ARE GOING TO
9 CONSIDER ARE FELONY DUI, CAUSING DEATH AS TO MR. GENE
10 CROFT; AND FELONY DUI, CAUSING GREAT BODILY INJURY AS TO
11 SANFORD OWENS. THOSE ARE THE TWO INDICTMENTS YOU ARE TO
12 CONSIDER. THE OTHER TWO INDICTMENTS ARE REMOVED FROM
13 THIS CASE AND YOU ARE NOT TO CONSIDER THOSE.

14 YOUR OTHER NOTE ASKED FOR A DEFINITION OF GREAT
15 BODILY INJURY AGAIN. I'LL BE GLAD TO RECHARGE YOU ON
16 THAT. IT'S A FAIRLY SHORT DEFINITION. I WILL REMIND YOU
17 ONCE AGAIN THAT YOU ARE NOT TO CONSIDER THIS RECHARGE ON
18 THAT AND THE FACT THAT WE ARE PUTTING THIS RECHARGE IN
19 THE SAME CONTEXT AS ALL THE OTHER CHARGES THAT I GAVE YOU
20 ALL AT THE VERY END OF THE CASE.

21 BUT, AGAIN, LADIES AND GENTLEMEN, MEANS BODILY
22 INJURY WHICH CREATES A SUBSTANTIAL RISK OF DEATH, OR
23 WHICH CAUSES SERIOUS, PERMANENT DISFIGUREMENT OR EXTENDED
24 LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER
25 OR ORGAN. THAT IS THE DEFINITION OF GREAT BODILY INJURY.

1 LADIES AND GENTLEMEN, I WILL ASK THAT YOU RESTART
2 YOUR DELIBERATIONS WITHOUT ANY CONSIDERATION OF THE
3 INDICTMENT ON MR. SHARPE; THAT THAT INDICTMENT, LIKE THE
4 CHILD ENDANGERMENT INDICTMENT IS NOT TO BE CONSIDERED BY
5 THIS JURY AT ALL. ONLY THE TWO THAT I WILL SEND BACK TO
6 YOU ARE TO BE CONSIDERED.

7 I APPRECIATE YOUR QUESTIONS AND SHOULD YOU HAVE ANY
8 MORE QUESTIONS, JUST LET US KNOW. I WILL SEND THESE BACK
9 TO YOU IN JUST A MINUTE.

10 (WHEREUPON THE JURY EXITED THE COURTROOM AT 1:16 P.M.)

11 THE COURT: MS. CAMPBELL, I WILL RETURN THESE
12 INDICTMENTS ON MR. SHARPE AND THE ONE ON THE CHILD
13 ENDANGERMENT, WHICH I UNDERSTAND THE STATE HAS NOT
14 PROSECUTED. THE TWO CORRECT INDICTMENTS ARE BEING SENT BACK
15 AT THIS TIME.

16 MS. CAMPBELL: THANK YOU, YOUR HONOR.

17 THE COURT: WE'LL STAND DOWN UNTIL WE GET ANOTHER
18 QUESTION OR A VERDICT.

19 (WHEREUPON THE JURY QUESTIONS WERE MARKED AS COURT'S
20 EXHIBITS THREE AND FOUR)

21 (WHEREUPON THE COURT WAS AT EASE AT 1:17 P.M.)

22 COURT IN SESSION - 2:18 P.M.

23 THE COURT: I UNDERSTAND WE HAVE A VERDICT. PLEASE
24 BRING IN THE JURY.

25 (WHEREUPON THE JURY ENTERED THE COURTROOM)

1 THE COURT: MR. FOREMAN, HAS THE JURY REACHED A
2 VERDICT?

3 JURY FOREMAN: YES, YOUR HONOR.

4 THE COURT: PLEASE PASS UP THE VERDICT FORM.

5 (WHEREUPON THE VERDICT FORM WAS PASSED TO THE COURT)

6 THE COURT: MR. FOREMAN, IS THIS YOUR SIGNATURE ON
7 THE VERDICT FORM?

8 JURY FOREMAN: YES, YOUR HONOR.

9 THE COURT: COUNSEL, THE VERDICT FORM APPEARS TO BE
10 IN ORDER AND AT THIS POINT I WILL ASK THE CLERK TO
11 PUBLISH THE VERDICT.

12 CLERK OF COURT: INDICTMENT 2002-GS-40-894 AND
13 INDICTMENT 2002-GS-40-897, THE STATE OF SOUTH CAROLINA
14 VERSUS SHANNA MARIE KRANCHIK. WE THE JURY FIND AS TO THE
15 DEFENDANT, SHANNA MARIE KRANCHIK, ON THE CHARGE OF FELONY
16 DUI, INVOLVING DEATH, GUILTY. AND WE THE JURY FIND AS TO
17 THE DEFENDANT, SHANNA MARIE KRANCHIK, ON THE CHARGE OF
18 FELONY DUI, GREAT BODILY INJURY, GUILTY. SIGNED BY THE
19 FOREPERSON, MAYNARD WILLIAMS, JULY 14, 2005.

20 MR. FOREMAN, ARE THESE YOUR VERDICTS AND THE
21 VERDICTS OF THE ENTIRE JURY?

22 JURY FOREMAN: YES, YOUR HONOR.

23 THE COURT: THANK YOU, SIR. ANYTHING FURTHER FROM
24 COUNSEL BEFORE WE PROCEED?

1 MS. AHRENS: YOUR HONOR, WE ASK THAT THE JURY BE
2 POLLED.

3 THE COURT: PLEASE POLL THE JURY.

4 CLERK OF COURT: LADIES AND GENTLEMEN, I'M GOING TO
5 ASK YOU TWO QUESTIONS REGARDING YOUR VERDICT, AND PLEASE
6 ANSWER YES OR NO TO BOTH QUESTIONS.

7 MAYNARD WILLIAMS, WERE THESE YOUR VERDICTS?

8 MAYNARD WILLIAMS: YES, YOUR HONOR.

9 CLERK OF COURT: ARE THESE STILL YOUR VERDICTS?

10 MAYNARD WILLIAMS: YES, YOUR HONOR.

11 CLERK OF COURT: GARY CORBETT, WERE THESE YOUR
12 VERDICTS?

13 GARY CORBETT: YES.

14 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

15 GARY CORBETT: YES

16 CLERK OF COURT: SHARON CLELLAND, WERE THESE YOUR
17 VERDICTS?

18 SHARON CLELLAND: YES.

19 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

20 SHARON CLELLAND: YES.

21 CLERK OF COURT: SUSAN ELWOOD, WERE THESE YOUR
22 VERDICTS?

23 SUSAN ELWOOD: YES.

24 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

25 SUSAN ELWOOD: YES.

1 CLERK OF COURT: DONNA DANTZLER, WERE THESE YOUR
2 VERDICTS?

3 DONNA DANTZLER: YES.

4 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

5 DONNA DANTZLER: YES.

6 CLERK OF COURT: JOHN NEMO, WERE THESE YOUR
7 VERDICTS?

8 JOHN NEMO: YES.

9 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

10 JOHN NEMO: YES.

11 CLERK OF COURT: RICHARD HUTCHINSON, WERE THESE YOUR
12 VERDICTS?

13 RICHARD HUTCHINSON: YES.

14 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

15 RICHARD HUTCHINSON: YES.

16 CLERK OF COURT: SUSAN GIBBS, WERE THESE YOUR
17 VERDICTS?

18 SUSAN GIBBS: YES.

19 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

20 SUSAN GIBBS: YES.

21 CLERK OF COURT: PATRICIA BROOKS, WERE THESE YOUR
22 VERDICTS?

23 PATRICIA BROOKS: YES.

24 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

25 PATRICIA BROOKS: YES.

1 CLERK OF COURT: SHEILA GREEN, WERE THESE YOUR
2 VERDICTS?

3 SHEILA GREEN: YES.

4 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

5 SHEILA GREEN: YES.

6 CLERK OF COURT: LUDMILA PONOMAREV, WERE THESE YOUR
7 VERDICTS?

8 LUDMILA PONOMAREV: YES.

9 CLERK OF COURT: ARE THEY STILL YOUR VERDICT?

10 LUDMILA PONOMAREV: YES.

11 CLERK OF COURT: JAREE CORRELL, WERE THESE YOUR
12 VERDICTS?

13 JAREE CORRELL: YES.

14 CLERK OF COURT: ARE THEY STILL YOUR VERDICTS?

15 JAREE CORRELL: YES.

16 CLERK OF COURT: THE JURY HAS BEEN POLLED, YOUR
17 HONOR.

18 THE COURT: THANK YOU. LADIES AND GENTLEMEN, I
19 APPRECIATE YOUR SERVICE THIS WEEK. YOUR SERVICE IS VERY
20 IMPORTANT. YOUR TIME THIS WEEK HAS BEEN VERY IMPORTANT
21 TO US AND WE APPRECIATE IT. YOUR SERVICE THIS WEEK IS
22 DONE. MADAM CLERK, WHAT DO WE NEED TO TELL THEM.

23 CLERK OF COURT: THEY CAN REPORT DOWNSTAIRS FOR A
24 WORK EXCUSE.

1 THE COURT: THANK YOU. ANYBODY THAT NEEDS A WORK
2 EXCUSE OR A NOTE, THEY'LL GIVE YOU DOWNSTAIRS IN THE JURY
3 ASSEMBLY ROOM. OTHERWISE, YOU ARE FREE TO GO. YOU WILL
4 BE MAILED YOUR COMPENSATION FOR THIS WEEK. THANK YOU FOR
5 YOUR SERVICE. YOU ARE FREE TO LEAVE AT THIS TIME.

6 (WHEREUPON THE JURY EXITED THE COURTROOM)

7 MS. AHRENS: YOUR HONOR, AT THIS POINT I WOULD MAKE
8 A MOTION FOR A NEW TRIAL, DUE TO THE FACT THAT TWO
9 INDICTMENTS WERE SENT BACK TO THE JURY WHICH SHOULD NOT
10 HAVE BEEN FOR THEIR CONSIDERATION. AND I WOULD RENEW ALL
11 MY PREVIOUS MOTIONS FOR A MISTRIAL. THAT WOULD BE IT,
12 YOUR HONOR.

13 THE COURT: ANY RESPONSE BY THE STATE?

14 MS. CAMPBELL: YOUR HONOR, WE THINK THAT THE
15 EVIDENCE IN THIS CASE WAS SUFFICIENT AND THE JURY
16 RENDERED ITS VERDICTS AND THE VERDICTS SPEAK FOR
17 THEMSELVES IN THIS CASE.

18 THE COURT: I RESPECTFULLY DENY YOUR MOTION, AS WELL
19 AS ALL THE PREVIOUS MOTIONS THAT WERE MADE. YOU HAVE MY
20 PRIOR RULINGS ON THOSE, AS WELL AS ON THE MOTION FOR A
21 MISTRIAL, AS I GAVE THE JURY A CURATIVE INSTRUCTION
22 REGARDING THE INDICTMENTS.

23 MS. CAMPBELL: YOUR HONOR, ONE THING ON THE ORIGINAL
24 VERDICT FORM, THE ORIGINAL 897, AND IT SHOULD BE 895,

1 WHICH WAS THE INDICTMENT WHICH WENT BACK, THE CORRECT
2 INDICTMENT. THAT NEEDS TO BE CORRECTED.

3 MS. CAMPBELL: THANK YOU. THAT'S JUST THE VERDICT
4 FORM.

5 THE COURT: YES MA'AM. ANYTHING FURTHER?

6 MS. AHRENS: NOTHING FURTHER FROM THE DEFENSE, YOUR
7 HONOR.

8 THE COURT: ARE BOTH SIDES PREPARED FOR SENTENCING?

9 MS. CAMPBELL: THE STATE IS READY.

10 MS. AHRENS: YES SIR.

11 (WHEREUPON THE DEFENDANT WAS BROUGHT FORWARD FOR
12 SENTENCING)

13 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR HONOR.

14 THE COURT: YES MA'AM.

15 MS. CAMPBELL: YOUR HONOR, AS FAR AS HER PRIOR
16 RECORD, I THINK YOU'RE FAMILIAR WITH IT. IT INCLUDES HER
17 JUVENILE. I BELIEVE THERE WAS A DISTURBING SCHOOLS,
18 MAYBE A SIMPLE ASSAULT. THE ONLY IMPEACHABLE RECORD SHE
19 HAS AS A JUVENILE WAS ONE BURGLARY AND TWO PETIT
20 LARCENIES. THE LARCENIES WERE ON SEPARATE DATES, SHORTLY
21 BEFORE HER SEVENTEENTH BIRTHDAY.

22 SUBSEQUENT TO THAT, YOUR HONOR, PRIOR TO THIS EVEN
23 OCCURRING, IN SEPTEMBER OF THE YEAR BEFORE SHE WAS
24 ARRESTED FOR ARMED ROBBERY. SHE MADE BOND ON THAT RIGHT
25 BEFORE CHRISTMAS, IN DECEMBER OF 2001. SHE WAS OUT ON A

1 FIFTY THOUSAND DOLLAR SURETY BOND WHEN THIS OFFENSE
2 OCCURRED. SHE WAS SUBSEQUENTLY CONVICTED OF THAT ARMED
3 ROBBERY IN MARCH OF 2002, AND IS CURRENTLY SERVING A
4 TWELVE-YEAR SENTENCE.

5 YOUR HONOR, STANDING WITH ME IS MR. OWENS, WHO
6 TESTIFIED IN THE TRIAL. I WILL ASK HIM IF HE HAS
7 ANYTHING TO SAY. STANDING WITH ME IS MR. GENE CROFT'S
8 CHILDREN, AND I THINK THAT THEY WOULD LIKE TO BRIEFLY
9 ADDRESS THE COURT.

10 CANDI SANDERS: YOUR HONOR, I AM THE OLDEST DAUGHTER
11 OF---

12 MS. CAMPBELL: STATE YOUR NAME.

13 CANDI SANDERS: I'M CANDI SANDERS. I'VE BEEN
14 WAITING FOR THIS DAY FOR THREE AND A HALF YEARS, FOR US
15 TO HAVE OUR SAY. IT SEEMS LIKE WE'VE BEEN PREACHING TO
16 THE CHOIR FOR THREE AND A HALF YEARS. EVERYBODY THAT
17 KNEW OUR FATHER. HE WAS SUCH A GOOD MAN AND NEVER DID
18 ANYTHING TO HARM ANYBODY. AND I THINK THE OVER FOUR
19 HUNDRED PEOPLE WHO CAME TO HIS FUNERAL COULD ATTEST TO
20 THAT. OVER FOUR HUNDRED PEOPLE CAME TO THIS MAN'S
21 FUNERAL WHO WAS SO VULNERABLE AND NEVER ASKED ANYTHING
22 FROM ANYONE. ALL HE DID WAS EVER GIVE. THAT'S ALL HE
23 EVER DID.

24 MY TWELVE YEAR WOULD SAY AT THE TIME THAT HE WALKED
25 WITH GOD. I THOUGHT THAT WAS THE MOST AMAZING THING I

1 HAD EVER HEARD FROM A CHILD THAT YOUNG TO OBSERVE IN AN
2 ADULT.

3 ALL I ASK OR EVER WANTED, AND I KNOW THAT HE WOULD
4 EVER WANTED IS THAT JUSTICE WOULD BE SERVED; NOT OUT FOR
5 REVENGE AND NOT TO BE SPITEFUL. BUT IF THE LAW IS
6 BROKEN, THEN THAT PERSON SHOULD PAY CORRECTLY IF THEY ARE
7 FOUND GUILTY. AND IN THIS CASE, I GUESS THAT JUSTICE IS
8 SERVED. I HOPE THAT THE APPROPRIATE SENTENCE WILL BE
9 APPLIED TO THIS CASE AND THAT WE CAN FINALLY PUT CLOSURE
10 AND MOVE ON AND NOT HAVE TO BE RELIVING THIS DAY EVERYDAY
11 FOR THE REST OF OUR LIFE.

12 AND THAT WE CAN REMEMBER OUR FATHER IN THE WAY HE
13 SHOULD BE REMEMBERED AND THE GOOD MAN THAT HE WAS AND NOT
14 HAVE TO RELIVE EVERYDAY HOW HE DIED; HOW HE SHOULD BE
15 HERE WITH US NOW INSTEAD WITH OUR MOTHER, WHO HAS ALREADY
16 PASSED ON ALSO.

17 I HAVE SO MUCH GOING THROUGH MY MIND. I KNOW HE
18 WOULD HAVE LIVED A LOT LONGER. HIS MOTHER WAS A HUNDRED
19 YEARS OLD. SHE WAS ALIVE WHEN HE GOT KILLED. HE WAS THE
20 BABY IN THE FAMILY. HIS OLDEST BROTHER PASSED AWAY LAST
21 YEAR. SO, MY FATHER, THE BABY IN THE FAMILY, WAS THE
22 FIRST ONE TO GO. AND I KNOW THAT WE WOULD HAVE HAD SO
23 MUCH LONGER JUST BECAUSE IT WAS IN THEIR GENES. THEY
24 WERE SUCH GOOD PEOPLE.

1 AND WE ALL MISS HIM. AND OUR CHILDREN, THEY DO NOT
2 HAVE THEIR GRANDFATHER AROUND TO MENTOR TO THEM AND TO BE
3 THE GREAT ROLE MODEL THAT HE WAS TO THEM AND TO
4 EVERYBODY.

5 BUT I DO APPRECIATE WHAT THE COURT HAS DONE AND HOPE
6 THAT JUSTICE WILL PREVAIL IN YOUR SENTENCING. I JUST
7 WANT TO THANK YOU.

8 THE COURT: THANK YOU.

9 TONYA PEARSON: YOUR HONOR, MY NAME IS TONYA CROFT
10 PEARSON. I'M THE BABY OF THE FAMILY AND I HAVE FOUR
11 CHILDREN, FROM TEN MONTHS TO FOURTEEN YEARS. AT THE TIME,
12 MY DAD DIED MY SON WAS SEVEN AND A MONTH AFTER THE
13 ACCIDENT, WE FOUND HIM IN HIS BEDROOM TRYING TO HANG
14 HIMSELF. HE WANTED TO GO TO HEAVEN TO BE WITH HIS
15 GRANDFATHER. AND WE HAD TO PUT HIM IN THE PSYCHIATRIC
16 HOSPITAL IN RICHMOND SPRINGS.

17 BUT MY FATHER WAS A GREAT ROLE MODEL. I AM GOING
18 THROUGH A TERRIBLE DIVORCE AT THIS TIME. AND HE FELT
19 LIKE HE HAD LOST EVERYTHING. AND HE DOESN'T UNDERSTAND
20 THAT HE WAS GONE AND HE COULDN'T COME BACK.

21 MY DAUGHTER, SHE'S FOURTEEN NOW, BUT AT THE TIME SHE
22 WROTE A NOTE, A LETTER, A PICTURE ABOUT HER GRANDFATHER.
23 SHE WANTED HIM TO BE THE GRANDFATHER AT THE YEAR. I WANT
24 TO READ IT TO YOU. "GRANDPA, BY TAYLOR PEARSON. HAVE
25 YOU EVER LOST SOMEONE SPECIAL IN YOUR FAMILY? FOR ME

1 THAT HAS HAPPENED TWICE. THIS STORY I'M ABOUT TO TELL
2 YOU IS SOMETHING YOU HAVE SEEN ON THE NEWS. MY STORY IS
3 ABOUT MY GRANDPA, GENE CROFT, SR. HE DIED ON JANUARY 23,
4 2002. HE WAS DRIVING A BOBTAIL, WHICH IS THE CAB OF AN
5 EIGHTEEN-WHEELER. HIM AND ANOTHER CO-WORKER WERE
6 DELIVERING A TRUCK FOR THEIR COMPANY. THEY WERE DRIVING
7 WHEN A CAR CAME OUT OF NOWHERE. BECAUSE OF THE SPEED THE
8 TRUCK WAS TRAVELING AND THE SIZE, THE WIRES COULD NOT
9 HOLD THE TRUCK ON THE ROAD AND THE TRUCK SOMEHOW TURNED
10 AROUND AND FLIPPED OVER INTO ONCOMING TRAFFIC, CAUSING
11 THE DRIVER'S SIDE TO BE FACING THE TRAFFIC COMING TOWARDS
12 IT. ANOTHER EIGHTEEN-WHEELER HIT HIM. THERE WAS NOTHING
13 HE COULD AND HE SLAMMED INTO GRANDPA. IT TOOK THE
14 WORKERS FOUR HOURS TO GET HIM OUT OF THE TRUCK. I
15 COULDN'T BELIEVE WHAT HAD HAPPENED. I THOUGHT IT WAS A
16 LIE, BUT IT WAS TRUE. I KNOW HE IS NOW WITH MY GRANDMA
17 IN HEAVEN AND THEY ARE HAPPY TOGETHER. THE PAINFUL THING
18 ABOUT ALL THIS IS MY GRANDPA WAS HURT REAL BAD AND WE
19 COULDN'T SEE HIM AT THE FUNERAL HOME. AND THAT IS THE
20 MOST PAINFUL THING THAT HAS EVER HAPPENED TO ME. THE
21 END."

22 GENE CROFT, JR: YOUR HONOR, MY NAME IS GENE CROFT,
23 JR. OUR FAMILY GREW UP TO TRY TO BE RESPONSIBLE ADULTS,
24 HAVE A BETTER JOB AND BE GOOD PARENTS. THE ONLY I WANT
25 TO SAY ABOUT THIS IS, SOMEBODY, WHOEVER, IS SOMEBODY IS

1 INVOLVED, THEN THEY TAKE RESPONSIBILITY FOR THEIR
2 ACTIONS. THAT'S THE WAY WE WERE BROUGHT UP, TO TAKE
3 RESPONSIBILITY FOR OUR ACTIONS. AND THAT'S ALL I WOULD
4 ASK, AND THAT'S WHAT I'VE SEEN DONE. SO, I'M SATISFIED.
5 THANK YOU.

6 THE COURT: THANK YOU. MS. AHRENS.

7 MS. AHRENS: THANK YOU, YOUR HONOR. I KNOW I'VE
8 ADDRESSED THE JURY SEVERAL TIMES AND SAID THIS, AND I
9 DON'T THINK THAT ANYONE'S EVER DOUBTED THAT THERE WAS A
10 TERRIBLE TRAGEDY THAT HAPPENED THAT DAY. I HAVE HAD AN
11 OPPORTUNITY TO SPEAK TO SEVERAL OF THE VICTIMS IN THIS
12 CASE AND OBVIOUSLY THEY ARE IN A LOT OF PAIN AND I AM
13 SORRY FOR THAT.

14 MS. KRANCHIK, AS YOU KNOW, AT THE TIME THAT ALL THIS
15 HAPPENED WAS EIGHTEEN YEARS OLD. SHE'S NOW TWENTY-ONE
16 YEARS OLD. WHILE SHE HAS JOKED WITH ME AT SOME POINT
17 THAT SHE IS GETTING OLD, I THINK WE ALL KNOW THAT EVEN AT
18 TWENTY-ONE, SHE IS A VERY, VERY YOUNG WOMAN, AND
19 CERTAINLY WAS EVEN YOUNGER AT EIGHTEEN.

20 SHE HAS SINCE SHE'S BEEN INCARCERATED BEEN WORKING
21 TO IMPROVE HER LIFE. UP UNTIL THE POINT WHERE SHE WAS
22 INCARCERATED, SHE WAS ABOUT FOUR HOURS SHORT OF FINISHING
23 HIGH SCHOOL. SHE HAS SINCE SHE'S BEEN INCARCERATED
24 RECEIVED HER GED. SHE'S ALSO INCLUDED BOTH PHASE ONE AND
25 PHASE TWO OF THE SUBSTANCE ABUSE PROGRAM. SHE'S

1 ACKNOWLEDGE THAT SHE DOES HAVE SUBSTANCE ABUSE ISSUES,
2 YOUR HONOR, AND SHE HAS TAKEN STEPS TO CORRECT THAT. SHE
3 IS TRYING TO DEVELOP HER SKILLS THROUGH THE DEPARTMENT OF
4 CORRECTIONS. SHE DOES HAVE SOME HEALTH PROBLEMS. SHE
5 HAS HAD EPILEPSY SINCE ADULthood AND SINCE SHE'S BEEN
6 INCARCERATED. THAT LIMITS HER ABILITY TO GET INVOLVED
7 WITH SOME THINGS, BUT SHE HAS GOTTEN INVOLVED IN
8 EVERYTHING SHE CAN. SHE REALLY IS TRYING TO GROW AS A
9 PERSON.

10 AND I KNOW YOU HAVE SEEN HER IN THE COURTROOM. I
11 HAVE ADVISED HER NOT TO SAY ANYTHING ON THE RECORD THAT
12 WOULD JEOPARDIZE HER APPEAL, SHOULD SHE WISH TO ADDRESS
13 THE COURT ABOUT SOME OTHER MATTERS.

14 AND I WILL TELL YOUR HONOR, AND I HOPE EVERYONE'S
15 ATTENTION WAS APPROPRIATELY DIVERTED ELSEWHERE WHILE THIS
16 WAS HAPPENING, BUT WHILE MR. OWENS WAS TESTIFYING, THE
17 OFFICER WAS TESTIFYING, CLAY NICHOLS WAS TESTIFYING, IT
18 WAS VERY MUCH THE SAME THING. WHATEVER HAPPENED, SHE
19 FEELS INCREDIBLY TERRIBLE ABOUT WHAT DID HAPPENED.

20 SHE DOES, AS YOU HAVE SEEN, HAVE HER FATHER HERE IN
21 COURT WITH HER. HE HAS BEEN HERE THROUGHOUT THE
22 PROCEEDINGS. HE HAS COME TO SEE ME A NUMBER OF TIMES.
23 SHE HAS PEOPLE WHO ARE GOING TO STAND BEHIND HER. SHE
24 OBVIOUSLY DID NOT TESTIFY AT THIS TRIAL. THE STATE MET
25 THE BURDEN OF PROOF.

1 SHE HAS BEEN INCARCERATED, I BELIEVE, ON HER ARMED
2 ROBBERY SINCE FEBRUARY OR MARCH OF 2002. SHE'S SERVING A
3 TWELVE-YEAR SENTENCE ON THAT.

4 GIVEN HER AGE, GIVEN THE FACT THAT SHE DOES HAVE THE
5 POTENTIAL TO DO SOMETHING WITH HER LIFE, AND GIVEN HER
6 AGE AT THE TIME THE OFFENSES OCCURRED, I WOULD ASK THE
7 COURT TO CONSIDER GIVEN HER A CONCURRENT SENTENCE, YOUR
8 HONOR. I THINK SHE WOULD LIKE TO ADDRESS THE COURT AT
9 THIS TIME, YOUR HONOR.

10 SHANNA KRANCHIK: YOUR HONOR, I WOULD SIMPLY GO WITH
11 WHAT MS. AHRENS HAS SAID SO FAR.

12 THE COURT: YES MA'AM. ANYTHING FURTHER FROM THE
13 STATE?

14 MS. CAMPBELL: NO, YOUR HONOR. I THINK THE FACTS
15 SPEAK FOR THEMSELVES.

16 THE COURT: THE COURT WILL CONSIDER A PRE-TRIAL
17 SENTENCING REPORT BEFORE HANDING DOWN THE SENTENCE.

18 MS. AHRENS: THANK YOU, YOUR HONOR.

19 MS. CAMPBELL: THANK YOU, YOUR HONOR.

20 (WHEREUPON THE CASE WAS ADJOURNED AT 3:00 P.M.)

21

22

23

24

25

1 CERTIFICATE

2 I, THE UNDERSIGNED PHYLLIS S. BARRETT, OFFICIAL COURT
3 REPORTER FOR THE STATE OF SOUTH CAROLINA, DO HEREBY
4 CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND
5 CORRECT TRANSCRIPT OF RECORD OF THE TRIAL HELD IN THE
6 CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF
7 GENERAL SESSIONS FOR THE FIFTH JUDICIAL CIRCUIT, RICHLAND
8 COUNTY, SOUTH CAROLINA ON THE 11TH, 12TH, 13TH AND 14TH DAYS
9 OF JULY, 2005.

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

12 
13 PHYLLIS S. BARRETT
14
15

Page 669

County: Reginald
Date: 5-11-05

VOIR DIRE

Case No: 02-GS-40-894, 895

Judge: Reginald Lloyd

Pl./State: State

State/Pl's. Atty: Luck Campbell

Defendant: Shanna Kranchik

Defense Atty: Deborah Athrens,
Lauren Mobley

Court Reporter: Elizabeth B. Harris

Juror No.	Name	Sex	Race	Court	Strikes Plaintiff	Defense	Accept
259	Maynard Williams	M	B				✓
204	Sharon Richardson	F	B		X		
8	Danna Auld	F	W			X	
55	Mary Corbett	M	B				✓
48	Sharon Clelland	F	W				✓
6	Lataasha Anderson	F	B		X		
218	Anne Sifer	F	W				✓
71	Melanie Davis	F	W			X	
85	Susan Elwood	F	W				✓
~~66~~ 67	Donna Dantley	F	B				✓
185	John Nemo	M	W				✓
30	Claudia Brooks	F	B		X		
120	Richard Hutchinson	M	W				✓
32	John Browder	M	W		X		
98	Susan Gibbs	F	B				✓
102	Ava Woodruff	F	B				✓

*For the Court column, indicate who made the motion to strike the jurors for cause. C-Court, P-Plaintiff, D-Defense

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND

STATE

V.

SHANNA KRANCHICK

DEFENDANT.)

TRANSCRIPT OF RECORD

02-GS-40-0894

02-GS-40-0895

SEPTEMBER 21, 2005
COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE REGINALD I. LLOYD, JUDGE.

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

KATHRYN LUCK CAMPBELL, ASSIST. SOLICITOR
ATTORNEY FOR THE STATE

LAUREN MOBLEY, ASSIST. PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

STACY L. SHEPPARD
CIRCUIT COURT REPORTER

ORIGINAL

I N D E X

1

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WITNESSESDIRECTCROSSREDIRECTRECROSS

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(There were no witnesses.)

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1			
2			
3	Court's 1 Presentence Investigation Report	8	
4	Court's 2 Defendant's Rap Sheet	8	
5			
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1 (The following proceedings were held on
2 September 21, 2005.)

3 **THE COURT:** This is the sentencing hearing
4 regarding Shanna Kranchick.

5 Counsel, as I indicated back in chambers, I'm
6 not rushing anybody, we certainly will take a break
7 after this, but I do very much want to accommodate
8 Mr. Harpootlian's schedule and allow him to do this
9 on the record, with certainly an allowance for both
10 sides to then get some other stuff done during a
11 short break.

12 Ms. Campbell, anything the State needs to do
13 before Mr. Harpootlian --

14 **MS. CAMPBELL:** Your Honor, I think
15 Mr. Harpootlian wants to put some stuff on the
16 record.

17 However, as far as her prior record goes, she
18 is currently serving a 12 year sentence on an armed
19 robbery charged as an adult. She also has as an
20 extensive juvenile record starting back in 1997 for
21 her first convictions for burglary in the second
22 degree and simple larceny. Then, in 1998, she had a
23 shoplifting, which was diverted to arbitration. She
24 had a disturbing schools conviction. She had
25 another larceny conviction. And that would be the

1 extent of her prior record.

2 Your Honor, we would ask, too, that you just
3 follow the PSI and sentence her consecutively.

4 THE COURT: Yes, ma'am. And I'm going to come
5 back to both sides. I'll take a short break after
6 this and come back to both sides if there's any
7 further presentation from the State.

8 Mr. Harpootlian.

9 MR. HARPOOTLIAN: Please the Court, Your Honor.
10 I would like to note for the record, I'm here in my
11 capacity as representing the victim's family in this
12 case. I represented them in a civil matter that
13 arose out of this, which is ongoing at this point.
14 Liability has been conceded. It is a coverage
15 issue, which was certified by the District Court to
16 the Supreme Court. They decided this back in front
17 of Judge Perry. And we ought to have that resolved
18 in the next month or so.

19 Having said that, let me say that I've spent a
20 considerable amount of time with the Croft family.
21 His son and daughter are -- one of his daughters,
22 here, the other daughter could not be here today,
23 his son and wife are here. And I have spent an hour
24 going through their background and history. A finer
25 family you could not find.

1 Mr. Croft, at the time of his death, was
2 working for Penske on a part-time basis. He was
3 retired. He was enjoying, basically, the fruits of
4 his labor for his life. And this was a very close
5 family.

6 And as Your Honor, I'm sure, is aware of the
7 facts, he was merely driving this vehicle to make a
8 dollar and it was expected to be a very short trip.
9 He's ferrying a rental vehicle back somewhere when
10 Ms. Kranchick ran into his vehicle, knocking him off
11 the road, his car flipped and actually collided with
12 another vehicle and he was killed.

13 The family feels very strongly, had this been
14 some youngster who made an error in judgment the
15 first time, they wouldn't be here today and I
16 wouldn't be here asking you to pass a significant
17 sentence. But as they found out about Ms. Kranchick
18 and about her background and about how she came to
19 be on the road that day, they've gotten very angry
20 and upset.

21 And they would say to the Court that your
22 sentence here today not only act as a deterrent to
23 her, but would act as a deterrent to anyone that
24 would do what she did, which is to commit an armed
25 robbery, for which she is serving time, to get out

1 on bond and within weeks, to get in a vehicle with
2 other people, doing drugs, that results in the death
3 of another human being. This is a total lack of
4 concern for her fellow human beings.

5 And they believe, and I relate to the Court on
6 their behalf, that had she had an ounce of decency
7 in her, we would not be here today. They would be
8 celebrating Christmas and Thanksgiving with their
9 dad. And she might have not gotten what she got on
10 the armed robbery charge, she might be going home to
11 celebrate Thanksgiving and Christmas with her father
12 and family.

13 We would ask you to follow the PSI, ask you to
14 give her consecutive time. There is no evidence
15 whatsoever that this woman has any positive
16 contribution to make to society. It sends a message
17 to her. It sends a message to anyone that would --
18 can see what happens to people who do what she has
19 done, which is to rob and kill, and that's what
20 she's done. Thank you, Your Honor.

21 **THE COURT:** Thank you, sir.

22 Counsel, we'll stand down for a few minutes. I
23 know that -- I'm not certain if there are any family
24 members or anybody from the other victim that was
25 involved that's also wishing to address the Court

1 and I'll give both sides -- I know, Ms. Mobley, you
2 wish a few minutes to get some stuff together with
3 Ms. Kranchick before you make a presentation and
4 I'll do that.

5 Mr. Harpootlian, thank you, sir.

6 **MR. HARPOOTLIAN:** Thank you for accommodating
7 me, Your Honor. I appreciate it.

8 **THE COURT:** Yes, sir.

9 We'll stand down for a few minutes. If y'all
10 will just let me know when you're ready to go
11 forward.

12 (Brief recess.)

13 (Court's Exhibit Numbers 1 and 2 were marked
14 for identification purposes only.)

15 **THE COURT:** We're back in on the Kranchick
16 matter. Ms. Campbell, anything further from the
17 State?

18 **MS. CAMPBELL:** May it please the Court, Your
19 Honor. I would note that Mr. Owens, who is the
20 second victim in this case, is present in the
21 courtroom. I asked him if he wished to address the
22 Court and he felt that he didn't need to say
23 anything in addition to what Mr. Harpootlian had
24 represented on behalf of the Crofts. They are also
25 present in the courtroom.

1 I have made as Court's Exhibits, Your Honor,
2 for purposes of this hearing, a copy of the PSI
3 report and then also a copy of her juvenile record.
4 As I mentioned earlier, she is currently serving a
5 12 year sentence for an armed robbery conviction.
6 And we would just respectfully ask the Court to run
7 the sentence consecutive to what she's currently
8 serving. Thank you.

9 THE COURT: Thank you, ma'am.

10 All right. Ms. Mobley.

11 MS. MOBLEY: Thank you, Your Honor. If it
12 pleases the Court.

13 Your Honor, I've had an opportunity to spend
14 some time with both Shanna and with her dad. If the
15 Court pleases, what I would like to do is let
16 Shanna's father address the Court first and then Ms.
17 Kranchick and then I would like to conclude, if that
18 suits, Your Honor.

19 THE COURT: Yes, ma'am.

20 MS. MOBLEY: Thank you.

21 MR. KRANCHICK: My name is Dan Kranchick. I'm
22 Shanna's father. Sir, this is a tragic incident
23 where actually no one has won on this case,
24 everybody's lost. They lost a relative and I lost a
25 daughter. I lost a daughter at age 18.

1 Shanna was very young. She was very slow in
2 maturing. She has done -- she has been doing a lot
3 to improve herself. She was scheduled to attend
4 Spring Valley. She only had four credits to finish
5 until she got her degree -- or she graduated. Which
6 she has since finished while she's been in jail, she
7 got her GED.

8 She is striving to continually improve herself.
9 She wants to improve herself. She's been trying to
10 improve herself. She's done everything that she can
11 to try to be an asset to the community once her time
12 is up and she's able to, you know, come back into
13 the community again.

14 All I ask is that Shanna be provided the
15 opportunity to serve her time and then to come out
16 in the community as a young woman and to be an asset
17 to the community, which she does have the potential
18 to do. I totally disagree with Dick Harpootlian,
19 Mr. Harpootlian, on that. She does have the
20 potential to be an asset to the community.

21 **THE COURT:** Thank you, sir.

22 **MS. MOBLEY:** Your Honor, just before she gets
23 started, obviously, this is really scary for her.
24 This is a scary moment for her. So with the Court's
25 indulgence, she would like to address the family, as

1 well as the Court.

2 THE COURT: Yes, ma'am.

3 DEFENDANT KRANCHICK: Okay. To start off, I
4 would like to apologize to you and your time, for
5 taking up your time. I'm very nervous and drained
6 right now so please excuse me. I was told multiple
7 times that I could not apologize to them and I
8 wanted to know if it was okay if I apologize to them
9 today for what has happened.

10 THE COURT: You can direct all of your comments
11 to the Court.

12 MS. MOBLEY: You need to address the Judge what
13 you have to say.

14 Begging the Court's indulgence for just a
15 moment.

16 THE COURT: Yes, ma'am.

17 (Pause.)

18 MS. MOBLEY: Thank you, Your Honor.

19 THE COURT: Yes, ma'am.

20 DEFENDANT KRANCHICK: I just -- I would
21 appreciate looking at them and apologizing to their
22 face, but I don't -- now, I'm just kind of lost.

23 I do want to say that that morning, I did not
24 intend waking up that morning and laying my head
25 down that night with somebody else's blood on my

1 hands. And there's not a night that goes by that I
2 don't think about it. And they say that -- they try
3 to say that I have no conscience and that I don't
4 care, but there's not a night that I don't hurt. I
5 hurt all the time from this. And I had to get put
6 on pills to sleep. I had nightmares about it all
7 the time. I had got tooke (sic) off of the pills
8 because I felt that maybe, maybe I could just do it

9 on my own, maybe God could help me through this, but
10 I just -- I don't know. I don't know what to say no
11 more because I wanted to look at them and tell them
12 to their face and I really -- it's really -- I don't
13 know.

14 MS. MOBLEY: Your Honor, I apologize. I think
15 she had visions of, because when she's seen
16 something in court before, I think she had a vision
17 of being able to actually look at them and address
18 them and I think that's what's tripping her up right
19 now. And I understand that Your Honor doesn't want
20 that to happen.

21 THE COURT: Unless the family or the other
22 victim is agreeable to that, I'm not going to make
23 them come up to do that.

24 MS. MOBLEY: Certainly not.

25 Are they not interested in hearing her?

1 MS. CAMPBELL: I don't think so.

2 MS. MOBLEY: Okay. That's sort of what's
3 tripping her up right now, Your Honor. So I
4 apologize. I think she had a vision of being able
5 to actually speak directly to them.

6 And, Your Honor, in listening to
7 Mr. Harpootlian, it strikes me that there are times
8 when we as lawyers get on a one track situation
9 because I know that I do that sometimes with my
10 clients and I know that -- or I believe that
11 everyone does that sometimes, they get focused on
12 the legal matter at hand and it is easy to forget
13 that you are dealing with people.

14 Your Honor, I believe that Shanna is very
15 deeply remorseful about this. I understand that
16 during the trial -- and when you talk to her, right
17 offhand she comes across as somewhat reserved, Your
18 Honor, but every time when I was with Ms. Ahrens
19 speaking with her, she has always been interested in
20 an apology, not -- in not so much an apology, but
21 just expressing remorse for what has gone on and
22 expressing her remorse to the fact that Mr. Croft is
23 no longer with us and that Mr. Owens was seriously
24 injured.

25 Your Honor, her father's correct, she has been

1 doing a lot to try to improve herself. Your Honor,
2 if I may approach the bench. These are some
3 certificates that she's received while at the
4 Camille Griffin Graham Institution.

5 Your Honor, she has started on substance abuse
6 counseling. And she is in a number of groups down
7 at Camille Griffin, one called Bettering Your Life,
8 one called Trim and one called -- one, basically, a
9 problem solving group where they learn to deal with
10 issues as they arise and how to appropriately
11 address them.

12 Your Honor, she's also interested very much,
13 and one thing we talked about a lot, is
14 participating in a program sort of like a Scared
15 Straight program at Camille Griffin Graham. It's
16 called Behind Bars. And she's interested in
17 participating in something like that so that she can
18 talk to other young women who are coming through
19 there and convey to them that, look, you don't want
20 to end up here. This is where I am and you don't
21 want to be here.

22 Your Honor, she has lots of hopes and
23 aspirations. She wants to get a chemistry degree.
24 And she plans, even during her sentence, to try to
25 take some correspondence courses and -- in biology.

1 and math.

2 Your Honor, Shanna Kranchick is a decent
3 person. She is -- she has tried, since she's been
4 in Camille Griffin Graham, to rectify her ways. She
5 made some huge mistakes when she was very young.
6 There is no one here disputing that. But, Your
7 Honor, what you -- the person before you, I believe,
8 has the potential to be a productive member of
9 society, a wife, a mother, a student and a good
10 citizen.

11 She understands, I have shared with her, the
12 findings of the PSI. She understands what she is
13 facing and she's terrified right now, but she's
14 here.

15 Your Honor, we would just respectfully request
16 that you consider a concurrent sentence and allowing
17 her to come out still as a relatively young woman.
18 Your Honor, she's 22. And we are asking that you
19 consider concurrent time in this matter.

20 Begging the Court's indulgence.

21 **THE COURT:** Yes, ma'am.

22 (Pause.)

23 **MS. MOBLEY:** Your Honor, my client would like
24 to address the Court again -- well, the family via
25 the Court.

1 **THE COURT:** Yes, ma'am.

2 **DEFENDANT KRANCHICK:** I just want their
3 forgiveness. I don't care about the time. I just
4 want forgiveness, that's all I want.

5 **MS. MOBLEY:** I believe that will be all from
6 the defense. Thank you.

7 **THE COURT:** Thank you, Ms. Mobley.

8 Counsel, when did she begin serving the armed
9 robbery sentence?

10 **MS. CAMPBELL:** I've got a copy of the armed
11 robbery plea sheet, Your Honor, that I was going to
12 hand up to the Court. And if I could just address
13 one issue that they brought up.

14 **THE COURT:** Yes, ma'am.

15 **MS. CAMPBELL:** As far as the remorse and
16 everything, I would just note of her factual -- this
17 was after her conviction, when she was interviewed
18 by probation, she still blamed some other vehicle
19 for causing it. She did not put herself at blame at
20 all. And I would just note that for the record.

21 The armed robbery conviction I just handed up
22 is her sentencing sheet and the indictment. The
23 only other thing I would note is in that case that
24 was an armed robbery, but it was an actual gun and
25 she was the one with the actual gun in that case.

1 **MS. MOBLEY:** Your Honor, just if I may briefly.

2 I mean, she's already taken responsibility for the
3 armed robbery. There was -- she pled guilty to
4 that.

5 **THE COURT:** Ms. Mobley, Ms. Campbell, I'm the
6 one who actually asked for this presentencing report
7 and quite frankly hoped to have a little more
8 background here. I've got a juvenile record. I've
9 got a plea to armed robbery at age 18. Literally,
10 within months before that, this incident occurs. We
11 went through two trials. I, quite honestly, still
12 know very little about Ms. Kranchick. I understand,
13 from the presentencing report, that there's some
14 issue, and from the certificates anyway that she's
15 achieved while she's been in, that there's been some
16 issue about substance abuse for quite a while.

17 I don't cast aspersions or blame or don't mean
18 this in any kind of negative way, but quite
19 honestly, I saw, I think, her dad here during parts
20 of the first trial and I don't think I've ever seen
21 her mother. And I'm -- quite honestly, I'm trying
22 to trying to figure out what was going on during
23 that period of time.

24 **MS. MOBLEY:** I understand. Your Honor, can we
25 approach?

1 THE COURT: Yes, ma'am.

2 (Whereupon, a bench conference was held off
3 the record.)

4 MS. MOBLEY: Your Honor, Mr. Kranchick is going
5 to address some of the Court's questions, Your
6 Honor. I explained it to him. And, obviously, if I
7 wasn't specific enough, Your Honor can certainly
8 make...

9 THE COURT: I wasn't casting that as any issue
10 about anything you presented, Ms. Mobley. I just
11 sat through this trial twice and there are just
12 things that obviously y'all now because y'all have
13 dealt with, on both sides, folks involved on both
14 sides of this thing a lot more than I have. There's
15 obviously things that y'all are aware of that I'm
16 just not.

17 Mr. Kranchick, I'll be glad to hear from you,
18 sir.

19 MR. KRANCHICK: Well, sir, I was active duty
20 Army since 1980. I retired about three years ago.
21 During that time, Shanna's been with us. I was
22 married during that time with her mother, Lisa. And
23 during that time, we traveled all over the United
24 States and pretty much on the road where she never
25 really had the opportunity to gain any kind of root

1 structure as in, you know, a solid place to live,
2 but her mother was with us all together at the same
3 time with her and her brother.

4 And her brother is 25. He's currently working
5 at Blue Cross Blue Shield and also at Palmetto
6 Baptist as a radiology tech assistant. Her mother,
7 last I knew, which was about a month ago, she was up
8 in Greenville working for an emergency service
9 center with a 911 call center, so it's kind of
10 difficult for her to try to get off. But, you know,
11 and I live here in Columbia. With my job, I was
12 able to get enough time off to be able to make it.
13 My job allowed me that time to make it to the
14 trials.

15 MS. MOBLEY: Your Honor, my understanding is
16 that -- that y'all don't have much contact.

17 MR. KRANCHICK: Right. We normally don't have
18 that much contact together. She's been a little bit
19 better still.

20 MS. CAMPBELL: Your Honor, if I could address
21 one point. I know that from 1997 on, she has lived
22 in this area. I know, in speaking with the family
23 court prosecutors who know Shanna, she was given
24 chances over and over. And the whole point of the
25 juvenile system is to try to rehabilitate. And

1 every time she gets out, it's just, you know, she's
2 just committed it again.

3 She did have support from her family, from my
4 information, and I credit them for this, she had her
5 mother and her father. I think that eventually this
6 kind of drove her parents apart, but this is after
7 she committed these offenses.

8 Clearly, you know, in speaking -- Mr. Kranchick
9 was a good role model and my information on her
10 mother was that she was, too. Shanna made her
11 decisions. And I understand she was young. She was
12 18. However, you know, I mean, she barely got out
13 of one -- literally, out of jail on one and five
14 weeks later, she's doing this. And on the day this
15 happened, Judge, they're going from Wal-Mart to CVS
16 for the whole purpose to shoplift drugs from one so
17 they can get --

18 **THE COURT:** I'm looking at the facts in this.
19 The biggest question I have, and this is sort of the
20 problem I have with this whole -- everything we do
21 everyday, and it's -- I guess, my only question is
22 I've got a young girl who's got a juvenile record,
23 is an exotic dancer at 16. I understand
24 everybody's, you know, the family was together and
25 all that sort of stuff.

1 I guess my question was, boil it all down, what
2 was anybody else doing within the family structure
3 to address any of this? And you may have been. It
4 just may be a situation where she did what she did
5 despite what everybody was doing. But everybody
6 comes in here, and I, over and over again, try to
7 tell everybody, I can't rehabilitate anybody,
8 there's nothing I can give anybody to rehabilitate
9 anybody. Family court, we can talk about what all
10 they -- they don't rehabilitate anybody. Most of it
11 comes down to personal choices and what happens at
12 home. And, you know, we punish people, that's what
13 I can do.

14 But, you know, there's just a lot that's been
15 -- there are just blanks here. And I guess maybe
16 I'm not asking the right questions. I guess I'm
17 still trying to figure out what was going on when
18 all of this was going on and the substance abuse
19 problem was going on and she's 16 and working as an
20 exotic dancer.

21 **MR. KRANCHICK:** Your Honor, when we were over
22 in Germany during -- from '93 to '96, Shanna was
23 being -- we were trying to get Shanna counseling,
24 which is kind of hard to do over in Germany where we
25 were in Ansbach. It was kind of a small community,

1 which it's very hard to try to get any kind of help with.

2 During that time when we started noticing a
3 pattern of problems with Shanna, we had tried to
4 address those. We had tried to get counseling for
5 her. We had tried to get help for her.

6 She was diagnosed by a doctor, Lisa pretty much
7 knows more of it than I do because I was always out
8 was this like ADD, from what I understand is
9 Authoritative Defiance Disorder or Attention Deficit
10 Disorder. She always had promulgated to a
11 psychologist trying to get more stuff from him on
12 trying to help Shanna out when she was younger when
13 we started noticing these problems.

14 But Germany is where we really started to have
15 them and then we came back to the States. We were
16 still having problems with her and I was deployed.
17 I was in Bosnia during that time, so I couldn't --
18 there was nothing I could do. It was out of my
19 hands during that time.

20 You know, we have tried to address these
21 problems. And, yes, Shanna has had problems during
22 that time frame. That's why, when I mentioned
23 earlier, that she was slowly -- slow in maturing and
24 not -- Shanna would act, from what I understand what
25 the psychologist was saying, was she would act prior

1 to realizing what the repercussions are of her
2 actions and that's what the -- kind of like the
3 diagnosis that the psychologist was looking at. But
4 she was also like 12 years old, 13 years old when
5 this was going on.

6 And we have tried to get help for her through
7 other -- with Three Rivers, Charter Rivers. We had
8 her -- put her in Charleston where they didn't want
9 to kind of release her because she was having those
10 kind of problems.

11 MS. MOBLEY: Your Honor, and that's mentioned
12 in the PS -- it does mention in the PSI that Shanna
13 cuts her arm when she gets upset, which is
14 obviously, you know, a very glaring sign, Your
15 Honor. Perhaps -- I don't know if Your Honor is
16 interested in an evaluation at this point. I rather
17 thought that the PSI would cover a little more
18 territory as well. And I apologize to the Court for
19 not bringing forth more in-depth information about
20 the family.

21 THE COURT: I'm not blaming you, Ms. Mobley, on
22 that. I just -- I understand the seriousness of the
23 matters that we tried and what the family has, the
24 victims -- as well as the victim, who had survived
25 this, have gone through.

1 (Pause.)

2 THE COURT: Ms. Kranchick, on indictment 0894

3 -- 00894, I sentence you to serve, consecutive to

4 your sentence on the armed robbery, 13 years, order

5 ATU.

6 On indictment 00895, to run consecutive to your

7 sentence today, I sentence you to 15 years. I'm

8 going to suspend that, put you on probation for five

9 years, toll that during the time of your

10 incarceration, order mental health counseling as

11 deemed necessary in accordance with the

12 recommendations from Three P, order substance abuse

13 counseling and random drug and alcohol testing.

14 There's a mandatory fine on each of these of 5,000

15 and \$10,000, which will also be assessed. Thank

16 you.

17 MS. CAMPBELL: Thank you, Your Honor.

18

19

20

END OF PROCEEDINGS

21

22

23

24

25

C E R T I F I C A T E

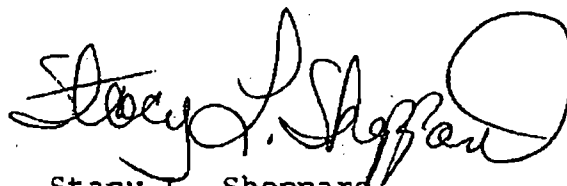
STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Fifth 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 sentencing of the captioned cause, relative to appeal in the Criminal Court for Richland County, South Carolina, on the 21st of September, 2005.

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

November 11, 2005



Stacy L. Sheppard
Circuit Court Reporter

WITNESSES

J. B. Baker, SCHP

BUCKET NO. 0265-40-00895

THE STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS

#42 MARCH TERM 2002

THE STATE

vs.

SHANNA KRANCHICK

ARREST WARRANT NO. Z861882

ACTION OF GRAND JURY

TRUE BILL

Amended
Willie M. Bowers

FOREMAN OF GRAND JURY

VERDICT

INDICTMENT FOR

CAUSING GREAT BODILY INJURY

BY OPERATING VEHICLE WHILE

UNDER THE INFLUENCE OF

DRUGS OR ALCOHOL

(FELONY DUI -

GREAT BODILY INJURY)

S. C. Code Section 56-5-2945(A)(1) Class D-Felony

0206

ATTEST
A TRUE COPY

Barbara C. Scott

C. C. C. P. A. C. R.

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR CAUSING GREAT BODILY
) INJURY BY OPERATING VEHICLE WHILE UNDER
COUNTY OF RICHLAND) THE INFLUENCE OF DRUGS OR ALCOHOL
 (FELONY DUI - GREAT BODILY INJURY)

At a Court of General Sessions, convened on March 20, 2002
the Grand Jurors of RICHLAND County present upon their oath:

COUNT ONE - CAUSING GREAT BODILY INJURY BY OPERATING A
VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL

That SHANNA KRANCHICK, did in
Richland County on or about January 23, 2002, drive a
motor vehicle while under the influence of alcohol, drugs, or a combination of
both, and did an act forbidden by law and/or neglected a duty imposed by law,
to wit: improper lane change (56-5-2150), reckless driving (56-5-2920) and/or
driving too fast for conditions (56-5-1520) and/or speeding (56-5-1520)
which act and/or neglect proximately caused great bodily injury to _____
Stanford Owens in violation of §56-5-2945, Code of Laws of
South Carolina, (1976), as amended.

Amendment to Tax Bill
10/23/03 Ann M. Fere
German R.C. Grand

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

Walter B. Geary
SOLICITOR

691
655
69

WITNESSES

B. Baker, SCHP

L. W. Williams

ARREST WARRANT NO. 2861877

ACTION OF GRAND JURY

TRUE BILL

William M. Bowers
Foreman of Grand Jury

VERDICT

Amended

9/19/03

DOCKET NO. *D2-65-40-00894*

The State of South Carolina,

County of RICHLAND

COURT OF GENERAL SESSIONS

#42 MARCH TERM 2002

THE STATE

VS.

SHANNA KRANCHICK

**Indictment for Causing
Death By Operating Vehicle
While Under the Influence of
Drugs or Alcohol
(Felony DUI - Death)**

S. C. Code Section 56-5-2945(A)(2) Class B-Felony
0395

ATTEST
A TRUE COPY

Barbara C. Scott
S. C. C. P. & C. B.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT FOR CAUSING DEATH
 BY OPERATING VEHICLE WHILE UNDER
 THE INFLUENCE OF DRUGS OR ALCOHOL
 (FELONY DUI — DEATH)

At a Court of General Sessions, convened on March 20, 2001,
 the Grand Jurors of RICHLAND County present upon their oath:

**COUNT ONE — CAUSING DEATH BY OPERATING A
 VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL**

That SHANNA KRANCHICK, did in
Richland County on or about January 23, 2002, drive a
 motor vehicle while under the influence of alcohol, drugs, or a combination of both, and did an
 act forbidden by law and/or neglected a duty imposed by law, to wit: improper lane
change (56-5-2150), and/or reckless driving (56-5-2920), and/or driving too
fast for conditions (56-5-1520) and/or speeding (56-5-1520)
 which act and/or neglect proximately caused the death of Gene Croft 800 2/19/03
 in violation of §56-5-2945, Code of Laws of South Carolina, (1976), as amended.

Amendment True copy
 10/23/03 Am M. FEEZ
 Foreman R.C. Grand Jury

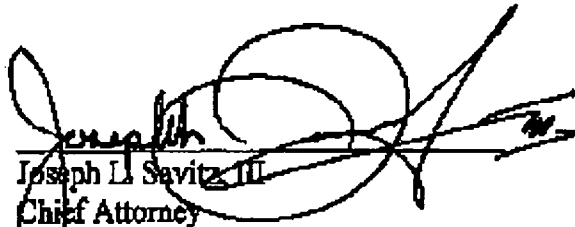
Against the peace and dignity of the State, and contrary to the statute in such case made and
 provided.

Walter B. Greene
 SOLICITOR

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.

May 14th, 2007



Joseph L. Savitz III
Chief Attorney

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

2009 CP 4000230 698

STATE OF SOUTH CAROLINA

In the Court of Common Pleas

County of Richland

Stephanie Kravitz (Applicant)

Full name and date of birth, if any, of applicant

v.

The State

Prosecution

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten, or typewritten), signed by the applicant and verified (sworn), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear in which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicant should, therefore, exercise care to assure that all answers are true and correct.

If the applicant is taken in formal custody, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention Camille Crippen Graham Correctional Institute
4450 Broad River Road, Columbia S.C. 29210

2. Name and location of Court which imposed sentence Richland County General
Sessions; 1701 Main St. Columbia S.C. 29201

3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:

(a) Felony DUI - Death 2002-GS-40-00894

(b) Felony DUI - Great Bodily Injury 2002-GS-40-00895

(c) _____

4. The date upon which sentence was imposed and the terms of the sentence:

(a) 9-21-05; 13 years consecutive to Armed Robbery charge; and a fine \$10,000

(b) 9-21-05; 5 years suspended to 5 year probation consecutive; and a fine \$5,000

(c) _____

3. Check whether a finding of guilty was made

- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of not guilty _____

6. Did you appeal from the judgment of conviction or the imposition of sentence? Yes _____

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. Court of Criminal Sessions - Richmond County (Motion to reconsider)
- ii. _____
- iii. _____

(b) the result in each such Court to which you appealed:

- i. Denied
- ii. _____
- iii. _____

(c) the date of each such result:

- i. October 10, 2005
- ii. _____
- iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
- ii. _____
- iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) N/A
- (b) _____
- (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) No video tape was taken at scene in spite of my allegeded intoxication.
- (b) Ineffective assistance of Trial Counsel.
- (c) Directed Verdict.

10. State separately and in the same order the facts which support each of the grounds set out in (9)

(a) ~~That of approximately 14 State Transport vehicles present at the scene, the video was taken at the scene in the probable cause for an arrest.~~

(b) ~~Failure to research law, failure to conduct an object to jury charge, failure to identify and present defense, failure to call proper witnesses, ineffective arguments, wrong indictment given to jury~~

(c) ~~There was insufficient evidence proving I and the co-defendant caused of the car engine accident.~~

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law?

Yes

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

No

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (b) NO

(d) any other petitions, motions or applications in this or any other Court?

No

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof

I. A Direct Appeal

II. _____

III. _____

IV. _____

(b) the name and location of the Court in which each was filed

I. S.C. Court of Appeals; P.O. Box 1129 Columbia, S.C. 29211

II. _____

III. _____

IV. _____

(c) the disposition thereof

I. Denied

II. _____

III. _____

IV. _____

(d) the date of each such disposition:

- I. October 17, 2008
- II. _____
- III. _____
- IV. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- I. _____
- II. _____
- III. _____
- IV. _____

12. Has any ground set forth in (2) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? Yes

13. If you answered "yes" to (12), identify:

(a) which grounds have been presented:

- I. Directed Verdict
- II. _____
- III. _____

(b) the proceedings to which each ground was raised:

- I. Direct Appeal
- II. _____
- III. _____

14. If any ground set forth in (2) has not previously been presented to any Court, State or Federal, set forth the ground and state briefly the reasons why such ground has not previously been presented:

- (a) _____
- (b) _____
- (c) _____

15. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? Yes

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Douglas Strickler, P.O. Box 182 Columbia, S.C. 29202
- ii. Deborah Abbott-Laura Watley, P.O. Box 182 Columbia, S.C. 29202
- iii. Joseph Smith III, P.O. Box 15539 Columbia, S.C. 29211

(b) the proceedings at which each such attorney represented you:

- i. First Trial
- ii. Second Trial and Motion to Reconsider
- iii. Appellate Attorney

18. State clearly the relief you seek in filing this application.

Reduce Charge to "Reckless Homicide" or change to regular plea of 12 years concurrent to Armed Robbery charge.

19. Are you now under sentence from any other court that you have not challenged?

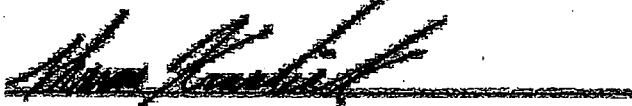
Not of Court Case #2002-CP-40-212A for Armed Robbery charge.

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF Ridgeland

I, Shanna Knochick #283347, being duly sworn upon my oath depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attached in this application; and that the matters and allegations therein set forth are true.



Sworn to and subscribed before me

This 7 day of Jan., 2008

Barry K. Lytle J.S.
Notary Public for South Carolina

My Commission Expires 11/23/14

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Shanna Knochick #283347, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of proceeding or give security therefor.



Applicant

Sworn to and subscribed before me

This 7 day of Jan., 2008

Barry K. Lytle J.S.
Notary Public for South Carolina

My Commission Expires: 11/23/14

10(a) Section 5L-5-2953 (A) a person who violates section 5L-5-2930, 5L-5-2931 or 5L-5-2945 must have his conduct at the incident site and breath test site videotaped.

(1) The videotaping at the incident site must:

(a) video must be activated once a probable cause was determined that the person violated section 5L-5-2945.

(b) include the person being advised of one's Miranda rights before any field sobriety tests are administered, if tests are administered.

In conclusion, had a video at the incident site been administered, it would have clearly shown insufficient evidence that I was allegedly under the influence and that I was not advised of my Miranda rights. Furthermore, out of the substantial amount of law enforcement and medical personnel that had spoken with me at the incident site, none claimed to have any suspicions that I was allegedly intoxicated.

10(b) Council was also ineffective in asking for a mistrial due to the fact that the jury was given the Child Endangerment, Simple possession and Driving Under Suspension indictments, which had been dropped, and was beginning deliberation on them. She also failed in lack of investigation and preparation for trial.

10(c) It is to my belief that I am not the proximate cause of the wreck. Even prosecution witness Tracy Proctor testified to seeing two trucks. One with a trailer in front of me on my right. The truck was merging into my lane about to swipe me off the road. I swerved to avoid impact, in doing so, the passenger Donald Johnson jerked the wheel out of my hand causing us to strike the rear of the 18 wheeler.

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

2009CP4000235

Kranckick, Shanna, 00283147,)

Applicant,)

v.)

RETURN

State of South Carolina,)

Respondent.)

The Respondent, making its Return to the Application for Post-Conviction Relief filed January 14, 2009, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was represented by Douglas Strickler, Public Defender. On September 21, 2005, after a jury trial with the Honorable Reginald I. Loyd, the Applicant was convicted and sentenced to the following:

TERM	2002GS4000894	0395 56-05-2945(A)(2) * 1-25 * DUI / Felony driving under the influence, death results	13	No
TERM	2002GS4000895	0406 56-05-2945(A)(1) * 30 days to 15 years * DUI / Felony driving under the influence, great bodily injury results	5	No

A timely Notice of Appeal was filed on Applicant's behalf, the South Carolina Court of Appeals affirmed Applicant's conviction and sentence pursuant to an Anders brief, remittitur dated November 4, 2008.¹

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the Department of Corrections, the Applicant's trial transcript, and the Applicant's appellate records.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) No video tape was taken at scene to show of my alleged intoxication.
- (b) Ineffective assistance of Trial Council.
- (c) Directed Verdict.

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

- (a) Out of approximately 6 State Trooper vehicles present at the scene, No video was taken at the scene to show probable cause for an arrest.
- (b) Failure to research law, Failure to submit or object to jury charge, Failure to develop and present defense, Failure to make proper motions, ineffective arguments, wrong indictments given to jury
- (c) there was insufficient evidence proving I was the proximate cause of the car accident

18. State clearly the relief you seek in filing this application.

Reduce Charge to "Reckless Homicide" or change to regular plea of 12 years concurrent to Armed Robbery charge.

19. Are you now under sentence from any other court that you have not challenged?

Writ of Cert Case #2002-CP-40-2128 for Armed Robbery charge.

¹ Anders v. California, 386 US 738 (1967).

10(A)

Section 56-5-2953 (A) A person who violates section 56-5-2930, 56-5-2933 or 56-5-2945 must have his conduct at the incident site and breath test site videotaped.

(1) The videotaping at the incident site must:

(a) video must be activated once a probable cause was determined that the person violated section 56-5-2945.

(b) include the person being advised of one's Miranda rights before any field Sobriety tests are administered, if tests are administered.

In conclusion, had a video at the incident site been administered, it would have clearly shown insufficient evidence that I was allegedly under the influence and that I was not advised of my Miranda rights. Furthermore, out of the substantial amount of law enforcement and medical personnel that had spoken with me at the incident site, none claimed to have any suspicions that I was allegedly intoxicated.

10(B)

Council was also ineffective in asking for a mistrial due to the fact that the jury was given the Child Endangerment, Simple possession and Driving Under Suspension indictments, which had been dropped, and was beginning deliberation on them. She also failed in lack of investigation and preparation for trial.

10(C)

It is to my belief that I am not the proximate cause of the wreck. Even prosecution witness Tracy Proctor testified to seeing two trucks. One with a trailer in front of me on my right. The truck was merging into my lane about to swipe me off the road. I swerved to avoid impact, in doing so, the passenger Donald Adams jerked the wheel out of my hands causing us to strike the rear of the 18 wheeler.

III.

The Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of

competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the Respondent requests that an evidentiary hearing be held.

HENRY DARGAN McMASTER
Attorney General

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Chief Deputy Attorney General

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By: 
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June 29, 2009

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

)
) IN THE COURT OF COMMON PLEAS

2008-CP-400-0235

Shanna Kranchick, 283147

Applicant,

vs

State of South Carolina,

Respondent.

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)
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) AFFIDAVIT OF SERVICE BY MAIL
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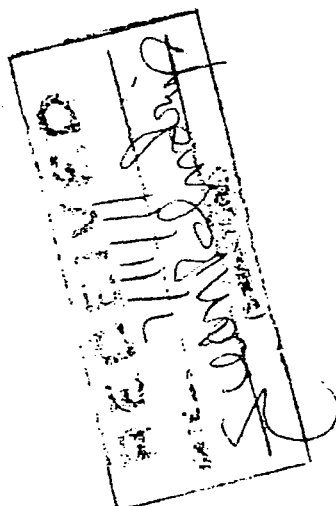
1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Charlie J. Johnson, Jr., Esquire
Post Office Box 11212
Columbia, South Carolina 29211-1212

DATED this 1st day of July, 2009.


Jean R. Indriago, Legal Assistant
For Respondent

713



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(There were no exhibits introduced at this hearing.)

1 (The defendant, together
2 with counsel, was personally present in the
3 courtroom.)

4 MR. PETRANO: May it please the Court?

5 THE COURT: Are we waiting on Mr.
6 Strickler? You may proceed.

7 MR. PETRANO: Thank you, Judge. This is
8 2009-CP-40-00235, Ms. Shanna Kranchick. This was a
9 PCR application filed January 14, 2009. It was a
10 jury trial with Judge Lloyd held on September 21,
11 2005.

12 The applicant was represented by Ms.
13 Deborah Ahrens. She is not present. She is
14 currently located in Seattle, Washington, as a law
15 professor. The applicant had been indicted by the
16 Richland County Grand Jury. That's 2002-GS-40-00894
17 and 895.

18 Eight nine four is a felony DUI,
19 death results. Eight nine five is a felony DUI,
20 great bodily injury. And the sentence is kind of
21 awkward. She was already serving I think twelve
22 years for armed robbery.

23 She was sentenced to thirteen years
24 consecutive to the existing armed robbery for the
25 DUI, death results, and then a consecutive fifteen

1 to the thirteen or the fifteen is suspended to five
2 years' probation. I hope that makes sense.

3 THE COURT: It was Judge Lloyd, wasn't it?

4 MR. PETRANO: That's correct.

5 THE COURT: It makes plenty of sense. Go
6 ahead.

7 MR. PETRANO: There was a direct appeal
8 that was Anders briefed that was submitted on
9 November 4, 2008. That was 2008-CP-599. I will
10 turn it over to Mr. Charlie J. Johnson, Jr., the
11 applicant's current counsel of record.

12 THE COURT: Yes, sir.

13 MR. PETRANO: Your Honor, if I may -- I'm
14 sorry, Judge, just one more moment. There had been
15 a mistrial. We do not have that transcript, but
16 just for your reference in case he mentions it.
17 Thank you, Judge.

18 THE COURT: There's a mistrial on some of
19 the charges?

20 MR. PETRANO: I believe there was an
21 acquittal for one or two of the charges --

22 THE COURT: I vaguely remember discussing
23 it.

24 MR. PETRANO: -- and a deadlocked jury.
25 And then so the retrial is what we have here today.

1 THE COURT: All right, sir.

2 MR. PETRANO: Thank you, Judge.

3 MR. JOHNSON: Your Honor, if it please the
4 Court, at this time we'd like to call Ms. Shanna
5 Kranchick to the stand.

6 THE COURT: Come around, Ms. Kranchick.

7 (The witness was sworn.)

8 THE COURT: Please take a seat. Tell us
9 your full name and spell your last name for the
10 record.

11 MS. KRANCHICK: Shanna Kranchick -- spell
12 it?

13 THE COURT: Spell it, yes, ma'am.

14 MS. KRANCHICK: S-H-A-N-N-A K-R-A-N-C-H-I-
15 C-K.

16 THE COURT: Mr. Johnson?

17 MR. JOHNSON: Thank you.

18 SHANNA KRANCHICK, having first been
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. JOHNSON:

22 Q Ms. Kranchick, are you presently
23 incarcerated?

24 A Yes, sir.

25 Q Where are you being held?

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1 A Camille Graham.

2 Q What are you being held there for?

3 A Right now, I'm serving armed robbery. It
4 is a twelve-year.

5 Q We're not here for the armed robbery
6 charge, is that correct?

7 A Yes, sir.

8 Q We're here for another charge that you
9 were found guilty of?

10 A Yes, sir.

11 Q What is that charge?

12 A Felony DUI, death, and felony DUI, great
13 bodily injury.

14 Q And what type of sentence did you receive
15 as a result of that?

16 A For the death, I received thirteen years
17 for the death and five years for the great bodily
18 injury.

19 Q Okay. And was there a trial?

20 A Yes, sir.

21 Q Were you represented by counsel at that
22 trial?

23 A Yes, sir.

24 Q What was your trial counsel's name?

25 A Which trial? Because I had two.

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1 Q Okay. The first trial, that was a
2 mistrial, or what happened with that?

3 A It was a mistrial, that's right.

4 Q On the second trial, that's the one we're
5 here discussing today, is that correct?

6 A That's correct.

7 Q And who was your trial counsel for that
8 one?

9 A Ms. Ahrens and Ms. -- can't think of the
10 name this minute.

11 Q All right. Now, this incident was an
12 accident, is that correct?

13 A Yes, sir.

14 Q What were you alleged to have done to
15 cause this accident?

16 A What was I alleged to have done? I was
17 alleged to have been intoxicated.

18 Q As being intoxicated?

19 A Yes, sir.

20 Q So it was an accident on the interstate,
21 is that correct?

22 A It was an accident, yes.

23 Q Could you tell the Court something about
24 the accident itself?

25 A I was getting onto the highway, getting

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1 from the Fort Jackson area. It was me, the
2 passenger was the owner of the car, Donald Adams,
3 had a 14- or 15-year-old in the back seat.

4 As we was driving, I got into the far left
5 lane, and there was an 18-wheeler with a white
6 tractor-trailer on the back of it, and it was coming
7 over. I figured I was in his blind spot.

8 I swerved to the shoulder, and the
9 passenger, Donald Adams, grabbed the steering wheel.
10 He said, "Watch what you're doing," and he grabbed
11 the steering wheel.

12 And I grabbed it back to get back on
13 track, and he grabbed it again. And from that point
14 when he grabbed it again, we had turned and hit the
15 18-wheeler. The 18-wheeler then turned and hit
16 something, and then I just -- it was out of my hands
17 from then.

18 Q And then as a result of that, there was a
19 number of injuries, which included the death of an
20 individual?

21 A Yes, sir.

22 Q And you was then charged with what?

23 A Sir?

24 Q And you was charged with certain charges
25 as a result of that accident that you had?

1 A Yes, sir.

2 Q What was the charges that you had against
3 you at this time?

4 A All of them, every charge?

5 Q Well, the main ones that we're referring
6 to today.

7 A Okay, the felony DUI, death, and felony
8 DUI, great bodily injury.

9 Q Okay. And it was alleged that you was I
10 guess impaired?

11 A Right.

12 Q And that as a result of your impairment
13 that you caused the accident itself, is that
14 correct?

15 A Right.

16 Q Now, what was your defense in that case,
17 that you were not impaired?

18 A That I was not impaired.

19 Q And that the individual grabbed the wheel?

20 A Correct.

21 Q Okay. So after your first trial was a
22 mistrial, what was the reason that Mr. Strickler was
23 not appointed to you to represent you on the second
24 trial?

25 A He stated to me that he a more priority

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1 case.

2 Q So did you receive -- I didn't understand
3 the last thing you said. That he had a what type of
4 case?

5 A A higher priority case.

6 Q Okay. So then you were appointed new
7 trial counsel for your second trial, is that
8 correct?

9 A Correct.

10 Q How many times did they meet with you
11 prior to trial?

12 A I can't remember that -- approximately
13 twice.

14 Q About twice?

15 A Yes.

16 A And did you discuss your case with them?

17 A Yes, sir, I did.

18 Q In your PCR application, you allege
19 ineffective assistance of trial counsel, is that
20 correct?

21 A Correct.

22 Q So let's talk about some of the things
23 that you feel that your trial counsel didn't do
24 during the trial. What is the first thing that you
25 feel was ineffective, that made your trial counsel

1 ineffective?

2 A I feel as though she didn't emphasize on a
3 lot of things that would have proven my innocence.
4 I feel like she didn't emphasize about the officer
5 not taking the videotape or having someone -- of the
6 field sobriety test.

7 Q Okay, let's talk about that. There was no
8 videotape of your -- of this incident -- well, it
9 wouldn't be a videotape of the incident. But are
10 you referring to the videotape on the patrol car?

11 A Yes, sir, of my field sobriety test.

12 Q Of your field sobriety test?

13 A Correct.

14 Q So there was no -- what was the reason
15 there was no videotape of that?

16 A When he was -- when I talked to him about
17 it, he said that his was not activated. I stated to
18 him there was multiple other parties out there,
19 state troopers, that could have activated theirs, or
20 I asked him if he can have -- verify with him. And
21 he said that it's out of his hands.

22 Q So there was no actual videotape -- no
23 tape of your composure or anything of you at the
24 time of the accident, is that correct?

25 A No, sir, there wasn't.

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1 Q What did that particular officer -- that
2 was the officer that arrested you for the felony
3 DUI, is that correct?

4 A Correct.

5 Q What did he do when he approached you?

6 A He approached me -- the initial time he
7 approached me, I was sitting in the car, trying to
8 gain my composure. And he came to me, and he asked
9 me, "Who is the owner of this car?"

10 I said, "Donald Adams." And he left. So
11 the officer left, and then he came back to me and
12 said, "Ma'am, you just lied it." He said, "Donald
13 Adams said that you're driving this car."

14 I said, "No, sir. You asked me who was
15 the owner of this car." And he was like, "Can you
16 come with me?"

17 Q Okay.

18 A Right.

19 Q The officer is Officer J. B. -- is that
20 Baker?

21 A Yes, sir, from the Highway Patrol.

22 Q Okay.

23 A So when I followed him, he said, "Would
24 you mind following my finger?" He rubbed the finger
25 in front of my eyes, and he said -- he stated that

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1 he felt as though I was under the influence, that he
2 was going to take me for some testing.

3 And that's when we got into the car.
4 Before he came, some man came to me, and he gave me
5 his cell phone to call my dad.

6 Q Okay.

7 A And he said that he was -- he was off-duty
8 police at the time.

9 Q Okay. So then they took you to where?

10 A They took me to Richland Memorial.

11 Q Richland Memorial. Did you have some
12 injuries or something?

13 A No, sir. I had a burn from the air bag.

14 Q Okay. So when they got you to the
15 hospital, what happened next?

16 A They took my urine first and then took my
17 blood.

18 Q And then what happened after that?

19 A Took me to Richland Memorial -- I mean,
20 took me RCDC for a 20-minute observational period, a
21 breath test.

22 Q Was that recorded?

23 A No -- well, the breath test, yes, it was
24 recorded.

25 Q The breath test was recorded. Was the

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1 observation time recorded?

2 A Correct.

3 Q Okay. Was there anything unusual that
4 they pointed out in the trial concerning the tape of
5 the observation of you, the breath test, and things
6 like that?

7 A No, sir. I asked my attorney over and
8 over if they could at least get that videotape,
9 because I know that was videotaped, if they could at
10 least get that videotape of the observational period
11 to prove that I wasn't under the influence.

12 And she never came and got back with me or
13 whatever. She was like, "We're not even going to
14 deal with that right now."

15 Q So that videotape was never shown to the
16 jury or never produced?

17 A No, sir.

18 Q But it was taken, and it was available?

19 A Yes, sir.

20 Q And you did ask her to?

21 A Yes, I asked her multiple times.

22 Q And what reason did she give you for not
23 producing it?

24 A She never gave a reason she didn't. She
25 just said, "We're not going to get into that."

1 Q Okay. What happened next that you think
2 that made her ineffective?

3 A I feel that she didn't emphasize or the
4 fact that Officer J. B. Baker threw away his
5 original notes. A lot of things I feel he probably
6 forgot or put his own words into it, the file report
7 that he did write. I feel as though she --

8 Q Well, let's talk about that, okay?

9 A Okay.

10 Q During the trial -- during your first
11 trial, did Mr. Strickler object to a number of
12 things?

13 A A number, yes -- yes, sir.

14 Q Do you remember some of the things he
15 objected to?

16 A No, sir, I don't.

17 Q The main evidence in this case was I guess
18 a result of the drug test that was done, right, the
19 urine test and the blood test?

20 A Correct.

21 Q In the blood test, was any alcohol found
22 in your system?

23 A No, sir.

24 Q There was no alcohol found in your system.
25 Was any alcohol or anything found in the car that

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1 would indicate you was drinking or doing anything of
2 that nature?

3 A There was no alcohol, no.

4 Q And the State said that there was no
5 evidence that you was impaired by alcohol, is that
6 correct?

7 A Correct.

8 Q So what was their reason for believing
9 that you was impaired?

10 A He -- Officer Baker initially, when he
11 came back to me the second time and he said that --
12 and he pulled me up and gave me that field sobriety
13 test, he said, "I smell alcohol on you." That's
14 what he said to me at first.

15 And then I was like, "Sir, I don't drink."
16 Later on, he said, "Yes, I smell marijuana." After
17 they had searched -- the car was searched, a bag of
18 marijuana was found that was unopened and hadn't
19 been -- nothing had been smoked out of it. It was
20 no butts in the car. There was nothing. But he
21 felt that he smelled marijuana on me and my person.

22 Q But the marijuana that was found had
23 nothing to do with this, right? I mean --

24 A It was found on the bottom of the -- on
25 the floor of the car.

1 Q But it was never -- but that was never
2 told to the jury, is that correct?

3 A It was told to the jury, yes, sir.

4 Q In the first one or the second one?

5 A I can't -- I know it was told in the
6 second one.

7 Q Okay. But there was no indication that
8 anybody had been smoking or using the marijuana, is
9 that correct?

10 A No, sir.

11 Q Now, would it be fair to say that you
12 believe this whole case as far as your -- the felony
13 DUI is based on the testimony of the toxicologist?

14 A Yes, sir, that's what I feel.

15 Q Was there any other evidence other than
16 the testimony of the toxicologist and also Baker
17 that inferred that you was impaired?

18 A Was there -- excuse me?

19 Q Was there any other evidence, other than
20 the toxicology report and Officer Baker's testimony,
21 by anybody else indicating that they thought that
22 you was impaired?

23 A No, sir, no -- the EMS when they kicked on
24 me, other multiple people that were at the scene
25 that came and checked on me never mentioned anything

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1 about them supposedly thinking I was impaired. No
2 one -- you know, there was nothing to indicate. The
3 marijuana that was found in my system was an
4 unactive metabolite, meaning --

5 Q So some marijuana was found in your
6 system, is that right?

7 A Right, yes.

8 Q Let's talk about that. What did the
9 results say about the marijuana found?

10 A It was an unactive metabolite. Therefore,
11 I haven't smoked it within approximately six hours
12 before. It had to be about six -- it's an
13 approximation [sic]. It don't give you an
14 accurate --

15 Q Is it typically eight hours?

16 A Yes.

17 Q It could have been anywhere from six to
18 eight hours?

19 A Correct.

20 Q But they couldn't say that you was
21 actually impaired -- I mean, under the influence at
22 that time from the marijuana, is that correct?

23 A Correct.

24 Q Now, there was something else found in
25 your system, is that correct?

1 A Correct.

2 Q What was that?

3 A Sinus medicine for my cold.

4 Q Sinus medicine?

5 A Yes, sir.

6 Q And there was -- that was -- there was a
7 big thing made about that, is that correct?

8 A Yes, sir.

9 Q What was that about?

10 A They said it was a substantial amount.

11 Q Who said that it was a substantial amount?

12 A The toxicologist.

13 Q And that would have been Mr. Gregory? Do
14 you remember that name?

15 A I have to read over the transcript. I'm
16 not sure --

17 Q If I were to say that Mr. Gregory was the
18 toxicologist and it was in the record, then that
19 would be the person --

20 A Yes, sir.

21 Q -- the toxicologist?

22 A Right.

23 Q And what did he say?

24 A He said that I had a substantial amount of
25 cold medicine in my system and that that's what

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1 teenagers these days were using to get high off
2 them. But me, I've taken medicines for a long time
3 in my life.

4 I have a high immune system, high
5 tolerance. That day, no, I didn't take none that
6 day. I know the day before I had took some Benadryl
7 for my sinuses because I have bad allergies. And
8 that's it.

9 Q Okay. Now, there was a Gregory L. --
10 (inaudible) who was identified as a toxicologist.
11 Do you remember him testifying in your case?

12 A Yes, sir.

13 Q Now, on page 253 of the transcript --
14 MR. JOHNSON: Does Your Honor have that?
15 THE COURT: Yes, sir.

16 Q On page 253 is where they initially had
17 evidence that he qualifies himself as a -- where he
18 was qualified as an expert. Do you remember him
19 being qualified as an expert?

20 A Yes, he was.

21 Q Okay. Now, I'm going --

22 MR. JOHNSON: Your Honor, I'd like to read
23 part of the transcript into the record.

24 THE COURT: I'm not going to stop you.

25 MR. JOHNSON: Okay, all right.

1 Q I'm going to read part of the transcript,
2 and you tell me if you remember this. It was direct
3 examination by Ms. Campbell. It starts on page 253.

4 THE COURT: It was cross-examination by
5 Ms. Campbell, was it not?

6 MR. JOHNSON: No, it would be direct. She
7 put him up as her expert, the toxicologist.

8 THE COURT: Oh, I see. I see. Go ahead,
9 I'm sorry.

10 MR. JOHNSON: It was direct examination by
11 Ms. Campbell where she qualified the toxicologist.

12 Q "Mr. Brock, where are you employed?" He
13 said, "Currently?" Question, "Currently." Answer,
14 "I'm employed by Johnson and Johnson." Question,
15 "Johnson and Johnson Laboratories?" Answer, "It's
16 an also Clinical Diagnostics, which is part of
17 Johnson and Johnson."

18 Question, "Johnson and Johnson is what
19 type of company?" "It's a large global company.
20 They have over two hundred companies under their
21 umbrella." Question, "What do you currently do for
22 Johnson and Johnson?"

23 "I install laboratory equipment for
24 hospitals and doctors offices." Do you remember him
25 saying that?

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23

1 A Yes, sir.

2 Q So at the time that he testified, he was
3 an installer of laboratory equipment --

4 A Yes, sir.

5 Q -- is that correct?

6 A Yes, sir, correct.

7 Q Now, this was the person that testified as
8 a toxicologist in your case, is that correct?

9 A Correct.

10 Q Now, later on, on page 250 --

11 MR. PETRANO: I have to object, Your
12 Honor. That's a mischaracterization of the record -
13 - installs laboratory instrumentation, not
14 equipment.

15 THE COURT: All right, sir.

16 Q Laboratory instrumentation. Would you
17 consider that to be -- on page 254, where he was
18 examined as a -- where he was qualified as a
19 toxicologist, he stated, on line two, when they
20 asked "Back in 2002, where were you employed?"

21 He answered, "I was employed at the South
22 Carolina Law Enforcement Division." Question,
23 "That's commonly known as SLED?" Answer, "Yes --
24 yes, ma'am."

25 "And what was your duty at SLED?" was the

1 question. Answer, "At SLED, I was a forensic
2 toxicologist." Question, "What does a forensic
3 toxicologist do?"

4 He stated, "A forensic toxicologist is a
5 person or scientist who analyzes biological
6 specimens for the presence or absence of alcohol,
7 drugs, or chemicals that may be present."

8 Question, "Can you tell this jury a little
9 bit about your education, training in the field?"
10 This is what he said, "I have a bachelor of science
11 degree in medical technology from the University of
12 South Carolina.

13 "I've been trained through SLED in their
14 toxicology program, which consists of about a year-
15 long training where we undergo book work, oral
16 testing, and written testing, and we have to perform
17 a minimum amount of analyses in order to test for
18 competency test to become a forensic toxicologist.

19 "Then you finally have to be signed off by
20 the chief toxicologist." Do you remember that being
21 said?

22 A Yes, sir.

23 Q So that was his qualifications, is that
24 correct?

25 A Correct.

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1 Q Now, did he ever give any testimony, or do
2 you remember him ever giving testimony, that he was
3 a -- he had a Ph.D. or a doctor's degree in that
4 field?

5 A No, sir, he never did.

6 THE COURT: Was he qualified as an expert
7 by the Trial Judge?

8 MR. JOHNSON: That's correct, Your Honor.
9 Our issue here is that the defense attorney didn't
10 object to it.

11 THE COURT: Okay.

12 Q Did your defense attorney object to Mr.
13 Brock being qualified as a forensic toxicologist?

14 A No, sir, she never did.

15 Q There was no objection to it?

16 A No, sir.

17 Q So then he was allowed to testify as to
18 the results of your test, is that correct?

19 A Correct.

20 Q Now, did she even attempt to limit what he
21 could testify to?

22 A No, sir. She -- I feel as though she
23 didn't put up a good enough argument. She didn't
24 make proper objections.

25 THE COURT: This is Ms. Ahrens and not Mr.

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1 Strickler, right?

2 MR. JOHNSON: Right.

3 THE COURT: All right.

4 A I feel as though she didn't make proper
5 objections, motions, arguments. She went along with
6 the flow. When I asked Ms. -- when I asked her if
7 she would present certain things, she told me that
8 she had it covered. She never mentioned them.

9 When I asked her if Donald was going to
10 testify, it was all set up. Judge Lloyd set it up
11 to where he even eliminated the same prosecutor I
12 had for him to testify. But she later came to me
13 and said she didn't want him to testify. She didn't
14 feel it was proper, and --

15 Q Okay. Well, let's go to page -- if I can
16 find the right page.

17 MR. JOHNSON: One moment, Your Honor.

18 Q On page 269 of the transcript, line nine,
19 in that part of the transcript, Mr. Brock was still
20 being -- having direct examination by Ms. Campbell.
21 Ms. Campbell then asked, "That level of marijuana is
22 going to affect a person's ability to drive?"

23 His answer was, "Well, the metabolite by
24 itself would not. It is an inactive metabolite."
25 Question, "If smoking marijuana has that amount of

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1 metabolite in your blood, would that affect -- would
2 that impair someone's ability to drive?"

3 Answer, "Oh, yes, ma'am." "Anybody's
4 ability?" "Anybody's ability." "That alone would?"
5 Answer, "Correct." "You mentioned that there were
6 other drugs that were revealed in the test?"

7 His answer, "Yes, ma'am." "I believe you
8 referred to them as cough suppressants?" Answer,
9 "Yes, ma'am." And then they go -- she went into
10 talking about cough suppressants, is that correct?

11 A Correct.

12 Q Do you remember that part of the
13 testimony?

14 A Yes, sir.

15 Q Now, did your attorney object to the
16 toxicologist's examination or testimony that it
17 would have impaired your ability to drive as far as
18 the marijuana?

19 A No.

20 Q There was also testimony about the amount
21 of -- the amount of the cough syrup and cough
22 suppressant that was used, is that -- do you
23 remember that?

24 A Yes, sir.

25 Q Now, they said that it was a high level,

1 is that correct?

2 A Correct.

3 Q Now, he also testified and it's in the
4 transcript that that would have definitely impaired
5 your ability to drive, is that correct?

6 A Correct.

7 Q Did your attorney object to that?

8 A No, sir.

9 Q Now, later on in the testimony, it was
10 asked, "Are you sure to a medical certainty that the
11 individual would have been impaired?" Do you
12 remember Ms. Campbell --

13 A Correct.

14 Q -- asking that?

15 A Yes, sir.

16 MR. PETRANO: I'm sorry, where is that? I
17 just want to follow along.

18 MR. JOHNSON: Let me find it for you.

19 MR. PETRANO: I think we're up to two
20 seventy-four.

21 MR. JOHNSON: I think it is two seventy-
22 four -- two seventy-four.

23 MR. PETRANO: It doesn't use the word
24 "medical."

25 MR. JOHNSON: I think it does. I'll have

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1 to find it.

2 Your Honor, one moment.

3 Q On page 274, line 21, the question is,
4 "And it is your opinion as an expert in this field
5 that her ability would have been impaired?" Answer,
6 "Yes, she would have definitely been impaired."

7 "Do drugs such as this, cough suppressants
8 -- can you get them at a local drugstore?" And then
9 he goes on to explain where. And I think the
10 medical certainty comes on the other one?

11 So she asked the expert -- supposedly the
12 expert in toxicology -- "Would that amount of drugs
13 impair your driving?" And he answered, "Yes," is
14 that correct?

15 A Correct.

16 Q Now, do you feel that that was
17 significant?

18 A No, sir.

19 Q You don't?

20 A I mean, yes, I feel as though -- I'm
21 sorry. I do.

22 Q Okay. Why do you feel that that was
23 significant?

24 A Because that was their main battle. That
25 was the main argument, that I was impaired. And I

1 felt as though I know I wasn't, but the proximate
2 cause would not have even that. The proximate cause
3 is he pulled the steering wheel out of my hand.

4 And a prosecution witness, Tracy --
5 whatever you want to call it, a tractor or whatever
6 -- testified as to a truck being there next to me.
7 And that was their only witness, and she didn't
8 emphasize that.

9 She didn't emphasize the fact that the
10 cable probably would have been more the cause of the
11 man dying, because of the truck flipping over. I
12 don't feel as though I was the proximate cause.

13 Q Okay. Now, there was testimony -- I think
14 you produced testimony that there was an individual
15 in the car with you that indicated that someone did
16 pull the steering wheel, is that correct?

17 A Correct.

18 Q Okay. And he testified that who pulled
19 the steering wheel?

20 A That Donald Adams pulled -- the passenger.
21 Donald Adams pulled the steering wheel.

22 Q So there was testimony to indicate that
23 someone did pull the steering wheel, is that
24 correct?

25 A Correct.

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1 Q Now, the only testimony as to you being
2 impaired was the officer basically stating that your
3 eyes were bleary?

4 A No, he stated that he didn't even -- he
5 stated that when he ran his finger across my face or
6 in front of my face to do a sobriety test, he said
7 that my eye jumped. And he said if I had jumping,
8 it indicated that I was impaired.

9 Q And then the testimony of Gregory Brock,
10 the person that was qualified as the toxicologist,
11 his testimony was that you was impaired, is that
12 correct?

13 A Correct.

14 Q Now, was there -- and your attorney didn't
15 object at all to any of this coming in, did she?

16 A No, sir.

17 Q So whether the person was qualified to
18 testify to that was not preserved for you for
19 appeal, was it?

20 A Excuse me?

21 Q Because it was not objected to by your
22 attorney, it was not preserved for you for appeal,
23 is that correct?

24 A Correct.

25 Q And that is one of the things that you

1 said made her ineffective. And you feel that if
2 that testimony had been left out, was there any
3 other testimony that would have been able to show
4 that you was impaired?

5 A No, sir.

6 Q That was the only testimony?

7 A That was the only testimony, right.

8 Q Now, is there anything else that you felt
9 that she was incompetent about or that she was
10 ineffective about? Now, how much did she prepare?

11 A She didn't go over much with me at all. I
12 had talked to her about Mr. -- Officer Baker not
13 giving me my Miranda rights. He stated that he did
14 three times. But I just know he did one time, and I
15 was not impaired when we got to Richland County.

16 When he initially claims to have arrested
17 me, he didn't arrest me. He didn't put the
18 handcuffs on me. He said, "We're going to take you
19 to Richland Memorial to get some blood and urine
20 work."

21 And I said, "Okay." I didn't know I was
22 under arrest yet or nothing until we got to Richland
23 County.

24 Q Okay.

25 A That's what I kept asking him, and it's in

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1 there in the transcript, "Why are you -- why are you
2 going on? Why are you doing this? Why are you
3 asking me these questions?" And he never once said,
4 "Well, I'm placing you under arrest."

5 Q Now, during closing arguments, your
6 attorney talks about the expert witness. Do you
7 remember her talking about the expert witness in
8 your closing argument?

9 Well, I'm going to read this, and tell me
10 if you remember it, on page 586 of the closing
11 argument. "You also heard -- and I'm going to talk
12 about this in a minute -- from the State's
13 toxicologist. Let's talk about this a few minutes.

14 "The State put up an expert witness. This
15 is a toxicologist, someone who is trained in the
16 field of toxicology, someone who analyzed blood
17 samples in this case. And one of the questions was,
18 'Was the defendant driving under the influence? Was
19 she actually impaired?'"

20 "The toxicologist gets up here, and he
21 tells you on direct examination when the State is
22 asking him that she must have consumed marijuana,
23 and it lasts one to eight hours. That must have
24 happened." And she goes on and talks about that.
25 Do you remember that happening?

1 A Yes, sir.

2 Q So even in her closing argument, she does
3 not argue that the toxicologist is not qualified to
4 make that statement, is that correct?

5 A Correct.

6 Q Now, Ms. Campbell, I think she also talks
7 about the toxicologist, is that correct?

8 A Correct.

9 Q I think on page 617 --

10 MR. JOHNSON: Your Honor, I'm going to --

11 THE COURT: Yes, sir.

12 I'm going to take a little break
13 while you're looking for this, about five minutes,
14 to give everybody a chance to refresh themselves,
15 okay?

16 MR. JOHNSON: Thank you, Your Honor.

17 (Court in recess.)

18 Q Your basic argument then before the Court
19 today is that your attorney did not object to the
20 toxicologist being admitted as an expert, is that
21 correct?

22 A Correct.

23 Q But correct me if I misstate you. But
24 basically the argument is that he testified to the
25 physiological effects that the drugs would have had

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1 on you. And you do not feel that he was qualified
2 to testify to that, is that correct?

3 A Correct.

4 Q And as a result, you feel that if that
5 testimony was not allowed to come in, there was no
6 evidence that you was impaired?

7 A Correct.

8 Q And therefore the jury would have found
9 you -- there's a great probability that a jury could
10 have found you not guilty of these charges?

11 A Yes, sir.

12 Q Is there anything else that I need to ask
13 you that I have not asked you?

14 A No, sir.

15 MR. JOHNSON: I have no other questions,
16 Your Honor.

17 THE COURT: Thank you, sir.

18 Mr. Petrano?

19 MR. PETRANO: Very briefly.

20 MR. JOHNSON: Oh, Your Honor, just one
21 other thing. I just want to make this part of the
22 record. I apologize. This is some stuff that I
23 pulled off the Web, as well. It's just an
24 interpretation of forensic toxicology.

25 THE COURT: Yes, sir.

1 MR. JOHNSON: And just gives the Court a
2 basic explanation of my belief as to what the
3 toxicologist could have been objected to.

4 THE COURT: Is there a reason for the two
5 skulls? I have two skulls here.

6 MR. JOHNSON: That was just off the Web,
7 Your Honor.

8 THE COURT: Yes, sir.

9 MR. PETRANO: Your Honor, just generally,
10 Wikipedia can be edited by anyone. We do object to
11 the information from Wikipedia being taken as
12 truthful and accurate information.

13 THE COURT: That's fine.

14 MR. PETRANO: I understand it is generally
15 available.

16 THE COURT: Right. Mr. Petrano?

17 CROSS-EXAMINATION

18 BY MR. PETRANO:

19 Q Ma'am, you're not contesting the
20 toxicologist's findings that the drugs were there.
21 You're just saying he shouldn't have testified as to
22 how they would have affected you?

23 A Correct.

24 Q So you're not disagreeing with him that
25 you had twenty to thirty times the normal amount of

1 cough medicine?

2 MR. JOHNSON: Objection, Your Honor. That
3 was part of our objection. He could state what was
4 in there, but he couldn't say what's normal for an
5 individual to have in their system.

6 THE COURT: It's outside his area of
7 expertise to say how it would have affected her
8 ability to operate a motor vehicle. Was that your
9 point?

10 MR. JOHNSON: That's correct. And he made
11 a statement that that was a high level for an
12 individual, which I don't think he could have made
13 that statement, as well. He could have just said --

14 THE COURT: I think his question was she
15 was objecting to something.

16 Rephrase your question.

17 MR. PETRANO: I apologize for the
18 confusion. But I think my question was proper in
19 the sense
20 that --

21 THE COURT: Well, ask it again.

22 MR. PETRANO: Thank you.

23 THE COURT: I'll make that decision. Go
24 ahead.

25 MR. PETRANO: Thank you, sir, sorry.

1 Q And my question is, does she disagree with
2 the toxicologist's statement that she had twenty to
3 thirty times the normal level of cough medicine?

4 A Yes, I do.

5 Q Okay.

6 MR. PETRANO: Your Honor --

7 THE COURT: I'm not going to stop you, Mr.
8 Petrano. Go ahead.

9 MR. PETRANO: Yes.

10 Q How so?

11 A Because there was no possible -- there's
12 no possible way because I didn't consume that much.

13 Q Okay. You don't have another toxicologist
14 here to say that, right?

15 A Correct.

16 Q Okay. And if I got your testimony right,
17 you were saying that you had a high tolerance --

18 A Yes, sir.

19 Q -- that there might have been some cough
20 medicine, some marijuana in there, but nothing that
21 would actually impair you?

22 A Correct.

23 Q Okay. You did not testify at the trial,
24 right?

25 A Correct.

1 Q And my reading of the transcript shows
2 that you were asked a couple of times, and that was
3 your decision, right? Are you complaining here
4 today that you should have been allowed to testify?

5 A No, I'm not.

6 Q And one of the suggestions here or the
7 allegations was that you were not the proximate
8 cause. Isn't it fair to say, ma'am, that that
9 argument has been made all along?

10 THE COURT: Actually, it would be the
11 drugs were not the proximate cause.

12 MR. PETRANO: No, Your Honor. Actually,
13 I'm going beyond that.

14 THE COURT: Well --

15 Q You were not the proximate cause of the
16 accident itself because someone else jerked the
17 wheel, right?

18 THE COURT: Fine.

19 A Correct.

20 Q And that was the argument made at trial,
21 right?

22 A I don't feel as though my attorney
23 emphasized on it. I feel like even I asked her
24 multiple times if she can subpoena Donald Adams to
25 testify that he did pull the steering wheel out of

1 my hand. But she never subpoenaed him. She kept
2 saying that she -- it was okay, it was taken care
3 of.

4 Q Now, he was there. He did testify in a
5 sense, right?

6 A No -- no, sir.

7 Q So he doesn't speak in the transcript at
8 all?

9 A No -- Donald Adams, no, sir.

10 Q They don't bring him in with his attorney?

11 A No, sir. He was -- I asked her if she
12 would please subpoena him. Donald Adams was the
13 passenger. She said that it's out of her hands.
14 She -- it's taken care of was her statement.

15 Q And so he never testified at all?

16 A No, sir.

17 Q So we have no idea what he would say,
18 whether he would say you pulled the wheel or not --
19 or he pulled the wheel or not, I'm sorry.

20 A Correct.

21 Q And is he here today?

22 A No, sir.

23 Q Okay.

24 MR. PETRANO: I have nothing further,
25 thank you.

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1 THE COURT: All right, anything in
2 redirect, Mr. Johnson?

3 MR. JOHNSON: Just to follow up, Your
4 Honor.

5 REDIRECT EXAMINATION

6 BY MR. JOHNSON:

7 Q Concerning Donald Adams, you did ask her
8 to subpoena him?

9 A Yes, sir, I did.

10 Q And what was her answer to you?

11 A It's taken care of. It's out of her
12 hands, because she's -- it's been taken care of.

13 Q And at that time of the trial, he was
14 available, or he could have been found?

15 A He could have -- yes, sir, he could have
16 been found. I told her where to find him at,
17 because he had worked -- he worked plumbing,
18 Franklin -- Franklin's Plumbing.

19 Q And as far as you know, she never just --

20 A She never -- well, she told me it was
21 taken care of. That's all she ever mentioned to me
22 about him.

23 Q Okay.

24 MR. JOHNSON: I have no other questions,
25 Your Honor.

1 THE COURT: All right. Anything further
2 of this witness?

3 MR. JOHNSON: Nothing further.

4 THE COURT: You may step down.

5 MR. JOHNSON: Your Honor, there's a short
6 argument I'd like to make to the Court at the end of
7 this. We have nothing further from the applicant.

8 THE COURT: All right, Mr. Petrano?

9 MR. PETRANO: Your Honor, the State would
10 like to call Mr. Strickler.

11 THE COURT: Come around, Mr. Strickler.

12 (The witness was sworn.)

13 THE COURT: Please take a seat, sir. Tell
14 us your full name and spell your last name for the
15 record.

16 MR. STRICKLER: My name is Douglas Steven
17 Strickler -- S-T-R-I-C-K-L-E-R.

18 MR. JOHNSON: Your Honor, just for
19 clarification, Mr. Strickler is not a part of our
20 PCR application.

21 THE COURT: But it could be part of his.
22 Do you object to Mr. Strickler testifying?

23 MR. JOHNSON: Well, I just was going to
24 ask if --

25 THE COURT: I'll let the record reflect

1 that Mr. Strickler was the head Public Defender,
2 that Ms. Ahrens worked for him, and that he tried
3 the first case, she tried the second case. Is that
4 right? You tried the case that was mistried?

5 MR. STRICKLER: That's correct.

6 THE COURT: And she tried the follow-up
7 case because you had another case with more priority
8 or something like that.

9 MR. STRICKLER: That's correct.

10 THE COURT: All right. You may proceed.

11 MR. PETRANO: Thank you. Since there's
12 been an objection, if I could just put a couple of
13 other points on the record in reply?

14 THE COURT: Go ahead.

15 MR. PETRANO: In fact, because some of the
16 witnesses from the first trial were not available
17 for the second trial, those portions of the original
18 transcript were read into the record.

19 Mr. Strickler was the one who cross-
20 examined or examined those witnesses that were read
21 into the record in the second trial. So in a sense
22 he did participate in the second trial, albeit
23 indirectly.

24 THE COURT: Well, I'm going to let him
25 testify.

1 MR. PETRANO: Thank you.

2 THE COURT: Go ahead, sir.

3 DOUGLAS STEVEN STRICKLER, having
4 first been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. PETRANO:

7 Q Mr. Strickler, do you recall the
8 applicant?

9 A I do.

10 Q And are you the Chief Public Defender?

11 A I am the Circuit Public Defender.

12 Q And I see a box here that you brought up.
13 Is that the applicant's case file, or what do you
14 call it?

15 A That's correct.

16 Q And would that be for the trial that you
17 did or for both?

18 A It is definitely for the second trial on
19 the case. I don't see a lot of things from my
20 representation. There were actually two case files,
21 and some of that may have been intermingled with the
22 other case file.

23 Q And when you say two case files, you mean
24 the prior charges?

25 A No, I'm not sure. I can't remember what

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1 the other case file was. I actually went downstairs
2 to take a look at it, and I had to run back up here
3 before I had a chance to track it down.

4 Q Okay. But you have custody and control of
5 this box within your capacity as chief?

6 A Correct.

7 Q Have you reviewed the contents of it?

8 A Not extensively. I reviewed the case
9 notes, basically the case action sheet of the firm.
10 Q And those would have been the notes from
11 the second trial, right?

12 A Those were the notes reflecting the
13 actions taken on the part of Ms. Ahrens during her
14 handling of the case.

15 Q Now, one of the allegations here today --
16 and I don't know if you were here for the
17 applicant's testimony. But one of the allegations
18 was that trial counsel, Ms. Ahrens, for the second
19 trial did not adequately prepare.

20 I wanted to ask you, sir, in your review
21 of the file or in your knowledge or recollection
22 whatsoever, do you know if Ms. Ahrens ordered a
23 transcript and would have reviewed the transcript
24 from the first trial?

25 A I saw in the file portions of the

1 transcript from the first file. I'm sure she would
2 have ordered the entire transcript in that that's
3 our custom.

4 Q And you would have been basically her
5 boss, right?

6 A That's correct.

7 Q Okay. Do you recall her coming to you and
8 asking anything about the trial?

9 A I discussed the case with her fully at the
10 time I transferred it to her. I transferred it to
11 her in April of the year preceding the year I think
12 it was tried. That's one of the things I checked
13 when I ran downstairs.

14 Q Were there any discussions specifically on
15 the issue of the toxicologist?

16 A I have no independent recollection of
17 that. We had retained a defense toxicologist prior
18 to the first trial, Dr. Brewer. And to tell the
19 truth, I remember conversations with him. I can't
20 remember whether we called him in the first trial or
21 not.

22 Q If you were to call him, would you have
23 asked him the effects of drugs?

24 MR. JOHNSON: Your Honor, objection. Are
25 we talking about the first trial or the second

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1 trial?

2 MR. PETRANO: Well, Your Honor -- I'm
3 sorry.

4 THE COURT: I don't know.

5 MR. JOHNSON: If we're talking about the
6 second trial, it's not relevant to what he would
7 have done in the second trial.

8 MR. PETRANO: Your Honor, my reply is
9 twofold. One, I think it would lay a basis here
10 that -- and one of the suggestions was Ms. Ahrens
11 did not prepare adequately -- that she prepared by
12 going through the first trial.

13 It was a playbook. It didn't
14 materially differ. Second, Mr. Strickler is her
15 boss, and it's clear that she would have gone to him
16 for any advice on --

17 THE COURT: I'm going to let it in. It
18 really goes to the weight, not the admissibility.
19 We don't have a jury here. I can sort through these
20 things myself. Go ahead.

21 And I think he had a
22 hypothetical, Mr. Strickler, it seems to me.

23 Are you trying to solicit an opinion
24 or a fact?

25 MR. PETRANO: A pattern of practice within

1 the Public Defender's Office.

2 THE COURT: Go ahead, sir.

3 Q Mr. Strickler, if you had reviewed -- if
4 you were going to use a defensive toxicologist, and
5 your notes indicate that you had one for this case,
6 would part of that expert's testimony go towards
7 drug effects or just their presence?

8 A One, Ms. Ahrens was aware of the
9 toxicologist we had retained. There's no question
10 about that. Two, I know I discussed with Dr. Brewer
11 the effects and -- I mean, I can remember the
12 telephone conversation with him.

13 Again, I can't remember whether we put him
14 up to testify or not in the first trial. But I
15 remember the phone conversation with him -- it was
16 over the weekend prior to the first trial -- in
17 which we specifically discussed the effects.

18 Q And your reasoning, whatever it was, to
19 use Dr. Brewer or not to use him, whether you did or
20 did not at the first trial, you would have
21 communicated those reasons to Ms. Ahrens?

22 A Correct. Dr. Brewer is someone that we
23 have used on a number of occasions in the field of
24 toxicology. In fact, this was the case in which I
25 tracked him down and our office began using him in

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1 this particular field. He previously worked for
2 SLED, and subsequently he's been -- is in private
3 practice.

4 MR. PETRANO: I've got nothing further of
5 this witness, thank you.

6 THE COURT: All right. Anything on cross-
7 examination?

8 MR. JOHNSON: Yes.

9 CROSS-EXAMINATION

10 BY MR. JOHNSON:

11 Q Mr. Strickler, you said that the
12 individual that you had retained as an expert was
13 Dr. Brewer?

14 A Correct.

15 Q So he's --

16 A That's what my notes in my file reflect.
17 I assume that's correct.

18 Q And I'm assuming that by the term
19 "doctor," that means that he was at least --

20 A Not a medical doctor.

21 Q But a --

22 A He's a doctorate in some field.

23 Q But at least has a --

24 A In pharmacology, actually.

25 Q -- a doctor's degree. He did not -- so he

1 would not have been called a doctor with a B.S.
2 degree or anything of that nature, is that correct?

3 A No -- correct.

4 Q So therefore, as a doctor in that field,
5 then he would have been technically able to testify
6 as to the effects, is that correct, as far as your
7 examination of his qualifications?

8 A He would have been able to testify to it.
9 I am not of the opinion that someone who's not a
10 doctor could not testify.

11 Q Okay. Well, let me ask you this. What
12 would make a person able to testify to the
13 physiological effects that a drug would have on a
14 human being as an expert in a court action?

15 A A combination -- either training or
16 experience or a combination of training and
17 experience.

18 Q And would that training have to be --
19 consist of some type of knowledge of the human body
20 and the effects of drugs on the human body?

21 A Yes. Am I of the opinion that it takes a
22 medical doctor to have the requisite training in
23 that regard? No.

24 Q That's not what I was going to ask you.

25 A Okay.

1 Q What I was going to ask is as it relates
2 to -- I have where -- let me get the correct page.

3 A I heard the testimony that you elicited.

4 Q As far as the qualification of Mr. Brock?

5 A Correct. I didn't hear anything in that
6 testimony that qualified him in regard to the
7 psychopharmacological effects of marijuana or the
8 other cough medicine in this case.

9 Q You answered my question.

10 MR. JOHNSON: I have no other questions.

11 REDIRECT EXAMINATION

12 BY MR. PETRANO:

13 Q And, sir, that very last question, you're
14 basing that on what was read into the record as far
15 as the --

16 A Correct. And I don't remember what he
17 testified to at the first trial.

18 Q And you didn't read the next two pages of
19 how he was qualified?

20 A I haven't read the transcript at all, and
21 I don't know what he testified to at the first trial
22 and what Ms. Ahrens may or may not know as far as
23 any additional qualifications that he may have
24 testified to at the first trial. I just don't know.

25 Q You just don't know. Thank you.

1 THE COURT: Is it beyond the scope of
2 expertise, based on your observations as a trial
3 lawyer over the years?

4 MR. STRICKLER: From what I've heard here
5 today, yes, sir.

6 THE COURT: All right, thank you, sir.
7 Anything further of this witness?

8 MR. PETRANO: I have nothing further, Your
9 Honor.

10 THE COURT: All right, you may step down,
11 Mr. Strickler.

12 MR. STRICKLER: Thank you, Your Honor.

13 THE COURT: Anything further?

14 MR. PETRANO: May this witness be excused?

15 THE COURT: Yes, of course, he may be
16 excused.

17 I think, Mr. Johnson, you have some
18 arguments you'd like to place on the record --

19 MR. JOHNSON: Yes, Your Honor.

20 THE COURT: -- or some matters you would
21 like to make.

22 MR. JOHNSON: Your Honor, I think the
23 argument is that the minor element -- this case is
24 about whether my client was impaired or not, if she
25 had caused the accident and it could have been a

1 reckless disregard or whatever. But she was charged
2 specifically with --

3 THE COURT: With felony DUI.

4 MR. JOHNSON: -- with felony DUI, which
5 required the State to prove that she was impaired.
6 There was no evidence of alcohol usage. That came
7 back negative. The marijuana. The marijuana that
8 was found in her system could have been within an
9 eight-hour period, and that was nothing definite.

10 The State based its whole case -- and
11 it's in the record -- basically on the amount -- the
12 effect that the cough syrup and suppressant had on
13 her. And they based that whole determination that
14 she was impaired based on the report of the forensic
15 toxicologist.

16 THE COURT: You mean an opinion?

17 MR. JOHNSON: An opinion -- the opinion of
18 the forensic toxicologist. Now, just because the
19 State gives a person a title of forensic
20 toxicologist does not mean that they meet the
21 definition of a toxicologist.

22 THE COURT: So the Trial Judge failed as a
23 gatekeeper by allowing him to testify to matters
24 beyond his expertise?

25 MR. JOHNSON: I don't think that the Trial

1 Judge failed. I think -- well, I would agree to
2 that, but I think that actually --

3 THE COURT: Ms. Ahrens should have
4 objected.

5 MR. JOHNSON: -- she should have at least
6 objected to it to make it part of the record. And I
7 think that his testimony as to the physiological
8 effects that the drugs have on her -- and he
9 definitely stated that it was his expert opinion
10 that she was impaired and should not have driven --
11 I think was outside the bounds of his expertise. He
12 had a B.S. degree. He was not qualified to testify
13 as to --

14 THE COURT: You mean Bachelor of Science
15 degree?

16 MR. JOHNSON: That's correct, Your Honor.

17 THE COURT: Go ahead.

18 MR. JOHNSON: And as stated, the
19 difference is that even Mr. Strickler stated that
20 the qualification as he stated on the record in his
21 opinion did not meet the requirement.

22 And it was just his opinion, I
23 understand, but I think that that should have been
24 sufficient enough for her to at least have objected,
25 that if that testimony was not allowed that the

1 State had very little in evidence that my client was
2 impaired. And therefore she would not have been
3 found guilty of felony DUI.

4 THE COURT: All right. Thank you, Mr.
5 Johnson.

6 Mr. Petrano?

7 MR. PETRANO: Thank you, Your Honor. By
8 way of reply, I have a printout myself, if Your
9 Honor would entertain it.

10 THE COURT: All right.

11 MR. PETRANO: This is not Wikipedia. I
12 have Black's Law Dictionary. It defines toxicology
13 and does allow for the effects of drugs. I think
14 they refer to drugs as -- I'll let that speak for
15 itself, if Your Honor would accept that. Back to
16 the --

17 THE COURT: Yes, sir.

18 MR. PETRANO: Oh, sorry, Judge. Back to
19 the criticism of the toxicologist and his opinion as
20 to effects, the applicant is cherry-picking those.
21 The applicant likes to use the toxicologist's
22 statements and opinion that the drug would not have
23 affected her but doesn't want the toxicologist's
24 opinion that the drug would have.

25 What I mean is they have exploited

1 the situation where the inactive metabolites from
2 the marijuana could not have affected her because
3 they were eight hours old or something like that.
4 Well, they like to use that part of his opinion.

5 But they don't want to use the part
6 that says that she certainly would have been
7 impaired. So I think that that's kind of
8 hypocritical of them. Second, Your Honor --

9 THE COURT: Well, they've got their job to
10 do. "Hypocritical" is a little strong word.

11 MR. PETRANO: I do apologize.

12 THE COURT: It doesn't offend me, but I'm
13 just saying they're just trying to make a point. Go
14 ahead, Mr. Petrano. What you've said does not
15 offend me, but let the record reflect that
16 "hypocritical" is a little strong word. Go ahead.
17 That's their position.

18 MR. PETRANO: Sorry.

19 THE COURT: That's all right. Words like
20 that we should leave in the hole with the umbrellas
21 and the galoshes during a rainy night or something
22 like that, but I don't need to hear that sort of
23 thing. Go ahead.

24 MR. PETRANO: There was some reference to
25 the phrase "medical certainty" in the applicant's

1 case. I would like to point out that that phrase is
2 most certainly used, and that's on page 281, I
3 believe.

4 Medical certainty is used by trial
5 counsel to exploit the weaknesses of the
6 toxicologist's testimony in the exact way that the
7 applicant is suggesting she did not do. Ms. Ahrens
8 says, "Can you testify as to any medical certainty
9 as to whether her driving would have been impaired?"

10 The toxicologist says, "No, I can't."
11 So that was done. She exploited that he did not
12 have a medical background.

13 THE COURT: So it's attacking Ms. Ahrens.

14 MR. PETRANO: And then back to the
15 questioning of Mr. Strickler as to whether he
16 thought the toxicologist could render an opinion as
17 to effects at the second trial, he admitted he was
18 basing that on what was read into the record here
19 today.

20 I just want to point out that there
21 was actually more to the record, and I think that
22 Mr. Gregory or Mr. Brock -- I'm not sure which is
23 the first or last name -- but the toxicologist's
24 qualifications speak for themselves and actually go
25 beyond, several pages beyond, what was read into the

1 record today.

2 So I believe -- the State submits
3 that, one, there was nothing improper about this
4 toxicologist testifying as to the effects. And,
5 two, there's other evidence that she was impaired.

6 You have the officer himself. Now,
7 there's been an attempt here to discredit the
8 officer's testimony via Ms. Kranchick's testimony.
9 But she admitted she did not testify at the trial.
10 She did not want to testify at the trial, and that
11 was her decision.

12 So there was no way to counter her
13 testimony, at least as it was presented here today.
14 So it's -- Your Honor, the record speaks for itself.
15 I think I'm made my point. Thank you.

16 THE COURT: I think you have. And this is
17 a thorny issue that requires my reading of the
18 transcript and everything else. So I'm not going to
19 make a decision right away.

20 I'm not going to ask you all to
21 submit proposed orders, but I would suggest that you
22 submit maybe ten to fifteen bullet points you want
23 to really consider as I read back over the
24 transcript. It will take me thirty days or so to do
25 that, and then I'll get back with you.

1 MR. PETRANO: And, Your Honor, if I may, I
2 have one more thing on the transcript.

3 THE COURT: Yes, sir.

4 MR. PETRANO: It appears that --

5 THE COURT: I think I have everything in
6 the packet.

7 MR. PETRANO: It appears that page 618 is
8 missing. I copied the transcript from the record on
9 appeal. It was an Anders brief, so the record on
10 appeal is the full transcript.

11 THE COURT: Yes.

12 MR. PETRANO: I will try to find page 618
13 from the clerk of the Court of Appeals.

14 THE COURT: Okay.

15 MR. PETRANO: And I'll try to supplement
16 the record with a copy to everybody.

17 THE COURT: Well, like I said, this is a
18 thorny one, so I'm going to have to read it. That's
19 my job. It's going to take me a while to do so, so
20 don't expect much within the next thirty days. And
21 I'll get back with you gentlemen. All right, thank
22 you all.

23 MR. JOHNSON: Thank you, Your Honor.

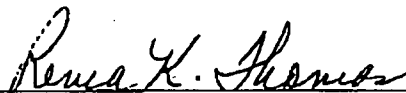
STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

COURT REPORTER'S CERTIFICATION

I, REMA K. GANTT THOMAS, OFFICIAL COURT
REPORTER, AND NOTARY PUBLIC IN AND FOR THE STATE OF
SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF
RECORD OF THE PROCEEDINGS HAD AND EVIDENCE
INTRODUCED IN THE ABOVE-CAPTIONED CASE ON JANUARY
14, 2010, IN COLUMBIA, SOUTH CAROLINA.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL
NOR KIN TO ANY OF THE PARTIES TO THIS CAUSE OF
ACTION, NOR AM I INTERESTED IN ANY MANNER IN ITS
OUTCOME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND
AND SEAL AT LEXINGTON, SOUTH CAROLINA, THIS THE
SEVENTH DAY OF JUNE, 2011.



REMA K. GANTT THOMAS
OFFICIAL COURT REPORTER
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES 11/21/2013

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

) IN THE COURT OF COMMON PLEAS

) 2009-CP-400-0235

) Kranchick, Shanna, No. 00283147)

) Applicant,)

) v.)

) ORDER OF DISMISSAL

) State of South Carolina,)

) Respondent.)
_____)

I.

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 14, 2009. The Respondent made its Return on June 29, 2009. An evidentiary hearing into the matter was convened on January 14, 2010, at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Charlie J. Johnson, Jr., Esquire. The Respondent was represented by Brian T. Petrano of the South Carolina Attorney General's Office.

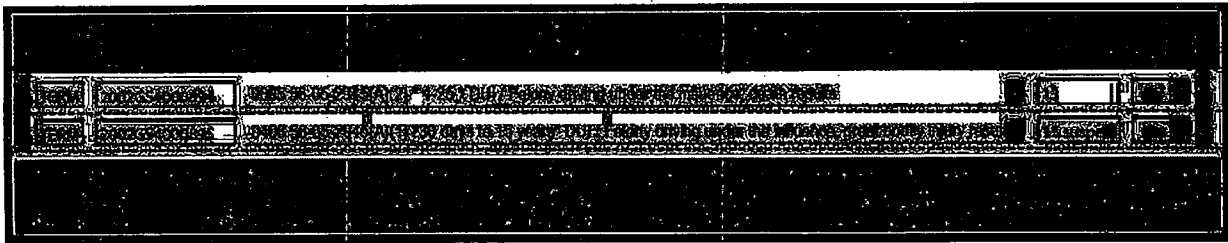
At the hearing Applicant testified on behalf of the Applicant. This Court also had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, and the Applicant's records from the South Carolina Department of Corrections.

The Applicant is presently confined in the South Carolina Department of

Shanna Kranchick - Order Granting PCR (2009CP4000235)

Page 1 of 11

Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant's first trial ended in a mistrial. (ROA, p. 52 L. 18). The Applicant was represented by Deborah Ahrens, Esquire and Douglas Strickler, Public Defender.¹ On July 14, 2005,² after a jury trial with the Honorable Reginald I. Lloyd, the Applicant was convicted and sentenced to the following:



A timely Notice of Appeal was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence pursuant to an Anders brief, remittitur dated November 4, 2008.³

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the Department of Corrections, the Applicant's trial transcript, and the Applicant's appellate records.

¹ Mr. Strickler explained that he handled the mistrial, but the second trial was almost entirely Ms. Ahrens.

² The Applicant was not sentenced until September 21, 2005.

³ Anders v. California, 386 US 738 (1967).

II.

In her Application, the Applicant alleges that she is being held in custody unlawfully for the following reasons:

1. State succinctly the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) The orders have not taken into account my alleged schizophrenia.
 - (b) Ineffective assistance of Trial Counsel.
 - (c) Devoided Verdict.

12. State succinctly and in the same order the facts which support each of the grounds set forth in (1):
- (a) During approximately 12 State Trooper vehicles present at the scene, the State was later at the scene in State Trooper vehicle (see on scene).
 - (b) Before the report was filed, I was charged with a charge before the jury and present before the jury, but the jury was not instructed on the charge, and the jury was not instructed on the charge, and the jury was not instructed on the charge.
 - (c) There was insufficient evidence proving a case for the prosecution, and the jury was not instructed on the charge.

13. State clearly the relief you seek in filing this application:
- Revoke Charge to "Reckless Homicide" or change to regular plea of 12 years commitment to Armed Robbery charges.
14. Are you now under sentence from any other court that you have not challenged?
- Not at Court Case # 2009-CP-4000235 for Armed Robbery Charges.

1000.

Section 5A-5-2153 (a) A person who violates Section 5A-5-2152, 5A-5-2153 or 5A-5-2154 must have his conduct at the incident site and forensic tests site videotaped.

(1) The videotaping at the incident site must:

(a) video must be submitted once a probable cause was determined that the person violated section 5A-5-2153.

(b) include the person being advised of one's Miranda rights before any field sobriety tests are administered, if tests are administered.

In conclusion, had a video at the incident site been administered, it would have clearly shown insufficient evidence that I was allegedly under the influence and that I was not advised of my Miranda rights. Furthermore, out of the substantial amount of law enforcement and medical personnel that had spoken with me at the incident site, none claimed to have any suspicions that I was allegedly intoxicated.

1000

Council was also ineffective in asking for a mistrial due to the fact that the jury was given the Child Endangerment, Simple possession and Driving Under Suspended Instruments, which had been dropped, and was beginning deliberation on them. She also failed in lack of investigation and preparation for trial.

1000

It is to my belief that I was not the proximate cause of the wreck. Even permission witness Tracy Proctor testified to seeing two trucks. One with a trailer in front of me on my right. The truck was merging into my lane about to swipe me off the road. I turned toward impact, in doing so, the passenger David Adams jerked the wheel out of my hands causing us to strike the rear of the 18 wheeler.

At the PCR hearing the Applicant focused essentially on the issue of the "forensic toxicologist" (Mr. Gregory Rock) who testified at the trial. (ROA p. 256). The Applicant claimed that trial counsel was deficient for failing to object

when witness Rock testified as to the effects of drugs because Rock's background and education, as outlined during qualification, failed to demonstrate a sufficient background/education/training to testify as an expert regarding the actual effects of the drugs that were in the Applicant's blood.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court had the opportunity to review the record in its entirety and heard the testimony at the post-conviction relief hearing. This Court further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. S.C. R. Civ. P. 71.1(e); Butler v. State, 286 S.C. 441, 442 334 S.E.2d 813,814 (S.C. 1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases.

Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. at 442, 334 S.E.2d at 814. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (S.C. 1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

This Court finds that the toxicologist was not sufficiently qualified to testify about the effects of drugs or when they were consumed. At the evidentiary hearing, the Applicant testified as to her trial counsel's alleged ineffectiveness in not objecting to specific testimony of the State's toxicologist (Gregory Rock). At Applicant's trial, the toxicologist was called by the state to provide expert testimony on the urine and blood tests performed on Applicant. The toxicologist, as a SLED employee, transported and tested the urine and blood samples taken from Applicant. (ROA, 254-75.)

The toxicologist's testimony at trial was three-fold, he testified about his collection and/or analysis of the blood and the drugs found, then he testified as to the effects those drugs would have on a person, finally he testified as to when those drugs would have been consumed. The Applicant conceded that the toxicologist was sufficiently qualified to testify regarding general toxicology, as "person or scientist who analyzes biological specimens for the presence or absence of alcohol, drugs or other poisons that may be present." (ROA, p. 254, L. 9 - 11). It is the extension of that qualification when the witness testified regarding the *effects* of drugs that the Applicant argues went beyond his stated qualifications.⁴ This Court agrees that the toxicologist's testimony clearly exceeded his qualifications and that his testimony was clearly prejudicial, which requires that this Court grant relief.

The toxicologist was qualified by the trial court as an expert in "forensic toxicology." (ROA, 256:15-20.) The toxicologist testified that he had a Bachelor of Science degree in medical technology and underwent a yearlong toxicology training program at SLED. (ROA, 254:15-23.) The trial record does not indicate the content of the toxicologist's education and training. The toxicologist worked as a forensic toxicologist at SLED for three and one-half years, including the yearlong training course, analyzing biological specimens "for the presence or absence of alcohol, drugs or other poisons that may be present." (ROA, 254:7-11, 255:5-13.) The toxicologist did not testify as to any

education, experience, or knowledge related to the physical or mental effects of drugs on the human body. **Based on the record, the State presented insufficient qualifications for the toxicologist to testify concerning the mental or physical effects of drugs upon a person.** See State v. Priester, 301 S.C. 165, 391 S.E.2d 227 (1990) (lab technologist, who had no training in determining the effect of alcohol on the human system, could not testify as to intoxication); cf. State v. White, 311 S.C. 289, 428 S.E.2d 740 (Ct.App.1993) (state forensic toxicologist qualified to give testimony concerning the effects of drugs).

The toxicologist's testimony about the effects of marijuana or cold medicine on a person was beyond the scope of his expert qualifications, trial counsel's failure to object was ineffective assistance of counsel. The State did not present any additional evidence as to the effects of the marijuana or cold medicine. Trial counsel was deficient because trial counsel failure to object to this portion of the testimony clearly had prejudice effects on the outcome of the trial. .

The Applicant's trial counsel was deficient in not objecting to toxicologist's testimony concerning the effects of marijuana and cold medicine, Applicant has shown prejudice resulting from the deficiency and thus Applicant's claim is Granted. There is a reasonable probability that the outcome of Applicant's trial would have been different had Applicant's trial counsel objected to the toxicologist's testimony.

Where there is limited admissible evidence on an element the State must prove, the failure of defense counsel to object to inadmissible evidence on that element is ineffective assistance of counsel. See Huggler v. State, 360 S.C. 627, 634-35 602 S.E.2d 753, 757 (2004). To prevail on a claim for felony driving under the influence, one element the State must prove is that a defendant drove a vehicle while under the influence of alcohol or drugs. S.C. Code Ann. § 56-5-2945 (2009). The State may prove this element by presenting evidence such that a reasonable jury could conclude that a defendant was intoxicated. In this case the State relied heavily on Expert testimony that a defendant was intoxicated or would be intoxicated after ingesting a certain amount of alcohol or drugs.

Therefore, Applicant has shown the prejudice necessary to establish ineffective assistance of counsel.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has established a constitutional violations or deprivations that would require this court to grant his application. Counsel was deficient and the Applicant was prejudiced by counsel's representation. Therefore, this application for post conviction relief must be **GRANTED**.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and

has, thereby, waived them. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice.

A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court cautions the Applicant that she must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek

appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. **That the Application for Post-Conviction Relief must be GRANTED**

AND IT IS SO ORDERED this ____ day of _____, 2011.

The Honorable L. Casey Manning
Presiding Judge
Fifth Judicial Circuit

_____, South Carolina.

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

) IN THE COURT OF COMMON PLEAS

) 2009-CP-400-0235

) Kranchick, Shanna, No. 00283147)

) Applicant,)

) v.)

) ORDER OF DISMISSAL

) State of South Carolina,)

) Respondent.)

I.

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 14, 2009. The Respondent made its Return on June 29, 2009. An evidentiary hearing into the matter was convened on January 14, 2010, at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Charlie J. Johnson, Jr., Esquire. The Respondent was represented by Brian T. Petrano of the South Carolina Attorney General's Office.

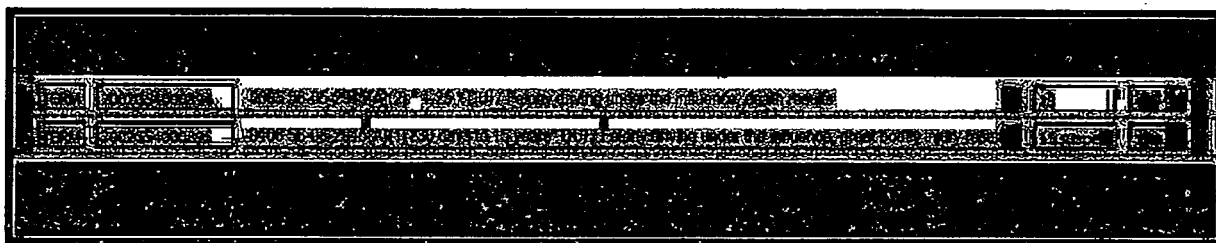
At the hearing Applicant testified on behalf of the Applicant. This Court also had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, and the Applicant's records from the South Carolina Department of Corrections.

The Applicant is presently confined in the South Carolina Department of

Shanna Kranchick – Order of Dismissal (2009CP4000235)

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A timely Notice of Appeal was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence pursuant to an Anders brief, remittitur dated November 4, 2008.³

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the Department of Corrections, the Applicant's trial transcript, and the Applicant's appellate records.

¹ Mr. Strickler explained that he handled the mistrial, but the second trial was almost entirely Ms. Ahrens.

² The Applicant was not sentenced until September 21, 2005.

³ Anders v. California, 386 US 738 (1967).

II.

In her Application, the Applicant alleges that she is being held in custody unlawfully for the following reasons:

8. State succinctly the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) The orders have not been at issue in view of my attorney's intervention.
 - (b) Ineffective assistance of trial counsel.
 - (c) Reversed verdict.

10. State succinctly and in three sentences or less the facts which support each of the grounds set forth in (9):
- (a) Each of opportunities to state proper which present at the time the order was taken at the time it was made.
 - (b) Failure to request and obtain a mistrial in jury charge. Failure to bring and present defense. Failure to make proper motions. Ineffective assistance of counsel. Failure to present evidence.
 - (c) There was insufficient evidence proving I was the perpetrator of the car accident.

12. State clearly whether you seek to bring this application:

Revoke Charge to "Reckless Homicide" or change to regular plea of 12 years consent to Armed Robbery charge.

13. Are you now under sentence from any other court that you have not challenged?

Not of Court Case # 2002-CP-40-1128 for Armed Robbery Charge.

1010) Section 51-5-2153 (6) A. person who violates Section 51-5-2153, 51-5-2154 or 51-5-2155 must have the conduct at the incident site and forensic tests site videotaped.

(1) The videotaping of the incident site must:

(a) video must be activated once a probable cause was determined that the person violated section 51-5-2153.

(b) include the person being advised of one's Miranda rights before any field sobriety tests are administered, if tests are administered.

In conclusion, had a video of the incident site been administered, it would have clearly shown insufficient evidence that I was allegedly under the influence and that I was not advised of my Miranda rights. Furthermore, out of the substantial amount of law enforcement and medical personnel that had spoken with me at the incident site, none claimed to have any suspicion that I was allegedly intoxicated.

1010) Counsel was also ineffective in asking for a mistrial due to the fact that the jury was given the Child Endangerment, Simple possession and Driving Under Suspicion indictments, which had been dropped, and was beginning deliberation on them. She also failed in lack of investigation and preparation for trial.

1000) It is to my belief that I am not the proximate cause of the wreck. Even prosecution witness Tracy Fowler testified to seeing two trucks. One with a trailer in front of one on my right. The truck was merging into my lane about to take me off the road. I swerved to avoid impact, in doing so, the passenger David Abner jerked the wheel out of my hands causing us to strike the rear of the 18 wheeler.

At the PCR hearing the Applicant focused essentially on the issue of the "forensic toxicologist" (Mr. Gregory Rock) who testified at the trial. (ROA p. 256). The Applicant claimed that trial counsel was deficient for failing to object

when witness Rock testified as to the effects of drugs because Rock's background and education, as outlined during qualification, failed to demonstrate a sufficient background/education/training to testify as an expert regarding the actual effects of the drugs that were in the Applicant's blood.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court had the opportunity to review the record in its entirety and heard the testimony at the post-conviction relief hearing. This Court further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. S.C. R. Civ. P. 71.1(e); Butler v. State, 286 S.C. 441, 442 334 S.E.2d 813,814 (S.C. 1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases.

Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. at 442, 334 S.E.2d at 814. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (S.C. 1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

This Court finds that the toxicologist was not sufficiently qualified to testify about the effects of drugs or when they were consumed. At the evidentiary hearing, the Applicant testified as to her trial counsel's alleged ineffectiveness in not objecting to specific testimony of the State's toxicologist (Gregory Rock). At Applicant's trial, the toxicologist was called by the state to provide expert testimony on the urine and blood tests performed on Applicant. The toxicologist, as a SLED employee, transported and tested the urine and blood samples taken from Applicant. (ROA, 254-75.)

The toxicologist's testimony at trial was three-fold, he testified about his collection and/or analysis of the blood and the drugs found, then he testified as to the effects those drugs would have on a person, finally he testified as to when those drugs would have been consumed. The Applicant conceded that the toxicologist was sufficiently qualified to testify regarding general toxicology, as "person or scientist who analyzes biological specimens for the presence or absence of alcohol, drugs or other poisons that may be present." (ROA, p. 254, L. 9 - 11). It is the extension of that qualification when the witness testified regarding the *effects* of drugs that the Applicant argues went beyond his stated qualifications.⁴ This Court agrees. However, while the toxicologist's testimony clearly exceeded his qualifications there is no prejudice and there appears to be a valid strategy - both of which require that this Court deny relief.

The toxicologist was qualified by the trial court as an expert in "forensic toxicology." (ROA, 256:15-20.) The toxicologist testified that he had a Bachelor of Science degree in medical technology and underwent a yearlong toxicology training program at SLED. (ROA, 254:15-23.) The trial record does not indicate the content of the toxicologist's education and training. The toxicologist worked as a forensic toxicologist at SLED for three and one-half years, including the yearlong training course, analyzing biological specimens "for the presence or absence of alcohol, drugs or other poisons that may be

⁴ This is not to say that Mr. Rock may not indeed be qualified to testify about the effects of drugs, however, no such demonstration was put forth during his qualifications in the Applicant's trial. This Court recognizes that the witness had been qualified as a forensic toxicologist approximately ten (10) times. (ROA, p. 256).

present.” (ROA, 254:7-11, 255:5-13.) The toxicologist did not testify as to any education, experience, or knowledge related to the physical or mental effects of drugs on the human body. **Based on the record, the State presented insufficient qualifications for the toxicologist to testify concerning the mental or physical effects of drugs upon a person.** See State v. Priester, 301 S.C. 165, 391 S.E.2d 227 (1990) (lab technologist, who had no training in determining the effect of alcohol on the human system, could not testify as to intoxication); cf. State v. White, 311 S.C. 289, 428 S.E.2d 740 (Ct.App.1993) (state forensic toxicologist qualified to give testimony concerning the effects of drugs).

However, while the toxicologist’s testimony about the effects of marijuana or cold medicine on a person was beyond the scope of his expert qualifications, trial counsel’s failure to object was not ineffective assistance of counsel. Trial counsel was not deficient because trial counsel pursued a valid trial strategy. In addition, there is no prejudice due to the additional evidence regarding the Applicant’s intoxication.

First, trial counsel was not deficient in not objecting to the toxicologist’s testimony regarding the effects of the drugs. Defense counsel is not ineffective for making valid trial strategy decisions. Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000).⁵ The toxicologist’s testimony contained three components: what drugs were in the Applicant’s system, when they were

⁵ Once again, trial counsel was not available to testify and articulate her strategy but it is obvious from the record and the PCR testimony of her superior who was the trial counsel for the original mistrial.

ingested, and their effects. Applicant's trial counsel's strategy was a valid trial strategy decision. The average jury member likely has a reasonable belief that ingesting marijuana or ingesting cold medicines at a level twenty to thirty times the normal dosage could impair a person's ability to drive. The average jury member likely has experience taking the normal dosage of cold medicine and the resulting mental and physical effects and can extrapolate as to the effect of twenty to thirty times that dosage.

Applicant's trial counsel's strategy of challenging the time at which Applicant ingested the marijuana and cold medicine was more likely to be successful. If Applicant ingested the marijuana and cold medicine at a point sufficiently far removed from the time of the accident, Applicant could not have been sufficiently intoxicated at the time of the accident. Trial counsel's strategy, while she was unavailable to testify at the PCR hearing, in this regard is obvious from the trial record. At the PCR hearing, Chief Public Defender Douglas Strickler, trial counsel from the mistrial, testified that he, Ms. Ahrens [trial counsel], and the retained toxicologist discussed effects but chose not to call their expert witness to testify.⁶

Trial counsel successfully exploited the toxicologist's inability to accurately testify as to *when* the drugs would have been consumed. This strategy is apparent for example from trial counsel asking the toxicologist "So,

⁶ It is this Court's interpretation that because trial counsel's retained toxicologist was not presented as a witness at trial they must have not had anything helpful to offer. In addition, no toxicologist was presented at the PCR hearing to demonstrate that a toxicologist was/is available to present favorable testimony for the Applicant.

you can't tell us with any medical certainty that she smoked marijuana two hours before the accident versus fourteen hours before the accident?" (See ROA, 281). Considering the strategy employed at trial, it would have been an obvious risk for counsel to challenge the toxicologist's qualification as to *effect* of the drugs because she risked the obvious possibility – if not probability – that the toxicologist would have simply been further qualified and then able to properly opine as to *effect* of the drugs. By leaving the toxicologist's qualifications alone she was able to exploit that his opinion lacked any medical certainty. (See ROA, 281). Trial counsel's closing argument similarly exploited the shortcomings of the toxicologist. (ROA, p. 586 – 587).

Finally, even assuming that Applicant's trial counsel was deficient in not objecting to toxicologist's testimony concerning the effects of marijuana and cold medicine, Applicant failed to show any prejudice resulting from the deficiency and thus Applicant's claim fails. There is not a reasonable probability that the outcome of Applicant's trial would have been different had Applicant's trial counsel objected to the toxicologist's testimony.

Where there is overwhelming admissible evidence on an element the State must prove, the failure of defense counsel to object to inadmissible evidence on that element is not ineffective assistance of counsel. See Huggler v. State, 360 S.C. 627, 634-35 602 S.E.2d 753, 757 (2004). To prevail on a claim for felony driving under the influence, one element the State must prove is that a defendant drove a vehicle while under the influence of alcohol or

drugs. S.C. Code Ann. § 56-5-2945 (2009). The State may prove this element by presenting evidence such that a reasonable jury could conclude that a defendant was intoxicated. State v. Goode is directly on point in this regard. State v. Goode, 305 S.C. 176, 179-80, 406 S.E.2d 391, 393-94 (Ct.App.1991). Expert testimony that a defendant was intoxicated or would be intoxicated after ingesting a certain amount of alcohol or drugs was not necessary for a jury to find that a defendant was intoxicated. See id.

At Applicant's trial there was sufficient evidence on the issue of intoxication that the exclusion of the toxicologist's testimony on the effects of the drugs would not create a reasonable probability that a jury would have found that Applicant was not intoxicated. The toxicologist testified that urine and blood tests performed on Applicant showed she had ingested marijuana and an abnormally large dosage of cold medicine. (ROA, 262-71.) This portion of the toxicologist's testimony was completely within his qualifications.⁷ The fact that the Applicant was intoxicated was not something only available from the toxicologist. Highway patrol officer J.B. Baker testified that at the scene of the accident: Applicant was confused about the direction she was traveling at the time of the accident (ROA, 178:15-24); Applicant appeared "disoriented" and "confused" (ROA, 179:6-7); Applicant's person smelled of marijuana smoke (ROA, 179:19-21, 180:6-7); Officer Baker believed that Applicant was under the influence due to her reactions to his questions, her appearance, her demeanor;

⁷ Rock was an expert on the testing of urine and blood for the presence of alcohol or drugs due to his extensive training and experience. (ROA, 254:7-11, 255:5-13.)

her swaying, and her unsteadiness on her feet (ROA, 181:18-21); Applicant was unable to pass the horizontal gaze nistagmus test or the vertical gaze test (ROA, 183:13-185:2); and that Applicant had glassy and bloodshot eyes (ROA, 185:1-2). Officer Baker testified that he did not attribute Applicant's behavior to her having been in an accident because her behavior was unchanged thirty minutes after the accident. (ROA, 182:3-6). Finally, Officer Baker testified that it was his opinion, based on his interaction with Applicant at the scene of the accident, that Applicant's ability to drive was impaired. (ROA, 200:18-20.)⁸

The combination of the urine/blood test results and Officer Baker's testimony concerning Applicant's behavior at the scene of the accident provide sufficient evidence for a reasonable jury to find that Applicant was intoxicated at the time of the accident. Even so far as limiting the toxicologist's testimony only to the *presence* of the drugs would not create a reasonable probability of a different result. Com. v. Dunne, 456 Pa.Super. 523, 690 A.2d 1233 (Pa.Super.,1997) (driving under the influence of controlled substance conviction affirmed despite no medical testimony when urine tested positive for metamphetamines and officer testified that defendant appeared intoxicated). Therefore, Applicant has not shown the prejudice necessary to establish ineffective assistance of counsel.

⁸ Apart from Officer Baker's extensive training/background/education, even a layperson may testify "whether or not in his opinion a person was drunk or sober on a given occasion on which he observed him and that the weight of such testimony is for the jury." State v. Ramey, 68 S.E.2d 634 (1952). Officer Baker observed the Applicant for an extended period of time at the scene of accident.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by counsel's representation. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice.

A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is

reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court cautions the Applicant that she must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this ____ day of _____, 2010.

The Honorable L. Casey Manning
Presiding Judge
Fifth Judicial Circuit

_____, South Carolina.

Brian Petrano - Krankchick v. State - PCR

From: Brian Petrano<BPetrano@scag.gov> (Brian Petrano)
To: CManningLC@sccourts.org; Charlie@cjjlaw.com
Date: 2/3/2011 12:41 PM
Subject: Krankchick v. State - PCR
Attachments: AG_Legal_Kranchick, Shanna - proposed Order of Dismissal (2009CP4000235) v.2_1.DOCX;
AG_Legal_Brian,(Elliott Quinn)(cover letter - Kranchick.doc) v.2_1.DOC

Mr. Walker:

The PCR for Ms. Shanna Kranchick (2009CP4000235) is currently under advisement by His Honor. It was the felony DUI case with a PCR issue relating to the qualifications of the forensic toxicologist.

Today's published opinion by the Court of Appeals in State v. Martin is available online. It is the State's position that issue I in Martin may be relevant to His Honor's decision for the Kranchick PCR. While at first it may seem that today's ruling mostly reinforces the Applicant's position in favor of granting relief, it is the portion of the opinion in Martin that recognized that intoxication can be demonstrated from the record and evidence other than the toxicologist that the State submits is relevant to the case at hand. As stated in our proposed order, whatever issue(s) there may be with the toxicologist's qualification Ms. Kranchick's intoxication was demonstrated by other sufficient evidence.

Here is the link to the opinion:

<http://sccourts.org/opinions/displayOpinion.cfm?caseNo=4788>

For your convenience I have attached another copy of our proposed Order and the cover letter originally sent to His Honor.

Thanks for your time,
Brian

cc. Charlie J. Johnson, Jr.

Brian T. Petrano

bpetrano@scag.gov

Assistant Attorney General
Office of the Attorney General
State of South Carolina
Post Office Box 11549
Columbia, SC 29211-1549
803.734.3731

803.734.4113 Fax

Current Roster:

<http://scag.gov/inside/pdf/5th.pdf>

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF RICHLAND

CASE NO: 2009CP4000235

IN THE COURT OF COMMON PLEAS

Shanna #283147 Kranchick

vs.

State of South Carolina

Plaintiff

Defendant

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC;
 SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other:
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
- ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- ☐ Other: _____

RICHLAND COUNTY
 FILED
 2011 APR 25 PM 2:12
 JEANETTE W. McBRIDE
 C.C. & C.S. Rule 41

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

☒ See attached order;☐ Statement of Judgment by the Court:

Dated at Columbia, South Carolina, this ____ day of _____, 2011.

PRESIDING JUDGE _____

This judgment was entered on the ____ day of _____, 2011, and a copy mailed first class this 25th April 2011, to attorneys of record or to parties (when appearing pro se) as follows: _____ OTHER: _____Shanna #283147 Kranchick
Charlie J Johnson Jr

ATTORNEY(S) FOR THE PLAINTIFF(S)

Brian T Petrano

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanette W. McBride
 Clerk of Court

SCRPC APP-24/FORM 4

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ATTORNEY GENERAL'S OFFICE

SCANNED

ATTORNEY GENERAL'S OFFICE

RECEIVED

4/29/11

ADMINISTRATIVE INSTRUCTIONS

FILE OPEN END

HAVE COPIES MADE

ROUTE TO

ORDER: TRANSCRIPT

PEN RECORDS CLERK RECORDS

OTHER

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
	)	2009-CP-400-0235
	)	
Kranchick, Shanna, No. 00283147	)	
	)	
Applicant,	)	
	)	
v.	)	FINAL ORDER
	)	GRANTING
State of South Carolina,	)	PCR
	)	
Respondent.)	)	

RICHLAND COUNTY
FILED
2011 APR 25 PM 12:53
JEANETTE W. McBRIDE
C.C.P. & G.S.

I.

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 14, 2009. The Respondent made its Return on June 29, 2009. An evidentiary hearing into the matter was convened on January 14, 2010, at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Charlie J. Johnson, Jr., Esquire. The Respondent was represented by Brian T. Petrano of the South Carolina Attorney General's Office.

At the hearing Applicant testified on behalf of the Applicant. This Court also had before it the records of the Richland County Clerk of Court, the transcript of the proceedings against the Applicant, and the Applicant's records from the South Carolina Department of Corrections.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant's first trial ended in a mistrial. (ROA, p. 52 L. 18). The Applicant was represented by Deborah Ahrens, Esquire and Douglas Strickler, Public Defender.¹ On July 14, 2005,² after a jury trial with the Honorable Reginald I. Lloyd, the Applicant was convicted and sentenced to the following:

Grand Jury Term	Indictment Number	Charged Offense: CDR - S.C. Code § "Potential Sentence" Offense Description	Sentence Received	Sentenced to Lesser Offense?
TERM	2002GS4000894	0395 56-05-2945(A)(2) "1-25" DUI / Felony driving under the influence, death results	13	No
TERM	2002GS4000895	0406 56-05-2945(A)(1) "30 days to 15 years" DUI / Felony driving under the influence, great bodily injury result	15 suspended	No
NOTES *Sentenced to thirteen (13) years consecutive to existing armed robbery sentence and then another fifteen (15) years consecutive to the thirteen (13), but that the fifteen (15) is suspended to 5 years probation.			TOTAL 13*	POSSIBLE 40

A timely Notice of Appeal was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence pursuant to an Anders brief, remittitur dated November 4, 2008.³

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the Department of Corrections, the Applicant's trial transcript, and the Applicant's appellate records.

¹ Mr. Strickler explained that he handled the mistrial, but the second trial was almost entirely Ms. Ahrens.

² The Applicant was not sentenced until September 21, 2005.

³ Anders v. California, 386 US 738 (1967).

II.

In her Application, the Applicant alleges that she is being held in custody unlawfully for the following reasons:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) No video tape was taken at scene to show of my alleged intoxication.
- (b) Ineffective assistance of Trial Council.
- (c) Directed Verdict.

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

- (a) Out of approximately 16 State Trooper vehicles present at the scene, no video was taken at the scene to show probable cause for an arrest.
- (b) Failure to research law, Failure to submit a objection to jury charge, Failure to develop and present defense, Failure to make proper motions, ineffective arguments, wrong indictment given to jury
- (c) there was insufficient evidence proving I was the proximate cause of the car wreack accident.

18. State clearly the relief you seek in filing this application.

Reduce Charge to "Reckless Homicide" or change to regular plea of 12 years concurrent to Armed Robbery charge.

19. Are you now under sentence from any other court that you have not challenged?

Writ of Cert Case #2002-CP-40-2128 for Armed Robbery Charge.

- 10(A) Section 56-5-2953 (A) A person who violates section 56-5-2930, 56-5-2933 or 56-5-2945 must have his conduct at the incident site and breath test, site videotaped.
- (1) The videotaping at the incident site must:
- (a) video must be activated once a probable cause was determined that the person violated section 56-5-2945.
- (b) include the person being advised of one's Miranda rights before any field Sobriety tests are administered, if tests are administered.
- In conclusion, had a video at the incident site been administered, it would have clearly shown insufficient evidence that I was allegedly under the influence and that I was not advised of my Miranda rights. Furthermore, out of the substantial amount of law enforcement and medical personnel that had spoken with me at the incident site, none claimed to have any suspicions that I was allegedly intoxicated.
- 10(B) Council was also ineffective in asking for a mistrial due to the fact that the jury was given the Child Endangerment, Simple possession and Driving Under Suspension indictments, which had been dropped, and was beginning deliberation on them. She also failed in lack of investigation and preparation for trial.
- 10(C) It is to my belief that I am not the proximate cause of the wreck. Even percussion witness Tracy Proctor testified to seeing two trucks. One with a trailer in front of me on my right. The truck was merging into my lane about to swipe me off the road. I swerved to avoid impact, in doing so, the passenger Donald Adams jerked the wheel out of my hands causing us to strike the rear of the 18 wheeler.

At the PCR hearing the Applicant focused essentially on the issue of the "forensic toxicologist" (Mr. Gregory Rock) who testified at the trial. (ROA p. 256).

The Applicant claimed that trial counsel was deficient for failing to object when witness Rock testified as to the effects of drugs because Rock's background and education, as outlined during qualification, failed to demonstrate a sufficient background/education/training to testify as an expert regarding the actual effects of the drugs that were in the Applicant's blood.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court had the opportunity to review the record in its entirety and heard the testimony at the post-conviction relief hearing. This Court further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. S.C. R. Civ. P. 71.1(e); Butler v. State, 286 S.C. 441, 442 334 S.E.2d 813,814 (S.C. 1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The proper measure of performance is whether the attorney provided

representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. at 442, 334 S.E.2d at 814. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (S.C. 1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

This Court finds that the toxicologist was not sufficiently qualified to testify about the effects of drugs or when they were consumed. At the evidentiary hearing, the Applicant testified as to her trial counsel's alleged ineffectiveness in not objecting to specific testimony of the State's toxicologist (Gregory Rock). At Applicant's trial, the toxicologist was called by the state to provide expert testimony on the urine and blood tests performed on Applicant. The toxicologist, as a SLED employee, transported and tested the urine and blood samples taken from Applicant. (ROA, 254-75.)

The toxicologist's testimony at trial was three-fold, he testified about his collection and/or analysis of the blood and the drugs found, then he testified as to the effects those drugs would have on a person, finally he testified as to when those drugs would have been consumed. The Applicant conceded that the toxicologist was sufficiently qualified to testify regarding general toxicology, as "person or scientist who analyzes biological specimens for the presence or absence of alcohol, drugs or other poisons that may be present." (ROA, p. 254, L. 9 - 11). It is the extension of that qualification when the witness testified regarding the *effects* of drugs that the Applicant argues went beyond his stated qualifications.⁴ This Court agrees that the toxicologist's testimony clearly exceeded his qualifications and that his testimony was clearly prejudicial, which requires that this Court grant relief.

The toxicologist was qualified by the trial court as an expert in "forensic toxicology." (ROA, 256:15-20.) The toxicologist testified that he had a Bachelor of Science degree in medical technology and underwent a yearlong toxicology training program at SLED. (ROA, 254:15-23.) The trial record does not indicate the content of the toxicologist's education and training. The toxicologist worked as a forensic toxicologist at SLED for three and one-half years, including the yearlong training course, analyzing biological specimens "for the presence or absence of alcohol, drugs or other poisons that may be present." (ROA, 254:7-11, 255:5-13.) The toxicologist did not testify as to any education, experience, or knowledge related to the physical or mental effects of drugs on the human body. **Based on the record, the State**

presented insufficient qualifications for the toxicologist to testify concerning the mental or physical effects of drugs upon a person. See State v. Priester, 301 S.C. 165, 391 S.E.2d 227 (1990) (lab technologist, who had no training in determining the effect of alcohol on the human system, could not testify as to intoxication); cf. State v. White, 311 S.C. 289, 428 S.E.2d 740 (Ct.App.1993) (state forensic toxicologist qualified to give testimony concerning the effects of drugs).

The toxicologist's testimony about the effects of marijuana or cold medicine on a person was beyond the scope of his expert qualifications, trial counsel's failure to object was ineffective assistance of counsel. The State did not present any additional evidence as to the effects of the marijuana or cold medicine. Trial counsel was deficient because trial counsel failure to object to this portion of the testimony clearly had prejudice effects on the outcome of the trial.

The Applicant's trial counsel was deficient in not objecting to toxicologist's testimony concerning the effects of marijuana and cold medicine, Applicant has shown prejudice resulting from the deficiency and thus Applicant's claim is Granted. There is a reasonable probability that the outcome of Applicant's trial would have been different had Applicant's trial counsel objected to the toxicologist's testimony.

Where there is limited admissible evidence on an element the State must prove, the failure of defense counsel to object to inadmissible evidence on that element is ineffective assistance of counsel. See Huggler v. State, 360 S.C. 627, 634-

35 602 S.E.2d 753, 757 (2004). To prevail on a claim for felony driving under the influence, one element the State must prove is that a defendant drove a vehicle while under the influence of alcohol or drugs. S.C. Code Ann. § 56-5-2945 (2009). The State may prove this element by presenting evidence such that a reasonable jury could conclude that a defendant was intoxicated. In this case the State relied heavily on Expert testimony that a defendant was intoxicated or would be intoxicated after ingesting a certain amount of alcohol or drugs.

Therefore, Applicant has shown the prejudice necessary to establish ineffective assistance of counsel.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has established a constitutional violations or deprivations that would require this court to grant his application. Counsel was deficient and the Applicant was prejudiced by counsel's representation. Therefore, this application for post conviction relief must be **GRANTED**.

Except as discussed above, this Court finds that the Applicant failed to raise the remaining allegations set forth in his application at the hearing and has, thereby, waived them. As to any and all allegations that were or could have been raised in the application or at the hearing in this matter, but were not specifically addressed in this Order, this Court finds Applicant failed to present any probative evidence regarding such allegations. Accordingly, this Court finds that Applicant

waived such allegations and failed to meet his burden of proof regarding them. Accordingly, they are dismissed with prejudice.

A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BML, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

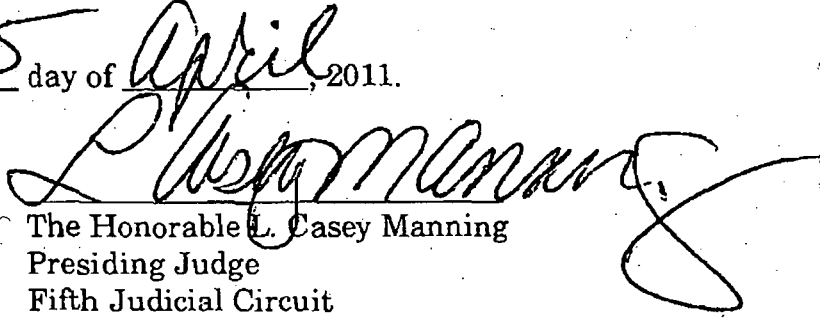
This Court cautions the Applicant that she must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be GRANTED

AND IT IS SO ORDERED this 25 day of April, 2011.

Col, South Carolina.


The Honorable L. Casey Manning
Presiding Judge
Fifth Judicial Circuit

813

WITNESS

J. E. HARRIS, JR.

[Signature]

ARREST WARRANT NO.

REAR 07

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreman of Grand Jury

VERDICT

7/14/03

DOCKET NO. 02-62-40-00314

The State of South Carolina,

County of LOWLAND

COURT OF GENERAL SESSION

FILE NO. TERM 2002

THE STATE

vs.

SHANE FRANKLIN

**Indictment for Causing
Death By Operating Vehicle
While Under the Influence of
Drugs or Alcohol
(Felony DUI - Death)**

S. C. Code Section 16-3-290(A)(2) Group 1 - Felony

RECEIVED
JUL 14 2003
CLERK OF COURT

CLERK OF COURT
JUL 14 2003

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT FOR CAUSING DEATH
 BY OPERATING VEHICLE WHILE UNDER
 THE INFLUENCE OF DRUGS OR ALCOHOL
 (FELONY DUI — DEATH)

At a Court of General Sessions, convened on March 20, 2001,
 the Grand Jurors of RICHLAND County present upon their oath:

**COUNT ONE — CAUSING DEATH BY OPERATING A
 VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL**

That SHANNA KRANCHICK, did in
Richland County on or about January 23, 2002, drive a
 motor vehicle while under the influence of alcohol, drugs, or a combination of both, and did an
 act forbidden by law and/or neglected a duty imposed by law, to wit: improper lane
change (56-5-2150), and/or reckless driving (56-5-2920), and/or driving too
fast for conditions (56-5-1520) and/or speeding (56-5-1520)
 which act and/or neglect proximately caused the death of Gene Croft *SOW 9/19/03*

in violation of §56-5-2945, Code of Laws of South Carolina, (1976), as amended.

*Indictment + True Bill
 10/24/03
 10/24/03
 to name the Grand Jury*

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

Walter B. Green
 SOLICITOR

ATTEST
 A TRUE COPY

Alanette W. McBride
 G. C. C. P. & G. S. *(C)*

STATE OF SOUTH CAROLINA

COUNTY OF
STATERichland
VS.Shanna K. Krachick

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

☐ CASE RESTORED

SENTENCE

☐ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Felony DUI - Deathin violation of 56-5-2945 of the☐ NON-VIOLENT☐ VIOLENTCode of Laws, bearing CDR Code # 0, 3, 9, 5☐ MOST SERIOUS☐ 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 180 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years
and/or to pay a fine of \$10,000; provided that upon the service of 180 days/months/years and/or payment
of \$10,000; plus costs and assessments as applicable; the balance is suspended with probation for 180
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: Armed Robbery conviction
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-17-40 to be calculated and applied by the State
Department of Corrections.☐ RESTITUTION. ☐ Heard, ☐ Waived, ☐ Ordered
Total: \$ 10,000 plus 20% fee: \$ 2,000

Payment Terms:

☐ set by SCDPPPS

Recipient:

Fine:

\$14-1-206 (Assessments 107.5%)	\$10,000	
\$14-1-211(A)(1) (Conv Surcharge)	\$100	☒
\$14-1-211(A)(2) (DUI Surcharge)	\$100	☒
\$56-5-2995 (DUI Assessment)	\$12	☒
\$35.13 (Public Def/Prob)	\$500	☒
\$73.3.1B TP (Law Enforce. Funding)	\$25	☒
\$33.7.1B TP (Drug Court Surcharge)	\$100	☒
\$50-21-114(BUI Breath Test Fee)	\$50	☒
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	☒
3% to County (if paid in installments)	\$	☒
TOTAL	\$	

SPECIAL CONDITIONS:

PTUP

Obtain GED 180 days/hours Public Service Employment

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 \$ 100 beginning\$ 100 paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

Court Reporter:

Barbara A. Scott JPF

Clerk of Court/Deputy Clerk

B. Anne S. Sheppard

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

A T T E S T

SCCA/217 (7/2003)

A TRUE COPY

Deannette W. McBride
C. C. C. P. & G. S.

TRUE COPY
Janette W. McBride
 D. O. C. F. F. G. S. (a)

817

WITNESSES

J. B. Baker, Sheriff

DOCKET NO. AJ 65-40-10575

THE STATE OF NORTH CAROLINA
COUNTY OF ATLANTA

COURT OF GENERAL SESSIONS

#42 MARCH TERM 2002

THE STATE

vs.

SHIRLEY FRANCHICE

ARREST WARRANT NO. 8861802

ACTION OF GRAND JURY

TRUE BILL

*Amended
9/11/02*

FINDING OF GRAND JURY

VERDICT

INDICTMENT FOR
CAUSING GREAT BODILY INJURY
BY OPERATING VEHICLE WHILE
UNDER THE INFLUENCE OF
DRUGS AND ALCOHOL
INFLUENT BUT -
GREAT BODILY INJURY

FILED
MAR 11 2002
CLERK OF COURT
U. S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

INDICTMENT FOR CAUSING GREAT BODILY INJURY BY OPERATING VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL
(INJURY DID - GREAT BODILY INJURY)

At a Court of General Sessions, convened on March 10, 2002,

The Grand Jurors of RICHLAND County present upon their oath

COUNT ONE - CAUSING GREAT BODILY INJURY BY OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL

That BRADLEY FRANCHICE, did on

Richland County on or about January 21, 2002, drive a

motor vehicle while under the influence of alcohol, drugs, or a combination of

both, and did so not forbidden by law and/or neglected a duty imposed by law,

to wit: improper lane change (56-5-1550), reckless driving (56-5-2920) and/or

driving too fast for conditions (56-5-1570) and/or speeding (56-5-1520)

which act and/or neglect proximately caused great bodily injury to

Stanford Turner in violation of §56-5-2905, Code of Laws of

South Carolina, (1976), as amended.

[Handwritten notes and signatures]

Against the peace and dignity of the State, and contrary to the statutes

in such case made and provided.

Adrian B. [Signature]
SHERIFF

ATTEST
JURY COPY

Charles W. [Signature]
J. [Signature]

STATE OF SOUTH CAROLINA
COUNTY OF Richmond
VS.
SHANNA KRANCHICK
Sex: [redacted] Age: [redacted]
SS#: [redacted]
State, Zip: [redacted]
SID#: [redacted]

IN THE COURT OF GENERAL SESSIONS

2002 INDICTMENT/CASE#: 40-895
GS- 2861802
Date of Offense: 1/23/02
S.C. Code §: 56-5-2945 (A)(1)
CDR Code #: 0141016
☐ CASE RESTORED
SENTENCE
☐ PLEA ☒ TRIAL

Upon the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
felony DWI - Great Bodily Injury
of § 56-5-2945 of the S.C. Code of Laws, bearing CDR Code # 0141016
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

Charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

Solicitor [Signature] Defendant [Signature] Attorney for Defendant [Signature]

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
terminate term of [redacted] days/months/years or ☐ under the Youthful Offender Act not to exceed [redacted] years
to pay a fine of \$ [redacted]; provided that upon the service of [redacted] days/months/years and/or payment [redacted]
plus costs and assessments as applicable; the balance is suspended with probation for [redacted] to all during
years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
re incorporated by reference.
CURRENT or ☒ CONSECUTIVE to sentence on: 9-21-05
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.

CONDITION: ☐ Heard, ☐ Waived, ☐ Ordered
plus 20% fee: \$ 5

Te ms:
y SC DPPPS

16 (Assessments 107.5%)	\$ <u>5,000.00</u>
17(A)(1) (Conv. Surcharge)	\$100 \$ <u>[check]</u>
17(A)(2) (DUI Surcharge)	\$100 \$ <u>[check]</u>
18 (DUI Assessment)	\$12 \$ <u>[check]</u>
Public Def/Prob	\$500 \$ <u>[check]</u>
19 TP (Law Enforce. Funding)	\$25 \$ <u>[check]</u>
20 (Drug Court Surcharge)	\$100 \$ <u>[check]</u>
21 BUI Breath Test Fee	\$50 \$ <u>[check]</u>
22(J) (Vehicle Assessment)	\$40/ea \$ <u>[check]</u>
23 (if paid in installments)	\$ <u>[check]</u>

[Signature]
Clerk of Court/Deputy Clerk
[Signature]

SPECIAL CONDITIONS:
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 \$ [redacted] beginning
\$ [redacted] paid to Public Defender Fund
Other: attendant mental health counseling
as directed recovery

☒ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]
Judge Code: 2171313
Sentence Date: 9-21-05

State Corrections County Probation

Pink Defendant SCCA/217 (7/2003)

A T T E S T A
A TRUE COPY

[redacted]
Seal of the Court of General Sessions
[Signature]

A T T E S T :

A TRUE COPY

Janette W. McBride
C. C. P. & G. S. (C)

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE VS.

AKA:

Race: W Sex: F Age: 18

DOB: [REDACTED] SS#: [REDACTED]

Address: 212 S. Main St. Dr.

Columbia, SC 29223

DL# SID#

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE # 821

2 -GS- 4 - 63

A/W#: 670123

Date of Offense: 1/1/01

S.C. Code §: 16-11-330 (A)

CDR Code #: 0 / 1 / 3 / 9

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Alvin R. Blevins

in violation of § 16-11-330 (A) of the S.C. Code of Laws, bearing CDR Code # 0 / 1 / 3 / 9

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

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

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 12 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.

☒ The Defendant is to be given credit for 180 days/months jail time

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$

§14-1-206 (Assessments 100%) \$

§14-1-211(A)(1) (Surcharge) \$

§14-1-211(A)(2) (Surcharge) \$

§56-5-2995 (DUI Assessment) \$

3% to County (if paid in installments) \$

TOTAL \$

[Signature]
Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

PTUP

 days/hours Public Safety Institute

Obtain GED

Attend Voc Rehab. or Job Corps

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:

PRESIDING JUDGE [Signature]

Judge Code: 101576

Sentence Date: 3/27/02

RECEIVED

APR 04 2002

WOMEN'S CORRECTIONS INSTITUTE
R&E UNIT

neu 822 28314

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Richland

VS.

Shanna K. Kranchick

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip

DL#

SID#

INDICTMENT/CASE#

2002 -GS- 40 00894

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

☐ CASE RESTORED

SENTENCE

☐ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADSTO: Felony DUI - Deathin violation of § 56-5-2945 of the S.C. Code of Laws, bearing CDR Code # 013195☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

John S. Grier
SolicitorShanna K. Kranchick
DefendantATU
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 13 days/months/years or ☐ under the Youthful Offender Act not to exceed 13 yearsand/or to pay a fine of \$10,000 provided that upon the service of 13 days/months/years and/or payment
of \$ 100; plus costs and assessments as applicable; the balance is suspended with probation for 13
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: Armed Robbery conviction☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ 10,000 plus 20% fee: \$ 2,000

Payment Terms:

☐ set by SCDFPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211(A)(1) (Conv. Surcharge)

\$14-1-211(A)(2) (DUI Surcharge)

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

\$50-21-114(BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Barbara A. Scott / PF

Clerk of Court/ Deputy Clerk

Court Reporter: E. Harris S. Sheppard

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 \$ 100 beginning\$ 100 paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

9-21-05

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SCCA/217 (7/2003)

283147

New 823

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Richmond

VS.

SHANNA KRANCHICK

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip

DL#

SID#

2002

INDICTMENT/CAS #:

-GS-

40

895

A/W#:

2 261842

Date of Offense:

1/23/02

S.C. Code §:

56-5-2145 (A)(1)

CDR Code #:

0 1 4 1 0 1 6

☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Elmore, DLI - Great Body Inc.in violation of § 56-5-2445 of the S.C. Code of Laws, bearing CDR Code # 0 1 4 1 0 1 6☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS

[] 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jur.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 12 days/months/years or ☐ under the Youthful Offender Act not to exceed 12 yearsand/or to pay a fine of \$ 5,000.00; provided that upon the service of 12 days/months/years and/or payment: 12 to 11 dur.of \$ 5,000.00; plus costs and assessments as applicable; the balance is suspended with probation for 12 to 11 dur.

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: 9-21-05☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State

Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ 5,000.00 plus 20% fee: \$ 1,000.00

Payment Terms:

☐ set by SCDPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	5,000.00
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BU Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$

beginning

\$ 5,000.00 paid to Public Defender Fund

Other:

attend mental health counselingno deemed necessary
☒ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

Court Reporter:

Clerk of Court/ Deputy Clerk

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

:CCA/217 (1/2003)

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 01/30/09
OMCOMITA RELEASE DATE SCREEN C040481
SCDC# > 283147 LOC: GRAHAM CORR
KRANCHICK, SHANNA - SCDC CLASSIFICATION... VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY... N
SEXUAL PREDATOR...: NOT APP
DNA STATUS...: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION...:
CURRENT SENTENCE: 025-00-000 CONSECUTIVE SENTENCE ...: Y
025-00-000 CURRENT SENT START DATE: 09/28/2001
PROJECTED COMPLETION DATES
MAXOUT DATE: 12/22/2022 CURRENT EWC ..: 3 F 5
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ...: 000629 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE
TOTAL EXTRA EARNED CREDITS ..: 000
TOTAL SERVICE TIME EARNED ...: 002642

PFKEYS: 5: HISTORY OF DATE CHANGES

4-©

1 Sess-1 167.7.50.33

SCDC1603

3/11

CRANFORD, SHANNA	DOB	AGE	MO	DO	YR	REASON	STATUS
WARTIME PRISONER	08/19/08	17/00/0	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
LAPINER PRISONER	08/20/08	17/00/0	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
WARTIME PRISONER	10/11/07	10/14/7	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
WARTIME PRISONER	04/19/07	9/25/7	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	10/10/06	1/23/7	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	06/12/06	7/12/6	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	04/01/06	6/11/6	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	05/00/06	5/12/6	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	01/24/06	2/19/6	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	01/05/06	1/16/6	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
MACHINE OPERATION FOR	12/09/05	12/4/5	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
FOOD SERVICE AIDE	05/31/05	12/22/5	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
FOOD SERVICE AIDE	05/05/05	5/30/5	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	01/25/05	5/4/5	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
RECEPTION AIDE	07/13/04	1/12/5	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	06/10/04	6/22/4	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	03/24/04	6/2/4	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
FOOD SERVICE AIDE	02/05/04	2/11/4	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
FOOD SERVICE AIDE	12/02/03	2/4/4	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
FOOD SERVICE AIDE	07/08/03	11/12/3	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
FOOD SERVICE AIDE	04/30/03	7/2/3	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
SP DINING ROOM OPERA	04/29/03	4/29/3	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
GENERAL WORKER	03/25/03	4/14/3	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
SP VEGETABLE PREP OP	06/13/02	3/12/3	01/01/00	01/01/00	01/01/00	DISCIPLINARY/LOCK-UP	3F5
HISTORY OF EARNED EDUCATION CREDITS:							
FED	START	END	TERMINATION				
DESCRIPTION	DATE	DATE	REASON				
WORKING 15 BY WORK	03/25/02	4/19/3	DISCIPLINARY/LOCK-UP				
***** END OF REPORT *****							

DATE	TIME	LOCATION	REASON	REMARKS
5/11/75	5	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
5/11/75	5	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
5/11/75	5	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
5/11/75	5	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
5/23/75	5	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
5/23/75	5	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
5/23/75	5	GRAHAM CORR INS	INCARCERATED	DISCIPLINARY
5/23/75	5	GRAHAM RAE	INCARCERATED	DISCIPLINARY
12/22/75	5	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
1/10/76	5	GRAHAM RAE	INCARCERATED	LOCKUP-INDUSTRIATION
2/9/76	4	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
4/22/76	4	GRAHAM RAE	INCARCERATED	DISCIPLINARY
4/22/76	4	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
4/22/76	4	GRAHAM RAE	INCARCERATED	RETURN FROM COURT
4/22/76	4	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
4/22/76	4	GRAHAM RAE	INCARCERATED	DISCIPLINARY
4/22/76	4	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
4/22/76	4	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
4/22/76	4	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
4/22/76	4	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
2/19/76	4	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
2/11/76	4	GRAHAM RAE	INCARCERATED	DISCIPLINARY
2/10/76	4	GRAHAM CORR INS	INCARCERATED	MEDICAL
2/10/76	4	PALMETTO RCHIAN	AUTH ABSENCE (AWL)	MEDICAL
11/25/75	3	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
11/17/75	3	GRAHAM RAE	INCARCERATED	DISCIPLINARY
10/30/75	3	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
10/30/75	3	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
10/29/75	3	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
10/29/75	3	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
10/28/75	3	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
10/28/75	3	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
10/27/75	3	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
10/27/75	3	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
10/24/75	3	GRAHAM CORR INS	INCARCERATED	RETURN FROM COURT
10/24/75	3	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
7/7/75	3	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
7/7/75	3	GRAHAM RAE	INCARCERATED	ADMINISTRATIVE
6/12/75	3	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
6/11/75	3	JUST CARE INCID	AUTH ABSENCE (AWL)	MEDICAL
6/11/75	3	PALMETTO RCHIAN	AUTH ABSENCE (AWL)	MEDICAL
6/23/75	3	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
4/17/75	3	JUST CARE INCID	AUTH ABSENCE (AWL)	MEDICAL
4/17/75	3	PALMETTO RCHIAN	AUTH ABSENCE (AWL)	MEDICAL
4/16/75	3	GRAHAM RAE	INCARCERATED	MEDICAL
4/16/75	3	GRAHAM CORR INS	INCARCERATED	MEDICAL
4/15/75	3	PALMETTO RCHIAN	AUTH ABSENCE (AWL)	MEDICAL
4/15/75	3	GRAHAM RAE	INCARCERATED	DISCIPLINARY
4/14/75	3	GRAHAM CORR INS	INCARCERATED	DISCIPLINARY
4/14/75	3	GRAHAM RAE	INCARCERATED	DISCIPLINARY
3/27/75	3	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
3/27/75	3	PALMETTO RCHIAN	AUTH ABSENCE (AWL)	MEDICAL
4/11/75	3	GRAHAM CORR INS	INCARCERATED	ADMINISTRATIVE
4/11/75	3	GRAHAM RAE	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

DESCRIPTION	START DATE	END DATE	TERMINATION REASON	REMARKS
WARDENKEEPER	01/01/79	01/01/80		101
WARDENKEEPER	12/02/79	12/24/80	DISCIPLINARY/LOCK-UP	375
WARDENKEEPER	09/01/80	11/10/80	DISCIPLINARY/LOCK-UP	375

CRIMINAL RECORD AND STATUS REPORT OF PERSON NAMED

PERSON SUMMARY REPORT DATE: 01/20/2020

NAME: NICK THOMAS AUSTIN & SIBBON

DOB: 01/19/1971 SEX: M RACE: B

OFFENSE TYPE: ADULT-STRAIGHT SENTENCE

IMMUNIZATION: GRAND COOR-1NSI

SECURITY/CONST: R MINIMUM IN

INPR INCAR SENT: 25 YRS 0 MOS 0 DYS

CENTRAL MONITORING: YES

SOCIAL SECURITY #

INPR: 11/11/2019 RELEASE

BALE: 11/11/2019 9/21/20

PRD: MAXIMUM PRD: 12/30/2022

PRD: PAROLE DATE: 02/02/2020

EM: 105 105 105 105

ENR: 105 105 105 105

ENR: 105 105 105 105

ENR: 105 105 105 105

CURRENT PROGRAM: NO CURRENT PROGRAM

AGE: 25 DATE OF BIRTH: 01/19/1971

PREVIOUS NUMBERS:

44 NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE	YRS	MOS	DYS	COUNTY	START	U/NU	CATEGORY
FELONY BUI		0	0	0	RICHMOND	9/21/20	5 N	3
FELONY BUI-DEATH RESULTS		12	0	0	RICHMOND	9/21/20	5 W	3
ARMED ROBBERY		12	0	0	RICHMOND	9/28/20	1 U	4

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

DETAINERS (HOLD, WANTED, MOTIFY):

VEHICLE THEFT	WANTED	PRESIDING JUDGE	DATE:
FELONY BUI	WANTED	PRESIDING JUDGE	DATE: 3
MARIJUANA POSSESS	WANTED	JUDGE HUDNELL	DATE: 2
CHILD ENDANGERMENT	WANTED	JUDGE HUDNELL	DATE: 2
DRIVING WITH SUSPENSION	WANTED	JUDGE HUDNELL	DATE: 2

ESCAPES:

AND ESCAPE HISTORY:

CRIMINAL CHARGES:

AND CRIMINAL CHARGES HISTORY:

ASSAULTIVE DISCIPLINARIES:

AND ASSAULTIVE DISCIPLINARY HISTORY:

NON-ASSAULTIVE DISCIPLINARIES:

DATE	OFFENSE	STATUS	ADMIN
12/13/8	INCITING/CREATING A DIST	DISMISSED	MAJOR
11/18/8	DISRESPECT	CONVICTED	ADMIN
7/26/8	MUTILATION	CONVICTED	ADMIN
3/14/8	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
10/14/7	INTERFERING WITH DUTIES	CONVICTED	MAJOR
10/14/7	SEXUAL MISCONDUCT	CONVICTED	MAJOR
8/25/7	OUT OF PLACE	CONVICTED	MAJOR
7/2/7	SAFETY REGULATIONS	CONVICTED	ADMIN
7/13/6	SEXUAL MISCONDUCT	DISMISSED	MAJOR
7/12/6	OUT OF PLACE	CONVICTED	MAJOR
6/18/6	REFUSING OR FAILING OBEY	OTHER	OTHER
5/17/6	REFUSING OR FAILING OBEY	CONVICTED	ADMIN
5/18/6	OUT OF PLACE	CONVICTED	MAJOR
2/18/6	SEXUAL MISCONDUCT	NOT GUILTY	MAJOR
1/14/6	REFUSING OR FAILING OBEY	CONVICTED	ADMIN
12/14/5	THREATENING TO INFLUENCE	CONVICTED	ADMIN
5/21/5	POSSESSION OF CONTRABAND	CONVICTED	ADMIN
5/21/5	OUT OF PLACE	CONVICTED	ADMIN
1/16/5	INCITING/CREATING A DIST	CONVICTED	ADMIN
9/23/4	OUT OF PLACE	OTHER	OTHER
6/22/4	OUT OF PLACE	CONVICTED	MAJOR
6/22/4	SEXUAL MISCONDUCT	CONVICTED	MAJOR
5/2/4	SMILING WITHOUT A REASON	CONVICTED	MINOR
3/2/4	USE OF FORCE, VIOLENCE, FORCE	OTHER	OTHER
2/11/4	USE OF FORCE, VIOLENCE, FORCE	NOT GUILTY	MAJOR