VOLUME TWELVE

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Dorchester County
James E. Lockemy, Circuit Court Judge

RECEIVED
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S.C. Supreme Court

MARION BOWMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-213468

APPENDIX

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MARC DEGRAEF
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FILED MAY 26, 2009 9436

RESPONSE TO MOTION TO HOLD POST-CONVICTION PROCEEDINGS
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FILED FEBRUARY 7, 2013 9973

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

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PLAINTIFF'S EXHIBIT #73 (PHOTOGRAPH)

punishment. Two choices: Life in prison or the death penalty. That's the issue.

When y'all went through the jury qualification process, it seems like a month ago now, each of you raised your hands, you were put under an oath or affirmation to tell the truth, the whole truth, nothing but the truth so help me God. You were asked a series of questions to qualify you to be jurors in this kind of a case. You were questioned by Judge Goodstein, by me, by one of the defense lawyers.

Each of you all said that in the appropriate case you could bring back a verdict for the death penalty. And each of you under that same oath said that if you brought back a verdict for the death penalty you could sign the death verdict form and each of you said that you could announce that verdict when your name was called. And when y'all said that under oath if the case was bad enough you could bring back the death penalty and could follow the statutory procedure, I believed you or you would not be sitting on this jury today.

So the issue of whether the death penalty is right or wrong, whether we ought to

have a death penalty is not an issue in this case, because, again, each of you has said under oath that it is appropriate in some circumstances. So the only question is this case, this defendant, the appropriate case for the death penalty in the state of South Carolina.

Ladies and gentlemen, the facts that you have heard throughout the last several days spell out a picture of a course of conduct so devoid of conscience, so bent on malice, so lacking in basic human compassion that it cries out for the death penalty, the ultimate punishment.

Last week when y'all were questioned about the death penalty and your ability to impose that penalty, you had a mental picture in mind of the case so bad that it would warrant the death penalty. And, ladies and gentlemen, you have seen it, you have heard it in this courtroom. If you heard or read in the paper that somebody had taken a stray dog --

MR. CUMMINGS: Your Honor, I object at this point, please.

THE COURT: Let me see you, please.

(Whereupon, a bench conference was held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right. Over the objection of the defendant you may proceed.

MR. BAILEY: As I was saying, ladies and gentlemen, if you heard or read in the paper, saw on the news that somebody picked up a stray dog, took a pistol and shot that dog two times and burned that dog's body up, you would say this is horrible, how could a person do something like that to an animal? Marion Bowman did that to a living, breathing human somebody, somebody's daughter, somebody's mother. It wasn't only a malicious act, it was a cowardly act. Here's a big man, grown man with a gun and a helpless woman out there in the country alone. He snuffed out her life for no reason.

What did he gain by her murder? Nothing. Motivated by meanness, by depravity. You've heard testimony that he was upset because she owed him money. The enormity of this crime that happened just up the road five or six miles from this courthouse we're sitting in, the horror of what happened on February 16th is just

kind of lost. I feel inadequate through the testimony and the evidence that you've -- to really get across to you the horror of what happened out there.

We're all dressed up in our coats and ties, we stand up and sit down at the appropriate moment and we have this decorum. And in this atmosphere I just can't get across to y'all I don't believe how bad this is, how horrible it is. I'm trying with the evidence, but it's difficult.

And I would ask that you think of the evidence, just in your mind's eye the evidence you heard from that stand, the fear when Bowman began to shoot at her, a man she thought was her friend, the fear and pain when she was hit with that first shot in the back, the fear she felt as she ran away and he ran after her with that gun, turned toward him and begged for her life.

You've heard the testimony, the last moments of her life she didn't think about herself, she was thinking about her baby. "Black, please, don't shoot me no more, I've got a child to take care of." And after that he put that fatal shot in her head. I'm not going to

say she's a perfect human being, no one is, nobody's perfect, they have their flaws, but in her dying moments she thought of her child.

Judge Goodstein is going to instruct you on aggravating circumstances, she'll instruct you on mitigating circumstances. I want to talk about aggravating circumstances for a minute. And the significance of an aggravating circumstance is that all y'all have to find at least one aggravating circumstance beyond a reasonable doubt or you cannot impose the death penalty even if you wanted to. You have to find at least one aggravating circumstance. We've alleged four, you would have to find at least one.

And I want to talk about these aggravating circumstances and the proof. And as y'all recall, I said this in the opening statement as part of the trial, but I would incorporate the guilt phase so I wouldn't have to go through all this other stuff again. But most of the evidence of aggravating circumstances came out in the first phase of the trial. And you've heard it. Let me talk about the aggravating circumstance that the murder of

Kandee Martin was committed while in the commission of robbery while armed with a deadly weapon.

Stating the obvious, this gun is a deadly weapon. Kandee Martin's watch identified by her mother that she bought a couple of weeks earlier was found in this man's pocket laying on the bed in his wife's trailer the day after Kandee Martin is murdered and the day the car and her body is burned up. A woman's watch in his pocket.

The second aggravating circumstance that I want to talk about, and the judge will instruct you in these aggravating circumstances, is the murder of Kandee Martin was committed while in the commission of larceny with the use of a deadly weapon. Larceny, ladies and gentlemen, is stealing. And, of course, this refers to the watch. It would also refer to the car.

You've heard numerous witnesses testify about Marion Bowman after the death of Kandee Martin tooling around town, driving to Branchville, driving to Allen Murray Club, trying to sell the car at the club, driving it

back from the club. You've heard that testimony. He stole the car in the commission of that murder of Kandee Martin.

Now, when you found Marion Bowman, Jr. guilty of murder the evidence was the cause of death was this gun. When you found him guilty of the arson of Kandee's car, in essence the factual scenario is there to prove beyond a reasonable doubt both of those aggravating circumstances, larceny with the use of a deadly weapon and robbery in the course -- armed robbery in the course of the murder. These circumstances have been proven.

And the judge will instruct you what it means, what the word in the commission of, because aggravating circumstances are the murder was committed in the commission of armed robbery, in the commission of larceny with a deadly weapon. It doesn't matter whether the murder happens before or after the aggravator, what is important is it happens in the continuing series of events with the murder. It happened before the murder or after the murder. And the fact the defendant's already dead when her watch or her car is taken doesn't make any

difference as a legal matter.

I'll talk to you all about the next aggravating circumstance alleged by the State which is kidnapping. I talked to you about that in the opening and I won't go through all that again, but I would ask you to remember your duty to make the law as the judge gives it to you, listen to her instructions on the definition of kidnapping, the words inveigle and decoy, kidnapping is restricting a person's freedom. It doesn't have to happen for any period of time, it's preventing them from going where they want to go, holding them where they can't go where they want to go and it can be accomplished by trickery or deceit.

As I said earlier, obviously Kandee Martin would not have driven in that car to her death had she known the purpose of that trip. And obviously between the time she's shot the first time and the time she's shot the second time she didn't want to be there and she's prevented from leaving at gunpoint by Marion Bowman.

The fourth aggravating circumstance I will talk to you about is the murder of Kandee

Martin was done during the commission of criminal sexual conduct to any degree. Judge Goodstein will define criminal sexual conduct. It includes sexual intercourse, nonconsensual sexual intercourse.

During the course of her instructions in the first part of this trial you heard a definition of circumstantial evidence. There is no direct evidence, no eyewitness account of a sexual assault on the victim of this case, Kandee Martin. You base your decision on the evidence and the reasonable inferences to be drawn from that evidence.

You've heard the DNA expert that tested the vaginal swab and the semen. The DNA profile in that semen matched Marion Bowman's blood and the odds of someone unrelated to Marion Bowman having that same profile or being the donor of that semen, 1 in 5,300. Now, is consensual sex consistent with the subsequent shooting someone to death and burning the body? Again, use your common sense when you consider this aggravating circumstance.

And, again, I repeat, you do not have to find all four aggravating circumstances in

order to bring back the death penalty. If you find one of them unanimously beyond a reasonable doubt, you would then have the ability if you so desire to bring back the death penalty. But you're not limited to aggravating circumstances. You should consider all of the testimony that you hear in this case.

You can look at Marion Bowman's prior conduct not as a statutory aggravating circumstance, but as a characteristic of the defendant. And when you consider life in prison as an alternative to the death penalty, I want you to consider that he has a criminal record. You've heard that, you've heard from experts and other people and you know he's been convicted of two burglaries, entering people's homes, their residence where they live, taking guns from those homes.

And when he went to court he got a youthful offender sentence. And you'll recall Mr. Aiken testified for the defense, very knowledgeable man, an expert in prison adaptability, and he told you all about a youthful offender sentence. And the idea behind a youthful offender sentence is it's supposed to

rehabilitate or straighten somebody out to put them on the right path. And it didn't work with Marion Bowman because he got out of prison and has now graduated to murder and arson.

I'm going to talk about the mitigating circumstances. And the judge will instruct you to consider mitigating circumstances. And you should consider them. Look at them, you decide what significance to give them if you find that they, in fact, exist.

Judge Goodstein will ask you to consider Mr. Bowman's age and mentality at the time of the crime. As far as his mentality, I'm not going to stand up here and tell you that he was engaging in normal behavior. Murder, ladies and gentlemen, is not normal behavior. He's a murderer. At the time he committed these crimes I believe he was 21 years old, not a boy, he's a man.

The defense put up as part of their case an expert witness, Mr. Youngman, who testified that he's a social worker. And he did a forensic psychosocial assessment of Marion Bowman. He talked to a bunch of people in the community that knew Marion Bowman, he got his

school records, he got other records. What did Mr. Youngman tell you all? He told you all that Marion Bowman drank, he did drugs, sold drugs, that he was an adolescent at one time and that he committed some crimes and burglaries and he had an unpleasant upbringing.

And then he drew this picture here, this is Defendant's Exhibit Number 17, to explain his findings to you. And he listed all of these things here that went wrong in Marion Bowman, Jr.'s life. And he said that Marion Bowman had a problem making choices, that there was a bridge he had to cross to make those choices and that these things were affecting his ability to reach the right decision.

And over on this side of the bridge Mr. Youngman drew the stick and said these were his choices and here was a problem over here. And I asked Mr. Youngman the decision, the choice was to kill a young woman with an automatic pistol and burn her body. And I asked him, I said, what is the problem that caused him to make that decision? And he couldn't tell me.

Ladies and gentlemen, I ask you based on what you've heard here, what does all that

stuff that happened to Marion during his youth have to do with Kandee Martin? How is she in any way involved in the fact that he sold drugs, that he did drugs, that he drank liquor, that he wasn't a good student, that he was an adolescent, that his grandfather died, and all the other stuff, what has it got to do with it? Nothing. He knows right from wrong.

Mr. Youngman also said that a person like this would have impulsive behavior. Impulsive behavior is when you do something spur of the moment. Marion Bowman planned this thing out. You heard the testimony of the three people, his sister, his cousin, Eddie Waters, that when he couldn't attract her attention, get her attention right off the bat, he says "That bitch is dead dark fall." And shortly after dark fall, around eight o'clock, he murdered her. It wasn't an impulsive thing. It was something he planned. It was a purposeful goal-directed activity.

Another mitigating circumstance they'll ask you to consider is the defendant has no significant history of prior criminal convictions involving the use of violence

against another person. And I'll concede that that exists. It is up to you to decide what weight to give it. Bear in mind he does have a criminal record.

Now, as far as Marion Bowman's background, who has a perfect background? I mean, you see "Leave it to Beaver", Ward and June, and you see "The Bill Cosby Show." None of us have a background like that. But, again, where is the connection? Where is the connection, anybody who's gotten up here and drawn a line between anything involving Marion Bowman's background or family or mentality and the murder of Kandee Martin. There's just no connection.

He made his choices, to murder and burn that body beyond recognition. You heard Wayne Martin testify that he couldn't say goodbye to his daughter because of the condition that Marion Bowman left her body in.

Look at life imprisonment as an alternative to the death penalty. Because that's what this is all about, deciding on one of those two choices, life in prison or the death penalty, and decide whether that sentence

is appropriate for the horror story that you've heard.

Mr. Aiken, again, that testified for the defense, again, a very knowledgeable person. I had some trouble getting him to answer some questions, but I would concede he's very knowledgeable, he's an expert in prison adjustment. And he told you all that Marion Bowman could adjust well in his opinion to prison. And he told you that he wouldn't be the kind of person he would have to put up in super max or a high degree of confinement and he told you he would be behind those walls and they would have guns there and they would be closely guarded.

But when you're talking about adaptability to prison environment, you need to know what that environment is like. And he told you all a little bit about it, Mr. Aiken. I asked him about the prison environment, you work, you get paid some degree of money, some amount of money for working, that after work there are recreational opportunities available, he said they could play basketball, they had a library where they could read books, movies,

television. In the meantime, Kandee Martin's in her grave and she'll be there forever.

Judge Goodstein in her instructions is going to tell you that you can consider any mitigating circumstance or anything else that you want to consider in determining the appropriate penalty. But even if you find every single mitigating circumstance that she instructs you on, you still have the ability to bring back the death penalty if you find at least one aggravating circumstance. You look at everything. You look at the statutory aggravating circumstances, you look at the mitigating circumstances, circumstances of the crime, characteristics of Marion Bowman, and the impact of Kandee Martin's death on the victims.

For the defense, Mr. Youngman got up here and he tried to cast some blame, throw some blame around. He blamed Mrs. Bowman, his mother, he blamed the school. Y'all aren't sitting on judgment on anybody other than Marion Bowman, Jr., that man over here. He's an adult, he's fully capable of making his own decisions.

They showed some pictures of Marion Bowman as a child, some school pictures to get

your sympathy. The judge will instruct you that you cannot make your decision based on passion, prejudice, sympathy, or any other undue factor. Everybody was a child at one time. That's got nothing to do with the man he turned into and the conduct he engaged in after that.

I would ask you to listen to the Judge's instructions, your decision should be based on circumstances of the crime and characteristics of Marion Bowman. Let's not forget who the victim is here. Marion Bowman is not the victim, his family is not the victim. The victim was Kandee Martin, her family, her mother, her father, and her two-year-old baby.

I ask you to remember what this is all about. This is a penalty hearing. It's not a rehabilitation hearing or an excuse hearing, it is a penalty hearing. We're talking about the most appropriate punishment.

The defense lawyers will get up here in a few minutes when I sit down and they're going to tell you how severe a life without parole sentence is, that he'll spend the rest of his life in prison. Ladies and gentlemen, they're going to beg you for that sentence. And

the reason for that is that at this point that is the best thing that y'all can do for Marion Bowman, Jr. The best thing for him is a life without parole. But you're not here to decide what's best for Marion, you are here to do justice in this case, to decide the appropriate punishment.

During the course of some of this testimony there were some tears in this courtroom. And the only person in this courtroom responsible for those tears is over here, Marion Bowman, Jr. What I'm talking about, ladies and gentlemen, is accountability, responsibility.

Under our judicial system for our society to work as a civilized society a person must account for and be responsible for their own actions. And I'm not -- I'm a prosecutor, I'm not a psychiatrist or psychologist and I can't get up here and explain to you how Marion Bowman got to be the way he is now, that's not the problem. The problem is once he gets to be the person who's done the things that you know he has done, once he's in our midst, what do you do with a person like this?

This murder, ladies and gentlemen, was horrendous. It wasn't an act of recklessness, it wasn't a killing in the heat of passion, it wasn't a crime of impulse, it was a cold-blooded murder. And I submit to you that when you kill that way you should forfeit your right to live on this earth.

Marion Bowman, according to the testimony you have heard from that witness stand, enjoyed the act of murdering Kandee Martin. You recall Gadson's testimony. After that second shot, that second, the fatal shot when she fell to the ground, his testimony was Marion Bowman says "Did you hear her head hit the pavement?"

You recall Hiram Johnson, Hiram Johnson went to that beer joint in Kandee Martin's car being driven by Marion Bowman and on the way back before he got dropped off, what did he say? Y'all recall his testimony, Marion Bowman says "I killed Kandee" and then he laughed. Hiram Johnson got up here and basically quoted him. "I killed Kandee, heh, heh, heh." He thought it was funny. And then after that he went back and he burned her car

and he burned her dead corpse in that car.

Keep focused, ladies and gentlemen, on what is the appropriate punishment for an intentionally committed horrible crime and don't be distracted by efforts to portray Marion Bowman as the victim. He is not the victim.

Kandee Martin had a baby, a two-year-old son. She had a right to live her life the way she wanted to live it just like we all do. And her son had a right to be raised by his mother and he deprived that baby of the right to grow up with his mother for no reason.

I ask you to use your common sense, to follow the judge's instructions, to base your decision on the circumstances of the crime and the characteristics of Marion Bowman. And I would ask you to search the evidence, to search your minds of all you've heard throughout this entire trial and ask yourselves what is it about the circumstances surrounding the murder of Kandee Martin that would want to make me reward Marion Bowman with a life sentence? What is it about how Marion Bowman has conducted his life that would make me want to reward him with a life sentence, which is the best thing that you

could do for him today.

Marion Bowman has forever deprived Tyler M. of his mother. The child was two years old when his mother was murdered. You heard Didi Martin, Kandee's mother, that even now all this time has passed since February 16th, 2001, and that baby still cries for his mother. When he's grown he'll have some pictures, but he won't remember her. When he finishes high school his mother won't be there. When he gets married his mother won't be at the wedding. All because that man killed her knowing she had a baby at home and she begged for her life not for herself, but for that baby.

He's forever deprived Wayne and Didi Martin of their youngest daughter that they loved very much, the youngest child. Their lives have changed forever. They didn't even get to say goodbye to her. They will never understand how and why Marion Bowman who knew their daughter could do that to her.

Ladies and gentlemen, nothing that has come out in this case that you have heard, and you have to base your decision on the evidence, is sufficient to justify anything less than the

death penalty. I submit to you that under the facts you've heard Marion Bowman deserves the ultimate penalty that you all said that you could impose in the appropriate case. Burned this girl's body like she was a piece of discarded trash.

When you come back in here and reach your verdict, you should reach a verdict where you can look in the eye of Marion Bowman, Jr. and look into the eyes of the other people in this courtroom and let them know that justice is being done by your verdict.

The judge will instruct you that you can bring back a life sentence for any reason or no reason at all as an act of mercy. And that's what the defense will ask you to do. And that's within your power, you can do that. For any reason or no reason at all you can come back and extend mercy to this defendant. But, ladies and gentlemen, under the facts of this case you can't do both, you can't extend mercy to Marion Bowman and do justice to this case. The death penalty in this case is not the most appropriate sentence, it's the only appropriate sentence.

And when you talk about a trial like

this, we're talking about the goal of justice. And what is justice? Justice is a simple concept where the punishment meets the crime. If the punishment doesn't meet the crime you don't have justice, you don't administer justice. No matter what your verdict is, either one of those two choices, obviously it's not going to bring Kandee back to life. A life sentence won't bring her back, the death penalty can't bring her back, but it can do one thing, it can bring justice into this courtroom.

Your task is an awesome task and I know what I'm asking the 12 of you to do is not easy, it's not supposed to be easy. But as I pointed out earlier that you all were picked out of 350 jurors by both sides as being fair and impartial people that could follow your duty, follow the evidence, follow the facts, follow the law and bring back a verdict that spoke the truth in the first phase of this trial and to bring back a verdict that spoke justice.

I'm going to sit down in a few minutes, I've talked too long already, and I have one request of you. You're going to have all the evidence that was introduced in both

parts of this trial back in the jury room with you for whatever use you want to make of it, you can look at it or you don't have to look at it. But I request that you look at the photographs that were introduced. I took no pleasure in showing you these photographs. They show nothing more or less than what Marion Bowman did to Kandee Martin's body.

And if you don't look at those photographs, if you turn them facedown, you're not facing the reality of this case. These are in evidence. This is before and after. He turned this into this with malice aforethought. This is his handiwork. So I ask you when you deliberate to look at these. If you can't look at it, then you can't face the facts of this case. And they're hard facts, they're rough facts, they're cruel facts. And I would ask you to look at that and think about a human being and what he did to her for no reason. And he laughed about it. Nothing the defense says when they give their closing statement to you can change that reality.

And, again, each of you raised your hands and took a solemn oath and said in the

appropriate case I can bring back the death penalty. Ladies and gentlemen, on behalf of Dorchester County, State of South Carolina, I'm asking you to have the courage in this case to do your full duty, your verdict whatever it is must be unanimous, all 12 of you must agree. Thank you.

THE COURT: Thank you, Mr. Bailey.

Yes, ma'am.

MS. HARDEE-THOMAS: May it please the Court.

THE COURT: Ms. Hardee-Thomas.

MS. HARDEE-THOMAS: Ladies and gentlemen of the jury, you have spoken. You have found Mr. Marion Bowman guilty of murder and arson third. But, ladies and gentlemen, we're talking about aggravating circumstances. We're talking about murder was committed while in the commission of CSC, murder was committed while in the commission of kidnapping, murder was committed while in the commission of larceny with the use of a deadly weapon, and murder was committed while in the commission of robbery while armed with a deadly weapon. Mr. Bowman hasn't been charged with any one of those

charges; criminal sexual conduct, kidnapping, larceny, or robbery. You found him guilty of murder and arson.

Let's look at the facts. Murder was committed while in the commission of criminal sexual conduct. Did Mr. Bowman intend to commit CSC and a murder occurred? What did you hear? You heard from Frankie Martin, he was on that stand, he said Kandee Martin was at his apartment. And who came up? Marion Bowman and Mr. Fogle. They went into the bathroom together, Kandee and Marion. What do people do in the bathroom? Have consensual sex? Because if they didn't, they did come out of the bathroom. Frankie Martin was able to tell you nothing looked different to him, both of them looked okay, they went in her car. You would have heard something from Frankie Martin if anything was different. And they drove away.

What did you hear about kidnapping? Murder was committed while in the commission of kidnapping. Start off with Frankie Martin. They were together at his apartment, they left together in his car. You even heard from Gadson, he got in the back of a car when he saw

them, was riding with them. He told you that Marion was telling her where to go to make you think that she was held without her will. What happened when they actually got to the destination? They both got out of the car, a car came by in the dark, everybody went in the woods. Everybody. That's the perfect aspect to find out if somebody's really kidnapped. A car is coming, that car can help me. There was no information with regards to her running towards the car when the lights came down. But what happened? The car went past, she came out of the woods and walked towards her car.

You've heard murder was committed while in the commission of larceny. What have you heard? You've heard a watch was found on Mr. Bowman. A watch. How did it get there? That's what the State wants you to see. How did it get there? Well, they were together during the day at Frankie Martin's house, they were riding around, you heard that. Did Mr. Bowman intend to get a watch, or to get a car and then a murder occurred? That's what the State wants you to believe.

You've heard from Mrs. Bowman if you

want to believe her, I'm talking about Marion's mother. They've seen Kandee. He's rode in her car before several times, and on this particular date he was riding in the car again. If someone is killed and a watch or a car is taken is that an afterthought of murder? The intent has to be simultaneously.

MR. BAILEY: Objection, Your Honor. She's misstating the law to the jury.

THE COURT: I sustain the objection. Be mindful.

MS. HARDEE-THOMAS: You have four aggravating circumstances. You do not have Mr. Bowman having an intent to do any four of them. You have Mr. Bowman who's 21 years of age, you've heard that he's committed two burglaries which is not significant of anything, you've heard that he has family problems and had family problems throughout his life. We ask that you consider that the mitigating circumstances that the State has shown he deserve -- Mr. Bowman deserves your consideration with regards to these and to give him life without the possibility of parole in prison. Thank you.

THE COURT: Thank you, Ms. Hardee-Thomas.

Mr. Cummings.

MR. CUMMINGS: May it please the Court, Judge, Mr. Bailey, Madam Forelady and ladies and gentlemen of the jury. The last time I spoke before you the opening statement here I told you I had a heavy heart, today it doesn't get any lighter. And neither shall your job get any lighter as we speak here and get right down to the closing.

If you want to look at just two photographs, to take another human being's life that's your option. This is the remains of Miss Martin. She was a lovely, beautiful young lady, no question. And I have not in anything in this case done anything to try to get you to hate me, to hate the defense trying to insult Miss Martin. And if I have done that in any way I apologize to the Martin family and I apologize to you good ladies and gentlemen.

Miss Martin is not on trial in here. Mr. Bailey is absolutely correct, he's a colleague an adversary against me and I'm an adversary against him in the courtroom today, we all come in here to do a job, hopefully. And in

doing our job we look and sometimes we talk so hard, so fast, so glancing over issues that we forget how important it is to remain human. It's going to take me some time to talk to you. You were so kind and so polite both in the closing argument and in the first phase and then in the opening statement here to pay attention to me, and I've asked you to do that. It's easy to shut your mind off. You've heard some horrible things in here. But will you, please, keep your mind open long enough to remember that we have lost a human being and yet we are dealing with another human being.

And, ladies and gentlemen, it's everybody's job in here to do justice. This is not a personal case on behalf of anybody against Mr. Bowman. It's called the State of South Carolina against Mr. Bowman. And because of that, ladies and gentlemen, justice is left to you. You are the buffer between anybody allowing any group, mob, vigilante, you know, whatever to go out there and administer justice. We asked you not to leave your good common sense behind when you came in that door and you haven't. You've not done that, you've listened

in here.

As a matter of fact I want to point this out real quick, while all us in here in our clothing and everything else, in our jobs, we're in here, we argue, we legally challenge, we look like we inconvenience the heck out of you. And when you went back to your jury room the other day, and this is why I call this to the attention of you good folks again, we sent back the evidence, the evidence that Your Honor had allowed in after fighting, after yelling, after -- and I mean yelling politely as you all know, we don't yell in here at each other, but there was something left.

And when you folks sent your note out to us there were three things in here. You wanted an easel, that was something easy we could do; number two, you wanted a transcript which is not possible. We take everything down, but this poor lady could never do everything back instantaneously, science has not yet caught up to how fast the human mouth can speak or think.

But the one thing that you were sure of sitting in here paying attention was that you

wanted something that was done on the side by a peace officer to show you a particular thing about Nursery Road. So there was a mistake made in here, in this room. Not by you folks, not by anyone in here intentionally, it was a mistake made, an error, a human error. You're that buffer. Did you see the importance of that a moment ago? Because if it sounds like I'm only talking about a piece of paper, I'm not. It's called humanity. We make mistakes.

Ladies and gentlemen, justice is tempered with mercy. The only way anybody can have mercy is if others show it. It sounds like, that's right, the defense is going to get up here and beg for his life and that, you know, the reward-a-prison. And I'm quoting the prosecutor, I'm not going to use Mr. Bailey's name unless it slips out of my tongue because of our relationship as adversaries over the years.

The State, the State prosecutor, it could be anybody, is going to come before you and say the ultimate crime is the right crime and punishment in this case based on the nature of the offense. And bingo we can shut that right off because that's exactly what they want.

The legislature in here has asked you to consider both. The people of the state of South Carolina have asked you to consider both. Why? Because not everybody has to be put to death. If that was automatic we'd have a murder trial, take them out in the backyard and hang them. Is that what you're considering today? I'm asking you to consider justice with mercy. It takes a bigger person to give mercy. It takes a human being to show compassion and mercy.

Ladies and gentlemen, I make no excuse for any wrongdoing or criminal conduct. And I want to say this out quickly right now because I feel like maybe I was inadequate in doing something in this room the other day, or in doing something on behalf of Mr. Bowman and that was Mr. Youngman, the professional gentleman who came in here, former cop, NOPD, that's New Orleans Police Department, that's a rough neighborhood.

He then goes to work helping homeless people and works in a crisis ministry. Okay. We got advanced degrees, we got the ability, you got to answer our questions in here. You can

tear him up all you want like you could anybody in here. I tore up Mr. Felder, I tore up Mr. Waters, I even yelled back at Mr. Marion Bowman's family. I did. Because I'm trying to emphasize here answer the questions, please. These folks need to hear the whole truth, you need to hear everything and not selective stuff just to be able to convict Mr. Bowman, which he has been convicted, or now to make sure that you want to hate him enough to take his life.

MR. BAILEY: Your Honor, I object to that.

THE COURT: Sustained.

MR. CUMMINGS: Excuse me, be angry enough to take his life.

MR. BAILEY: I object to that, Your Honor.

THE COURT: Sustained.

MR. BAILEY: Your Honor, I'd ask for a curative instruction at the appropriate time based on Mr. Cummings' comments, inappropriate comments.

THE COURT: Very well. Ladies and gentlemen, it is incumbent upon you, of course, to follow the instructions of the Court and I will give those to you. Those decisions are to be made without the emotion, certainly, that

counsel is speaking of. I will instruct you more of that, that's the reason for the objection, hatred and anger. The decisions that you will make will be made on -- absent those kinds of emotion and I will instruct you to that. And that's the purpose of the instruction as well as -- or the objection as well as my sustaining the objection.

Thank you, gentlemen. You may proceed, Mr. Cummings.

MR. CUMMINGS: Thank you, Judge.

As the solicitor told you earlier to not show sympathy, not to come into consideration. You define how, and when, and why, and where we can ever talk about mercy. I'm asking you, ladies and gentlemen, to go back a little bit here now and ask you to go down into your life and going back and talking to you about Mr. Youngman. He told you it was not an excuse. He just tried to paint a picture of Mr. Bowman's upbringing so you could have some idea of the person. Because that's all we do. We tried to give you a picture of Miss Martin, not we personally of the defense, again, not attacking this lady, she was presented to you in

the light by her family. Mr. Bowman has the right to present himself to you with his family and through Mr. Youngman.

He told you what he found. Is that an excuse? No. There are plenty of people who are successful in this world who are raised in a one-parent household. There are plenty of people who dig themselves out of the gutter, pick themselves up and never hurt another human being. There are plenty of people who can mount that challenge, top the hill, live a good life, there are plenty of people that can. Why Mr. Bowman has not reached that, why he has not followed anything according to the testimony presented in this courtroom is in your province. But I do state that it is unfair for us to take any witness, especially people who come in and just try to do something and they try and try to leave you with an image that they're trying to tell you something that's not correct.

You are the judge of the credibility, you are the judges of the evidence that comes to you. Her Honor is the one who rules on the evidence, that is the law. A few moments ago you heard her when the whistle was blown she

made the call.

Ladies and gentlemen, I just want to go down again with you about the importance of things as I see them and as the defense would see them on behalf of this gentleman. And, ladies and gentlemen, it takes a while and it takes a long time. And as Mr. Bailey asked you, you promised to do one of two things here today. And there are only two choices. So even if you want to discount Mr. Youngman coming in here at all and trying to explain to you about some horrible things and tragedies, you're right, absolutely, let's stop it, that's a sympathizer, that's a guy looking for excuses, that's a guy looking for reasons, that's a guy who could explain something to probably put some decency back into how and why a human being is the way he is. Are we not now the product of our environment? Has that not been shown?

In doing this case and presenting it to you, again, using your good common sense, if anybody were to go to a home and not see a photograph of a child, do you not think that child does not count? If people have to get a picture out of a yearbook at a school and

present that to you as the only showing of Mr. Bowman, you come to your own conclusions. Mrs. Bowman, his mom, who I have the greatest respect for and sympathy for today, is sitting here today and she's being cast aspersion upon her which is not correct and not fair.

Mr. Bowman is the one in your hands and that is correct. Mr. Bowman is in your hands for punishment, justice, mercy, whatever you shall find, whatever you choose not to find. Mr. Bowman is the person that we point the finger at. But I ask you was he discarded, was he not cared for to where we never, never would be here today because of that?

I did not grow up in Branchville, nor did the defense team, nor did Mr. Bailey or anybody else. We did not grow up in Branchville. I did not grow up in Mrs. Bowman's home, nor did anybody else other than the children of Mrs. Bowman. And the testimony came in here today about it.

Do I blame Mr. Marion Bowman, Sr. for anything? No, I do not. I blame the surroundings, I blame me. I blame us. I blame the fact that nobody took an interest in this

kid. At 17 he is convicted of two burglaries. You think that's pretty important in somebody's life to know what age somebody's in trouble. Nobody cared. Mr. Bowman can read the charges. And this is where -- and that only comes in for his character, okay, not an aggravating factor, his character. Again, that's to get you to think, present Mr. Bowman in a bad light to you, ladies and gentlemen, and to get you to vote a certain way.

He got a shock incarceration sentence. That's what he got. You do a certain amount of time like in a boot camp and you're put back out. You may not consider this or you may consider this. He paid restitution back to the two victims himself. He did that. Not a big deal because it shows some responsibility and maybe that would go towards something for you to consider about character. Not a big deal, not anything else, you can take it, you can throw it out. That alone would not be the reason to vote to have capital punishment imposed on Mr. Bowman. It's like I told you earlier, piling on. If you pile on enough it's easy to lose a person.

Ladies and gentlemen, are we so sure in this case that we would vote to find aggravating factors beyond a reasonable doubt? I'm going to jump ahead a little bit and go back and ask your kind permission to allow me to continue speaking for a while. This is a person's life and I'm going to ask you to grant us the mercy, the kindness, the consideration that you've shown throughout this trial a little bit longer. We don't take this task light and you have not taken this task light either.

If Mr. Bowman in your opinion right now is the one who done all these horrible things and you cannot show him mercy, all 12 of you folks will sign that form and he will be put to his death some day. That will be followed out.

If you find mercy or find any reason not to find any aggravating factors because you didn't see the evidence here, and I'm going to go back and talk about the evidence here, then so be it. He will spend the rest of his life without the possibility of parole and that is a fact.

There's a lot of testimony here

yesterday against Mr. Aiken. And, please, look at Mr. Aiken in the totality of what he says. Again, if you're seeking a certain punishment, if you're seeking that certain punishment it's easy to try to paint prison as a reward. All right. The line forms back there if anybody wants to spend the rest of their life behind bars. If you think that's the place to be, you think people want it, do we put the gate on the outside or do we put the gate on the inside to make sure nobody's getting in?

I try to say that to you with the most polite candor that I can. That if you think that is a reward, then that is a wrong and that is an injustice. The death penalty, ladies and gentlemen, is the ultimate penalty. And I submit to you that there is no way unless you are convinced beyond a reasonable doubt, all 12 of you collectively putting your minds together that's the appropriate punishment of a now 21-year-old young man, that is your province.

You can, you can vote and sign your names to that. Mr. Bailey, again, on behalf of the State, the prosecutor, I apologize, has asked you to do that. He's asked you to do that

because you're so sure, you are so sure that this is the appropriate punishment. But are we so sure today after hearing Mr. Felder testify that he didn't tell you everything? That was the deal; was it not? Folks, there's always more, there's always questions, there's always a mistake. We're human.

MR. BAILEY: Your Honor, may we approach? I have an objection.

THE COURT: Yes.

(Whereupon, a bench conference was held off the record in the presence of the jury but out of the hearing of the jury.)

MR. CUMMINGS: Am I allowed to proceed, Your Honor?

THE COURT: You are.

MR. CUMMINGS: Thank you. And I state that to you because we are human. There is no infallibility within these courthouse walls. Ladies and gentlemen, are we seeking vengeance, are we seeking retribution by the death penalty? Are we seeking justice by asking that this young man be executed?

You have every legal right and every legal responsibility to consider both

punishments. If you don't believe in that, then everybody has failed in this room. It is easy to be locked in and not keep an open mind about anything. Nothing will bring Miss Martin back, that is an absolute fact, that is the only thing we know for certain in this room here.

I am not making light of that on behalf of Mr. Bowman, nor am I making light of any other issue. Because if you believe that Mr. Bowman's life should be taken for the life of Miss Martin, then that is your province. That means you have not shown him mercy as the statute says you can, or to listen to any mitigating factors because you choose not to. You choose to find the way you find in that jury room.

And, again, Her Honor will clearly tell you ladies and gentlemen of the jury that no one has the right to second-guess what you do. No one will ever come up to you and ask you why did you do this. You are not here to reward, you are not here strictly to punish, you are not here in this case to do anything other than justice. It just happens to be this time in this particular case that you are the people,

the 12 of you, that meter out the punishment that deems appropriate by any and all considerations you may give.

If you think that Mr. Bowman should meet his fate, you'll vote for that. There's nothing anybody else can do to stop you. If you believe there's mercy in any way here or any mitigating factor you may consider, I beg you as Mr. Bailey said I would, I beg you for this man's life.

I also say to you if you're so sure about these witnesses that you would vote to take another human being's life because it is so credible, or that there is no other issue of credibility as to these people, or that you've gotten everything that you wanted to hear enough to vote for this man's life, then so be it.

I've known Marion Bowman now for about 14 months. I've never been in his neighborhood, I don't know if he's ever been in mine. You hear different things from the correction officers who spent time with him. Mr. Badillo, nice, young, polite man and he wears a uniform. You take his words from Mr. Badillo. It's awful hard for those kids to come over here, testify

on that stand when they got other people in the same color uniforms working around the courtroom. They come in and tell you their -- what they see, what they do, how they act. If you believe that there's any chance that Mr. Badillo showed you some sort of human compassion on behalf of Mr. Bowman, I ask you and submit to you to consider that. Twenty-three hours a day locked up, one hour a day out. You heard from Sergeant Branch, you heard about one particular issue as we got close to court. You heard that was a disruption, not anything with violence.

Can he adapt to prison? Can any 20 year old, 21-year-old now person, who knows they're going to be looked away the rest of their life no matter what, do you think they have any reason to not act up, to not hurt somebody or do something? That didn't happen here. You got a kid over there and you got a duty to consider his age and mentality. His IQ is approximately 80, 81 from the evidence presented in here. You be the judge of that.

Is that an excuse? No. Is that anything for me trying to ask you under smoke and mirrors to try to get you to, oh, lessen the

fact that Miss Martin is gone? No. I'm just giving you a total package for you to consider and that's the job. Mr. Youngman tried to give you a total package for you to consider, because deep down inside everybody wants to ask the question, everybody wants to ask the question in here, what happened?

You know, unfortunately pursuant to issues and rules and regulations and other things, the course that control everything about this room, that issue is for you to determine and the answer to that question is for you to determine based on the facts and evidence as presented in this courtroom.

I'm going to ask something here that's probably going to anger my client at me. It's easy once you realize that the rest of your life is going to be behind bars to maybe want to consider, well, they might as well go ahead to vote and take my life anyway because I don't have a life. I'm locked up the rest of my life. If you look around the jury pool, the jury panel today, we have an age group from young to what I call a very young older person. Can you imagine spending from the years of the youngest person

on the jury until the oldest person on the jury behind bars? That's a life sentence without the possibility of parole. Or, on the other hand, come out of that bathroom closet as Mr. Aiken stated, the bathroom area, and meet the ultimate fate.

I'm going to ask you to do something, and this is not trickery or any lawyer -- everybody's got opinions about lawyers. I keep wondering why the heck we do this now. But you know we try to help. First people come to is a lawyer, they don't go to their doctor, they don't go to their accountant, they usually go to a lawyer. We try to help. Mr. Bailey helps on behalf of the State and I help on behalf of this human being charged with these crimes, charged with two crimes.

And that help is this. You ought to make Mr. Bowman for the remainder of his natural days, you remember that there are some people in this community that would show him mercy, you ought to make Mr. Bowman know that he's got to remember the memory of everything that happened in this courtroom until the remainder of his natural life in prison. You ought to make

Mr. Bowman remember the memory of Miss Martin until he closes his eyes some other way.

If you do not want him to do that, then vote to take his life. That's your province. I'm not asking you to do it. I'm saying to you, you can give him a death sentence without sentencing him to death. And that's the ironic part of this statute. That is the ironic part that we come before you and argue. You have the right to submit him to execution at some date, some time. Sign your name, all 12 of you, and that will happen if you find an aggravating factor. Or you will make him suffer.

Now, does that make it sound like a reward? Does that make it sound light? Does that make it equal to punishment that the State is seeking, the justice? You define justice, ladies and gentlemen, I've never been able to. And neither have most lawyers because sometimes you think you got a case or a defense, sometimes you think you don't, sometimes you think you got a great big lawsuit out here and the jury comes back and says defendant's verdict. And you go like, wow, 12 people tried and true, a jury of

his peers have said, no, you don't get anything.

How about in this case a jury of his peers, and that's what you are, folks, you are a jury of Mr. Bowman's peers. And if I offend you in any way, I apologize. We are who we are. We are now asked to sit in judgment of a fellow human being. It would be slight of me not to ask you to make this man suffer in a way that will send a message back from everything --

MR. BAILEY: Your Honor, I think you've ruled on that previously.

MR. CUMMINGS: I did not say anything other than send a message back of humanity. That's all. A message of humanity. I apologize, again, if I loose my train of thought. This is what we do in here. Is it that important? Is it that important that we have to have Mr. Bowman put to death? Will that do anything? Will that change anything today in this courtroom? Vengeance is mine. If you ever --

MR. BAILEY: Judge, may we approach, please?

THE COURT: Yes.

(Whereupon, a bench conference was held off the record in the presence of the

jury but out of the hearing of the jury.)

MR. CUMMINGS: You hold the punishment, you and you alone. I'm asking you to consider both. If you believe that everything that Mr. Hiram Johnson said was so credible, the woman was shot in the back of the head, and that he said Marion said I shot and killed her, I laughed, then so be it. If you believe Mr. Felder is too credible to say anything along that line.

And I'm going to where the aggravating factors are now, I'm not going back over the evidence, folks, the aggravating factors. Do any of these four stick? Do any of them have proof beyond a reasonable doubt? He's been charged with two crimes. This is piling on. This is now to get the death penalty verdict. Can you see it? Do you see kidnapping is a pretty serious crime, isn't it? I mean it's pretty darn serious you got to kidnap somebody. They got to know they're being kidnapped or look in the circumstances surrounding the activity, that is a kidnapping.

Is that it? Has that been proven to you beyond a reasonable doubt? If it has then so be it. If it has, then you will vote the way

that you will vote. If Mr. Bowman did not do that, don't vote just because it's something you think you should do. Please take your time, please consider every issue here. Proof beyond a reasonable doubt is our standard.

What was Miss Martin doing over at Frankie Martin's house? I don't know. Mr. Martin testified they were alone. Why is there an aggravating factor in here about criminal sexual conduct? Has anybody testified to you in here of nonconsensual relations between a human being and another human being? It doesn't matter whether Miss Martin who is shown in that picture, Mr. Bowman there as seated there happen to be friends.

That is not to anger you, that's not for me to anger you and I apologize. And I raised my voice for a moment to point something out and that is this: You've got to prove, the State has to prove to you folks there was nonconsensual sex. Other than that we just muddy up the water. Again, another reason to pile it on.

Robbery while armed with a deadly weapon. Has anybody testified about a robbery,

has anybody testified about that? Do you believe these witnesses that came before you and told you I'll tell you the truth, the whole truth and nothing but the truth, tell you everything? Well, you got a tape now to look at back there, too. And you have Mr. Felder again coming here again today on behalf of the defense.

If you believe, ladies and gentlemen, that there was a larceny of anything while armed with a deadly weapon, when did it occur? When could this criminal sexual conduct have occurred? If you take the testimony and any aspect of this, when could it have occurred? Did you not hear Mr. Felder a few moments ago come out here and say grabbed her by the ankles, pulled her back out and then he set the car on fire? Marion had to do it in order to get you to say everything that you would vote for today.

I'm asking you to consider inconsistencies and whether there's proof beyond a reasonable doubt as to these aggravating factors. I'm asking you today to go back. And are we so sure, beyond a reasonable doubt, that we would vote to take a human being's life? Is

there any inconsistencies, is there any gaps in the testimony, is there any reason today to cause any doubt to issue the ultimate penalty? That is the question. That begs the question in this room. If you say no, then so about it. Are we so sure? But when could this have happened, when did the criminal sexual conduct happen? Give me -- I don't mean me, give us date, time, place, who, what, when, where, how and why. Where is it?

The mere fact that they have been friends is not enough as an aggravating factor of criminal sexual conduct. The mere fact if you found, and you did find the other day, Miss Martin was shot by Mr. Bowman. You found that. You found that and you believe that. Do you think he then kidnapped her? Where was the kidnapping? You've got to look at everything.

Take the charge as Her Honor gives the law, I don't want to sit here get yelled at again, I'm sitting here asking you to look at everything that's presented to you as evidence, not what we think might be evidence. You have the right to consider what is the evidence, what is not the evidence, what was presented, what

was not presented to you. Her Honor's the boss on the evidence.

Ladies and gentlemen, if there's not an aggravating factor here the last thing is to ask you to show mercy. You cannot bring back the death penalty. You cannot consider just mere character alone to execute this young man. I ask you for understanding, not an excuse as to his conduct. I ask you will we ever really be able to understand any -- and these are just some headnotes, and I promise you I'm on the way down and away from this podium from you soon.

Before we vote for the ultimate penalty, before you take this young man's situation in your hands, do you think, do you feel, do you believe that his young age has anything to do with this? If not, so be it. Do you believe, do you feel that his mentality has anything to do with this? If so, I stipulate that to you.

If you believe that there is any reason to show mercy to this man, that is your province. If you believe in looking at the fact he has no significant history of prior criminal conviction involving use of violence against

another person, then I ask you and submit to you legally that burglary third degree is not a crime of violence. We don't like it, but we don't execute people for stealing property. We don't. I think we've gotten away from being barbaric as to the death penalty for anything other than the most horrific or the most serious crimes.

You need look at the death penalty and do not leave your common sense outside the door. If you look at the death penalty as you see it, that is what it's intended to do by the legislature, to give you options. Because we can't tell you what to do. We can only ask of you to do what is right and just. I ask each of you to look inside yourself and to make sure that you find the appropriate punishment. Is the victim impact issues in this area going to hurt, going to do anything? Yes, it hurts. It hurts the fact that Miss Martin has lost her life and is gone. Mr. Bowman's life is gone, it's just a question of how. Just a question of humanity and how.

We think often, and Mr. Aiken probably said it best, that prison is a dangerous place.

Prison is an appropriate punishment for Mr. Bowman because from 21 to whenever he closes his eyes is a death sentence. If you would just consider that and look at it in the totality of the circumstances I'm explaining to you. It is easy, ladies and gentlemen, please, to vote to take a human being's life when you hear how humans treat other humans. Has that ever stopped in this world? Has it ever stopped 'til today? Again, using your common sense, when there were public executions years ago back in the old days, I mean before we were even a country, there were kids pickpocketing crowds as they looked at the execution being carried out.

MR. BAILEY: It's getting off the record. I would object to that.

MR. CUMMINGS: I apologize, Judge, I'll come right back to the record.

You are, ladies and gentlemen, only going to vote on two things today and only two. I ask you today to consider both despite the fact that there is every reason in the world to want to set everything aside and just do what you've been asked to do by one side against the other. Please don't think that I'm standing up

here begging for this young man's life because you think it's my job. It's my job, but I believe it in it, too. I believe in Marion. I believe that Marion should be punished, I believe that Marion is in your hands. I believe that Marion as a 21-year-old man should remember --

MR. BAILEY: Your Honor, I hate to keep interrupting, but clearly he cannot express his personal beliefs in front of the jury.

MR. CUMMINGS: Ladies and gentlemen, I understand Her Honor's going to yell at me here in a moment and I will not use the word "I" anymore. And I apologize to you and there's the last "I." Mr. Bowman is in your hands. Mr. Bowman is a human being. Mr. Bowman has got this as his lawyer.

Perhaps if he had been wealthier I wouldn't be here, or this defense lawyer wouldn't be here, perhaps. Another day, another time, a better argument could have been made. Perhaps another day, another time somebody could have shown you something different than was shown to you. Perhaps another day, another time there could be Marion Bowman presented in a

different light to you. Perhaps another day, another time this young man despite all the things Mr. Youngman said about him, we could forget about that and just state you're right, that it's not the reason to kill Miss Martin, but we can just forget it and go right to the heart of the matter about voting for death or voting for life without the possibility of parole.

If you're looking for any connections in here, if you're looking for anything and if there's one break in the chain as to anything, you must with no one to promise, no one to reward, no one, you're not allowed to have sympathy, you're not allowed to have bias or prejudice come into this case.

Everybody has tried to do their best to present things to you for your consideration. All we can do is explain that Marion could adapt to a horrible situation. Yes, begging for life without the possibility of parole is what is being said to you right now. Begging to stop, begging to stop the thing. Is justice going to be served by taking his life? Is that justice?

All we can do is present the facts and

evidence that is given to us by the State and the evidence as allowed in the courtroom. I'm asking -- excuse me, on behalf of Mr. Bowman requesting to show mercy on his life. I'm asking on behalf of Mr. Bowman to have you consider both sentences. I have to state that by statute. I'm asking you on behalf of Mr. Bowman to spare his life.

Begging for his life is not just a job, begging for his life, for mercy, is not anything less than manhood or in light of the circumstances surrounding what happened. Begging for his life is the right thing to do. It's the only thing to do. Begging for his life to you sets aside the chances of bias, prejudice, or any other reason that came up in this courtroom to vote to take a human being's life away. Because as we all find out, as we all know, if you're not thought of, if you're not important enough, you don't matter. You just don't matter. I'm going to ask you to make it matter. I'm asking you to make Mr. Bowman matter.

Ladies and gentlemen, on behalf of Mr. Bowman, Ms. Thomas and I, I thank you for

the privilege and opportunity to appear before you and I ask you, again, mercy to spare my client's life. Thank you, Judge.

THE COURT: Thank you, Mr. Cummings.

MR. CUMMINGS: Ma'am, at this time could we take a short break?

THE COURT: Yes. Very well.

Ladies and gentlemen, I'm going to ask you to please step to your jury room. Do not discuss this matter and do not allow anyone to discuss it with you. Hold on one second. I'm checking on to see if your lunch has arrived.

I'll tell you what we're going to do, we're going to have a little bit of a change. Ladies and gentlemen, it's going to take me probably the better part of an hour to deliver the charge to you. And as a result of that what we're going to do is we're going to take our lunch break. What I would like for you to do is be mindful, of course, not to discuss this matter or allow anyone to discuss it with you because you've not heard the charge on the law. And then I want you to have your lunch and then when you've finished your lunch, and I bet some folks are going to want to smoke after you've

had your lunch, when you have concluded those two matters, lunch, smoke, I want you to let us know because then we will -- I will deliver the charge to you. But before you step out let me see counsel for just a moment.

(Whereupon, a bench conference was held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right, then. Ladies and gentlemen, step to your jury room, have your lunch. Thank you.

(Whereupon, the jury retires to the jury room at 12:53 p.m.)

THE COURT: All right. Prior to the closing arguments I had asked counsel for Mr. Bowman that in the event he wished to argue just to introduce him, if he did not wish to argue just to indicate to me that we needed to take a break. And Mr. Cummings has indicated to me that we needed to take a break so I take that to mean that Mr. Bowman has chosen not to make a final argument?

MR. CUMMINGS: Judge, I would like to have my client stand up for just a moment, please.

THE COURT: Certainly. Yes, sir,

Mr. Bowman. Mr. Bowman, as we talked about earlier you understand, of course, your right to make a closing argument?

MR. BOWMAN: Yes, ma'am.

THE COURT: And have you decided that you wish not to make a closing argument?

MR. BOWMAN: Yes, ma'am.

THE COURT: All right. And are you making that decision freely and voluntarily?

MR. BOWMAN: Yes, ma'am.

THE COURT: And you've discussed that with your attorneys?

MR. BOWMAN: Yes, ma'am.

THE COURT: Do you have any questions with me or your attorneys about your right to make closing argument?

MR. BOWMAN: No, ma'am.

THE COURT: All right. And you understand then that you have the right to make your closing argument and you wish not to?

MR. BOWMAN: Yes, ma'am.

THE COURT: And you're doing that freely, knowingly, and voluntarily?

MR. BOWMAN: Yes, ma'am.

THE COURT: Very well. Any questions on

behalf of the State for Mr. Bowman?

MR. BAILEY: Not from the State, Mr. Bowman.

MR. CUMMINGS: I don't have a question, but I would like to make a statement and ask my client to reconsider what he has just stated, Your Honor, because the ultimate penalty is present I would suggest and I would recommend to my client, again, that he stand before these good folks and have the right to ask them to spare his life. And I apologize, I'm not trying to cause any delay, I'm asking him to please reconsider that.

THE COURT: Delay is of no moment to this matter at all. You want to talk to him? Why don't you sit and talk to him.

MR. CUMMINGS: Yes, Judge, for a moment, please.

THE COURT: If you wish to change your mind, Mr. Bowman, you let me know.

(Mr. Cummings and Ms. Hardee-Thomas conferring with Mr. Bowman.)

THE COURT: All right, then. I think what we'll do is we're going to go ahead and take our break likewise for the lunch break and if he --

give you all an opportunity to talk outside the courtroom, it appears that that would be appropriate.

MR. CUMMINGS: Yes, ma'am.

THE COURT: I do need, though, before you do that to see counsel just for a moment regarding the charge.

(Lunch recess taken from 12:57 p.m. to 1:45 p.m.)

THE COURT: All right. Now, of course we've had the lunch break. And, counsel, have you had an opportunity, Mr. Cummings, Ms. Hardee-Thomas, to talk to Mr. Bowman?

MR. CUMMINGS: That is correct, Judge.

THE COURT: All right. And do you still wish to waive arguments?

MR. BOWMAN: Yes, ma'am.

THE COURT: Very well. And you're doing so freely, voluntarily, and knowingly?

MR. BOWMAN: Yes, ma'am.

THE COURT: Very well. Thank you. Let us have our jury.

(Whereupon, the jury returns to the courtroom at 1:46 p.m.)

THE COURT: Ladies and gentlemen, in your

seat there are a number of forms which we're going to talk about. They are actually organized, hopefully, in the order which we will go over them. I will ask you, though, to pay attention to me and don't read these forms at this time. You will have ample opportunity during the course of the charge to go over them. If you want to hold them that's perfectly fine, but I'll go over them with you one at a time, allow you an opportunity to get to those forms as we go through the charge. But I do need you to look only at the charge that we are talking about and to -- but before we go to any charges I would appreciate it if you would give me your undivided attention.

Madam Foreperson and members of the jury, it now becomes your duty to decide what sentence you will recommend that this Court impose upon the defendant, Mr. Marion Bowman, Jr. When I use the word "defendant" in these instructions, please know that I am referring to Mr. Marion Bowman, Jr.

There are two verdicts you are to consider in this case. One is the death penalty, which in this state is by electrocution

or lethal injection at the option of the defendant, and the other is life imprisonment without the possibility of parole. If you sentence the defendant to death, you must assume that the sentence will be carried out. If a recommendation of life imprisonment is made, the defendant will be sentenced to life imprisonment without the possibility of parole. Your sentencing recommendation will be followed by this Court.

The order in which I explain these two sentences is in no way a recommendation by this Court as to which sentence you should choose to recommend. It is simply that one must be stated first.

We're going to begin, and I'm holding up here the "Recommendation of Sentence Death Penalty," the death penalty form. It should be the first form that you have. By this recommendation of sentence form which I hold in my hand, you, the jury, may recommend that this Court sentence the defendant to death.

Please observe that immediately below the body of the recommendation there are 12 lines. This is where should you decide to

recommend the death penalty, each one of you would sign your name. It is the law in this state, Madam Foreperson and members of the jury, that a recommendation for imposition of the death penalty be a unanimous recommendation and that each and every juror sign his or her name to the recommendation form.

I will now read to you the text of this form. "We, the jury, in the above-entitled case, having found beyond a reasonable doubt the existence of the following statutory aggravating circumstance, or circumstances, to-wit:" At this point there is a place for you to write such circumstances about which I will instruct you further. And I quote "Now recommend to the Court that the defendant, Marion Bowman, Jr., be sentenced to death."

Now, for this recommendation to be made, that is that the defendant be sentenced to death, you must first find that a statutory aggravating circumstance existed beyond a reasonable doubt. What is a statutory aggravating circumstance? It is a fact, an incident, a detail, or an occurrence which the general assembly has declared by statute would

make worse; that is, aggravate the offense of murder when the two occur together. In other words, it is something that increases the enormity or adds to the injurious consequences of the offense.

Now, ladies and gentlemen, let me direct your attention to the next sheet which says "Statutory Instructions." Upon this sheet of paper which I hold in my hand are written the words "Statutory Instructions." You will have this paper in your jury room during your deliberations. The body of this form states, and I quote, "In determining whether to recommend that the defendant, Marion Bowman, Jr. be sentenced by the Court to life imprisonment or to death, you may consider the following statutory aggravating circumstances. (1) Murder was committed while in the commission of criminal sexual conduct. (2) Murder was committed while in the commission of kidnapping. (3) Murder was committed while in the commission of larceny with the use of a deadly weapon. And (4) Murder was committed while in the commission of robbery while armed with a deadly weapon.

Now, at this point, ladies and

gentlemen, we will put aside that sheet of paper and I will explain further to you those instructions and I will come back to this sheet momentarily. Let me emphasize to you that these are the only circumstances you may consider as aggravating circumstances. Let me say again that these four circumstances are the only circumstances you may consider as aggravating circumstances.

Should you find, and it must be a unanimous finding; that is, a finding by each and every one of you, should you find that the State has proven beyond a reasonable doubt the existence of one or more of the circumstances listed on this sheet of paper, then you would be authorized, which obviously means permitted, to consider recommending to this Court that the defendant be sentenced to death.

Now, what do I mean by the term "proven beyond a reasonable doubt"? Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the existence of one or more of the aggravating circumstances. There are few things in this world that we know with absolute certainly and in criminal cases the law

does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that an aggravating circumstance or aggravating circumstances exist, then you would be authorized, which is to say permitted, to consider recommending to this Court that the defendant be sentenced to death.

If, on the other hand, you think that no aggravating circumstance or aggravating circumstances exist, you should give him the benefit of the doubt and in such case you would make no recommendation of sentence if you find that no aggravating circumstance exists. The Court would then sentence the defendant under the law.

Let me say again if you find that no aggravating circumstances exist, then and in such occasion you could make no recommendation of sentence. The Court would then sentence the defendant under the law.

Now, please pay close attention to this. You are never required to recommend the death penalty even if you find that a statutory aggravating circumstance existed at the time the

offense occurred. However, if you find the existence of a statutory aggravating circumstance, please list that circumstance on the form entitled "Aggravating Circumstance" and all 12 will sign. That is this form. In that event, the jury simply lists the statutory aggravating circumstances that it found and there's a place there for each and every one of you to sign.

Now, Madam Foreperson and ladies and gentlemen, as you will recall the four statutory aggravating circumstances submitted to you for your consideration in this case are: Murder while in the commission of criminal sexual conduct, murder while in the commission of kidnapping, murder while in the commission of robbery with a deadly weapon which we call armed robbery, and murder while in the commission of larceny with the use of a deadly weapon.

First of all, criminal sexual conduct is defined as the defendant engaging in a sexual battery with the victim. Sexual battery is nonconsensual sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body

or of any object into the genital or anal openings of another person's body except when the intrusion is accomplished for medically recognized treatment or diagnostic purposes.

Next, kidnapping. Kidnapping is knowingly and unlawfully seizing, confining, inveigling, decoying, kidnapping, abducting, or carrying away another person without authority of law. To do a thing unlawfully is to do it willfully against the law. Knowingly means with knowledge, consciously, not accidentally. Seizing means to take hold of suddenly or forcibly. Confining means to limit, restrict, or enclose within bounds, imprison or shut or keep in. Inveigling means to lure, entice, or lead astray by false representations, promises, or other deceitful means. Decoying means to lure by or as if by decoy. A decoy is something to entice a person into a trip. Kidnapping is to remove a person against her will by unlawful force or by fraud, I should say his or her will by force or by fraud. Abducting means to carry off secretly or by force for an illegal purpose. Carrying away means to remove. Something done without authority of law is something which the

law does not sanction, permit, allow, condone, or provide justification for.

Next of all is robbery while armed with a deadly weapon or armed robbery. It is defined in our statute as a person who commits robbery while armed with a pistol or other deadly weapon.

Now, ladies and gentlemen, as you know robbery while armed with a deadly weapon includes larceny, robbery, and the imposition of a weapon. Larceny is the same thing as stealing. It means a wrongful taking into possession of somebody else's personal property. Secondly, it means the carrying away and the removal of that personal property, and finally it means the wrongful intent, the felonious intent to steal on the part of the taker so as to permanently deprive the owner of the use of that property. That's what larceny is.

Robbery is larceny from the person or in the presence of another either by using violence or by putting that person in fear of violence. Armed robbery takes all of those elements and adds the imposition of a deadly weapon into the equation.

So, robbery while armed with a deadly weapon includes all of the elements of larceny and robbery, and it also requires that one must have used a deadly weapon to establish the purpose of the robbery. Now, larceny while armed with a deadly weapon is that stealing, that felonious taking into possession of the personal property of another, the carrying away and removal of that personal property with the felonious intent to steal on the part of the taker so as to permanently deprive the owner of its use and to change it over to the taker's own use while armed with a deadly weapon.

So, you see that there is slight difference, but an important distinction between robbery while armed with a deadly weapon and larceny while armed with a deadly weapon. Larceny does not necessarily imply the use of violence or by putting a person in fear of violence, or by taking the property from the person or presence of another. Ladies and gentlemen, those are the elements of robbery while armed with a deadly weapon and larceny through the use of a deadly weapon.

I remind you again the person need not

be armed during the entire course of the taking. It is sufficient that if the person becomes armed at any point during the commission of the crime and before the property is taken away to satisfy the requirements of the statute.

Now, ladies and gentlemen, the law requires as I have indicated to you that the murder must have been committed while in the commission of one of those particular acts. So what do we mean by the terms "in the commission of"? If the crimes were committed, that is the crimes as already outlined, the criminal sexual conduct, kidnapping, larceny, the robbery while using a deadly weapon and the larceny while using a deadly weapon were committed after the murder, that does not necessarily invalidate them as aggravating circumstances.

If the crimes were consummated in a continuous series of acts along with the murder, or if they were committed in the same place and were not separated by any substantial lapse of time, that does not defeat them from being considered as aggravating circumstances for the purpose of the statute.

I instruct you further that should you

find the State has not proven that such a statutory, aggravating circumstance existed, that is to say you find that you still have a reasonable doubt as to the existence of such a circumstance, then you would not make a recommendation of sentence. The Court would then sentence the defendant under the law. Another definition of reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act.

Now, ladies and gentlemen, in the event that the jury found that there was no aggravating circumstance there is a form for that as well. And that form is entitled "Unanimous Finding of No Aggravating Circumstances." I'll give you a moment to get to that form.

Again, you would indicate that finding on the form which is entitled "No Finding of Aggravating Circumstances." And, again, the 12 of you would sign this form. If you are unable to unanimously agree on the existence of any aggravating circumstance, there is a form to indicate that event. If that is the event, then there is a form which says, "No Finding of

Aggravating Circumstances." And I'll allow you a moment to get to that form.

In the event that the jury is unable to unanimously agree on the existence of any aggravating circumstance, then the foreperson would simply sign this form, fill it out with the date, and we are in St. George in that event.

Now, should you find beyond a reasonable doubt that one of the aggravating circumstances listed on the sheet of statutory instructions existed at the time of the murder or during the commission of the crime of murder, and should you then decide after considering the elements in favor of a recommendation of life imprisonment about which I will instruct you later, that the recommendation of the jury is to be that the defendant be sentenced to death, then it would be your duty, madam foreperson, to write on the recommendation of this sentence form the statutory aggravating circumstance or circumstances which you have found. Again, I'm back to the first form that we looked at, the "Recommendation of Sentence Death Penalty."

Again, in the event that this is the

form utilized by the jury it is incumbent upon you, Madam Foreperson, to write the statutory aggravating circumstance or circumstances which the jury found. Then, Madam Foreperson, you and each and every juror would sign your names in the places provided. Of course, you would also put the place as well as the date.

Now, other facts about the defendant's background and record have been introduced by the State. I charge you that this evidence of these crimes, these other crimes, other acts, should not be considered as substantive evidence of aggravating circumstances. Should not be considered as substantive evidence of aggravating circumstances. But if you are convinced the defendant committed those crimes or any of them, you may consider them as evidence of his characteristics. These may be considered along with all of the other evidence and you may give them whatever weight you deem proper under the circumstances of this case.

However, under no circumstances may you consider those facts even if proven as evidence or proof of statutory aggravating circumstances. Those other facts, if proven,

may only be considered as evidence of the defendant's characteristics and given such significance as you determine they are entitled to receive. They are not proof of statutory aggravating circumstances and may not be considered as such.

Now, ladies and gentlemen, I'm holding out for you now the "Recommendation of Sentence Life Imprisonment." Give you a moment to get to that form. By this form which I hold in my hand, you, the jury, can recommend to this Court that the defendant be sentenced to life imprisonment. I will now read the text of this recommendation form. And I quote: "We, the jury, in the above-entitled case, recommend to the Court that the defendant, Marion Bowman, Jr. be sentenced to life imprisonment." Please note that although you must unanimously agree to recommend life imprisonment, only the foreperson is required to sign this recommendation form.

Ladies and gentlemen, that is the paperwork that you will be considering. But obviously this decision will not start on paper even though it may end there. The decision will come from within your hearts and your minds as

the result of your collective reasoning, thought, and deliberation that you will be entering into in just a few moments.

So, in that regard I want to give you some instructions about what you may consider in making your decision as to which sentence to recommend. Please, ladies and gentlemen, if you have the need to refer to these forms during these following instructions, do that, but do not become so immersed in those forms that you do not pay attention to what I'm about to tell you.

As I previously instructed, if you find the existence beyond a reasonable doubt of a statutory aggravating circumstance, then you are permitted, but not required, to recommend the death penalty. There are three conditions which you should consider in reaching your decision. First, whether the existence of a statutory mitigating circumstance was supported by the evidence; second, whether the existence of any other mitigating circumstance was supported by the evidence; and third, whether for any reason you can think of, or for no reason at all, the defendant should be sentenced

to life imprisonment.

What is a statutory mitigating circumstance? It is a fact, an incident, a detail, or an occurrence which the general assembly has declared by statute would reduce the severity of the offense of murder. In other words, it is a circumstance recognized by statute as one which in fairness and mercy may be considered as extenuating or as reducing the degree of moral culpability for the commission of the act of murder.

A mitigating circumstance is neither justification nor excuse for the murder, it simply lessens the degree of one's guilt, that is makes him or her less blameworthy or less culpable.

What statutory mitigating circumstance should you consider in this case? I'm now holding the statutory instructions. Once again, if you'll take a moment and get there. I refer once again to this sheet of paper entitled "Statutory Instructions." Immediately below the listing of statutory aggravating circumstances which I read to you earlier the text continues, and I quote: "You may also consider the

following statutory mitigating circumstances: (1) The defendant has no significant history of prior criminal convictions involving the use of violence against another person. (2) The age or mentality of the defendant at the time of the crime. And (3) Or any other mitigating factors that the jury may find. You may also consider any nonstatutory mitigating circumstances."

A nonstatutory mitigating circumstance is one which is not provided for by statute, but is one which the defendant claims serves the same purpose, that is to reduce the degree of his moral culpability or blame in the offense. While there must be some evidence which supports a finding by you that a statutory or nonstatutory mitigating circumstance exists, you need not find the existence of such a circumstance beyond a reasonable doubt. You may consider any mitigating circumstance supported by the evidence submitted, and you must determine whether the evidence exists and the significance to be given that evidence.

In reaching your decision as to which sentence to recommend, you will consider aggravating and mitigating circumstances. While

a statutory aggravating circumstance must be found before you can even consider recommending the death penalty, once such a finding is made beyond a reasonable doubt you may recommend the death sentence even though you find the existence of a statutory mitigating circumstance. In other words, the existence of an alleged statutory mitigating circumstance, an alleged nonstatutory mitigating circumstance or both, is not a bar to the imposition of the death penalty.

The third element you may consider if you should could conclude that a statutory aggravating circumstance exists is whether the defendant should be sentenced to life imprisonment for any reason, or for no reason at all. That is what has traditionally been referred to as a recommendation of mercy. And should such be your decision, if you would so indicate by returning to the Court the "Recommendation of Life Imprisonment" form which will be signed by the foreperson alone.

In other words, you may choose to recommend life imprisonment if you find a statutory or nonstatutory mitigating

circumstance, or you may choose to recommend life imprisonment as an act of mercy. In any instance, should you choose to recommend life imprisonment your decision must be a unanimous one and the foreperson alone would be required to sign the recommendation form.

Now, ladies and gentlemen, I instruct you and emphasize that the fact that the defendant chose not to testify is not a factor to be considered by you in any way in your deliberations and in your consideration on what sentence the defendant should receive. It must not be considered by you in any manner whatsoever. A defendant has the constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. I repeat, under your oath you are to draw no conclusion whatsoever from the fact that the defendant in this case did not testify.

The fact that this defendant did not testify should not even be discussed in the jury room. The burden of proof as I have stated to you is on the State. The defendant is not required to prove any innocence. The burden of

proof remains on the State to prove guilt, to prove aggravating circumstances beyond a reasonable doubt.

Now, ladies and gentlemen, in this case you've heard the testimony from persons who have been described as experts in certain fields. Our law allows persons who because of their education, and knowledge, experience, have become experts in certain fields and to state their opinions on matters in those fields and also to give their reasons for those opinions.

Expert opinion testimony, however, should be judged just like any other testimony. You can accept it or reject it, you can give it as much weight as you think it deserves considering the witness's education and experience and the reasons given for the opinions and all the other evidence in the case. Expert opinion is given for the purpose of helping you understand the evidence and not for the purpose of controlling your judgment.

Now, I will summarize what I have just told you. You will have in the jury room during your deliberations the following forms: The "Recommendation of Life Imprisonment" form, the

"Recommendation of Death Penalty" form, the "Statutory Instructions," the "Aggravating Circumstances," the "Unanimous Finding of No Aggravating Circumstances" form, and the form indicating that the jury could not reach a unanimous decision regarding aggravating circumstance. You will have those six forms.

The statutory instructions state the only aggravating circumstances you shall consider in this case, should you fail to find beyond a reasonable doubt that one of these circumstances existed at the time the murder was committed or that the crime was committed during the commission of, then you would go no further. You would make no recommendation and the Court would sentence the defendant according to the law.

Should you find beyond a reasonable doubt the existence of an aggravating circumstance or circumstances, you would then be authorized to consider recommending the death penalty. In your deliberations you will consider any statutory or nonstatutory mitigating circumstance, circumstances, which are supported by the evidence. You will

consider the aggravating circumstance or circumstances you found and the mitigating circumstances and you will then decide whether you will recommend the death penalty or life imprisonment without the possibility of parole.

You may also consider any other factor in mitigation of the offense. And you can recommend a sentence of life imprisonment for no reason at all. If you decide to recommend the death penalty, you will complete the proper form. You must write out the aggravating circumstance or circumstances that you found and all 12 jurors must sign the recommendation. Should you decide to recommend life imprisonment only the foreperson must sign the recommendation and no reason is to be given for your decision.

Whatever your recommendation is it must be a unanimous one, that is to say it must be the verdict of each and every juror. Your sentencing recommendation, ladies and gentlemen, will be followed by this Court.

In considering whether to recommend whether the defendant is to be sentenced to death or life imprisonment, I charge you that as jurors you must decide this issue involved in

this proceeding without bias and without prejudice to any party. You cannot allow yourselves to be governed by sympathy, by prejudice, by passion, by public opinion, or any other arbitrary factor. Both the State and Mr. Bowman have the right to expect that each of you will carefully and impartially consider all of the evidence in this case, and that you will follow the law as I have explained it to you.

At this time, ladies and gentlemen, I'm going to ask that our four alternate jurors just stand aside, stay here with us for a moment, as the rest of you retire to the jury room. However, just as before, do not begin your deliberations until I send word for you to do so. If I have stated something -- and as I told you before I'm simply going it turn to these attorneys, and if I have stated something incorrectly and I bring you back out, please allow me to correct my error in your minds. In the event that I need to bring you back out because I have failed to give you an instruction that you may need for your deliberations, please do not consider that instruction with any emphasis, just know this is my opportunity to

get this right.

Now, ladies and gentlemen, in the event that I do not need to bring you back out, then you will be brought the exhibits and the forms and an instruction at that time to begin your deliberations.

Ladies and gentlemen, as you vacate the courtroom I ask you to leave those forms, all of them, in your seats. And we will gather them. Thank you, ladies and gentlemen. If you will at this time please retire to your jury room. Do not discuss this matter, do not allow anyone to discuss it with you.

(Whereupon, the jury retires to the jury room at 2:29 p.m.)

THE COURT: Ms. Query, there you are, Ms. Kiner and Ms. McDougall and Ms. Torrance. At this moment I'm going to ask you to please step back into the other room in the back and we will be with you very shortly, remembering not to discuss this matter or allow anyone to discuss it with you.

(Whereupon, the alternate jurors exit the courtroom.)

THE COURT: Any additions or exceptions

from the State?

MR. BAILEY: None from the State, Your Honor.

THE COURT: From the defense?

MR. CUMMINGS: No additions or exceptions to Your Honor's charge, we thank Your Honor for the time and the graciousness you've shown. Thank you.

THE COURT: Counsel, if you will do this for me, if you will please look at the exhibits, look at the exhibits with our court reporter, if there's any question about exhibits bring it to my attention. And then I want you all to look at the original forms that will be going to the jury, also just to be sure that you all have seen them. All right. And we will be in recess then until we hear from our jury.

(Whereupon, the jury commences deliberation at 2:34 p.m.)

(Marked for purposes of the record was Court's Exhibit 40, jury question.)

THE COURT: The question from the jury is may the jury have written definitions of the aggravating circumstances of the larceny and robbery. And I would be inclined, since I'm not

giving them the charge in its entirety, I certainly am inclined, and will recharge them on larceny and robbery. Any objection?

MR. BAILEY: No objection, Your Honor. Just for clarification the State would request when you recharge them that -- and the pages aren't numbered where it says next of all robbery while armed with a deadly weapon.

THE COURT: Yes.

MR. BAILEY: That you start there and to continue down through the middle of the page where it finishes up the discussion of in the commission of. Since just charging robbery and larceny without the further instruction about the commission of is not going to be a complete charge on that statutory aggravating circumstance on either one of them, since the actual aggravating circumstance use the word in the commission of and it's all part of the same, same aggravator.

THE COURT: Yes.

MR. CUMMINGS: What I would ask, and I'll let Ms. Thomas speak for herself, is that, again, Your Honor, as you have done in the past here you start defining robbery, larceny, I

would ask you just please on behalf of Mr. Bowman if you would consider again telling them briefly they have to find it without a reasonable -- they have to find those things beyond a reasonable doubt. Just the mere fact that we're charging them does not mean they're there in your own words, ma'am, as you see fit and the fact that any -- really, Judge, I hate to say it, it's almost like I'm going to ask you to do the whole reasonable doubt charge and the statutory scheme of even if they find it they don't have to do it.

THE COURT: All right. What about that, add those two things? I would be adding in the commission of and I would be adding they must find them beyond a reasonable doubt.

MR. BAILEY: Beyond a reasonable doubt, that's right.

THE COURT: Very well. Very good.

MR. CUMMINGS: Thank you, Judge.

MR. BAILEY: Thank you, Your Honor.

THE COURT: Let's have the jury, please.

(Whereupon, the jury returns to the courtroom at 3:02 p.m.)

THE COURT: Ladies and gentlemen, I have

your note and have it here. And as I understand it the jury is in need of definitions of aggravating -- the aggravating circumstances of larceny and robbery. Since I was unable to separate and send the written instructions to you I am going to recharge them and I am happy to do that for you and I'm going to do that now.

Of course as you have asked and as I instructed, there are two aggravating circumstances, larceny while armed with a deadly weapon and robbery while armed with a deadly weapon. And of course aggravating must be proven beyond a reasonable doubt. And beyond a reasonable doubt is -- one of the definitions for beyond a reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act.

Now, ladies and gentlemen, robbery while armed with a deadly weapon includes larceny, robbery and the imposition of a weapon. So let me review. Robbery while armed with a deadly weapon includes larceny, robbery and the imposition of a weapon.

Larceny is the same thing as stealing. It means a wrongful taking into possession of

someone else's personal property. Secondly, it means the carrying away and the removal of that personal property. Finally, it means the wrongful intent, the felonious intent to steal on the part of the taker so as to permanently deprive the owner of the use of that property. That's what larceny is.

Robbery is a larceny from the person or in the presence of another person either by using violence or by putting that person in fear of violence. Armed robbery takes all of those elements and adds the imposition of a deadly weapon into the equation.

So robbery while armed with a deadly weapon includes all of the elements of larceny and robbery, and it also requires that one must have used a deadly weapon to establish the purpose of the robbery.

Now, larceny while armed with a deadly weapon is that stealing, that felonious taking into possession of the personal property of another, the carrying away and removal of that personal property with the felonious intent to steal on the part of the taker so as to permanently deprive the owner of its use, and to

change it over to the taker's own use while armed with a deadly weapon.

So, you see, that there is a slight but important difference and distinction between robbery while armed with a deadly weapon and larceny while armed with a deadly weapon. Larceny does not necessarily imply the use of violence, or by putting a person in fear of violence, or by taking the property of the person or presence of another. Ladies and gentlemen, those are the elements of robbery while armed with a deadly weapon and larceny through the use of a deadly weapon.

Now, I remind you again that the person need not be armed during the entire course of the taking. It is sufficient that if the person becomes armed at any point during the commission of the crime and before the property is taken away to satisfy the requirements of the statute.

Now, ladies and gentlemen, the law requires as I have indicated to you, that the murder must have been committed while in the commission of one of those particular acts. So what do we mean by terms in the commission of?

If the crimes were committed, that is the crimes as already outlined, the criminal sexual conduct, kidnapping, larceny while armed with a deadly weapon and robbery while armed with a deadly weapon, were committed after the murder that does not necessarily invalidate them as aggravating circumstances. If the crimes were consummated in a continuous series of acts along with the murder, or if they were committed in the same place and were not separated by any substantial lapse of time, that does not defeat them being considered as aggravating circumstances for the purpose of the statute.

I believe that that concludes the charge on robbery and larceny as you have requested both of them, of course by using a deadly weapon, and at this time I will ask you to please return to your jury room and continue your deliberations. Thank you.

(Whereupon, the jury retires to the jury room to continue their deliberations at 3:08 p.m.)

THE COURT: Thank you. Anything from the State?

MR. BAILEY: No, ma'am.

THE COURT: Anything from the defense?

MR. CUMMINGS: Judge, this may be just asking more preaching to the choir, but the next paragraph where you finished for the purposes of the statute, "I instruct you further that should you find the State has not proven that such a statutory aggravating circumstance existed, that is to say you find that you still have a reasonable doubt as to the existence of such a circumstance, then you would not make a recommendation of sentence."

And the only reason why, Judge, I know you politely stated reasonable doubt at the beginning and I would ask Your Honor as we've always done in every charge at the end, Your Honor, we usually come back and state reasonable doubt to the jury again if you so find, ma'am. That's the only thing the defense would add.

THE COURT: All right. I'll do that. Ask them to step back in.

MR. BAILEY: Your Honor, I'm sorry.

THE COURT: Yes.

MR. BAILEY: If you're going to recharge on reasonable doubt I would request the part of the state -- you did give the hesitate to act, but if you would go into the firmly convinced aspect

of it as well.

THE COURT: I understand. You want the other reasonable doubt?

MR. BAILEY: If you're going to continue to charge on reasonable doubt, yes, ma'am.

THE COURT: I will.

MR. BAILEY: Thank you.

THE COURT: Now let me have them.

(Whereupon, the jury returns to the courtroom at 3:10 p.m.)

THE COURT: Ladies and gentlemen, I would add to that which I just recharged you the following: And also previously I defined beyond a reasonable doubt as the kind of doubt that would cause a reasonable person to hesitate to act. The kind of doubt that would cause a reasonable person to hesitate to act.

I also would further define beyond a reasonable doubt as being proof that leaves you firmly convinced of the existence of one or more of the aggravating circumstances. Of course there are few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your

consideration of the evidence, you are firmly convinced that an aggravating circumstance or circumstances exist, then you would be, of course, permitted to consider recommending to this Court the defendant be sentenced to death. On the other hand, if you think that no aggravating circumstance exists you must give Mr. Bowman the benefit of the doubt and in such a case would make no recommendation of sentence and the Court would then sentence the defendant under the law.

And, again, I instrudt you that should you find the State has not proven that such a statutory aggravating circumstance existed, that you still have a reasonable doubt as to an existence or the existence of a circumstance, then you would not make a recommendation of sentence, that the Court would then sentence Mr. Bowman, the defendant, under the law.

Now you may retire and continue your deliberations.

(Whereupon, the jury retires to the jury room to continue deliberations at 3:12 p.m.)

THE COURT: All right. Anything further from the State?

MR. BAILEY: Nothing from the State, Your Honor.

THE COURT: And from the defense?

MR. CUMMINGS: Nothing else, Judge. And thank you, ma'am.

THE COURT: Thank you. We'll be in recess again until we hear from our jury.

(Recess.)

MR. CUMMINGS: Thank you, Judge.

THE COURT: All right. I understand that the jury has reached its decision. Is there anything before we bring the jury out from the State?

MR. BAILEY: Nothing from the State, Your Honor.

THE COURT: From the defense?

MS. HARDEE-THOMAS: Nothing from the defense, Your Honor.

THE COURT: Very well. Let us have the jury.

(Whereupon, the jury returns to open court to report its verdict at 4:43 p.m.)

THE CLERK: Ladies and gentlemen of the jury, have you agreed upon a verdict?

THE PRESIDING JUROR: Yes, ma'am.

THE CLERK: Thank you.

THE COURT: All right. I have reviewed the verdict of the jury and find that the verdict upon review of it is in due form and would note for the record that the jury has used two forms, that the jury has used the "Aggravating Circumstances" form and has filled in the aggravating circumstances on the "Aggravating Circumstances" form. It is the same as the other form which I will publish and I will do that now.

State of South Carolina, County of Dorchester, in the Court of General Sessions, indictment 01-GS-18-348, we, the jury, in the above-entitled case, having found beyond a reasonable doubt the existence of the following statutory aggravating circumstances, to-wit: Murder was committed while in the commission of kidnapping, murder was committed while in the commission of larceny with the use of a deadly weapon, now recommend to the Court that the defendant, Marion Bowman, Jr. be sentenced to death. Signed by the foreperson, Ms., I believe it's Lianne Luisi, and the other signatures likewise here attached.

Let my have a list of the jurors. Each of the jurors has signed this verdict form. If this is your verdict and remains your verdict, please indicate by raising your right hand. I find that all jurors' right hands are raised. You may put your hands down.

Ms. Graham, if you would please poll the jury.

THE CLERK: Yes, ma'am.

BY THE CLERK:

Q. As I call your name, please stand. George Young, Jr. Was this your verdict?

A. Yes, ma'am.

Q. And is it still your verdict?

A. Yes, ma'am.

Q. Leo Sullivan, Jr. Was this your verdict?

A. Yes, ma'am.

Q. And is it still your verdict?

A. Yes, ma'am.

Q. Gene Davis. Was this your verdict?

A. Yes, ma'am.

Q. And is it still your verdict?

A. Yes, ma'am.

Q. Lorraine Pringle. Was this your verdict?

A. Yes, ma'am.

Q. And is it still your verdict?
A. Yes, ma'am.
Q. Richard Perez. Was this your verdict?
A. Yes, ma'am.
Q. And is it still your verdict?
A. Yes, ma'am.
Q. Andre Porcher. Was this your verdict?
A. Yes, ma'am.
Q. And is it still your verdict?
A. Yes, ma'am.
Q. Eric Lowery. Was that your verdict?
A. Yes, ma'am.
Q. And is it still your verdict?
A. Yes, ma'am.
Q. Kathleen McPartlin. Was this your verdict?
A. Yes, ma'am.
Q. And is it still your verdict?
A. Yes, ma'am.
Q. Tamra Tyndell. Was this your verdict?
A. Yes, ma'am.
Q. And is it still your verdict?
A. Yes, ma'am.
Q. Margaret Washington. Was this your verdict?
A. Yes, ma'am.
Q. And is it still your verdict?

A. Yes, ma'am.
Q. Raymond Dejong. Was this your verdict?
A. Yes, ma'am.
Q. And is it still your verdict?
A. Yes, ma'am.
Q. Lianne Luisi. Was this your verdict?
A. Yes, ma'am.
Q. And is it still your verdict?
A. Yes, ma'am.

THE CLERK: Yes, ma'am.

THE COURT: I find inasmuch as the jurors have signed the "Aggravating Circumstances" verdict form, each of them, that it is not necessary that they be polled as to the aggravating circumstances and they, therefore, have now been polled with regards to the verdict.

Now, is there anything further from the State before we dismiss the jury?

MR. BAILEY: Not from the State, Your Honor.

THE COURT: From the defense?

MR. CUMMINGS: Not before the dismissal of the jury.

THE COURT: Not before the dismissal of the

jury. I know that I have my four alternates over here. And I want to speak to all of you, so please be seated, and I don't want to be doing this, so if you all will rejoin your jury over here for the purposes of being dismissed.

Now, ladies and gentlemen, I know that you are in no humor to hear anything further from me. You have listened patiently throughout this trial, but I would be remiss if I did not tell you before I let you go the expressions that we feel for the quality of your services throughout this long and diffidult process.

I never commend jurors for their verdicts and decisions, nor do I condemn them. I simply comment upon the quality of service that you render. You have been attentive, you have been deliberate, you have done everything, everything that we could have asked you to do. Thank you is entirely too inadequate an expression for us to stress to you how we feel about all that we have put you through over this past now ten days.

We had to expose you to a side of human suffering and human existence that you perhaps have never been exposed to before. We

have brought you from the relative securities of your homes and your families and we have brought you into a world of violence and loss and tragedy to all who have been involved. We send you back to your homes now, thankfully at long last, after what seems to you I am sure like an eternity.

I also know that we send you back changed. You don't go back the same way you were when you came. You will necessarily carry memories with you of this some -- particularly this week for some time to come. I will imagine that much of this will remain with you for a very long time. Some of what you have seen and heard throughout this trial will perhaps be emblazoned on your subconscious for a time immemorial.

We are sorry that we had to expose you to these sorts of things, but unfortunately it is a part of the world that we live in and a part of the world that we from time to time have to expose good, hard working, law abiding people like you to. It will always be necessary, ladies and gentlemen, in cases like this for people like you who don't know anything about

the issues that are involved and the people who are involved to leave your homes and your businesses and come into a courtroom like this and make difficult decisions like you have been called upon to make.

You, ladies and gentlemen, are the essential ingredients of this system. Without you our system does not work. You may feel that we have made an unreasonable imposition into your time and into your lives and into your emotions. And we probably have, but it has been the type of imposition that we have to make if our system of justice is going to continue.

If you ever find yourself involved in this process either as one who is charged with an offense or as one who is a victim of an offense, when you sit at the tables that you see out here before you and look towards the jury box that you have an interest in, you are going to hope that there are going to be jurors sitting in that box just like you, responsible people, people would have made sacrifices to come and who make a sacrifice in your service, who make a sacrifice of your time and of the economy of what we've taken you from and to make

a sacrifice of your emotions and of your very being in order to do what you have been asked to do.

You don't want to look over in that jury box and find 12 people that we've scraped up off the street who didn't have anything better to do than to come into court and try your case. So it will be not for you perhaps in the future, but for other people like you who will be asked to render the same type of service that you have been asked to render.

You have been asked to sit in judgment of a fellow human being. Very few people are ever asked to have to make that type of decision. I don't have to remind you of that, you have been agonizing over it. You have been thinking about it even before you had to do that and now you have done that.

But I tell you again, ladies and gentlemen, you have done all that you could have been asked to do and you have done it well. You have satisfied the oath that you took before this trial ever began to well and truly try this case, and a true verdict render, according to the law and the evidence. You need to answer to

nobody for the decision which you have made. You are free to discuss it with anyone that you want to, if you want to. If somebody contacts you about it and if you choose to discuss it with them, you have every right to do that. But at the same time if you choose to stop those discussions or not even to engage in them to begin with, just tell those people or that person that you lived with this case for as long as you intend to live with it and you don't want to discuss it with them anymore. If they continue in their efforts to talk with you after you have made that plain to them, I simply want you to find out who they are and report that person to the Dorchester County Clerk of Court.

Before you leave here today you will have a sheet of paper that has these instructions, or this portion of these instructions and the name and the number of the clerk of court. She will contact, and she will know where I am and contact me in the event that my intervention is needed. I doubt that you will be contacted in that regard, at least to the point that anybody will continue to ask you questions after you have made it plain to them

that you don't want to be heard. But if that should happen, I want you to know that you have some recourse in this regard.

Ladies and gentlemen, as I said, I don't commend or condemn jurors for the decisions that they make. I make no comment upon your decision other than to tell you that it is supported by the law and by the evidence. You have struggled with the sentence and I appreciate that.

I can also tell you now that you need only answer to your conscience for what you have done. I have sat through this entire trial as you have and have indeed heard parts of it that you have not. I can tell you, ladies and gentlemen, you need have no fear from your conscience for the decisions that you have made.

Your custodians in a moment are going to take you back to your very temporary home and return you to the relative bliss of your families and your homes. I hope that somehow or another through your exposure to this very difficult part of the system that you take with it, as hard as it has been on you, a greater appreciation of the protections that are built

into our society for everyone and for the criminal justice system that you have been an important part of for these past many days, and of the importance of people like you to continue to involve themselves in this process.

I have yet the matter of sentencing to deal with. Ladies and gentlemen, you are free to remain if you would like to, but you certainly do not have to. If you would like to leave at this time, I'm going to ask Ms. Graham to stand to take -- you may do that now. And to distribute with you a sheet discussing what we just -- what I just discussed with you about discussing this matter and the number to call in the event that you need to.

Once you have received your sheet, if you wish to remain, stay where you are, that's perfectly fine, otherwise you certainly are free to leave. You can step out back if you wish and into the jury room.

(Whereupon, the jury is excused at 5:01 p.m.)

THE COURT: All right. Are there any motions at this time?

MR. CUMMINGS: May it please the Court, Judge. I'll make sure Ms. Thomas backs me up if

I appear to momentarily....

THE COURT: Yes, sir.

MR. CUMMINGS: Your Honor, the first one, of course, our Supreme Court asks you to make, Your Honor, on behalf of Mr. Bowman is for a new trial, Your Honor. You've heard all the evidence, you've heard everything, the jury has now spoken, Your Honor, I can never as an officer of the Court challenge as the jury has spoken, nor on behalf of Mr. Bowman we are doing that, we are moving for a new trial based on evidentiary matters, objections during trial, pretrial matters, Your Honor, and a posttrial matter to move for a new trial, Your Honor, based on all the issues that you've been presented with and preserve that issue for Mr. Bowman for any appeal that may be necessary to the Supreme Court, Your Honor.

Judge, also, and this is one I would ask for a little time to argue if I may.

THE COURT: Yes, sir.

MR. CUMMINGS: Again, Your Honor, they asked if you would please direct a sentence without the possibility of parole based on the fact that the jury, again, with the highest

respect and the highest compliment to this jury who sat ten days of working with us and putting up with at least myself, that Your Honor direct a sentence of life without the possibility of parole because a jury could not or should not have reached the decision it reached about sentencing this young man to death based on the fact that there were not sufficient proof beyond a reasonable doubt as to any aggravating factors, Your Honor. And I know you have to rule on that, respectfully.

THE COURT: Yes, sir.

MR. CUMMINGS: Further, ma'am, Your Honor, that setting aside the sentence of death, again with the highest respect to the jury here, Your Honor, the jury's decision was reached as a result of bias, prejudice, or capriciousness, or from some other reason other than the evidence that was established here in this case, Your Honor, respectfully.

THE COURT: And of course you renew all your other previous motions and objections.

MR. CUMMINGS: Absolutely, Judge, and every other motion in every hearing, respectfully.

THE COURT: Go ahead and take a minute and

confer.

MS. HARDEE-THOMAS: Your Honor, I concur with Mr. Cummings at this point.

THE COURT: Very well. I note your motions, I respectfully deny them. In doing my rulings I have made throughout this trial in the course of this trial in response to those motions as they have been made, I find that these were certainly facts well within the jury's purview and simply renew the rulings that I have made throughout this trial.

Is there anything further from the State on the matter of sentencing before we proceed to that?

MR. BAILEY: Nothing from the State, Your Honor.

MR. CUMMINGS: Judge, if I may, and I don't mean to be anything other than polite.

THE COURT: Yes, sir.

MR. CUMMINGS: Your Honor, would you please allow us some time? It's five o'clock in the afternoon now, I know this is going to be a very impactful thing on behalf of Ms. Thomas and I, that we at least preserve the right to supplement any motion in writing to you that you

may deem appropriate after this case, and of course to serve Mr. Bailey so that we not lose the right to supplement any motion in the middle of this. I have missed that on behalf of my client.

THE COURT: I'm happy for you to supplement them, Mr. Cummings. Anything about that supplementation that you think would keep me from proceeding to sentence at this time?

MR. CUMMINGS: Not at this time, Judge.

THE COURT: Very well.

MR. CUMMINGS: Judge I don't know of anything else off the top of my head, Judge, but I wanted to at least preserve that right, to at least seek that if the Court would find, Your Honor.

THE COURT: Any objection to that, Mr. Bailey?

MR. BAILEY: None from the State, Your Honor.

THE COURT: Very well. All right. Mr. Bowman, I am happy to hear from you anything that you would like to tell me before I pass sentence on you?

MR. CUMMINGS: If you want to speak now,

son, this is it, there's nothing else that can happen here.

MR. BOWMAN: No.

THE COURT: Very well. As the trial judge in this case and prior to the imposition of the sentence of the death upon the defendant, Marion Bowman, Jr. I find as an affirmative fact that the evidence in this case warrants the imposition of death penalty and that its imposition is not a result of prejudice, passion, or any other arbitrary factor.

Mr. Bowman, you have previously been found by a jury to be guilty of the offense of murder. The jury in this proceeding has recommended that I sentence you to death. It is therefore the judgment, the law, and the sentence of the Court that the defendant, Marion Bowman, Jr. be taken to the South Carolina Department of Corrections henceforth, to be kept in close and safe confinement until the 22nd day of July, 2002 upon which day between the hours of six o'clock a.m. and six o'clock p.m. the defendant, Marion Bowman, Jr. shall suffer death in the manner provided by law. And may God have mercy on your sole.

Thank you, ladies and gentlemen. I can add knowing further to these proceedings. The jury has spoken and the law has been complied with thus far. Court is now --

MR. BAILEY: Your Honor, may we approach briefly before Mr. Bowman's removed?

THE COURT: Indeed, yes.

MR. CUMMINGS: There's a second indictment, I believe.

THE COURT: Indeed. Have them bring him back. And with regards to the arson third degree the sentence of the Court would be ten years, Department of Corrections. Very well.

MS. HARDEE-THOMAS: Thank you, Your Honor.

MR. BAILEY: Thank you, Your Honor.

THE COURT: All right.

(Whereupon, the proceedings were concluded at 5:08 p.m.)

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STATE OF SOUTH CAROLINA)
: C E R T I F I C A T E
COUNTY OF DORCHESTER)

I, Robin L. Keil, Registered Merit Reporter and First Judicial Circuit Court Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or 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 this the 19th day of September 2003.

Robin L. Keil

Robin L. Keil, RMR
Resident Court Reporter
First Judicial Circuit

COPY

STATE OF SOUTH CAROLINA]	IN THE
]	COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER]	
]	CASE NOS.: 2001-GS-18-0348,
]	2001-GS-18-0349
STATE OF SOUTH CAROLINA]	
]	
VERSUS]	TRANSCRIPT OF RECORD
]	
MARION BOWMAN, JR.,]	
]	
DEFENDANT.]	

APRIL 5, 2002
ST. GEORGE, SOUTH CAROLINA

B E F O R E:

HONORABLE DIANE S. GOODSTEIN, JUDGE.

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

WALTER M. BAILEY, JR.
SOLICITOR, 1ST JUDICIAL CIRCUIT
ATTORNEY FOR THE STATE

NORBERT E. CUMMINGS, JR., ESQUIRE
MARVA A. HARDEE-THOMAS, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

CAROL L. LeFEBVRE
COURT REPORTER

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THE BAILIFF: ALL RISE.

THE COURT: THANK YOU VERY MUCH, EVERYONE. PLEASE BE SEATED.

GOOD MORNING, EVERYONE. IT IS MY UNDERSTANDING THAT THE PURPOSE OF OUR BEING HERE TODAY IS FOR THE JACKSON VERSUS DENNO HEARINGS, AS THEY ARE KNOWN, IN THE MATTER OF STATE VERSUS MR. MARION BOWMAN. AND MR. BOWMAN, OF COURSE, IS PRESENT WITH US IN THE COURTROOM.

GOOD MORNING.

MR. BOWMAN: HOW YOU DOING, MA'AM?

THE COURT: AND ANYTHING BEFORE WE BEGIN?

MR. BAILEY: NOTHING FROM THE STATE, YOUR HONOR.

THE COURT: THANK YOU.

MR. CUMMINGS: JUDGE, WE WOULD JUST ASK THAT DURING THIS CRITICAL STAGE OF THE PROCEEDINGS, AFTER TALKING WITH CO-COUNSEL, ASK THAT THERE BE A MOTION TO SEQUESTER THE STATE'S WITNESSES, INCLUDING ANY WITNESSES THAT WE HAVE, DURING THE PENDENCY OF THE JACKSON V. DENNO HEARING SINCE EVERYTHING IS GOING TO BE VERY WELL INTRICATED WITH EACH OTHER.

THE COURT: ALL RIGHT, WHAT ABOUT THAT, MR. BAILEY?

MR. BAILEY: YOUR HONOR, WE HAVE NO OBJECTION.

I WOULD LIKE SERGEANT COKER COULD BE PRESENT THROUGHOUT. HE IS THE CASE OFFICER.

THE COURT: HE IS THE CASE OFFICER: WHAT OF THAT, MR.

CUMMINGS?

MR. CUMMINGS: YES, MA'AM. THE ONLY LEGAL OBJECTION I WOULD HAVE TO THAT WOULD BE THAT HE IS ALSO A GENTLEMAN WHO HAS TAKEN INTEGRAL PARTS OF THIS STATEMENT PROCEDURE. I UNDERSTAND THAT OUR CASE RULING, THAT THE CASE OFFICER NORMALLY CAN BE IN DURING ALL PROCEEDINGS, BUT I WOULD STATE, RESPECTFULLY, OUR OBJECTION ON THE RECORD, STATING THAT HE WOULD BE A VERY INTEGRAL PART OF THE JACKSON VERSUS DENNO HEARING, MA'AM.

THE COURT: I CERTAINLY WILL ALLOW THE SOLICITOR TO HAVE HIS CASE AGENT PRESENT WITH HIM OVER THE OBJECTION OF THE DEFENSE. VERY WELL THEN.

DO YOU WANT TO TAKE A MOMENT AND ASK THESE GENTLEMEN TO ...

MR. BAILEY: YES.

THE COURT: Y'ALL COME ON BACK THIS WAY.

(THE WITNESSES NOW LEAVE THE COURTROOM.)

MR. BAILEY: MR. VAN DORAN IS MY FIRST WITNESS.

THE COURT: GREAT. ALL RIGHT.

MR. BAILEY: YOUR HONOR, JUST SO YOU AND DEFENSE WILL KNOW WHAT I'M PLANNING ON DOING HERE, THERE WERE A SERIES OF STATEMENTS OVER SEVERAL DAYS, AND IN ORDER TO KEEP THIS IN A CHRONOLOGICAL SEQUENCE WHAT I PLAN ON DOING IS JUST CALLING AND RECALLING WITNESSES. THERE MAY BE PEOPLE TESTIFY THREE TIMES, BUT DIFFERENT TIMES AND DIFFERENT DATES, JUST TO KEEP

IT IN ORDER.

THE COURT: IN OTHER WORDS, YOUR INTENTION IS TO HANDLE YOUR WITNESSES PER STATEMENT.

MR. BAILEY: AS CLOSE AS I CAN IN CHRONOLOGICAL ORDER.

NOW, THERE ARE A COUPLE OF PEOPLE THAT ARE NOT HERE: SHERIFF LARRY WILLIAMS AND AGENT HELMS FROM SLED. I DON'T THINK WE'LL REACH THEM BUT IF WE DO REACH THEM, I MAY SKIP THEM AND COME BACK. BUT OTHER THAN THAT, I WOULD PLAN TO KEEP IT IN CHRONOLOGICAL ORDER.

THE COURT: GREAT. VERY WELL. THANK YOU.

MR. CUMMINGS: ABSOLUTELY, JUDGE. AND WE HAD TALKED ABOUT THAT AND I APPRECIATE THAT.

THE COURT: VERY WELL. THANK YOU. THANK YOU BOTH.

ALL RIGHT THEN, IF YOU'D CALL YOUR FIRST WITNESS.

MR. BAILEY: TERRY VAN DORAN.

THE COURT: ALL RIGHT, MR. VAN DORAN, IF YOU WOULD COME AROUND, PLEASE, AND BE SWORN.

(TERRENCE ARNOLD VAN DORAN, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE COURT: VERY WELL. AND IF YOU WOULD PLEASE BE SEATED AND WHEN YOU ARE SEATED YOU WOULD STATE YOUR FULL NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

MR. VAN DORAN: TERRENCE ARNOLD VAN DORAN, V-A-N D-O-R-A-N.

THE COURT: YOUR WITNESS, MR. BAILEY.

MR. BAILEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION BY MR. BAILEY:

Q MR. VAN DORAN, YOU'RE A DETECTIVE WITH THE DORCHESTER COUNTY SHERIFF'S OFFICE; IS THAT CORRECT?

A YES, SIR, I AM.

Q ALL RIGHT, SIR. AND CALLING YOUR ATTENTION TO FEBRUARY OF 2000 (SIC), WERE YOU EMPLOYED AS A DEPUTY -- A DETECTIVE AT THE DORCHESTER COUNTY SHERIFF'S OFFICE AT THAT TIME ALSO?

A YES, SIR.

Q ALL RIGHT, SIR. I WANT TO CALL YOUR ATTENTION TO ABOUT 4:00 A.M. ON FEBRUARY 17TH, 2001, AND ASK WHETHER OR NOT YOU WERE DISPATCHED TO NURSERY ROAD NEAR REEVESVILLE? A YES, SIR, I WAS. I WAS AWOKE BY A PHONE CALL AND DISPATCHED TO THAT AREA.

Q OKAY. AND JUST VERY BRIEFLY, WHAT WAS AT THAT LOCATION?

A WHEN I ARRIVED THERE WERE NUMEROUS EMERGENCY VEHICLES PRESENT. AS I APPROACHED, I MET WITH LIEUTENANT NETTLES, MAJOR TURNER, SERGEANT COKER, AND OTHER DEPUTIES. I WAS INFORMED THAT THERE WAS A VEHICLE THAT WAS ON FIRE AND THAT THERE WAS A PERSON IN THE TRUNK OF THE VEHICLE.

Q ALL RIGHT, SIR. AND WOULD YOU STATE WHETHER OR NOT DURING THE COURSE OF THAT INVESTIGATION INTO THE BURNING OF THE VEHICLE THAT WAS LOCATED IN THAT LOCATION, WAS THERE A BODY IN THE VEHICLE?

A THAT'S MY UNDERSTANDING AT THAT TIME, YES, SIR.
Q ALL RIGHT, SIR. AND WOULD YOU STATE WHETHER OR NOT THE DEFENDANT IN THIS CASE, MARION BOWMAN, WAS DEVELOPED AS A SUSPECT DURING THE COURSE OF THE INVESTIGATION?
A YES, SIR.
Q ALL RIGHT, SIR. AND TO YOUR KNOWLEDGE, WAS THERE AN UNRELATED ORANGEBURG COUNTY WARRANT OUTSTANDING FOR MR. BOWMAN'S ARREST?
A YES, SIR. WE LEARNED THAT AFTER REPORTING TO BRANCHVILLE AND SPEAKING TO THE CHIEF IN BRANCHVILLE.
Q OKAY. AND I WOULD ASK YOU TO STATE WHETHER OR NOT YOU AND CERTAIN ORANGEBURG COUNTY LAW ENFORCEMENT OFFICERS WENT TO [redacted] IN BRANCHVILLE FOR THE PURPOSE OF SERVING THAT WARRANT?
A YES, SIR, THAT'S CORRECT.
Q AND BRANCHVILLE IS LOCATED IN ORANGEBURG COUNTY; IS THAT CORRECT?
A THAT'S CORRECT, SIR.
Q NOW, BACKING UP TO THE SCENE WHERE YOU OBSERVED THE BURNED CAR AND THE INVESTIGATION SHOWED THERE WAS A BODY THERE, WAS THAT IN DORCHESTER COUNTY?
A IT WAS IN DORCHESTER COUNTY, YES, SIR.
Q ALL RIGHT, SIR. AND DID YOU GO TO [redacted] IN BRANCHVILLE?
A I DID, SIR.

Q ALL RIGHT, SIR. AND WOULD YOU STATE WHETHER OR NOT THE DEFENDANT, MARION BOWMAN, JR., WAS PRESENT AT THAT ADDRESS?
A HE WAS LOCATED INSIDE THAT ADDRESS, YES, SIR.
Q ALL RIGHT, SIR. AND WOULD YOU IDENTIFY THE PERSON YOU OBSERVED?
A HE'S SITTING AT THE DEFENSE TABLE, THE GENTLEMAN WITH THE WHITE SHIRT AND TIE ON.
Q OKAY. WHEN YOU ENTERED THE RESIDENCE, WAS ANYBODY ELSE THERE?
A WHEN WE FIRST ARRIVED -- EXCUSE ME ---
(PAUSE.)
--- DOROTHY BOWMAN WAS PRESENT.
MR. CUMMINGS: YOUR HONOR, JUST ONE MOMENT, PLEASE. I OBJECT. THIS GENTLEMAN IS READING FROM HIS NOTES, RESPECTFULLY. I UNDERSTAND THIS HAPPENED BACK IN FEBRUARY OF LAST YEAR AND WE ALL KNOW THAT. I WOULD JUST OBJECT AND ASK THAT THIS GENTLEMAN TESTIFY FROM HIS MEMORY AND RECALL, AND IF HE THEN HAS TO GO TO HIS NOTES THAT HE BE GIVEN PERMISSION BY THE COURT OR BY THE BY THE SOLICITOR, MA'AM, ASKING HIM IF HE NEEDS THAT TO REFRESH HIS MEMORY. BUT OTHER THAN THAT, HE'S JUST READING HIS NOTES NOW, RESPECTFULLY.
THE COURT: ALL RIGHT. THERE'S AN OBJECTION IMPOSED.
MR. BAILEY?
MR. BAILEY: OKAY. CAN I ASK HIM A COUPLE QUESTIONS TO CLEAR THAT UP, YOUR HONOR?

THE COURT: YES.

Q MR. VAN DORAN, ARE YOU REFERRING TO NOTES THAT YOU PREPARED ---

A YES, SIR.

Q --- IN THE COURSE OF YOUR INVESTIGATION?

A THAT'S CORRECT.

Q THOSE ARE YOUR NOTES. AND ARE YOU DOING THAT TO REFRESH YOUR MEMORY?

A ONLY FOR NAMES OR SOMETHING LIKE THAT.

Q ALL RIGHT, SIR.

YOUR HONOR, I THINK HE WOULD BE ENTITLED TO DO THAT.

THE COURT: VERY WELL. I'LL ALLOW HIM TO REFRESH HIS MEMORY WITH HIS NOTES.

AND JUST FOR PURPOSES IF YOU NEED TO REFRESH YOUR MEMORY, IF YOU'LL JUST LET US KNOW ON THE RECORD AT WHICH POINT YOU FEEL THE NEED TO DO THAT AND THEN THE RECORD WILL BE VERY CLEAR.

MR. VAN DORAN: YES, MA'AM.

THE COURT: VERY WELL.

MR. CUMMINGS: THANK YOU, JUDGE.

Q MR. VAN DORAN, WHEN YOU ENTERED THE RESIDENCE AT [redacted], WHERE DID YOU FIRST OBSERVE MR. BOWMAN?

A I FOLLOWED A DORCHESTER -- EXCUSE ME -- AN ORANGEBURG DEPUTY; THE FIRST PLACE WE ENCOUNTERED HIM WAS IN A BEDROOM, AS YOU WENT DOWN THE HALLWAY, ON THE LEFT-HAND SIDE OF THE

RESIDENCE.

Q SPECIFICALLY, WHERE WAS HE IN THE BEDROOM?

A HE WAS BEHIND THE BED, BETWEEN THE BED AND THE WALL, WHERE YOU COULDN'T HARDLY SEE HIM.

Q OKAY. AND WOULD YOU STATE TO THE COURT, PLEASE, HOW MR. BOWMAN WAS DRESSED AT THAT TIME?

A HE HAD ON UNDERWEAR.

Q OKAY. AND WAS HE TAKEN INTO CUSTODY IN YOUR PRESENCE?

A HE WAS, SIR.

Q ALL RIGHT, SIR. WAS HE PLACED UNDER ARREST?

A YES, SIR.

Q OKAY. AND WOULD YOU STATE WHETHER OR NOT MR. BOWMAN WAS, IN YOUR PRESENCE WAS, GIVEN MIRANDA RIGHTS AFTER HIS ARREST?

A I, WITHIN A COUPLE OF MINUTES, PROVIDED HIM HIS MIRANDA RIGHTS FROM A MIRANDA CARD THAT I CARRY IN MY WALLET.

Q DO YOU HAVE THAT WITH YOU NOW?

A I DO, SIR.

Q WOULD YOUR PRODUCE THAT, PLEASE?

A I HAVE IT HERE, SIR (INDICATING).

Q ALL RIGHT, SIR. AND WOULD YOU GO AHEAD AND USING THAT CARD GO AHEAD AND GIVE THE MIRANDA RIGHTS HERE IN COURT THE SAME WAY YOU DID TO MR. BOWMAN ON THE DATE WE'RE TALKING ABOUT?

A YES, SIR. I READ IT DIRECTLY FROM THE CARD. IT SAYS:

"YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU'RE BEING QUESTIONED. IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH. YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS."

I FURTHER ASK HIM IF HE UNDERSTOOD WHAT I READ TO HIM AND HE SAID HE DID.

Q OKAY. AND DID HE APPEAR TO BE UNDER ANY KIND OF DISABILITY, UNDER THE INFLUENCE OR ANYTHING TO PREVENT HIM FROM UNDERSTANDING THOSE RIGHTS WHEN YOU READ THEM TO HIM?

A NOT TO ME, HE DID NOT, SIR.

Q ALL RIGHT, SIR. AND I WOULD ASK WHETHER OR NOT ANY STATEMENTS WERE MADE BY MR. BOWMAN IN REGARD TO HIS CLOTHING. YOU'VE TESTIFIED THAT HE WAS IN HIS UNDERWEAR WHEN HE WAS ARRESTED: WAS ANYTHING SAID ABOUT HIS CLOTHING?

A YES, SIR. HE ASKED FOR HIS PANTS. I ASK HIM WHERE THEY WERE AT AND HE INFORMED ME THAT HE THOUGHT THEY WERE IN THE LIVING ROOM.

Q OKAY. AND WHAT DID YOU DO AT THAT POINT?

A WE ALLOWED DOROTHY TO GO TO THE LIVING ROOM AND ---

Q DOROTHY IS WHO NOW, FOR THE RECORD?

A I'M NOT SURE IF IT'S HIS WIFE OR IF IT'S HIS COMMON-LAW

WIFE OR GIRLFRIEND, BUT I KNOW THAT THEY ARE CLOSE.

Q ALL RIGHT.

A AND SHE STARTED TO BRING THE PANTS, I THOUGHT BETTER OF ALLOWING HER TO HAND HIM THE PANTS, I TOOK THEM AND I CHECKED THEM FOR ANY WEAPONS JUST FOR SAFETY PURPOSES.

Q IN THE COURSE OF CHECKING THOSE PANTS FOR ANY WEAPONS, DID YOU FIND ANYTHING IN THE POCKETS?

A I FOUND SOME MONEY, CASH, SOME CHANGE, WHAT APPEARED TO BE A LADY'S WATCH WITH A BROWN WRISTBAND, AND A TUBE OF CHAP STICK, I THINK.

Q OKAY. AND AFTER YOU PRODUCED THE WATCH, WHAT YOU SAY APPEARED TO BE A LADY'S WATCH, WHAT, IF ANYTHING, OCCURRED THEN?

A ABOUT THAT TIME DETECTIVE COKER HAD ARRIVED AND WE DISCUSSED THE WATCH. WE INFORMED DOROTHY BOWMAN THAT WE WOULD NEED SOMETHING ELSE FOR HIM TO WEAR BECAUSE WE WERE GOING TO TAKE THE PANTS, NOT LET HIM WEAR THEM.

THEN ASK HIM WHERE HIS SHOES WAS AT. HE SAID THAT THEY WERE IN THE LIVING ROOM, AS WELL. WHEN WE RETRIEVED THE SHOES, SERGEANT COKER LOOKED AT THE BOOTS AND DECIDED THAT WE WERE GOING TO ALSO KEEP THOSE AND HE WAS NOT ALLOWED TO WEAR HIS BOOTS TO JAIL EITHER.

Q OKAY. AND WHERE WAS MR. BOWMAN TAKEN FROM THAT POINT?

A HE WAS TAKEN TO THE BRANCHVILLE POLICE DEPARTMENT, DIR.

MR. BAILEY: YOUR HONOR, I HAVE NOTHING FURTHER FOR MR.

VAN DORAN AT THIS POINT; WOULD RESERVE THE RIGHT THE CALL HIM LATER.

THE COURT: VERY WELL.

Q PLEASE ANSWER ANY QUESTIONS MR. CUMMINGS MAY HAVE FOR YOU.

MR. CUMMINGS: THANK YOU, SOLICITOR.

CROSS-EXAMINATION BY MR. CUMMINGS:

Q GOOD MORNING, TERRY.

A GOOD MORNING, SIR.

Q I WANT TO GO BACK TO THE VERY BEGINNING NOW. AND I THINK, WHEN YOU ANSWERED A QUESTION FOR MISTER -- SOLICITOR BAILEY THAT YOU GET WOKEN UP OUT OF BED ABOUT 4:00 IN THE MORNING OR THEREABOUTS?

A YES, SIR.

Q OKAY. AND WHEN YOU GET THERE, HOW MANY PEOPLE ARE ON THE SCENE, FROM YOUR DEPARTMENT, YOUR AGENCY, ON NURSERY ROAD, SIR?

A I WOULD BE GIVING YOU AN ESTIMATE AT BEST, BUT AT LEAST SIX, MAYBE MORE, FROM OUR AGENCY.

Q AND THERE WERE PEOPLE THERE WITH HIGHER RANK THAN YOU?

A YES, SIR.

Q YOU'RE OLD MILITARY. SO YOU HAD, IF I REMEMBER CORRECTLY, MAJOR STEPHENSON?

A MAJOR TURNER.

Q MAJOR TURNER, OKAY, SIR.

A YES, SIR.
Q MAJOR TURNER, LIEUTENANT NETTLES?
A YES, SIR.
Q DO YOU REMEMBER ANYBODY ELSE OF HIGHER AUTHORITY?
A SERGEANT COKER IS TECHNICALLY SENIOR TO ME.
Q ALL RIGHT, SIR. AND OF COURSE, YOU SAID VARIOUS EMERGENCY PERSONNEL AND OTHER PEOPLE?
A YES, SIR.
Q ALL RIGHT. AND THEN ONE OF THE NEXT QUESTIONS WAS -- MR. BOWMAN'S NAME GETS BANTERED AROUND OR COMES UP DURING THIS MEETING OF ALL THE OFFICERS OUT THERE?
A NO, SIR.
Q ALL RIGHT. WELL, HOW DID YOU DEVELOP MR. BOWMAN AS A SUSPECT?
A THE TAG NUMBER WAS OBTAINED OFF THE VEHICLE. THE TAG CAME BACK TO A LADY NAMED KANDEE MARTIN.
Q NOT HER PARENTS?
A MY UNDERSTANDING AT THE TIME WAS IT CAME BACK TO HER.
Q OKAY, SIR.
A WE WENT TO BRANCHVILLE BECAUSE OF THE ADDRESS ON THE TAG, MET WITH THE CHIEF IN BRANCHVILLE.
Q AND HIS NAME FOR THE RECORD, PLEASE?
A QUITE HONESTLY, I DON'T KNOW HIM AND, I'M SORRY, I'LL HAVE TO REFER TO MY NOTES, IF IT'S OKAY.
Q YES, SIR, PLEASE.

A CHIEF WALTERS.

Q AND HE WAS ON DUTY. WAS HE OUT THERE AT NURSERY ROAD?

A WE EVENTUALLY MADE CONTACT WITH HIM AND HE CAME OUT. BUT PRIOR TO THAT WE WENT TO THE ADDRESS THAT WAS LISTED ON THE TAG AND NO ONE WAS THERE. NO, WE COULD NOT MAKE CONTACT WITH ANYONE AT THAT ADDRESS.

Q ALL RIGHT, SIR. NOW THIS IS IN ORANGEBURG COUNTY, CORRECT?

A THAT'S CORRECT.

Q AND, OBVIOUS, YOU'RE A DORCHESTER COUNTY DEPUTY?

A THAT'S CORRECT.

Q ALL RIGHT. AND WHEN NO CONTACT WAS MADE, YOU EVENTUALLY GET A HOLD OF THE CHIEF?

A YES, SIR.

Q ALL RIGHT. AND WHAT EXACTLY DID YOU TELL HIM, SIR?

MR. BAILEY: YOUR HONOR, I DON'T WANT TO -- HATE TO INTERRUPT MR. CUMMINGS THIS EARLY ON, BUT I'M NOT SURE THAT THIS IS RELEVANT TO THE JACKSON V. DENNO. I MEAN, I ELICITED THE FACT THAT HE WAS UNDER ARREST BECAUSE THAT HAS A BEARING ON WHAT OCCURRED AFTER THAT, AND THEN THE GIVING OF THE MIRANDA RIGHTS AND THE UTTERANCES, IN REGARD TO IDENTIFYING THOSE PANTS AS MR. BOWMAN'S PANTS AND THEY HAD WHAT WOULD DEVELOP TO BE A PIECE OF EVIDENCE IN THE POCKET. BUT I'M NOT SURE THAT HOW HE WAS DEVELOPED AS A SUSPECT AND THE CONVERSATION WITH THE CHIEF REALLY HAS ANY BEARING ON THE

VOLUNTARINESS OF ANYTHING MR. BOWMAN SAID.

MR. CUMMINGS: WELL, JUDGE, THIS MAY COME TO AN EDWARDS ISSUE, IF I MAY BE SO BOLD RIGHT NOW EARLY ON.

THIS GENTLEMAN ALLEGEDLY WAS ARRESTED ON A BENCH WARRANT OUT OF A TRANSFER COURT IN ORANGEBURG COUNTY. HE WAS REPRESENTED TO THE ORANGEBURG COUNTY PUBLIC DEFENDER'S OFFICE. AND, AGAIN, I DON'T MEAN TO KEEP TALKING EARLY ON, BUT I WANTED TO FIND OUT, "A," HOW HE FOUND MY GENTLEMAN TO BE A SUSPECT; AND, "B", WHETHER OR NOT THEY REALLY HAD THE LEGAL RIGHT TO COME THERE AND ARREST THIS GENTLEMAN. AND IF THE COURT WOULD JUST GRANT ME A LITTLE BIT OF LEEWAY IN THIS STATEMENT HERE, IT MAY COME INTO AN EDWARDS ISSUE AND I WANT TO MAKE SURE I PROTECT US IN THIS JACKSON V. DENNO HEARING.

THE COURT: I UNDERSTAND. I'LL ALLOW YOU SOME LEEWAY.

MR. CUMMINGS: AND I'LL MOVE QUICKLY. I KNOW THAT I'M ASKING SOME QUESTIONS DELIBERATELY.

THE COURT: ALL RIGHT.

Q CAN YOU REMEMBER THE CHIEF -- WHAT WAS SAID TO YOU?

A INITIALLY HE TOLD US THAT WE PROBABLY NEEDED TO SPEAK TO A GENTLEMAN NAMED CHARLES FRALIX.

Q ALL RIGHT.

A THAT HE KNEW THAT THE PERSON, KANDEE MARTIN, KNEW HIM, KNEW OF HIM. AND WE, IN FACT, MADE CONTACT WITH CHARLES FRALIX AND HE TOLD US THAT HE HAD SEEN KANDEE MARTIN WITH MARION BOWMAN, JR. THE DAY BEFORE.

Q THAT WOULD BE THE SIXTEENTH?
A THAT'S CORRECT, SIR.
Q ALL RIGHT. THE 16TH OF FEBRUARY. I APOLOGIZE.
A AND THEN THE CHIEF INFORMED US THAT THERE WAS AN OUTSTANDING WARRANT FOR MR. BOWMAN FROM ORANGEBURG COUNTY.
Q DID YOU EVER HAVE THAT WARRANT IN YOUR POSSESSION?
A DID I PERSONALLY SEE IT?
Q YES, SIR.
A NO, SIR. I DID NOT.
Q DID YOU PERSONALLY RUN AN N.C.I.C. CHECK THROUGH YOUR COMPUTER OR YOUR AGENCY?
A ABOUT THAT TIME WE HAD MADE CONTACT WITH A DETECTIVE FROM ORANGEBURG NAMED DETECTIVE VARNADO AND HE CONFIRMED THAT THERE WAS AN OUTSTANDING WARRANT FOR MR. BOWMAN.
Q ALL RIGHT. BY TELEPHONE COMMUNICATION OR BY RADIO COMMUNICATION?
A THAT'S MY UNDERSTANDING, SIR. I MEAN, I DON'T KNOW EXACTLY WHICH WAY BUT HE INFORMED US THAT THERE WAS AN OUTSTANDING WARRANT FOR THE DEFENDANT.
Q ALL RIGHT, SIR. AND BASED ON THAT, SINCE NOW YOU'RE OUT OF YOUR JURISDICTION, WHICH LAW ENFORCEMENT AGENCY THAT HAD JURISDICTION THERE WENT WITH YOU TO EFFECT THE ARREST ON MR. BOWMAN?
A WE -- I WENT, DORCHESTER COUNTY WENT, WITH THE ORANGEBURG COUNTY DEPUTIES TO SERVE THEIR WARRANT.

Q ALL RIGHT, SIR. AND WHO ACTUALLY ARRESTED MR. BOWMAN?
A DETECTIVE VARNADO.
Q ALL RIGHT, SIR. THEN WHY WOULD YOU READ HIM MIRANDA WARNINGS IF THE ORANGEBURG COUNTY DETECTIVES SERVED HIM WITH THAT BENCH WARRANT, SIR?
A BECAUSE OF ALL THE INFORMATION THAT WE HAD PROVIDED, THAT WE HAD OBTAINED AT THE TIME, I JUST FELT THAT IT WAS IN HIS BEST INTEREST THAT SOMEONE MIRANDIZE HIM SO I DID IT.
Q WERE THERE ANY CONVERSATIONS AT ALL PRIOR TO THAT, WHILE YOU WERE LOOKING FOR MR. BOWMAN AND YOU WERE THERE LOOKING FOR HIS PERSON WITH DETECTIVE VARNADO? DID YOU HEAR ANY OTHER STATEMENTS?
A I DID NOT HEAR ANY VOLUNTARILY ADMISSIONS AND WOULD DIDN'T ASK HIM ANY QUESTIONS.
Q ALL RIGHT, SIR. BASED ON THIS --- AND AGAIN, I JUST WANT FOLLOW UP ON SOME QUESTIONS THE SOLICITOR ASKED YOU.
BASED ON ARRESTING THIS MAN, HE WAS ARRESTED IN HIS BACK BEDROOM?
A IT WAS ACTUALLY ALMOST IN THE MIDDLE OF THE -- IT WAS A MOBILE HOME AND IT WAS KIND OF IN THE MIDDLE. IT WASN'T ON EITHER END, IT WAS PRETTY MUCH IN THE MIDDLE.
Q WAS HE REMOVED FROM LIKE A WINGSPAN AREA? IN OTHER WORDS, LIKE -- I KNOW YOU'RE FAMILIAR WITH THE CASES -- ANYWHERE WHERE HE COULD HAVE JUMPED TO AND GOT TO HIS PANTS? WHERE HE WAS FOUND, COULD HE HAVE JUMPED IN HIS PANTS?

A HIS PANTS WAS NOT IN THAT SPACE.
Q OKAY. AND YOU SAID YOU -- JUST BRIEFLY NOW -- YOU WERE CHECKING THE PANTS FOR WEAPONS; RIGHT?
A THAT'S CORRECT, SIR.
Q OKAY. AND YOU'VE BEEN AROUND LAW ENFORCEMENT HOW MANY YEARS?
A EIGHT.
Q DID YOU FEEL ANY WEAPONS IN THAT POCKET, IN THE POCKETS AT ALL?
A I DID NOT.
Q AND THEN YOU SEARCHED?
A HE WAS UNDER ARREST; I DID, SIR.
Q BUT HIS PANTS WEREN'T ON HIM; RIGHT?
A THAT'S CORRECT.
Q BUT YOU SEARCHED HIS PANTS IN A ROOM WAY AWAY?
A WELL, I DIDN'T WANT HIM TO HAVE A HANDCUFF "T" OR A PAPER CLIP OR SOMETHING LIKE THAT IN THERE THAT I'D HAVE TO BE CONCERNED ABOUT.
Q OKAY. AND THEN, AGAIN, BEING THE DUTIFUL OFFICER YOU ARE, YOU TOOK OUT YOUR CARD AND READ HIM MIRANDA. WAS HE IN CUFFS AT THAT TIME?
A YES, SIR.
Q OKAY. NOW YOU KNEW HE WAS PICKED UP ON WHAT KIND OF WARRANT BY DETECTIVE VARNADO?
A MY UNDERSTANDING, IT WAS, IF MEMORY SERVES ME

CORRECTLY, A GRAND LARCENY WARRANT.

Q OKAY.

A OR A WARRANT FOR GRAND LARCENY OF SOME SORT.

Q ALL RIGHT, SIR. YOU WEREN'T FAMILIAR IF IT WAS A BENCH WARRANT OR A REGULAR ARREST WARRANT ISSUED BY A JUDGE?

A NO, SIR.

Q OKAY. AND AFTER YOU READ HIM MIRANDA, DID HE STAY IN YOUR CUSTODY?

A NO, SIR.

Q ALL RIGHT. HE WAS TRANSPORTED BY WHO? WHICH LAW ENFORCEMENT AGENCY?

A I DON'T KNOW IF IT WAS A PATROL, ORANGEBURG PATROL DEPUTY, OR IF IT WAS DETECTIVE VARNADO. I JUST KNOW THAT WE WERE STILL THERE AT THE RESIDENCE WHEN HE WAS TAKEN TO BRANCHVILLE P.D.

Q OKAY. NOW, YOU GENTLEMEN DID NOT HAVE A SEARCH WARRANT FOR MR. BOWMAN; CORRECT?

A NO, SIR.

Q I MEAN, NOBODY STOPPED TO APPLY FROM ANYONE EITHER IN DORCHESTER COUNTY OR IN ORANGEBURG COUNTY, YOUR PERSONAL KNOWLEDGE?

A THAT'S CORRECT, SIR.

Q OKAY. THEN HE'S TAKEN TO THE BRANCHVILLE POLICE DEPARTMENT?

A YES, SIR.

Q ALL RIGHT, SIR. AND WHAT WAS THE PURPOSE OF TAKING HIM TO THE BRANCHVILLE POLICE DEPARTMENT?

A WE WANTED TO SPEAK WITH MR. BOWMAN, DORCHESTER COUNTY WANTED TO SPEAK WITH MR. BOWMAN.

Q DID ANYBODY EVER VERIFY THAT --- AGAIN, I'M ASKING YOU SOMETHING THAT IF YOU DON'T UNDERSTAND IT OR YOU DON'T -- YOU'RE NOT SURE, SO YOU PLEASE CHECK THE RECORDS, OR YOU KNOW IT, OR ADVISE ME IF I'M ASKING A QUESTION THAT'S NOT FAIR, OKAY.

DID ANYBODY CHECK TO SEE WHETHER OR NOT THE WARRANT WAS GRAND LARCENY OR A BENCH WARRANT SIGNED BY SOME JUDGE REPRESENTING THAT MR. BOWMAN WAS ALREADY FACING CHARGES IN SOME OTHER COUNTY AND HE FAILED TO APPEAR?

A I DON'T KNOW THAT I EVER KNEW THAT, SIR.

Q WOULD THAT MAKE A DIFFERENCE TO YOU HOW YOU APPROACHED THE DEFENDANT, WHETHER IT'S ACTUAL NEW ARREST WARRANT VERSUS A BENCH WARRANT FROM A COURT?

A I DON'T KNOW THAT IT WOULD HAVE MADE ANY DIFFERENCE TO ME. IF THERE'S A WARRANT, THAT'S THE MAIN ISSUE THAT I WOULD BE CONCERNED ABOUT.

Q AND WHEN HE GETS TO BRANCHVILLE NOW, CAN YOU DESCRIBE THE ABSOLUTE AREA THAT MR. BOWMAN IS TAKEN TO, PLEASE?

A HE'S ACTUALLY TAKEN INTO AN OPEN SPACE, AN OPEN OFFICE, AT FIRST. MATTER OF FACT, THE FIRST PLACE THAT WE STOPPED WAS IN THE CHIEF'S OFFICE, ITSELF.

Q HOW BIG IS THE CHIEF'S OFFICE?
A WELL, WHEN I GOT THERE, THAT'S WHERE HE WAS AT.
Q OKAY. HOW BIG IS THE CHIEF'S OFFICE? IF YOU USED THE FRONT DESK HERE IN THE COURTROOM RIGHT BEFORE HER HONOR'S BENCH, WE HAVE THE CLERK'S OFFICE WHERE EVERYBODY KNOWS THE CLERK SITS, MADAM COURT REPORTER SITS TO MY LEFT, HOW BIG WOULD THIS OFFICE BE IN COMPARISON TO HERE?
A ROUGHLY, FROM WHERE THE CLERK IS SITTING, TO WHERE YOU'RE AT, TO WHERE THE JUDGE IS AT, I'D -- 14 BY 18.
Q ALL RIGHT, SIR. WHAT TIME OF DAY WAS MR. BOWMAN TAKEN INTO CUSTODY?
A EARLY MORNING, SOMETIME AROUND 10:00, I GUESS.
Q 10:00 A.M. ON THE SEVENTEENTH?
A YES, SIR. YES, SIR.
Q ALL RIGHT, SIR. AND YOU READ HIM MIRANDA THERE AT THE HOUSE, AS WE'VE GONE OVER, OVER YOUR STATEMENTS?
A YES, SIR.
Q AND THEN HE'S TAKEN TO BRANCHVILLE AND YOU DON'T HAVE ANY NOTES OR ANYTHING ABOUT WHAT TIME YOU GOT TO BRANCHVILLE P.D.?
A NOT EXACTLY. I HAVE THE TIME ON THE WRITTEN MIRANDA FORM, WHEN WE MIRANDIZED HIM THERE BEFORE WE STARTED SPEAKING TO HIM.
Q ALL RIGHT, SIR. AND YOU CHECKED YOUR WATCH, YOUR NOTES, WHATEVER, AND THEN WRITE DOWN YOUR TIME AS YOU GET

READY TO DO YOUR PAPER WORK; IS THAT RIGHT?
A THAT'S CORRECT, SIR.
Q ALL RIGHT. AND HOW MANY PEOPLE WERE IN THE ROOM WITH MR. BOWMAN WHEN YOU DID THIS, SIR?
A AT LEAST MYSELF AND -- EXCUSE ME -- AT FIRST, DETECTIVE COKER. I BELIEVE THE CHIEF WAS NEARBY, IF NOT IN THE ROOM. YOU KNOW, IN OTHER WORDS, HE MIGHT NOT HAVE BEEN RIGHT AT THE DESK BUT HE WAS CLOSE BY.
Q THAT'S ABOUT THREE AT LEAST?
A YES, SIR.
Q WAS DETECTIVE VARNADO OR AN ORANGEBURG COUNTY OFFICER STILL PRESENT?
A NOT IN THE ROOM, I DON'T BELIEVE.
Q ALL RIGHT. BECAUSE HE'S THEIR PRISONER; RIGHT?
A THAT'S CORRECT.
Q AND WHEN HE'S SITTING THERE, NOW IS HE HANDCUFFED?
A THERE CAME A POINT WHERE WE UNHANDCUFFED HIM AND IT WOULD HAVE BEEN PRIOR TO US STARTING THE INTERVIEW WITH HIM.
Q OF YOUR PERSONAL KNOWLEDGE, DID HE EVER ASK FOR COUNSEL WHILE YOU WERE TALKING WITH HIM?
A NO, SIR.
Q ALL RIGHT, SIR. DID HE EVEN INFORM YOU THAT HE WAS REPRESENTED IN ORANGEBURG AS TO THE CHARGES THAT YOU PICKED HIM UP?
A NO, SIR. HE NEVER TOLD ME ANYTHING LIKE THAT.

Q DID YOU ASK HIM IF HE WAS REPRESENTED BY AN ATTORNEY?
A NO, SIR.
Q DID YOU ASK HIM IF HE WANTED A LAWYER?
A CERTAINLY.
Q JUST ON THE MIRANDA WARNINGS, ITSELF?
A THAT'S CORRECT, SIR.
Q ALL RIGHT, SIR. AND THE SOLICITOR ASKED YOU THE QUESTION WHETHER OR NOT HE APPEARED TO BE UNDER THE INFLUENCE OF SOMETHING OR NOT COGNIZANT ABOUT WHAT HE'S DOING; IS THAT CORRECT?
A HE DID ASK ME THAT.
Q ALL RIGHT, SIR. AND YOU ANSWERED THAT HE LOOKED FINE TO YOU, I THINK?
A YES, SIR.
Q ALL RIGHT. AND AS FAR AS HIM LOOKING FINE TO YOU, HAD YOU ASKED HIM IF HE HAD CONSUMED ANY ALCOHOLIC BEVERAGES OR ANY ILLEGAL SUBSTANCES AT ALL?
A I DID NOT ASK.
Q OKAY, SIR. WAS HE ABLE TO ANSWER YOUR QUESTIONS IN A SATISFACTORY MANNER TO YOU, AS TO UNDERSTANDING HIS MIRANDA WARNINGS?
A YES, SIR.
Q OKAY. AND YOU WENT DOWN EACH AND EVERY WARNING TOO, AS YOU CHECK THE BLOCKS DOWN YOUR SHEET?
A WE DID, SIR.

Q ALL RIGHT. AND AGAIN, WHILE YOU DID THAT, THERE WAS AT LEAST YOU, DETECTIVE COKER, AND MAYBE THE CHIEF OF BRANCHVILLE?
A YES, SIR.
Q ALL RIGHT. AND ANY OTHER LAW ENFORCEMENT AGENTS IN THAT ROOM?
A THEY WERE IN THE BUILDING AND, OR OUT IN THE HALLWAY OR IN THE NEXT ROOM, BUT, TO THE BEST OF MY RECOLLECTION, THAT WAS ALL THAT WAS IN THE ROOM.
Q OKAY. AND WHEN YOU DID THIS NOW, DID YOU HEAR MR. BOWMAN MAKE ANY STATEMENTS AT ALL VERBALLY WHEN YOU WERE SITTING DOWN AND DOING A MIRANDA CHECKLIST WITH HIM? I MEAN, DID HE UTTER ANYTHING OUT OR DID HE SAY ANYTHING IN AN EXCITED MANNER TO YOU, MR. VAN DORAN?
A WE JUST SAT AND WENT OVER THE MIRANDA RIGHTS. I DON'T REMEMBER HIM SAYING ANYTHING IN PARTICULAR, OTHER THAN WHAT WE WERE DISCUSSING ABOUT THE MIRANDA RIGHTS.
Q DID YOU TELL HIM WHAT HE WAS UNDER ARREST FOR, SIR?
A I PERSONALLY DID NOT TELL HIM WHAT HE WAS UNDER ARREST FOR.
Q OKAY. WOULD YOU SAY THAT YOU WERE THE MAIN OFFICER AT THIS POINT IN TRYING TO CONDUCT AN INTERVIEW WITH THIS GENTLEMAN?
A I WOULD SAY THAT DETECTIVE COKER AND I WERE SHARING THAT RESPONSIBILITY.

Q OKAY. WOULD IT NOT BE IMPORTANT TO TELL HIM WHAT YOU WERE INVESTIGATING?

A WELL, WE DID AFTER WE MIRANDIZED HIM. WE INFORMED HIM WHAT WE WERE LOOKING INTO.

Q ALL RIGHT. WELL, LET ME BACK UP HERE. I APOLOGIZE, SIR.

YOU GAVE HIM HIS MIRANDA SHEET AND WERE CHECKING THE BLOCK SHEET, AND THEN YOU SAID YOU WANTED TO TALK TO HIM ABOUT WHAT SPECIFICALLY?

A WE WANTED TO TALK TO HIM ABOUT A PERSON THAT WAS FOUND IN THE CAR THAT HAD BEEN BURNT UP AND WE WERE INVESTIGATING IT.

Q ALL RIGHT. AND WHAT DID HE SAY AFTER YOU ASKED HIM FOR -- AFTER YOU TOLD HIM WHAT YOUR PURPOSE WAS THERE?

A WELL, AFTER WE MIRANDIZED HIM, HE DID IN FACT GIVE US A STATEMENT.

Q ALL RIGHT, SIR. CAN YOU TELL ME WHAT THAT STATEMENT WAS FROM YOUR MEMORY, SIR?

A I CAN TELL YOU THAT AT FIRST HE WAS TELLING US ABOUT ANOTHER PERSON THAT HE KNOWS AND THAT THAT PERSON WAS WITH KANDEE MARTIN AND THAT THERE WERE SOME ISSUES SURROUNDING THAT PERSON BEING WITH KANDEE MARTIN THE NIGHT BEFORE.

Q ALL RIGHT, SIR. NOW, YOU'VE BEEN IN LAW ENFORCEMENT HOW MANY YEARS, SIR?

A ABOUT EIGHT NOW.

Q ALL RIGHT, SIR. AND DID YOU TAPE RECORD THESE STATEMENTS?
A NO, SIR.
Q DID YOU VIDEO, USE VIDEO PHOTOGRAPHY, OR WHATEVER YOU WANT TO CALL THAT WORD, WITH A VIDEO CAMERA TO CAPTURE THIS INTERVIEW?
A NO, SIR. WE WERE AT THE BRANCHVILLE POLICE DEPARTMENT. AND WE HAVE THAT CAPABILITY DOWN IN SUMMERVILLE BUT WE WERE OUT IN AN AREA WHERE WE WOULDN'T NORMALLY HAVE THAT CAPABILITY.
Q OKAY. WAS ANYBODY AVAILABLE? I MEAN, YOU'VE GOT MAJOR TURNER, LIEUTENANT NETTLES, YOU HAD YOURSELF, YOU HAD MR. COKER, AND HE WAS IN CUSTODY AND NOT GOING ANYWHERE; RIGHT?
A THAT'S CORRECT, SIR.
Q ALL RIGHT. AND NOBODY HAD A TAPE RECORDER WITH THEM, OR OUT IN THE CAR, OR WE HAVE AN OFFICE HERE IN ST. GEORGE, AND NOBODY EVEN THOUGHT IT?
A I'M SURE ONE COULD HAVE BEEN MADE AVAILABLE BUT AT THE TIME WE JUST TOOK HIS STATEMENT.
Q OKAY. NOW WAS IT DONE LIKE QUESTION AND ANSWER VERBALLY FIRST, SIR?
A AT FIRST HE TOLD US WHAT HE WANTED TO TELL US AND IT WAS WRITTEN DOWN, AND THEN WE DID SOME QUESTION AND ANSWER.
Q ALL RIGHT. WHO WROTE THE STATEMENT?
A I ASKED HIM IF HE WOULD LIKE ME TO WRITE IT; HE

INFORMED ME THAT HE WOULD. I -- PERSONALLY I WROTE THE STATEMENT AND HE VERIFIED THAT WHAT WAS WRITTEN WAS WHAT HE SAID.

Q ALL RIGHT. THIS INTERVIEW STARTED, AGAIN, BY YOUR NOTES AT A CERTAIN TIME IN THE MORNING?

A THAT'S CORRECT, SIR.

Q ALL RIGHT. WAS HE AFFORDED A PHONE CALL OR HAD ANY RIGHT TO CALL ANYBODY IF HE WANTED TO?

A I DON'T KNOW THAT HE EVER ASKED TO MAKE A PHONE CALL.

Q AND YOU GENTLEMEN DIDN'T TELL HIM HE COULD MAKE A PHONE CALL PRIOR TO TAKING ANY STATEMENTS?

A NO, SIR.

Q OKAY. DID HE ASK ANY QUESTIONS ABOUT HIS FAMILY OR HIS WIFE OR ANYBODY OR HIS CHILDREN?

A AT SOME POINT I THINK WE -- LATER IN THE DAY I THINK WE TALKED ABOUT HIS FAMILY, BUT AT THAT TIME, NO, SIR.

Q ALL RIGHT. SO THE VERY BEGINNING OF THE FIRST STATEMENT IS HE'S JUST TALKING TO YOU, ALONE?

A NO, SIR. MYSELF AND DETECTIVE COKER.

Q ALL RIGHT, SO THE TWO OF YOU WERE IN THERE. AND BASED ON WHAT HE'S TALKING, YOU WERE THE SCRIVENER? IN OTHER WORDS, YOU WERE THE PERSON WHO WROTE EVERYTHING DOWN?

A YES, SIR.

Q ALL RIGHT. OR IS IT THE FACT THAT YOU LISTENED, LET HIM TALK, THEN WENT BACK AND BASED ON YOUR NOTES OR

RECOLLECTIONS THEN WROTE A STATEMENT OUT FOR HIM?

A WELL, THAT'S WHAT WE NORMALLY DO, IS WE SIT AND WE LISTEN TO WHAT SOMEONE HAS TO SAY, AND THEN WE SAY, "WELL, WILL YOU WRITE US A STATEMENT TO WHAT YOU'RE TELLING US?" AND IF THEY WILL, THEY WILL. IF THEY WON'T, THEY WON'T. AND IF THEY WOULD PREFER US TO WRITE IT, THEN I'LL WRITE WHAT THEY TELL ME. AND THAT'S WHAT HAPPENED IN THIS CASE.

Q OKAY. WOULD YOU AGREE WITH ME THAT IT WOULD NOT BE THEN VERBATIM LIKE WE HAVE, NOT JUST WITH MADAM COURT REPORTER HERE, BUT IT'S NOT THE DEFENDANT'S WORDS, IT'S HIS WORDS AND THEN LATER ON YOU ARE WRITING DOWN WHAT YOU RECOLLECT THIS PERSON SAID?

A NO, SIR. I WROTE DOWN EXACTLY WHAT HE TOLD ME TO WRITE DOWN.

Q VERBATIM, NOT A WORD MISSED THEN?

A WELL, I MIGHT HAVE CHANGED A "THE" OR A "THOUGH" OR, YOU KNOW, WHATEVER, BUT WHAT HE TOLD ME TO WRITE IS WHAT I WROTE.

I READ IT BACK TO THEM VERBATIM AND THEN ASK THEM IF THAT'S WHAT THEY SAID, IF THAT'S WHAT THEY WANT TO SAY, AND THEN HAVE THEM SIGN THAT THAT'S THEIR STATEMENT.

Q OKAY. DID YOU ASK THIS GENTLEMAN, MR. BOWMAN, SIR, WHAT HIS READING LEVEL WAS WHEN YOU READ THIS BACK TO HIM?

A I'M SURE AT SOME POINT I ASKED HIM HOW FAR HE WENT THROUGH SCHOOL. IT'S PROBABLY ON THE MIRANDA FORM.

Q OKAY. DO YOU REMEMBER ---
A I NORMALLY DO THAT.
Q ALL RIGHT. DO YOU REMEMBER OF YOUR OWN PERSONAL RECOLLECTION TODAY, SIR, WHAT HIS LAST GRADE WAS FINISHED?
A I DO NOT REMEMBER OFF THE TOP OF MY HEAD.
Q DID YOU ASK THIS GENTLEMAN ABOUT HIS ABILITY TO UNDERSTAND SOMEBODY TALKING BACK TO HIM AND KEEPING THE CONVERSATION? IN OTHER WORDS, BASICALLY, AS I VIEW, YOU KNOW, HOW MUCH SOMEBODY CAN REALLY UNDERSTAND?
A WHEN I READ HIM HIS MIRANDA RIGHTS, WHEN WE READ HIM HIS MIRANDA RIGHTS, I ASKED HIM IF HE DID NOT UNDERSTAND ANYTHING TO JUST ASK AND I WOULD EXPLAIN IT TO HIM. I ASK AS I READ THEM, "DO YOU KNOW WHAT THIS MEANS? YOU HAVE THE RIGHT TO AN ATTORNEY."

(ANSWER): "YEAH, IT MEANS I HAVE A RIGHT TO AN ATTORNEY."

(QUESTION): "OKAY. YOU DON'T HAVE TO TALK TO ME IF YOU DON'T WANT TO. ALL RIGHT, THAT MEANS YOU DON'T HAVE TO TALK TO ME AT ALL IF YOU DON'T WANT TO. DO YOU UNDERSTAND THAT?

(ANSWER): "YEAH."

AS WE GO THROUGH A CONVERSATION WITH SOMEONE, IF I FEEL LIKE THAT THEY'RE NOT UNDERSTANDING MY QUESTION, I'LL REPEAT IT OR I'LL ASK THEM, "DO YOU NEED ME TO CLARIFY THAT?"

I FEEL THAT HE HAD ABSOLUTELY NO PROBLEM UNDERSTANDING

WHAT I WAS SAYING TO HIM.

Q AND DID YOU REFLECT THAT IN ANY NOTES THAT YOU MADE OR MIGHT HAVE MADE FOR YOUR CASE INVESTIGATION, KNOWING THAT SOMEDAY THIS THING MIGHT REACH A COURTROOM?

A THAT'S THE REASON I -- THAT'S THE REASON I MAKE THE NOTES THAT I MAKE ON THE MIRANDA FORM AND THAT'S THE REASON WHY I FOLLOW THE PROCEDURE THAT I FOLLOW WHEN I DO TAKE SOMEONE'S STATEMENT.

Q AND AT THE SAME TIME WAS DETECTIVE COKER, OF YOUR PERSONAL KNOWLEDGE, TAKING ANY FIELD NOTES OR WRITING ANY NOTES DOWN WHILE YOU'RE INTERVIEWING THIS GENTLEMAN?

A THAT IS HIS NORMAL HABIT. HE DOES IN FACT TAKE NOTES AS WE DISCUSS THINGS WE PEOPLE.

Q AND THE REASON I'M ASKING THAT IS FOR WHAT YOU PERCEIVED. BECAUSE I KNOW THAT YOUR ATTENTION IS PRETTY MUCH IN DEALING WITH THE PERSON THAT YOU'RE SPEAKING TO, RIGHT?

A YES, SIR.

Q JUST LIKE YOU AND I ARE RIGHT NOW?

A THAT'S CORRECT.

Q AND THEREFORE YOU'RE JUST EVERY ONCE IN AWHILE GLANCING OVER AND SEEING MR. COKER DOING WHATEVER HE'S DOING?

A THAT'S CORRECT.

Q ALL RIGHT. AND THEN MR. BOWMAN NOW, AGAIN, IS THERE A PLACE IN THE CHIEF'S OFFICE WHERE SOMEBODY IS HANDCUFFED LIKE TO A WALL OR A FILE CABINET OR A CHAIR?

A I DON'T REMEMBER A PARTICULAR PLACE. I JUST KNOW THAT WHEN WE WERE SPEAKING WITH HIM -- NOW, AT ONE POINT WE LEFT THE CHIEF'S OFFICE AND WE WENT OVER INTO WHAT WOULD BE CONSIDERED THEIR COURTROOM, WHICH IS A BIG AREA.

Q OKAY.

A AND WE SPOKE WITH HIM, AS WELL, IN THERE.

Q ALL RIGHT. I DON'T WANT TO JUMP AHEAD EITHER BECAUSE I KNOW MR. BAILEY IS TRYING TO DO THIS CHRONOLOGICAL.

A CERTAINLY. YES, SIR.

Q SO YOU WERE THERE --- AND I'M JUST GOING TO USE A TIME AND NOT TRY TO TRICK YOU ---

A YES, SIR.

Q --- AT APPROXIMATELY 10:00 HE'S ARRESTED IN THE MORNING, BROUGHT TO THE BRANCHVILLE POLICE DEPARTMENT ABOUT NO LATER THAN BY 10:30, AT THE OFFICE; RIGHT?

A IF MEMORY SERVES ME, THE TIME ON THE FIRST MIRANDA FORM WAS 11-SOMETHING.

Q ALL RIGHT, SIR. AND HOW LONG DID IT TAKE YOU APPROXIMATELY, SIR, TO DO THE FIRST INTERVIEW AND THEN HAVE YOU RE-WRITE TO YOUR RECOLLECTION AND THEN PRESENT IT TO MR. BOWMAN?

A IT WAS PROBABLY LESS THAN AN HOUR.

Q ALL RIGHT, SIR. AND AT THAT POINT, WERE YOU FINISHED WITH MR. BOWMAN?

A NO, SIR.

Q OKAY. WHAT DID YOU DO AFTER YOU TOOK THE -- WHAT WE CALL "THE FIRST STATEMENT?"
A I ASKED HIM IF HE WAS WILLING TO TAKE A POLYGRAPH THAT HIS STATEMENT WAS TRUE.
Q ALL RIGHT, SIR. AND WHAT WOULD HAVE BEEN THE PURPOSE OF THE POLYGRAPH, AS TO YOUR INVESTIGATIVE TECHNIQUE, SIR?
A JUST TO ENSURE THAT HE WAS BEING TRUTHFUL WITH US.
Q ALL RIGHT, SIR. AND LET ME GET THIS STRAIGHT NOW: YOU'RE IN THE BRANCHVILLE POLICE DEPARTMENT; THEY DON'T HAVE POLYGRAPH CAPABILITIES; RIGHT?
A THAT'S CORRECT, SIR.
Q NOW YOU WENT INTO THE COURTROOM AT BRANCHVILLE?
A AT SOME POINT, YES, SIR.
Q ALL RIGHT. AND DID YOU HAVE A CHANCE TO LOOK AROUND THE COURTROOM LIKE YOU HAVE A CHANCE TODAY TO LOOK AROUND HERE?
A A LITTLE BIT, YES, SIR.
Q ALL RIGHT. WAS THERE A TAPE RECORDER ON THE JUDGE'S BENCH AT THAT SUMMARY COURT?
A I COULDN'T TELL YOU, SIR. I DON'T KNOW.
Q DID ANYBODY ASK OR ASK THE CHIEF IF THERE WAS A RECORDER AVAILABLE?
A I DON'T THINK SO, SIR.
Q OKAY. YOU HAD ACCESS TO THE COURTROOM THOUGH; RIGHT?
A YES, SIR.

Q WELL, LET ME BACK UP JUST A MOMENT ON A QUESTION ABOUT THE POLYGRAPH NOW. WHO ASKED TO HAVE THE POLYGRAPH CONDUCTED, YOU, SIR, OR ANOTHER OFFICER?

A I'M NOT SURE IF I ACTUALLY DISCUSSED IT WITH DETECTIVE COKER BEFORE WE PRESENTED THAT OPTION TO THE DEFENDANT.

Q YES, SIR.

A BUT I KNOW THAT WE DID PRESENT THAT TO THE DEFENDANT AND ASK HIM IF HE WOULD DO THAT.

Q ALL RIGHT, SIR. NOW I MEAN TIME-WISE, IT'S ABOUT ELEVEN, ELEVEN-THIRTY, SOMEWHERE IN THERE?

A PROBABLY MORE TOWARDS NOON AT THIS POINT.

Q OKAY.

A OR CLOSE TO IT.

Q DID THE BRANCHVILLE POLICE DEPARTMENT HAVE A POLYGRAPH MACHINE OR OPERATOR AVAILABLE RIGHT THERE?

A NO, SIR.

Q WHERE DID THE POLYGRAPH TAKE PLACE AT?

A THERE.

Q AT BRANCHVILLE?

A YES, SIR.

Q SO WHO CALLED AND ASKED THE POLYGRAPH OPERATOR TO COME TO BRANCHVILLE?

A WE ASKED MAJOR STEPHENSON, WHO IS A CERTIFIED PALEOGRAPHER, IF HE COULD DO THE POLYGRAPH.

Q ALL RIGHT, SIR. SO ---

A AND HE WORKS FOR DORCHESTER COUNTY.
Q YES, SIR. AND WHERE WAS HE LOCATED AT?
A I CAN'T REMEMBER IF HE WAS ALREADY THERE OR IF WE HAD TO CALL AND ASK HIM TO COME THERE, BUT HE WAS SOMEWHERE IN THE RANGE OF ST. GEORGE TO BRANCHVILLE.
Q ALL RIGHT, SIR. NOW YOU ARE ALSO TRAINED IN BEING A PALEOGRAPHER; RIGHT?
A I AM NOW A CERTIFIED PALEOGRAPHER, YES, SIR.
Q BACK THEN YOU WEREN'T ---
A THAT'S CORRECT.
Q --- I UNDERSTAND THAT.

ALL RIGHT. CAN YOU TELL US ABOUT THIS EQUIPMENT THEN, ABOUT THE POLYGRAPH, PLEASE? WHAT DOES IT TAKE TO -- NORMALLY, YOU HAVE TO GO SOMEWHERE, THEY SIT YOU DOWN IN A CHAIR, HAS TO BE QUIET, HAS TO BE KIND OF A STILL SETTING BECAUSE YOU PUT SOMETHING, A DEVICE, ON A PERSON'S FINGER, SOME KIND OF MONITOR LIKE BLOOD PRESSURE, IF I'M NOT MISTAKEN, A WIRE AROUND THEIR CHEST TO MONITOR BREATHING OR RESPIRATORY ISSUES, AND NORMALLY YOU MAKE SOMEBODY STAY PERFECTLY QUIET; RIGHT?

A YOU TRY TO ESTABLISH A QUIET ENVIRONMENT, YES, SIR.
Q CONTROLLED ATMOSPHERE, WOULD THAT BE BETTER?
A AS CONTROLLED AS POSSIBLE. YOU KNOW, SOMETIMES YOU HAVE TO DEAL WITH WHAT YOU HAVE IN YOUR SURROUNDINGS, BUT AS CONTROLLED AS POSSIBLE.

Q ALL RIGHT, SIR. AND THEN THIS MACHINE, IS IT BIGGER THAN MADAM COURT REPORTER'S TAPE RECORDER?
A A LITTLE BIT, YES, SIR.
Q ALL RIGHT. AND IS IT TRANSPORTABLE?
A YES, SIR.
Q KIND OF LIKE A TAPE RECORDER OR ANYTHING ELSE OR A VIDEO CAMERA THAT COULD HAVE COME?
A WELL, IT'S NOT QUITE AS EASILY TRANSPORTABLE AS A REGULAR TAPE RECORDER OR A VIDEO CAMERA BUT IT IS MOBILE.
Q OKAY. AND HOW LONG DID IT TAKE THIS GOOD OFFICER TO TAKE HIS EQUIPMENT FROM WHEREVER? IT'S LOCATED DOWN HERE IN WHAT WE CALL "PAST THE SWAMP," RIGHT BACK IN SUMMERVILLE?
A I DON'T KNOW IF HE ACTUALLY ALREADY HAD IT IN HIS VEHICLE FOR WHATEVER REASON, OR IF HE HAD TO GO BACK TO SUMMERVILLE TO GET IT. I DON'T KNOW.
Q WELL, WE DON'T LEAVE THEM IN THE TRUNK TO BOUNCE AROUND BECAUSE THEY'RE KIND OF SENSITIVE; RIGHT?
A YOU CAN LEAVE THEM IN YOUR VEHICLE, THERE'S NO PROBLEM WITH THAT.
Q ALL RIGHT. IS THIS COMPUTER ORIENTED?
A NO. THE ONE THAT HE USES TODAY AND THE ONE HE USED FOR THE DEFENDANT IS WHAT'S CALLED AN ANALOG TYPE, OR THE TYPE THAT YOU NORMALLY SEE ON THE TELEVISION THAT HAS THE PAPER THAT COMES OFF AND THE LITTLE ARMS THAT GO UP AND DOWN.
Q AND I'M NOT GOING TO ASK YOU A LOT MORE QUESTIONS ON

THE POLYGRAPH MACHINE.

A YES, SIR.

Q BUT IT'S TRANSPORTABLE AND THEN IT'S EASILY BROUGHT TO SOME OTHER POLICE AGENCY AND YOU CAN CONDUCT THE TEST?

A YES, SIR.

Q OKAY. NOW YOU ALREADY HAD A STATEMENT FROM THIS GENTLEMAN, ACCORDING TO YOUR NOTES AND YOUR TESTIMONY TODAY; RIGHT?

A YES, SIR.

Q AND YOU PUT IT DOWN, BACK TO WRITING, AND YOU HANDED IT TO HIM?

A WE GAVE HIM HIS COPY, YES, SIR.

Q ALL RIGHT, SIR. DID HE READ THAT BACK TO YOU VERBATIM?

A I READ IT TO HIM VERBATIM ---

Q YOU READ IT TO HIM.

A --- AND HE FOLLOWED ALONG AND HE WAS GIVEN THE OPPORTUNITY TO RE-READ IT BEFORE HE SIGNED IT.

Q ALL RIGHT, SIR. AND DID HE SIGN THAT IN YOUR PRESENCE?

A HE INITIALED ANY CHANGES THAT HE ASKED ME TO MAKE OR THAT WE MADE AS I TOOK -- TOOK IT DOWN, AND HE SIGNED IT IN MY PRESENCE AND IN DETECTIVE COKER'S PRESENCE, YES, SIR.

Q AND THEN WHO GAVE HIM THE COPY OF HIS STATEMENT?

A I DID.

Q ALL RIGHT, SIR. AND HE WAS ALLOWED TO FOLD IT UP AND PUT IT IN A POCKET OR SOMETHING?

A WHATEVER HE WANTED TO DO WITH IT, SIR.
Q AND DO YOU REMEMBER FROM YOUR RECOLLECTION OR YOUR WORK ON THIS CASE, SIR, WHAT HE DID WITH THAT PIECE OF PAPER?
A AT THE TIME THAT I LAST SAW IT, IT WAS LAYING ON THE TABLE IN FRONT OF HIM.
Q YES, SIR. WHAT WAS HE DRESSED IN? YOU REMEMBER YOU CONTROLLED THE PANTS AND THE OTHER ISSUES.
A THE BEST I CAN REMEMBER HE HAD ON ANOTHER DIFFERENT PAIR OF JEANS AND A SHIRT, JUST A REGULAR SHIRT. I DON'T -- HONESTLY, I DON'T REMEMBER WHAT, WHAT IT WAS.
Q ALL RIGHT, SIR. AND PLEASE TELL ME NEXT WHAT HAPPENED WHEN THE PALEOGRAPHER ARRIVED?
A HE ARRIVED, WENT IN AND SET UP IN A ROOM ADJACENT TO CHIEF WALTERS' OFFICE, WHICH WOULD JUST BE FURTHER DOWN THE HALL, WHICH IS -- IT WAS BASICALLY JUST A BLANK ROOM WITH A TABLE IN IT, COUPLE OF CHAIRS, AND THAT'S WHAT WAS THERE PRIOR TO HIS ARRIVAL AND THAT'S WHAT HE USED.
Q ALL RIGHT. NOW I'VE KIND OF LEARNED AND ONE OF THE NICE THINGS ABOUT OUR COUNTY BAR, AS WELL AS WORKING CLOSE TO THE POLICEMEN, WE KNOW THE PROCEDURES THAT PALEOGRAPHERS USE AND PEOPLE THAT HAVE BEEN AROUND FOR A LONG TIME.
A YES, SIR.
Q THAT IS, YOU COME UP WITH ABOUT THREE GOOD QUESTIONS IN A POLYGRAPH; RIGHT? THREE THAT ARE BASELINE QUESTIONS THAT YOU'VE GOT TO HAVE?

A THERE ARE DIFFERENT TYPES OF TESTS, SOME YOU USE TWO BASIC QUESTIONS, SOME YOU USE THREE BASIC QUESTIONS, YES, SIR.

Q ALL RIGHT. WELL, WHO CAME UP WITH THE BASIC OR, YOU KNOW, THE QUESTIONS THAT YOU USED? I'D SAY THE "COUP DE GRAIS," THE MAIN QUESTIONS HERE TO ASK MR. BOWMAN SO THE PALEOGRAPHER COULD RUN HIS TEST?

A ULTIMATELY THE PALEOGRAPHER MAKES THE FINAL DECISION ON THE QUESTIONS. BUT CERTAINLY MYSELF AND DETECTIVE COKER DISCUSSED THAT ISSUE WITH MAJOR STEPHENSON PRIOR TO THE TEST.

Q OF YOUR PERSONAL KNOWLEDGE, NOW, YOU KNOW, AGAIN, USING YOUR MEMORY, SIR, WHAT QUESTIONS WERE YOU DESIRING TO HAVE THE PALEOGRAPHER LISTEN TO YOUR REQUEST, SIR?

A DID THE DEFENDANT HAVE ANYTHING TO DO WITH KANDEE MARTIN'S DEATH AND ---

Q THAT'S THE FIRST ONE.

A --- AND YOU REPEAT THAT QUESTION IN A DIFFERENT MANNER THE SECOND TIME.

AND THEN THE LAST QUESTION WOULD BE, "ARE YOU WITHHOLDING ANY INFORMATION IN THIS CASE?"

Q ALL RIGHT, SIR. NOW, YOU AND I ARE BOTH AWARE THERE'S NO CASE ANYWHERE IN THE NATION THAT SAYS A POLYGRAPH IS ADMISSIBLE IN A COURTROOM?

A I KNOW OF SOME CASE LAW THAT ALLOWS POLYGRAPHS IN THE COURTROOM IF IT IS UNDER A PRETRIAL WAIVER AND STIPULATION

AGREEMENT, BUT OTHER THAN THAT, NO, SIR, I DO NOT.

Q SO WHAT WAS THE PURPOSE OF HAVING THE PALEOGRAPHER COME UP THERE AFTER YOU'VE ALREADY OBTAINED YOUR FIRST STATEMENT?

A TO TRY AND ENSURE THAT THE DEFENDANT WAS BEING TRUTHFUL WITH US.

Q ALL RIGHT, SIR. AND THAT WAS THE SOLE PURPOSE?

A YES, SIR.

Q OKAY. AND ---

A AT THAT TIME IT WAS, YES, SIR.

Q AND AFTER YOU TURNED HIM, MR. BOWMAN, OVER TO THE PALEOGRAPHER, WHERE DID YOU GO?

A I THINK I WENT DOWN THE STREET AND GOT A SODA AND THEN CAME BACK AND WAITED.

Q OKAY.

I KNOW THE SOLICITOR IS TRYING TO DO THIS CHRONOLOGICALLY ---

A YES, SIR.

Q --- AND IF THE COURT WILL INDULGE ME JUST ONE MOMENT, I THINK I WOULD LIKE TO STOP AT THAT POINT, BUT THEN, AGAIN, SUBJECT TO RECALL THIS OFFICER IF I -- IF I NEED TO, MA'AM.

THE COURT: I UNDERSTAND.

MR. CUMMINGS: BEG THE COURT'S INDULGENCE.

THE COURT: ALL RIGHT.

(PAUSE.)

Q HAD SHERIFF WILLIAMS -- I MEAN, EVERYBODY KIND OF CALLS

THIS GENTLEMAN "BIG LARRY," HAD HE ARRIVED AT THAT POINT?

A I DON'T BELIEVE SO, SIR. I COULD BE MISTAKEN ABOUT THAT, BUT I DO NOT BELIEVE HE HAD ARRIVED UNTIL LATER IN THE AFTERNOON.

Q SO DID OUR ELECTED SHERIFF ARRIVE THERE, MR. NASH? WAS HE PRESENT?

A AT SOME POINT HE WAS THERE THAT DAY, BUT I DON'T THINK HE WAS THERE AROUND NOON EITHER.

Q ALL RIGHT, SIR. AND JUST THE BEST TESTIMONY THAT YOU WOULD GIVE ME SIR, ABOUT WHAT TIME DID YOU LEAVE AND GO GET THAT DRINK FOR YOURSELF, SIR?

A IT WOULD HAVE BEEN NOON OR JUST AROUND THAT TIME, AS BEST I CAN REMEMBER.

Q DID YOU CHECK ON THE RADIO OR ALL TELL THEM YOU WERE GOING DOWN THE STREET OR EVEN ---

A NO, SIR. AS A MATTER OF FACT, I WAS OUT OF MY VEHICLE, I DIDN'T HAVE MY RADIO BECAUSE UP IN BRANCHVILLE I COULDN'T TALK TO ANYBODY ANYWAY, AND THE STORE IS JUST DOWN THE STREET FROM THE SHERIFF -- POLICE STATION, AND I JUST WALKED DOWN THERE AND WALKED BACK.

Q OKAY. THANK YOU.

YOUR HONOR, I WOULD END MY QUESTIONS OF THIS OFFICER AT THIS POINT, SUBJECT TO RECALLING HIM IF I NEED TO, PLEASE.

THE COURT: ALL RIGHT.

ANY REDIRECT?

MR. BAILEY: YOUR HONOR, I HAVE NO REDIRECT IN REGARD TO WHAT OCCURRED AT THE HOUSE AT [redacted] WHICH IS WHAT I WAS TRYING TO JUST SOLICIT, LIMIT THAT TO.

I DO HAVE SOME QUESTIONS THAT WOULD RELATE TO WHAT HAPPENED IN BRANCHVILLE BUT I WOULD LIKE TO RESERVE THAT UNTIL I RECALL HIM.

THE COURT: ALL RIGHT, ANY OBJECTION TO THAT?

MR. CUMMINGS: NO, MA'AM, NO. THANK YOU.

THE COURT: VERY WELL.

THANK YOU. YOU MAY COME DOWN.

MR. VAN DORAN: THANK YOU, MA'AM.

(THE WITNESS IS NOW EXCUSED FROM THE WITNESS STAND.)

THE COURT: CALL YOUR NEXT WITNESS, PLEASE.

MR. BAILEY: CALL ALVIN COKER.

THE COURT: YES, SIR. THANK YOU.

(**ALVIN MICHAEL COKER**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE COURT: IF YOU WOULD PLEASE BE SEATED AND WHEN YOU ARE SEATED, IF YOU WOULD STATE YOUR FULL NAME FOR THE RECORD.

MR. COKER: ALVIN MICHAEL COKER.

THE COURT: YOUR WITNESS.

MR. BAILEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION BY MR. BAILEY:

Q MR. COKER, YOU'RE EMPLOYED AS A DETECTIVE SERGEANT WITH THE DORCHESTER COUNTY SHERIFF'S OFFICE?

A THAT'S CORRECT.
Q AND DID YOU HOLD THAT POSITION, THAT RANK, BACK IN FEBRUARY OF 2001?
A I DID.
Q AND WERE YOU ASSIGNED THIS CASE ON FEBRUARY 17TH AS THE CASE OFFICER?
A YES, SIR, I WAS.
Q AND AS THE CASE OFFICER YOU MAINTAINED THE ORIGINAL FILE FOR THE DORCHESTER COUNTY SHERIFF'S OFFICE?
A THAT'S CORRECT.
Q ALL RIGHT, SIR. CALLING YOUR ATTENTION TO FEBRUARY 17TH, APPROXIMATELY 11:00 OR SO, DID YOU GO ANYWHERE IN CONNECTION WITH YOUR DUTIES?
A YES. I RESPONDED TO THE BRANCHVILLE POLICE DEPARTMENT ALONG WITH DETECTIVE VAN DORAN.
Q ALL RIGHT, SIR. AND I WOULD ASK WHETHER OR NOT, WHEN YOU GOT TO THE BRANCHVILLE POLICE DEPARTMENT, WERE ANY OTHER LAW ENFORCEMENT OFFICERS PRESENT THERE?
A YES, SIR.
Q AND WHO CAN YOU RECALL BEING THERE?
A CHIEF WALTERS WAS THERE FROM THE BRANCHVILLE POLICE DEPARTMENT; ONE OF HIS OFFICERS, I DON'T RECALL HIS NAME; DETECTIVE VARNADO FROM ORANGEBURG COUNTY; I BELIEVE BY THEN MAJOR TURNER AND LIEUTENANT NETTLES HAD ARRIVED THERE ON THE SCENE.

Q ALL RIGHT, SIR. AND WAS MARION BOWMAN, THE DEFENDANT IN THIS CASE, THERE?
A YES, SIR, HE WAS.
Q OKAY. AND CAN -- FOR THE RECORD, CAN YOU IDENTIFY MARION BOWMAN IN COURT HERE?
A YES, SIR. HE'S SEATED OVER AT THE DEFENDANT'S TABLE.
Q ALL RIGHT, SIR. AND WAS IT YOUR INFORMATION THAT HE WAS UNDER ARREST AT THAT TIME FOR AN UNRELATED CHARGE?
A YES, SIR. THAT WAS MY UNDERSTANDING, THAT ORANGEBURG COUNTY HAD AN OUTSTANDING WARRANT FOR HIM.
Q OKAY.
A AND HE HAD BEEN PICKED UP ON THAT WARRANT.
Q AND DID YOU HAVE OCCASION TO SPEAK WITH MR. BOWMAN THAT DAY?
A YES, SIR, I DID.
Q AND WHERE DID YOU SPEAK WITH HIM? WHAT PART OF THE BRANCHVILLE POLICE STATION?
A INITIALLY IN CHIEF WALTER'S OFFICE.
Q OKAY. AND JUST BRIEFLY DESCRIBE THAT OFFICE TO US?
A IT'S NOT A REAL BIG OFFICE, PROBABLY FOURTEEN, FIFTEEN WIDE, MAYBE EIGHTEEN FEET LONG, JUST A GUESSTIMATE.
Q OKAY. AND WHEN YOU FIRST OBSERVED MARION BOWMAN AT THAT LOCATION, WHAT DO YOU RECALL OF HIS DEMEANOR?
A HE APPEARED TO BE CALM, KNEW WHAT WAS GOING ON.
Q OKAY. AND DID HE APPEAR TO BE UNDER THE INFLUENCE OF

ALCOHOL OR DRUGS OR ANYTHING THAT WOULD PREVENT HIM FROM UNDERSTANDING YOU IF YOU SPOKE TO HIM?

A NO, SIR, HE DID NOT TO ME.

Q ALL RIGHT, SIR. AND WHAT IS THE FIRST THING THAT YOU SAID TO HIM, TO MARION BOWMAN, WHEN YOU SAW HIM AT THE POLICE STATION?

A I DON'T RECALL THE EXACT WORDS THAT I USED.

Q DID YOU GIVE HIM MIRANDA RIGHTS?

A DID GIVE HIM MIRANDA RIGHTS AND USED AN OLD STANDARD MIRANDA FORM THAT WE USE WITH THE DEPARTMENT.

Q OKAY. AND IS THIS A WRITTEN FORM?

A YES, SIR.

Q OKAY. AND LET ME HAND YOU A PIECE OF PAPER AND ASK IF YOU CAN IDENTIFY THIS?

(SOLICITOR BAILEY NOW SHOWS DOCUMENT TO MR. CUMMINGS.)

MR. BAILEY: I'D LIKE TO HAVE THE COURT REPORTER MARK THIS, YOUR HONOR.

THE COURT: YES. YES.

(STATE'S EXHIBIT NUMBER ONE, MIRANDA/WAIVER RIGHTS FORM SIGNED BY THE DEFENDANT, IS NOW MARKED FOR IDENTIFICATION.)

MR. BAILEY: THANK YOU.

Q MR. COKER, I'M GOING TO HAND YOU WHAT HAS BEEN MARKED STATE'S ONE FOR IDENTIFICATION AND ASK IF YOU WOULD DESCRIBE WHAT THAT IS?

A YES. IT'S A STATEMENT OF MIRANDA RIGHTS AND A WAIVER

RIGHTS COMBINATION FORM THAT WE USE. IT'S ONE THAT I READ TO MR. MARION BOWMAN, JR., AND WITNESSED BY DETECTIVE VAN DORAN, DATED 2/17, 2001, 11:25 A.M.

Q ALL RIGHT. NOW JUST TO MAKE SURE WE'RE CLEAR ON THIS, WAS IT YOU OR MR. VAN DORAN THAT INITIALLY GAVE THE MIRANDA RIGHTS TO MARION -- TO MARION BOWMAN AT THE BRANCHVILLE POLICE STATION?

A WELL, WE WERE SEATED THERE TOGETHER. I THINK I READ THEM, AND THEN POSSIBLY DETECTIVE VAN DORAN, HE WENT BACK OVER THEM AGAIN, AND THEN WE HAD HIM SIGN IT.

Q OKAY. AND WHEN YOU READ THOSE RIGHTS TO HIM, OR READ IN YOUR PRESENCE -- LET ME BACK UP A SECOND AND TALK TO YOU ABOUT THE FORM HERE.

THE NUMBERING IN THE UPPER RIGHT-HAND CORNER OF THE FORM, WHAT IS THAT NUMBER? EXCUSE ME A SECOND.

A I THINK SHE COVERED IT UP.

Q MAYBE YOU'RE LOOKING AT THE WRONG ...

THE INITIALS THAT APPEAR ON THE LEFT-HAND SIDE AFTER EACH ONE OF THE RIGHTS THERE ---

A YES, SIR.

Q --- WHOSE INITIALS ARE THOSE?

A MARION BOWMAN, JR.'S.

Q OKAY. AND DID YOU SEE MARION BOWMAN PUT HIS INITIALS ON THAT FORM?

A I DID.

Q THE SIGNATURE THAT APPEARS UNDER THE WAIVER OF RIGHTS?
A IT'S MARION BOWMAN, JR.
Q OKAY. AND DID YOU SEE HIM SIGN THAT AFTER HE HAD BEEN READ THE WAIVER OF RIGHTS?
A I DID.
Q OKAY. AND UNDER "OFFICER'S NAME, SERGEANT A. M. COKER," IS THAT YOUR SIGNATURE?
A THAT'S CORRECT.
Q OKAY. AND THE DATE THERE, 2/17, 2001 ---
A YES, SIR.
Q --- 11:25 A.M., IS THAT THE CORRECT TIME THAT THE MIRANDA RIGHTS WERE GIVEN?
A YES, SIR, BY MY WATCH, AND THAT HIS MY HANDWRITING.
Q OKAY. WHAT PORTION OF THIS FORM IS IN YOUR HANDWRITING?
A MY SIGNATURE, WHERE IT SAYS, "OFFICER, DEPARTMENT, D.C.S.O.," THE DATE AND THE TIME.
Q OKAY. NOW WHEN THIS MIRANDA FORM WAS GONE OVER WITH MR. BOWMAN, DID HE APPEAR TO UNDERSTAND THOSE RIGHTS?
A YES, HE DID.
Q AT THE TIME HE PLACED HIS INITIALS BESIDE EACH ONE OF THE RIGHTS, DID HE APPEAR TO UNDERSTAND EACH OF THOSE INDIVIDUAL RIGHTS?
A YES, SIR, HE DID.
Q OKAY. DID HE APPEAR TO UNDERSTAND THE WAIVER OF RIGHTS

PORTION OF THE FORM?

A YES, SIR.

Q AND DID YOU SEE DETECTIVE VAN DORAN SIGN AS A WITNESS ON THAT FORM?

A I DID.

Q OKAY. DID YOU OR MR. VAN DORAN OFFER ANY INDUCEMENT OR PROMISES OR ANYTHING TO MR. BOWMAN TO GET HIM TO TALK TO YOU?

A NO, SIR, WE DID NOT.

Q OKAY. DID YOU THREATEN HIM IN ANY WAY?

A NO, WE DID NOT.

Q TO TRY TO GET HIM TO TALK TO YOU?

A NO, SIR.

Q AND WOULD YOU STATE WHETHER OR NOT, AFTER MR. BOWMAN WAS GIVEN HIS MIRANDA RIGHTS, HE INITIALED EACH OF THE RIGHTS SEPARATELY, WAS GIVEN THE WAIVER OF RIGHTS AND SIGNED UNDER THE WAIVER OF RIGHTS, DID HE THEN PROCEED TO GIVE YOU A VERBAL STATEMENT ABOUT THE DEATH OF KANDEE MARTIN?

A YES, SIR, HE DID.

Q OKAY. AND TO THE BEST OF YOUR ABILITY, WAS THAT VERBAL STATEMENT GIVEN TO YOU AND MR. VAN DORAN FREELY AND VOLUNTARILY?

A YES, SIR, APPEARED TO BE.

Q OKAY. AND DID YOU TAKE NOTES?

A YES, SIR.

Q OF THAT VERBAL STATEMENT?

A I DID.

Q AND DO YOU HAVE THOSE WITH YOU?

A YES, SIR.

Q AND USING THOSE NOTES, IF YOU WOULD, IF YOU NEED TO, TO REFRESH YOUR MEMORY, WOULD YOU TELL THE COURT WHAT MR. BOWMAN TOLD YOU IN REGARD TO THE DEATH OF KANDEE MARTIN?

A ACCORDING TO MY NOTES, REFERRING TO THEM, MR. BOWMAN STATED THAT HE LEFT ABEL KOGER'S HOUSE AROUND FIVE P.M. WITH A GROUP: HANK KOGER, KEITH RIVERS, SOMEONE NAMED MARILYN, KEON WILLIAMS, AND DARIN WILLIAMS, ALSO KNOW AS "POP." SAID AT 11:30 TO 12:00 -- EXCUSE ME, 11:30 P.M. TO 12:00 A.M. THE GROUP WENT TO ALAN MURRAY'S CLUB.

AND AROUND 10:00 HE HAD TALKED, I GUESS, WITH KANDEE; SAID KANDEE SAID THAT BILL BRADLEY OR EITHER BILL CARMICHAEL HAD PAID HER TEN DOLLARS TO TAKE HIM HOME; SAID SHE LEFT AND WAS GOING TO ST. GEORGE.

SOMEONE NAMED TORRY HAD SAID THAT SHE WAS WIRED, WORKING FOR THE POLICE; SAID TRAVIS FELDER AND LAMONT SMITH WENT TO SOME CLUB IN MIDWAY, CLUB "GET-IT, GET-IT" WAS THE NAME HE GAVE US; CAME BACK, SAID "NOTHING WAS GOING ON THERE."

HE WENT TO ALAN MURRAY'S CLUB IN A BLUE CAR WITH TYRONE, LAST NAME UNKNOWN; SAID TRAVIS FELDER DROVE HIS MAZDA TO AL MURRAY'S CLUB; TALKED ABOUT SISTER YOLANDA BOWMAN; AND LEFT THE CLUB AROUND 2:30, 3:00.

AND THEN HE CAME HOME WITH TRAVIS FELDER AND WENT THROUGH ST. GEORGE AND ATE BREAKFAST AT THE HUDDLE HOUSE; SAID HE GOT HOME, TOOK A SHOWER AROUND 5:30 TO 6:30 A.M.; AND HE SAYS HE WAS DRUNK.

SAID KANDEE WAS PROBABLY GOING TO ST. GEORGE TO SEE SOME GUY NAMED DAYLO OR DAVID, LAST NAME UNKNOWN. HE WENT ON TO DESCRIBE THIS GUY DAYLO.

HE ALSO TOLD US THAT HE USED -- HE USED TO CARRY A 32 REVOLVER. HE GAVE IT BACK, GAVE THE GUN BACK, TO THE OWNER, SOME GUY IN ORANGEBURG; DIDN'T KNOW HIS NAME.

HE HAD KNOWN KANDEE MARTIN ALL HIS LIFE; SAID SHE PAWNS ALL OF HER JEWELRY AND SELLS HERSELF, TRADES HERSELF, OUT FOR DRUGS. HE HAD SAW HER AT FRANKIE MARTIN'S HOUSE AND THAT SHE'D GIVEN HIM A BLOW JOB FOR A $20.00 ROCK; AND THAT MARION STATED THAT HE GOT THE ROCK FROM A MAURICE SEABROOKS; AND THAT JOE FOGLE LEFT HIM THERE SO KANDEE GAVE HIM A RIDE BACK TO THE PROJECTS IN BRANCHVILLE.

JOE GOT MAD WITH HIM 'CAUSE MARION GAVE KANDEE THE ROCK AND DIDN'T HAVE ANYTHING TO SMOKE HIMSELF. SAID KANDEE USED TO DATE SOME GUY NAMED JEFF BRICE; AND TOLD US AGAIN ABOUT THIS GUY, DAYLO.

THAT WAS WHAT MY NOTES REFLECT, AS FAR AS MY HANDWRITTEN NOTES.

MR. BAILEY: YOUR HONOR, THAT'S ALL I HAVE IN REGARD TO THE VERBAL STATEMENT.

AND WHAT I INTEND TO DO AFTER HE'S CROSS-EXAMINED IS TO RECALL TERRY VAN DORAN.

THE COURT: ALL RIGHT.

MR. BAILEY: --- GET INTO MIRANDA AND THE VERBAL STATEMENT.

THE COURT: VERY WELL.

ALL RIGHT.

MR. CUMMINGS: THANK YOU, JUDGE.

THE COURT: YES, SIR.

MR. CUMMINGS: AND WE'LL TRY TO FOLLOW THAT ALONG.

CROSS-EXAMINATION BY MR. CUMMINGS:

Q GOOD MORNING, SIR.

A MORNING.

Q GOOD SEEING YOU.

IF YOU DON'T MIND, I WANT TO TAKE YOU BACK JUST A LITTLE BIT, PLEASE, AND THE COURT'S INDULGENCE AND MR. BAILEY'S KINDNESS.

WHAT TIME DID YOU GET WOKEN UP THAT DAY?

A IF I CAN REFER TO MY NOTE I'LL GIVE YOU AN APPROXIMATE TIME. AROUND FOUR-FIFTEEN HOURS ACCORDING TO MY NOTES.

Q OKAY. AND IF DON'T MIND, PLEASE, I'M GOING TO TAKE YOU BACK A LITTLE BIT AND SAY AFTER YOU, OF COURSE, GOT PREPARED, WHERE DID YOU GO?

A I RESPONDED TO NURSERY ROAD OUT OF REEVESVILLE; WAS TOLD WE HAD A VEHICLE THAT HAD BURNED AND THAT THERE WAS A

BODY IN THE VEHICLE.

Q AND AT THAT POINT WERE YOU SATISFIED WITH THE IDENTIFICATION OF THE ALLEGED VICTIM, SIR?

A AT THAT TIME WE DID NOT KNOW WHO THE VICTIM WAS. GOT THERE AND I MET WITH LIEUTENANT ASBELL, WHO HAD ARRIVED JUST AHEAD OF ME. I THINK SOME OF THE OTHER OFFICERS HAD ALREADY TAPED OFF THE SCENE. I WENT, MET WITH LIEUTENANT ASBELL, AND OBSERVED THAT THERE WAS A BODY. IT WAS OBVIOUS IT WAS A FEMALE BODY IN THE TRUNK OF THIS BURNED VEHICLE. THE TAG WAS STILL ON THE CAR OR SOMEWHERE THERE NEARBY.

Q DO YOU REMEMBER WHO THE TAG CAME BACK TO? I KNOW YOU JUST ---

A THE TAG CAME BACK REGISTERED TO -- AND I'LL HAVE TO LOOK AT NOTES TO GET THE PRONOUNCED NAME, BUT IT WAS -- ACTUALLY TURNED OUT TO BE KANDEE MARTIN'S MOTHER, AND, OR HER, KANDEE MARTIN, AT A BRANCHVILLE ADDRESS.

Q AND WHAT DID YOU DO NEXT, PLEASE, IN CHRONOLOGICAL ORDER?

A DETECTIVE VAN DORAN ARRIVED, DISCUSSED WITH HIM WHAT WE HAD SO FAR. SINCE WE DETERMINED THAT THE CAR WAS OUT OF BRANCHVILLE AND IT WAS REGISTERED TO TWO FEMALES, WE FELT LIKE POSSIBLY THE BODY BELONGED TO ONE OF THESE FEMALES OR WAS ONE OF THESE FEMALES. SO HE AND I THEN PROCEEDED TO BRANCHVILLE TO TRY TO MEET WITH ONE OF THE OFFICERS THERE TO GO TO THE ADDRESS LISTED ON THE D.M.V. FILE.

Q AND WHICH OFFICER DID YOU MEET IN BRANCHVILLE, SIR?
A INITIALLY WE CALLED DETECTIVE -- EXCUSE ME, CHIEF WALTERS. I ALSO TELEPHONE THE ORANGEBURG COUNTY SHERIFF'S OFFICE, PUT IN A REQUEST FOR ONE OF THEIR UNITS TO MEET WITH US, AND ONE OF THEIR DEPUTIES MET WITH US THERE AT THE SHELL EASY SHOP, AND WE RESPONDED OVER TO THE ADDRESS ON THE D.M.V. FILE; FOUND THAT THERE WAS NO ONE HOME. APPARENTLY THEY HAD MOVED FROM THAT LOCATION.
Q AND WHAT THEN DID YOU DO NEXT?
A WE LEFT THERE AND WENT BACK TO THE BRANCHVILLE POLICE DEPARTMENT WHERE ONE OF THEIR, ORANGEBURG COUNTY'S, DETECTIVES FINALLY SHOWED UP; DISCUSSED WHAT WE HAD THERE; THAT CHIEF WALTERS FOUND OUT, TOLD US, THAT THE MARTINS HAD ACTUALLY MOVED TO ORANGEBURG SOMETIME JUST PRIOR TO THIS INCIDENT; AND THAT KANDEE MARTIN WAS KNOWN TO DRIVE THAT PARTICULAR VEHICLE.
Q AND DID CHIEF WALTERS TELL YOU THAT?
A YES, SIR.
Q ALL RIGHT, SIR. AND PLEASE CONTINUE. WHAT HAPPENED NEXT?
A WE SENT, I THINK IT WAS OUR CHAPLAIN -- WELL, LET ME BACK UP.
ACCORDING TO CHIEF WALTERS AND SOME OF THE OTHER PEOPLE THAT WE INTERVIEWED THERE, KANDEE MARTIN WAS WELL-KNOWN IN THE COMMUNITY. SHE HAD GONE TO SCHOOL, WE UNDERSTOOD, WITH

MR. BOWMAN. THEY HAD BEEN SEEN TOGETHER AT DIFFERENT TIMES IN THE COMMUNITY TOGETHER, DIFFERENT PLACES. THE CHIEF TOLD US ABOUT KANDEE'S BOYFRIEND.

Q AND WHO WAS THAT?

A CHARLIE FRALIX.

Q ALL RIGHT, SIR.

A THE CHIEF WENT OVER AND GOT CHARLIE FRALIX, WHO VOLUNTARILY CAME BACK UP TO THE POLICE DEPARTMENT WHERE WE INTERVIEWED HIM.

Q DID MR. FRALIX HAVE ANY OUTSTANDING WARRANTS ON HIM OR ANY AT THAT TIME TO HAVE HIM ---

A NO, SIR.

Q --- TAKEN INTO CUSTODY BY YOU?

A NO, SIR. HE WASN'T TAKEN INTO CUSTODY, HE VOLUNTARILY CAME UP, TALKED WITH US. HE PROVIDED US WITH INFORMATION WHERE HE HAD SEEN KANDEE AND MR. BOWMAN TOGETHER THE DAY BEFORE, WHICH WOULD HAVE BEEN FRIDAY AFTERNOON.

Q ALL RIGHT, SIR. DID YOU TAKE THAT STATEMENT FROM MR. FRALIX, RECORD, PUT THAT TO WRITING?

A WE DID EVENTUALLY GET A STATEMENT FROM MR. FRALIX. I DON'T THINK WE GOT ONE RIGHT AT THAT TIME BUT WE GOT ONE LATER THAT DAY.

Q ALL RIGHT, BUT NOT AT THAT TIME?

A NO, SIR.

Q OKAY. AND HOW LONG DID YOU KEEP MR. FRALIX AT THE

POLICE DEPARTMENT?

A I DON'T RECALL THE EXACT LENGTH OF TIME BUT IT WAS PROBABLY THIRTY, FORTY-FIVE MINUTES, TALKING WITH HIM; COULD HAVE BEEN LONGER.

Q YES, SIR. AS A RESULT MR. BOWMAN'S NAME COMES UP BY CHARLES FRALIX?

A YES, SIR.

Q ALL RIGHT. AND BASED ON THAT, WHAT DID YOU DO NEXT?

A AFTER WE WERE GIVEN THE INFORMATION BY MR. FRALIX, DETECTIVE VAN DORAN GOT WITH ORANGEBURG COUNTY GUYS, THEY WENT OUT, FOUND OUT THEY HAD A WARRANT ON MR. BOWMAN.

Q I'M GOING TO STOP HERE FOR A MOMENT. DID YOU EVER SEE THAT WARRANT PHYSICALLY?

A NO, SIR. CHIEF WALTERS HAD INFORMED US, AFTER MR. BOWMAN'S NAME CAME UP THROUGH MR. FRALIX, HE INFORMED US THAT HE KNEW OF A OUTSTANDING WARRANT FOR MR. BOWMAN AND TOLD US THAT HIS DEPARTMENT HAD BEEN ACTIVELY SEEKING TRYING TO FIND MR. BOWMAN TO ARREST HIM.

Q DID THE CHIEF HAVE PHYSICAL POSSESSION OF A WARRANT?

A I THINK HE MAY HAVE HAD A COPY OF IT. I DON'T KNOW, I NEVER SAW IT, BUT WHEN THE ORANGEBURG COUNTY DETECTIVES ARRIVED, DETECTIVE VAN DORAN CONFIRMED THAT THERE WAS AN OUTSTANDING WARRANT AGAINST HIM. I NEVER SAW THAT WARRANT, NO, SIR.

Q DID YOU VERIFY WITH N.C.I.C. OR ANYTHING TO ESTABLISH

THERE WAS A ACTIVE VALID WARRANT?

A NO, SIR. AND REALLY, I HAD NO REASON TO QUESTION ORANGEBURG COUNTY'S WARRANTS, AS FAR AS THE VALIDITY OF IT, WHEN THEY TOLD ME THEY HAD AN ACTIVE WARRANT ON HIM.

Q ALL RIGHT, SIR. NOW, THIS IS PROBABLY ONE TIME THAT YOU START, AFTER YOU LET MR. FRALIX GO, WHATEVER, WHAT HAPPENED NEXT AND AT WHAT TIME?

A THAT WAS PROBABLY AROUND TEN OR TEN-THIRTY, I'M GUESSING WITHOUT LOOKING BACK ON MY NOTES. HE ---

Q HOW MANY ORANGEBURG GUYS HAD SHOWED UP ABOUT THIS TIME, MEANING LAW ENFORCEMENT PERSONNEL FOR ORANGEBURG?

A I BELIEVE -- LET'S SEE, DETECTIVE VARNADO; I BELIEVE DETECTIVE JACK COLEMAN SHOWED UP; I WANT TO THINK DETECTIVE WALTERS, WHO WAS THE CHIEF DEPUTY, SHE SHOWED UP, SHE WERE THERE. THAT MAY HAVE BEEN ALL. THERE MAY HAVE BEEN A COUPLE OTHERS THAT CAME IN AND OUT.

Q NONE OF THOSE OFFICERS, OF YOUR PERSONAL KNOWLEDGE, BROUGHT ANY WARRANTS OR PIECES OF PAPER DOWN WITH THEM?

A SOMEBODY HAD THE WARRANT, I NEVER SAW IT AT THAT TIME, BUT I THINK SOMEBODY HAD THE WARRANT. I NEVER SAW IT AT THAT TIME. I THINK I GOT A COPY OF IT LATER FOR MY FILE BUT I NEVER SAW IT AT THAT TIME.

Q OKAY. AND SO APPROXIMATELY WHAT TIME DO YOU LEAVE TO GO OVER TO MR. BOWMAN'S RESIDENCE?

A WELL, LIEUTENANT NETTLES AND MYSELF WENT TO CHARLIE

FRALIX'S HOUSE. DETECTIVE VAN DORAN AND SOME OF THE OTHER UNITS WENT OVER TO MR. BOWMAN'S HOUSE. WE WENT OVER AND PHOTOGRAPHED, CHECKED FRALIX'S RESIDENCE. HE GAVE US CONSENT TO SEARCH; WENT IN AND TOOK SOME PHOTOGRAPHS AND SOME ITEMS THERE. AND WHEN WE LEFT THERE, LIEUTENANT NETTLES AND MYSELF THEN WENT OVER TO CHURCH STREET AND MET WITH THE OTHER UNITS.

Q ALL RIGHT. WHEN YOU GOT THERE, WAS MR. BOWMAN ALREADY IN CUSTODY?

A YES, SIR, HE WAS.

Q ALL RIGHT. SO YOU WEREN'T PRESENT WHEN THE ALLEGED MIRANDA WARNINGS WERE GIVEN BY MR. VAN DORAN?

A NO, SIR.

Q ALL RIGHT.

A HE WAS ALREADY IN CUSTODY WHEN I ARRIVED.

Q AND MR. BOWMAN WAS IN HANDCUFFS WHEN YOU SAW HIM?

A YES, SIR.

Q ALL RIGHT, SIR. AND WAS HE STILL IN THE RESIDENCE OR WAS HE ALREADY OUTSIDE, ON HIS WAY TO THE BRANCHVILLE POLICE DEPARTMENT?

A I BELIEVE HE WAS STILL INSIDE. I THINK THEY WERE GETTING READY TO WALK HIM OUT WHEN I GOT THERE.

Q WERE THERE ANY VERBAL STATEMENTS MADE TO YOU AT MR. BOWMAN'S RESIDENCE OR WHILE IN YOUR PHYSICAL PRESENCE, SIR, WHERE MR. BOWMAN SAYING ANYTHING AT THAT TIME WHILE YOU WERE THERE?

A THE ONLY THING HE SAID WAS SOMETHING ABOUT THE WATCH THAT SOMEBODY -- I THINK DETECTIVE VAN DORAN AT THAT TIME OR ABOUT THAT TIME HAD CHECKED THE PANTS AND HAD FOUND A WATCH, AND I BELIEVE HE MADE A COMMENT THAT SOMEONE GAVE HIM THE WATCH.

Q WAS THAT INDUCED BY ANY LAW ENFORCEMENT OFFICERS OR A SPONTANEOUS UTTERANCE?

A NO, SIR. I THINK IT WAS JUST SPONTANEOUS, WHENEVER THE WATCH CAME OUT OF THE POCKET.

Q OKAY. YOU GENTLEMEN DID NOT HAVE A SEARCH WARRANT AT ALL AT THAT TIME FROM ANY LAWFUL JUDGE?

A WE HAD A CONSENT TO SEARCH.

Q ALL RIGHT. WELL, LET'S GO BACK -- I KNOW WE'RE DOING JACKSON V. DENNO TODAY, BUT WHO GAVE THE CONSENT TO SEARCH? AND I'LL STOP WITH THAT QUESTION.

A MS. MARION -- EXCUSE ME. DOROTHY MAE BOWMAN, WHO WAS THE WIFE OF MARION BOWMAN, JR.

Q ALL RIGHT. NOW WAS THIS DONE, THE CONSENT, BEFORE OR AFTER HE WAS IN HANDCUFFS?

A THAT I DON'T KNOW. I KNOW THAT THEY HAD A CONSENT TO SEARCH FORM THAT HAD BEEN SIGNED.

Q AND YOU DIDN'T DO THAT?

A NO, SIR, I DON'T THINK I DID. I THINK I DID ONE LATER BUT NOT AT THAT PARTICULAR TIME.

Q ALL RIGHT. AND THEN THEREAFTER WHO DIRECTED THE TAKING

OF MR. BOWMAN, WHO -- AGAIN, AND IF THIS IS AN UNFAIR QUESTION, I KNOW YOU'LL TELL ME. WHO DIRECTED TO TAKE MR. BOWMAN'S PERSON TO THE BRANCHVILLE POLICE DEPARTMENT?

A I THINK IT WAS FOLLOWING A JOINT DECISION BETWEEN DORCHESTER COUNTY AND ORANGEBURG COUNTY. THAT WAS THE CLOSEST POLICE FACILITY WHERE WE HAD AN OFFICE THAT WE COULD GO IN. WE WEREN'T AWARE OF THE CIRCUMSTANCES, AS FAR AS THEIR WARRANT, OTHER THAN THE FACT THAT THEY HAD A WARRANT.

BUT WE KNEW THAT BASED ON THE INFORMATION WE HAD AT HAND, WE NEEDED TO TALK TO HIM CONCERNING KANDEE MARTIN AND HIS ASSOCIATION WITH HER.

Q ALL RIGHT. NOW I JUST WANT TO CLARIFY WHAT YOU JUST SAID: YOU WEREN'T SURE THERE WAS A WARRANT ON HIM?

A WASN'T SURE OF THE CIRCUMSTANCES. WE KNEW THAT THERE WAS A WARRANT, ACCORDING TO ORANGEBURG COUNTY. THEY HAD AN ARREST WARRANT. WE DID NOT HAVE ANY BACKGROUND ON THAT, THE INFORMATION IN THAT WARRANT. SO WE WEREN'T GOING TO QUESTION HIM ON THEIR WARRANT. WE KNEW WE NEEDED TO TALK TO HIM CONCERNING HIS ASSOCIATION WITH OUR VICTIM HERE.

Q WELL, WILL YOU AGREE WITH ME THAT THERE'S A DIFFERENCE BETWEEN AN ARREST WARRANT AND A BENCH WARRANT SIGNED BY A JUDGE?

A THERE'S A DIFFERENCE BUT THEY STILL SAY "ARREST, TAKE IN CUSTODY."

Q AS FAR AS A BENCH WARRANT, IT'S USUALLY REQUIRING TO

TURN THEM OVER TO LAW ENFORCEMENT TO BE DELIVERED TO THE COURT AND BROUGHT BEFORE THE COURT ON A BENCH WARRANT; RIGHT?

A YES, SIR.

Q ALL RIGHT. SO THIS WAS ORANGEBURG'S PERSON? YOU DIDN'T ARREST HIM, DID YOU?

A NO, SIR, I DIDN'T ARREST HIM.

Q OF YOUR TESTIMONY, WHO PUT THE HANDCUFFS ON MR. BOWMAN? OH, YOU WEREN'T THERE.

A I DON'T KNOW, I WASN'T THERE WHEN HE WAS HANDCUFFED.

Q I APOLOGIZE AND WITHDRAW THAT QUESTION. ALL RIGHT.

NOW ONCE HE IS TAKEN TO THE BRANCHVILLE POLICE DEPARTMENT, DID THE ORANGEBURG OFFICERS EVER READ HIM MIRANDA WARNINGS?

A I DID NOT HEAR THEM READ HIM ONE, NO, SIR.

Q OKAY. DID ANYBODY AT ALL ASK HIM, EITHER YOU, SIR, OR ANYBODY IN YOUR PRESENCE, WHETHER OR NOT HE WAS REPRESENTED BY COUNSEL ONCE YOU LEARNED THAT HE WAS IN THERE ON A BENCH WARRANT?

A NO, SIR. I WAS UNDER THE IMPRESSION THAT IT WAS AN ARREST WARRANT, NOT A BENCH WARRANT. IT WAS A WARRANT FOR GRAND LARCENY.

Q WOULD THAT HAVE MADE A DIFFERENCE TO YOU, IF YOU HAD KNOWN THERE WAS A BENCH WARRANT, AS TO WHETHER OR NOT YOU WOULD HAVE ASKED HIM IF HE WAS REPRESENTED BY COUNSEL ON A CHARGE THAT RESULTED IN A BENCH WARRANT FOR FAILURE TO

APPEAR?

A NO, SIR. BECAUSE I WASN'T GOING TO TALK TO HIM ABOUT THAT PARTICULAR CHARGE.

Q YOU WERE GOING TO TALK TO HIM ABOUT SOMETHING ELSE?

A AND AT THAT TIME. YOU KNOW, HE WASN'T UNDER ARREST BY US FOR ANYTHING DEALING WITH ORANGEBURG COUNTY. WE WERE LOOKING AT A TOTALLY SEPARATE ISSUE.

Q ALL RIGHT. BUT YOU'LL AGREE WITH ME, WHEN A PERSON IS IN CUSTODY AND THERE'S INTERROGATION, THAT MIRANDA IS REQUIRED AND THOSE PROCEDURAL WARNINGS HAVE TO BE GIVEN TO HIM; CORRECT?

A CORRECT.

Q AND HE'S IN CUSTODY?

A YES, SIR.

Q AND NOW YOU WANT TO TALK TO HIM, AS FAR AS INTERROGATION?

A YES, SIR.

Q OKAY. BUT NOW IT'S YOUR TESTIMONY TODAY, MR. COKER, THAT YOU WANTED TO TALK TO HIM ABOUT SOMETHING COMPLETELY DIFFERENT, THE NURSERY ROAD INCIDENT?

A YES.

Q OKAY. BUT AGAIN -- I'M GOING TO ASK YOU THIS AND I DON'T MEAN TO BE IMPOLITE -- YOU DIDN'T CARE OR VERIFY WHETHER OR NOT HE WAS REPRESENTED BY ANY OTHER LAWYER ANYWHERE ELSE?

A I DIDN'T ASK THE QUESTION, NO, SIR.
Q OKAY, SIR. AND THEREAFTER YOU AND MR. VAN DORAN ARE IN THE SAME OFFICE, AT CHIEF WALTERS'S OFFICE IN BRANCHVILLE?
A YES, SIR.
Q OKAY. AND YOU'RE THE CASE OFFICER SO YOU WERE HERE AT THE TABLE A FEW MOMENTS AGO, AND MR. VAN DORAN BASICALLY SAID HE READ THE MIRANDA WARNINGS AGAIN OFF THE SHEET THAT THE STATE IS ASKING BE MARKED AS STATE'S I.D. NUMBER ONE?
A YES, SIR.
Q OKAY. YOU VERIFIED OR TESTIFIED THAT THOSE M.B.J. INITIALS ARE MR. MARION BOWMAN, JR.; RIGHT, SIR?
A THAT IS CORRECT.
Q AND THAT HE UNDERSTOOD HIS WAIVER OF RIGHTS; CORRECT?
A THAT IS CORRECT.
Q ALL RIGHT. LOOKING AT YOUR SHEET THERE, DO YOU SEE ANYWHERE WHERE MR. BOWMAN INITIALED HIS WAIVER OF RIGHTS?
A WELL, THAT'S WHY WE HAVE HIM SIGN IT. WE DON'T -- I MEAN, IT'S -- I DON'T CUSTOMARILY HAVE THEM INITIAL THE WAIVER OF RIGHTS. I JUST HAVE THEM SIGN IT HERE (INDICATING), INDICATING THAT HE UNDERSTANDS HIS RIGHTS AND HE WAIVED THEM.
Q OKAY, SIR. SO IT'S FAIR TO ANSWER MY QUESTION THEN, THERE'S NOT AN INITIAL ON THAT LINE BUT ON EVERY OTHER LINE IT'S INITIALED?
A YES, SIR.

Q OKAY. AND THEN MR. BOWMAN SIGNS IT?
A THAT'S CORRECT.
Q ALL RIGHT, SIR. AND YOU WITNESSED THE SIGNATURE?
A YES, SIR.
Q AND IT WAS WITNESSED BY MR. VAN DORAN ALSO, IN YOUR PRESENCE?
A THAT'S CORRECT.
Q AND THEN YOU TIME IT. IS THIS AT THE BEGINNING OF TALKING TO MR. BOWMAN OR IS THIS AT THE END OF TALKING TO MR. BOWMAN?
A NO, THIS IS WHEN I ACTUALLY READ HIM THE RIGHTS, BY MY WATCH THAT'S THE TIME I LOGGED ON THE SHEET.
Q ALL RIGHT, SIR, 2/17, 2001, 11:25 A.M.?
A CORRECT.
Q ALL RIGHT. AND HOW LONG WOULD YOU SAY MR. BOWMAN HAD BEEN IN YOUR PRESENCE UP TILL 11:25, OF YOUR PERSONAL KNOWLEDGE, SIR?
A MY PERSONAL KNOWLEDGE? I THINK, BY LOOKING AT MY NOTES, I BELIEVE IT SAYS WE ARRIVED THERE AROUND 11:20, SO ABOUT FIVE MINUTES.
Q OKAY. AND THEREAFTER, YOU'RE SEATED IN A ROOM, AND WHO BEGINS THE INITIAL QUESTIONING OF MR. BOWMAN, YOU OR MR. VAN DORAN, SIR?
A I DON'T RECALL. I THINK WE, INITIALLY, SINCE WE KNEW WHAT WE WERE GOING TO DISCUSS WITH HIM, WE INITIALLY GAVE HIM

HIS MIRANDA AND THEN WE KIND OF WENT FROM THERE, BACK AND FORTH.

Q ALL RIGHT, SIR. SORT OF LIKE A "Q" AND "A," QUESTION AND ANSWER?

A WELL, WE GAVE HIM AN OPPORTUNITY TO TELL US WHAT HE KNEW ABOUT KANDEE MARTIN INITIALLY.

Q ALL RIGHT. AND YOU TOLD HIM WHAT HE WAS UNDER ARREST FOR?

A HE HAD BEEN TOLD THAT HE WAS UNDER ARREST FOR THE ORANGEBURG COUNTY WARRANT AND THAT WE NEEDED TO TALK TO HIM ABOUT HIS ASSOCIATION WITH KANDEE MARTIN, IN FACT WE HAD HER CAR AND IT HAD BEEN BURNED.

Q IT'S FAIR TO SAY YOU DIDN'T KNOW WHAT THE WARRANT WAS, YOU THOUGHT IT WAS GRAND LARCENY; RIGHT?

A CORRECT.

Q OKAY. SO YOU COULDN'T GIVE MR. BOWMAN AT LEAST A LOGICAL ANSWER AS TO WHY HE WAS ARRESTED, OTHER THAN IT WAS AN ORANGEBURG WARRANT?

A THAT'S CORRECT.

Q OKAY. AND THEN YOU WANTED TO TALK TO HIM ABOUT KANDEE MARTIN. DID YOU TELL MR. BOWMAN THAT SHE WAS DECEASED?

A WE HAD NOT IDENTIFIED HER AT THAT TIME. WE HAD A BODY IN HER CAR. AND THAT WAS WHAT WE WERE TRYING TO DETERMINE, IS WHEN THE LAST TIME HE MAY HAVE SEEN MS. MARTIN AND IF HE KNEW -- OR IF HE HAD INDEED SEEN HER THE NIGHT BEFORE.

Q OR POSSIBLY MS. MARTIN'S MOTHER?
A CORRECT.
Q OKAY. BECAUSE WE WEREN'T SURE?
A WE WEREN'T SURE.
Q ALL RIGHT. AND AT THAT POINT DID YOU EVER TELL HIM THERE WAS A BODY FOUND IN THE TRUNK OF THE CAR?
A YES, SIR, I THINK.
Q SO YOU TOLD HIM AHEAD OF TIME?
A YES, SIR.
Q ALL RIGHT. AND THEREAFTER HE'S SITTING IN THE ROOM WITH YOU, YOU STATED THAT HE LOOKED FINE TO YOU?
A YES, SIR.
Q ALL RIGHT. HE APPEARED -- AGAIN, MR. BAILEY ASKED YOU QUESTIONS -- WE WAS COGNIZANT AND AWARE OF HIS SURROUNDINGS?
A YES, SIR.
Q OKAY. NOBODY HAD SLAPPED HIM OR BEAT HIM OR HURT HIM IN YOUR PRESENCE OR MR. VAN DORAN'S?
A NOT IN MY PRESENCE, NO, SIR.
Q AND IN YOUR NOTES, IF I'M NOT MISTAKEN, YOU SAID, IT'S YOUR TESTIMONY, THAT MR. BOWMAN SAID THAT HE WAS DRUNK?
A THAT IS WHAT HE TOLD, HE SAID HE WAS DRUNK WHEN HE GOT HOME.
Q RIGHT. ABOUT 5, 6:00 IN THE MORNING?
A THAT'S WHAT HE SAID.
Q AND THIS IS ABOUT 11:25 A.M.?

A YES, SIR.
Q AND YOU'VE MADE HUNDREDS OF D.U.I. ARRESTS AND PUBLIC DRUNK ARRESTS, RIGHT, IN ALL THOSE YEARS YOU'VE BEEN ARRESTING?
A YES, SIR.
Q ALL RIGHT. AND HE APPEARED TO BE SOBER TO YOU?
A HE APPEARED TO BE SOBER, DID NOT APPEAR TO BE UNDER THE INFLUENCE AT ALL.
Q OKAY. AND YOU DIDN'T ASK IF HE'D TAKEN ANY OTHER ILLEGAL SUBSTANCES; RIGHT?
A NO, SIR.
Q ALL RIGHT. THERE'S NOTHING IN YOUR NOTES ABOUT THAT AND I WANT TO BE SURE IT DOESN'T COME OUT LATER ON IN TRIAL.
A NO.
Q OKAY. BUT AS FAR AS GOING THROUGH THE PROCEDURES THAT MORNING HE WAS COGNIZANT AND ANSWERED ANY QUESTIONS THAT YOU GENTLEMEN HAD; RIGHT?
A YES, SIR.
Q OKAY. AND THEN AFTER YOU TAKE YOUR STATEMENTS FROM HIM, DID YOU JUST LET HIM TALK, OR IS IT REALLY QUESTION AND ANSWER? AND THAT'S WHAT I'M TRYING TO FIND OUT.
A INITIALLY HE JUST TALKED AND THEN WE KIND OF GOT INTO QUESTION AND ANSWERS AFTERWARDS. DETECTIVE VAN DORAN THEN WROTE THE STATEMENT AS HE TOLD US.
Q YOU WERE TAKING FIELD NOTES AT THE TIME ALSO?

A YES, SIR.
Q ALL RIGHT. AND AT THE END OF THIS, WAS MR. VAN DORAN ACTUALLY WRITING IT LINE BY LINE AS MARION IS SPEAKING, SIR, OR DID HE WAIT TILL MARION FINISHED AND THEN WENT BACK AND REDUCED IT TO WRITING?
A WE GOT HIM TO TELL US HIS VERSION AND THEN WENT BACK AND ACTUALLY WROTE IT OUT, DETECTIVE VAN DORAN WROTE IT OUT; READ THAT STATEMENT BACK TO MR. BOWMAN TO MAKE SURE THAT THAT WAS WHAT HE WAS TELLING US AND THAT IT WAS CORRECT. AND MR. BOWMAN INDICATED TO US THAT THAT WAS HIS STATEMENT, THAT IT WAS TRUE, AND THAT WAS THE FACTS AS HE KNEW THEM.
Q ALL RIGHT. I'M JUST GOING TO ASK YOU A SERIES OF QUESTIONS, SIR, AND IT'S NOT TO PUT YOU ON THE SPOT, OTHER THAN YOUR TRUTHFUL ANSWERS TO ME.
DID YOU LEAVE YOUR HOME IN YOUR COUNTY PROVIDED VEHICLE AND ARRIVE RIGHT TO NURSERY ROAD?
A YES, SIR.
Q ALL RIGHT. YOU DIDN'T STOP AT WHAT WE CALL EITHER THE ANNEX HERE OR YOUR OFFICE UP HERE IN ST. GEORGE?
A NO, SIR.
Q ALL RIGHT.
A I WENT STRAIGHT TO THE ---
Q AND IN YOUR CAR, THE GEAR THAT YOU HAVE -- AND I KNOW YOU'VE BEEN AROUND A LONG TIME, SIR -- YOU CARRY USUALLY EXTRA EQUIPMENT AND STUFF, YOUR NOTES AND SHEETS AND PADS;

CORRECT?

A USUALLY.

Q STATEMENT FORMS?

A YES, SIR.

Q DO YOU CARRY A TAPE RECORDER IN YOUR VEHICLE OR ON YOUR PERSON?

A SOMETIMES, BUT THAT PARTICULAR DAY I DID NOT HAVE IT WITH ME.

Q ALL RIGHT. DID YOU HAVE ANY VIDEO CAMERA IN THE CAR?

A NO, SIR, HAVE NOT BEEN ISSUED ONE.

Q ALL RIGHT. ANYTIME DURING THAT DAY DID ANYBODY COME UP THAT HAD CAMERAS OR ANYBODY ASK A QUESTION ABOUT A TAPE RECORDER?

A I DON'T RECALL. I DIDN'T HEAR ANYBODY SAY ANYTHING ABOUT IT.

Q ALL RIGHT. AND YOU DID NOT REQUEST ONE?

A NO, SIR.

Q ALL RIGHT. AND YOU'VE TAKEN TAPE RECORDED STATEMENTS IN THE PAST IN SOME OF THE CASES YOU'VE WORKED, INCLUDING HOMICIDE CASES; IS THAT CORRECT??

A SURE.

Q AND THIS ONE YOU CHOSE NOT TO OR YOU JUST DIDN'T?

A I JUST DIDN'T HAVE ACCESS TO ONE AT THE TIME. I DIDN'T HAVE MY RECORDER AND I DIDN'T SEE ANY THERE AT THE POLICE DEPARTMENT.

Q ALL RIGHT, SIR. DID YOU GO INTO THE COURTROOM AT ALL, MR. COKER?
A YES, SIR. AND THEIR COURTROOM IS BASICALLY AN OPEN ROOM WITH A CONFERENCE TABLE WITH CHAIRS AROUND IT AND THE WALLS ARE OPEN. THERE WAS NO PLACE THERE FOR A TAPE RECORDER AND THERE WAS NOT ONE ON THAT TABLE.
Q OKAY. THE SUMMARY COURT JUDGE DIDN'T HAVE ONE?
A THE SUMMARY COURT JUDGE HAS A SEPARATE OFFICE AND IT'S LOCKED AND I DON'T THINK THE CHIEF EVEN HAS ACCESS TO IT. AND THE SUMMARY COURT JUDGE WASN'T AVAILABLE.
Q ALL RIGHT. AND WHY DID EVERYBODY DECIDE TO KEEP MR. BOWMAN AT THE BRANCHVILLE POLICE DEPARTMENT INSTEAD OF TAKING HIM TO THE ORANGEBURG COUNTY SHERIFF'S DEPARTMENT?
A I GUESS BECAUSE EVERYTHING WAS KIND OF CENTERED AROUND BRANCHVILLE IN THE NURSERY ROAD AREA.
Q WELL, THAT'S IN DORCHESTER COUNTY?
A YES, SIR. MOST OF THE PEOPLE WE NEEDED TO TALK TO WERE THERE IN BRANCHVILLE. IT WASN'T MY DECISION, THAT WAS A COMMAND STAFF DECISION BETWEEN ---
Q ALL RIGHT. WHO MADE THAT COMMAND STAFF DECISION?
A THAT WAS A JOINT DECISION, I THINK, BETWEEN OUR COMMAND STAFF AND ORANGEBURG COUNTY'S AT THE TIME. SO I DON'T KNOW, I CAN'T SAY WHO MADE THAT DECISION BECAUSE IF I TOLD YOU, GAVE YOU A NAME, I WOULD BE WRONG.
Q I DON'T WANT YOU WRONG, SIR. I THANK YOU FOR YOU

CANDOR.

SO HE'S THERE IN A ROOM: WAS HE HANDCUFFED TO THE CHAIR OR A WALL? I THINK THERE WAS A BOLT IN THERE SOMEWHERE THAT THEY HANDCUFF PEOPLE TO?

A I DIDN'T SEE ANY BOLT ANYWHERE IN THE WALL.

Q OKAY.

A I DON'T RECALL HIM BEING HANDCUFFED TO A CHAIR.

Q AND WAS HE GIVEN ANY SUBSTANCE, ANY WATER, FOOD, COFFEE, ANYTHING, YOU KNOW?

A HE WAS OFFERED REFRESHMENTS LIKE SODA OR WATER. I DON'T REMEMBER WHETHER HE TOOK ANY OR NOT. IT SEEMED LIKE HE MAY HAVE GOT SOME WATER.

Q ALL RIGHT, SIR. AND THEREAFTER HIS WORDS ARE BY AN OFFICER'S RECOLLECTION REDUCED BACK TO WRITING; CORRECT?

A YES, SIR.

Q ALL RIGHT. AND THEN YOU PRESENTED THE STATEMENT TO HIM TO READ?

A CORRECT.

Q ALL RIGHT. DID HE READ THE STATEMENT BACK TO YOU GENTLEMEN?

A HE READ IT, I DON'T RECALL HIM READING IT OUT LOUD, BUT HE READ OVER IT, AND THEN TOLD US THAT THAT WAS -- WAS A TRUE STATEMENT.

Q ALL RIGHT, SIR. IS IT YOUR PRACTICE, PROCEDURE, OR FOR THE NUMBER OF YEARS IN LAW ENFORCEMENT THAT YOU HAVE, THE

DEFENDANT READ BACK TO YOU TO VERIFY THAT HE CAN INDEED READ?
A I HONESTLY SOMETIMES I DO AND SOMETIMES I DON'T. THAT PARTICULAR TIME WE JUST ASK HIM TO READ IT AND FOR WHATEVER REASON WE DIDN'T ASK HIM TO READ IT BACK ORALLY.
Q ALL RIGHT, SIR. AS FAR AS MR. BOWMAN SIGNING THE STATEMENT, DID HE SIGN THAT STATEMENT?
A YES, SIR, HE DID.
Q OKAY. AND WHO GAVE HIM A COPY OF HIS STATEMENT?
A OFFICER VAN DORAN. IT'S A TWO-PART PAGE, OFFICER VAN DORAN TORE IT OFF AND GAVE HIM HIS COPY.
Q ALL RIGHT. AND THEN WHERE -- AGAIN, USING YOUR PERSONAL KNOWLEDGE, SIR, OR YOUR NOTES, WHERE DID HE PUT THAT STATEMENT ON HIS PERSON?
A I DON'T RECALL THAT HE PUT IT ON HIS PERSON. HE HAD IT THERE IN FRONT OF HIM ON THE TABLE. I DIDN'T SEE HIM PICK IT UP WHEN WE LEFT.
Q ALL RIGHT. OTHER THAN THAT I WANT TO TALK TO YOU, WHEN YOU LEFT, DID YOU TAKE MR. BOWMAN WITH YOU?
A NO, SIR.
Q ALL RIGHT.
A THE DECISION HAD BEEN MADE, I THINK BY ONE OF THE COMMAND STAFF, TO TRY GET MAJOR STEPHENSON THERE TO DO THE POLYGRAPH. HE WAS SUMMONED THERE. AND THEN HE KIND OF TOOK OVER FROM THERE. AND THEY TOOK HIM BACK IN ANOTHER ROOM, I THINK, TO DO THE POLYGRAPH.

Q LET ME STOP YOU THERE FOR A MOMENT NOW. ALL RIGHT.
YOU TAKE A STATEMENT FROM MR. BOWMAN, YOU AND MR. VAN DORAN?
A YES.
Q YOU TAKE THE STATEMENT OUTSIDE: WHO DID YOU SHOW IT TO?
A I DON'T KNOW. THERE WAS A BUNCH OF PEOPLE THERE.
Q TRY TO REMEMBER FOR ME IF YOU MAY, PLEASE.
A PROBABLY MY LIEUTENANT; MAJOR TURNER.
Q AND I KNOW YOU STATED IT WAS A COMMAND DECISION BUT WHO WOULD HAVE MADE THE DECISION TO BRING MR. STEPHENSON UP?
A THAT WOULD HAVE PROBABLY COME THROUGH EITHER MY LIEUTENANT OR THROUGH MAJOR TURNER.
Q ALL RIGHT, SIR. NOW WAS MAJOR STEPHENSON PRESENT WHEN MR. BOWMAN WAS AT THE BRANCHVILLE POLICE DEPARTMENT, OF YOUR KNOWLEDGE?
A NOT AT FIRST. HE MAY HAVE CAME UP WHILE WE WERE IN DOING THE INTERVIEW. I DON'T KNOW WHO ACTUALLY CALLED HIM TO COME TO BRANCHVILLE, BUT ...
Q YOU ALSO HAVE DONE THIS FOR A NUMBER OF YEARS AND WERE YOU GOING TO REQUEST A POLYGRAPH TO VERIFY WHAT HE SAID FOR TRUTHFULNESS?
A ONCE WE HAD THE INFORMATION WE HAD, YES, SIR, I THOUGHT IT THE BEST THING TO DO.
Q DID YOU ADVISE HIM THAT YOU WERE GOING TO GIVE HIM A

POLYGRAPH TEST?

A WE ASKED HIM IF HE WOULD BE WILLING TO TAKE ONE AND HE SAID "YES."

Q DID YOU HAVE HIM SIGN ANY FORMS OR ANY DOCUMENTS SAYING THAT HE WAS GOING TO BE -- HE WOULD TAKE THIS TEST FREE, VOLUNTARILY AND KNOWINGLY?

A I DID NOT, NO, SIR. NORMALLY THAT'S DONE THROUGH THE PALEOGRAPHER, ONCE HE GETS IN THERE AND HE GOES THROUGH HIS ---

Q HIS PROCEDURES?

A --- INSTRUCTIONS AND HIS PROCEDURES.

Q OKAY. NOW WAS THE POLYGRAPH EQUIPMENT -- AND AGAIN, I DON'T MEAN TO BE REDUNDANT, SIR, AND I APOLOGIZE IF IT SOUNDS LIKE I AM. HE HAD A PORTABLE POLYGRAPH UNIT RIGHT THERE IN THE TRUNK OR RIGHT IN HIS CAR?

A I DON'T KNOW WHERE HE GOT IT FROM. I KNOW IT'S PORTABLE AND HE CAN PUT IT IN HIS VEHICLE AND BRING IT TO US WHEN IT NEEDS BE.

Q OKAY. AT THAT POINT HAD ANYBODY THOUGHT ABOUT GETTING A TAPE RECORDER OR A VIDEO CAMERA TO RECORD HIS STATEMENTS?

A I DON'T KNOW. THERE'S WAS A LOT GOING ON AND, LIKE I SAY, I WASN'T THE ONLY ONE CALLING THE SHOTS. I HAD A LOT OF OTHER PEOPLE DOING DIFFERENT THINGS.

Q AND THE REASON I'M ASKING THAT, WOULD NOT THAT HAVE BEEN A BETTER PROCEDURE, TO RECORD FOR INFINITUM THE FACT

THAT SOMEBODY GAVE A STATEMENT SO THE JURY COULD HEAR IT OR SEE IT, WHETHER IT'S FREE, VOLUNTARILY AND KNOWINGLY GIVEN AS TO MR. BOWMAN'S WORDS?

A MAY HAVE BEEN GOOD. BUT UNFORTUNATELY WE DON'T ALWAYS HAVE THE LUXURY OF HAVING THOSE ITEMS AVAILABLE.

Q BUT YET WE HAD A PORTABLE POLYGRAPH UNIT RIGHT THERE, READY TO GO?

A I CAN'T SAY THAT IT WAS RIGHT THERE, MR. CUMMINGS.

Q OKAY. BUT HOW LONG WOULD IT TAKE FOR A POLICE UNIT -- AND AGAIN, I'M NOT ASKING YOU WHETHER OR NOT YOU SPEED DOWN 78, BUT TO GO GET THE EQUIPMENT IN SUMMERVILLE AND BRING IT UP? ABOUT THIRTY MINUTES, THIRTY MINUTES?

A NO, SIR. IT TAKES A LOT LONGER THAN THIRTY MINUTES TO DRIVE TO BRANCHVILLE.

Q ALL RIGHT. SO AN HOUR, AN HOUR?

A AN HOUR OR MORE.

Q OKAY. HOW ABOUT FROM ANY OF THE ORANGEBURG COUNTY UNITS THAT WERE THERE, OR THEIR DETECTIVES?

A HONESTLY, I DIDN'T ASK THEM.

Q ALL RIGHT, SIR. AND THEN YOU BASICALLY -- YOU CONCLUDE THIS, YOU STEP OUTSIDE, TERRY GOES AND GETS A COKE OR SOMETHING TO DRINK?

A RIGHT. IN FACT, HE AND I WALKED UP TO THE SHELL EASY SHOP TOGETHER.

Q AND YOU LEFT MR. BOWMAN IN WHOSE LAWFUL POSSESSION?

A MAJOR STEPHENSON'S.
Q MAJOR STEPHENSON'S?
A YES, SIR.
Q ALL RIGHT, SIR. AND AT THAT POINT WHERE WAS MR. BOWMAN'S PHYSICAL PERSON WITH MR. STEPHENSON?
A THEY HAD MOVED BACK INTO A SEPARATE ROOM SO THAT WE COULD GIVE THE CHIEF HIS ROOM AND THEY WOULD HAVE A MORE QUIET AREA TO WORK IN. IT WAS A VACANT OFFICE THAT THEY WERE NOT USING, IT HAD A DESK AND, I THINK, TWO OR THREE CHAIRS IN IT, WITH NO PHONE, SO THAT THEY COULD SECURE THE DOOR AND NO ONE COULD GO IN AND DISTURB THEM WHILE THEY WERE DOING THE INTERVIEW.
Q ALL RIGHT. WOULD IT BE A TRUE STATEMENT TO SAY THAT THE POLYGRAPH WAS USED AS AN INVESTIGATIVE TOOL TO ILLICIT STATEMENTS FROM MR. BOWMAN ABOUT HIS STATEMENT?
A WE WANTED TO VERIFY THE VALIDITY OF HIS STATEMENT TO SEE WHETHER IT WAS INDEED A TRUE STATEMENT OR NOT.
Q DID YOU EVER TELL MR. BOWMAN AT THE END OF THAT HE WOULD BE LEAVING AND GO HOME?
A NO, SIR, BECAUSE HE WAS UNDER CUSTODY OF ORANGEBURG COUNTY.
Q DID ORANGEBURG COUNTY REQUEST A POLYGRAPH?
A NO, SIR.
Q DID ORANGEBURG COUNTY HOLD HIM AT THE BRANCHVILLE POLICE DEPARTMENT, SIR?

A THEY WERE THERE THE WHOLE TIME. THEY HAD REPRESENTATIVES THERE.
Q AND AGAIN, I'M GOING TO ASK YOU THIS QUESTION: DID YOU COME UP WITH ANY OF THEIR BASE QUESTIONS, OR ANY OF THE -- WHAT WE CALL THE MAIN QUESTIONS HERE, TO BE ASKED BY THE PALEOGRAPHER?
A NO, SIR.
Q THAT WAS DONE BY MR. VAN DORAN OR MR. STEPHENSON, SIR?
A CORRECT.
Q ALL RIGHT. BUT WOULD YOU NOT AGREE WITH ME THAT YOU WERE THE CASE OFFICER; RIGHT?
A YES, SIR.
Q WERE YOU DESIGNATED EARLY ON THE CASE OFFICER?
A WELL, I KIND OF INHERITED IT.
Q YEAH, THAT'S YOUR KIND OF THE NECK OF THE WOODS UP THERE; RIGHT?
A CORRECT.
Q OKAY. AND SINCE YOU ARE THE SENIOR CASE OFFICER, YOU DIDN'T HAVE THE BASELINE QUESTIONS YOU WANTED DONE, LIKE, "DID YOU TAKE A HUMAN BEING'S LIFE?"
A I'M SURE WE DISCUSSED IT. MAJOR STEPHENSON, BEING THE PALEOGRAPHER, KNEW WHAT QUESTIONS TO ASK MORE SO THAN I DID. SO WE HAD DISCUSSED THE -- EXCUSE ME, DISCUSSED THE QUESTIONS PRIOR TO HIM GIVING THE TEST.
Q ALL RIGHT, SIR. AND DO YOU KNOW, AGAIN, AFTER YOU

LEFT, HOW LONG WAS HE IN THE POSSESSION OF MR. STEPHENSON FROM YOUR OWN WORDS?

A MAYBE AN HOUR, HOUR-AND-A-HALF.

Q ALL RIGHT, SIR. DID YOU AFFORD HIM A PHONE CALL OR ANY MEANS OF COMMUNICATING WITH FAMILY OR AN ATTORNEY BEFORE YOU LEFT?

A BEFORE I LEFT, NO, SIR.

Q WAS HE EVER ADVISED -- AGAIN, I KNOW YOU HAVE THE STATEMENT OF MIRANDA FORMS THERE AND RIGHTS -- DID YOU EVER TELL HIM HE COULD CALL HIS WIFE AND CHECK ON THE KIDS OR HER OR FIND OUT WHAT WAS GOING ON?

A NO, SIR. HIS WIFE ---

Q AND DID HE EVER REQUEST TO FIND OUT WHETHER HIS WIFE WAS GOING TO BE CHARGED OR WAS SHE EVER THREATENED WITH ARREST THAT DAY?

A NO, SIR.

Q OKAY. NONE OF YOU GENTLEMEN SAID THAT SHE WOULD BE ARRESTED FOR OBSTRUCTION OF JUSTICE OR HARBORING A FUGITIVE?

A I DID NOT TELL HER AND I DID NOT HEAR ANYONE ELSE TELL HER THAT.

Q ALL RIGHT, SIR. BUT YOU WEREN'T THERE EARLY ON; RIGHT?

A CORRECT.

Q OKAY. AND THEN WHEN YOU COME BACK FROM TAKING A MUCH-NEEDED BREAK, YOU COME BACK AND WHAT HAPPENED WHEN YOU WALKED BACK IN THAT DOOR?

A MAJOR STEPHENSON MET WITH US, TOLD US THAT HE HAD SOME ADDITIONAL INFORMATION, AS FAR AS WHAT HAPPENED.
Q ALL RIGHT, SIR. AND WHAT DID HE TELL YOU?
A MIGHT I REFER TO MY NOTES?
Q OH, GO AHEAD, SIR, PLEASE. BUT JUST FOR THE RECORD, YOU DON'T HAVE ANY INDEPENDENT RECOLLECTION AS WE SPEAK; RIGHT?
A THERE WAS A LOT GOING ON AND THIS WAS OVER A YEAR AGO, MR. CUMMINGS.
Q ALL RIGHT, SIR. TAKE A MOMENT.
AND I'LL BEG THE COURT'S INDULGENCE.
THE COURT: SURE.
(PAUSE.)
A OKAY, ACCORDING TO MY NOTES -- ACTUALLY IT'S 16:40 HOURS, WHICH WOULD HAVE BEEN 4:40 P.M.
Q SO ABOUT 4:40 P.M. SO THIS IS NOW -- HE'S BEEN AT LEAST IN SOMEBODY'S POSSESSION NOW SINCE AT LEAST ABOUT 11:00 IN THE MORNING, OF YOUR PERSONAL KNOWLEDGE?
A YES, SIR.
Q THAT'S ABOUT FIVE HOURS STRAIGHT?
A WHEN I LEFT, WHEN I GOT BACK TO THE POLICE DEPARTMENT FROM TAKING MY BREAK, I WAS INFORMED THAT THE STATE LAW ENFORCEMENT DIVISION HAD LOCATED YOLANDA BOWMAN'S CAR. I LEFT THE POLICE DEPARTMENT AND WENT TO WHERE THEY WERE. I WAS OVER THERE FOR AWHILE.

Q WAS THAT IN BRANCHVILLE OR ---
A IN BRANCHVILLE.
Q ALL RIGHT.
A THEY DID A CONSENT TO SEARCH ON THAT VEHICLE AND, LIKE I SAY, I WAS THERE WITH THEM, AND OUT DOING OTHER THINGS WHILE THEY HAD MR. BOWMAN BACK UP AT THE OFFICE.
Q OKAY. SO YOU GET BACK THERE ABOUT 16:25 -- OR 16:40, EXCUSE ME, I DON'T WANT TO MISTAKE THIS.
A AT 16:40 WE BEGAN A SECOND INTERVIEW THAT I WAS INVOLVED WITH, WITH MR. BOWMAN.
Q ALL RIGHT. DID YOU REISSUE -- AND AGAIN, I DON'T WANT TO CROSS THE ISSUE THAT MR. BAILEY AND I HAVE TALKED ABOUT, KEEPING IT CHRONOLOGICAL, AND I WANT TO ASK YOU THIS ONE QUESTION.

DID YOU THEN BEGIN AN INTERVIEW WITH MR. BOWMAN AGAIN AT 16:40 OR 45?
A I WAS PRESENT. DETECTIVE VAN DORAN ACTUALLY BASICALLY LED THAT INTERVIEW.
Q ALL RIGHT. AND DID YOU PULL OUT ANOTHER STATEMENT OF MIRANDA FORMS OR DO ANYTHING TO VERIFY THAT SECOND STATEMENT WAS GOING TO BE TAKEN AND THEN RECORD THE TIME FOR THE RECORD, SIR?
A SERGEANT VAN DORAN INFORMED MR. BOWMAN OF HIS RIGHTS. HE AGAIN INDICATED THAT HE UNDERSTOOD THEM AND HE ---
Q VERBALLY OR IN WRITING, SIR? EXCUSE ME.

A I BELIEVE THAT MAY HAVE BEEN VERBALLY.
Q YES, TAKE A MOMENT TO LOOK AT YOUR NOTES, PLEASE.
(PAUSE.)
A THAT WOULD HAVE BEEN VERBALLY.
Q VERBALLY? OKAY. NOW CLEARLY HE'S IN CONTROL, BEEN THERE AT LEAST FIVE HOURS, APPROXIMATELY, ON AND OFF A LITTLE BIT. NOBODY AT THIS TIME BRINGS A RECORDING DEVICE OR REQUESTS ONE AT ALL BY ANY LAW ENFORCEMENT AGENT, EITHER YOU, MR. VAN DORAN, OR ANY SUPERVISOR THERE ABOVE YOU GOOD GENTLEMEN?
A NO, SIR. AND I DON'T KNOW HOW MANY MORE TIMES I CAN ANSWER THAT. I DID NOT HAVE A TAPE RECORDER THAT DAY.
Q BUT YOU WERE OUT AND ABOUT FOR LIKE ---
A I WAS OUT AND ABOUT FOR ABOUT THREE DAYS.
Q OKAY.
A WITH VERY LITTLE BREAK.
Q BUT ON THAT PARTICULAR DAY, WERE YOU GETTING STATEMENTS NOW GOING BACK IN AGAIN AND AGAIN AFTER YOU HAD THIS POLYGRAPH DONE TO VERIFY EITHER THE TRUTHFULNESS OR ACCURACY OF THE REPORT, CLEARLY THERE -- HAD AMPLE TIME TO STOP SOMEWHERE AND GET EQUIPMENT IF YOU NEEDED TO?
A I DID NOT HAVE ACCESS TO MY OFFICE AND I DID NOT GO BACK TO MY OFFICE TO GET A TAPE RECORDER THAT DAY, SIR.
Q ALL RIGHT, SIR. AND DID NOT REQUEST THAT FROM ANY OTHER UNIFORMED DEPUTY OR ANY OTHER ---

A NO, SIR. I REALLY -- I REALLY -- I DID NOT.
Q OKAY. ALL RIGHT. NOW MR. ASBELL WAS UP HERE; CORRECT?
A YES, SIR. HE WENT TO -- HE WAS AT THE SCENE ON NURSERY ROAD. I DON'T RECALL HIM COMING TO THE POLICE DEPARTMENT IN BRANCHVILLE.
Q HOW ABOUT THE SLED GUYS OR GIRLS WHEN THEY GET THERE? ANYBODY FROM SLED ACTUALLY AT THAT BUILDING?
A AT?
Q THE BRANCHVILLE P.D.?
A BRANCHVILLE P.D., THEY CAME IN AND OUT AT DIFFERENT TIMES DOING DIFFERENT THINGS.
Q ALL RIGHT.
A TRYING TO VERIFY INFORMATION.
Q AND YOU MET WITH WHICH SLED AGENT TO DO THE VEHICLE?
A THERE WAS A NUMBER OF SLED AGENTS THERE, AGENT HELMS WAS ONE OF THE ONES THAT I WAS DEALING WITH.
Q DID THEY BRING DOWN THEIR CRIME SCENE UNIT, AS THEY SOMETIMES DO?
A NOW, WHEN YOU SAY "CRIME SCENE UNIT?"
Q EITHER LIKE A TRUCK LIKE MR. ASBELL HAS, OR MS. ALLISON.
A THEY WORK FROM THE TRUCKS THAT THEY WERE DRIVING. THEY HAD EQUIPMENT IN THEM, YES, SIR.
Q AND YOU'VE DONE LOTS OF CASES WHERE SLED WOULD HAVE GOT ALL KINDS OF CRIME SCENE GEAR?

A YES, SIR.
Q THEY MAKE PLASTER CASTS OF SHOE IMPRESSIONS, THEY MAKE FINGERPRINT IDENTIFICATION POSSIBILITIES AVAILABLE, THEY MAKE CAMERAS AVAILABLE, AND THEY MAKE -- MATTER OF FACT, THEY'VE GOT THE EXPENSIVE CAMERA EQUIPMENT WITH THEM; DON'T THEY?
A USUALLY.
Q OKAY. THAT YOU WERE HAND-IN-HAND WITH THESE GUYS AT THIS TIME?
A I WAS IN AND OUT WITH THEM, YES, SIR, AT DIFFERENT TIMES DURING THE DAY.
Q ALL RIGHT. BECAUSE YOU TOOK PHOTOGRAPHS OF THAT BLUE CAR THAT WAS OWNED BY MR. BOWMAN'S SISTERS; RIGHT?
A CORRECT.
Q AND SLED TOOK SOME PHOTOGRAPHS, YOU'VE GIVEN US THOSE, KINDLY ---
A CORRECT.
Q --- IN DISCOVERY. AND THEY PROCESSED THE CAR, DIDN'T THEY?
A YES, SIR.
Q LATENT PRINTS ---
MR. BAILEY: YOUR HONOR, AGAIN, I HATE TO INTERRUPT MR. CUMMINGS. I KNOW HE'S ENTITLED TO A LOT OF LATITUDE ON THIS KIND OF A CASE, BUT I DON'T KNOW WHAT THE PHOTOGRAPHS AND THE OTHER MATTERS HE'S GETTING INTO HAVE TO DO WITH THE VOLUNTARINESS OF ANY STATEMENT THAT THE DEFENDANT GAVE.

MR. CUMMINGS: I'LL ASK THE LAST QUESTION AND MOVE ON, I PROMISE.

THE COURT: ALL RIGHT.

Q AND WHAT I'M TRYING TO GET AT IS, DID YOU EVEN ASK THOSE GENTLEMEN IF THEY HAD A RECORDING DEVICE?

A MR. CUMMINGS, FOR THE LAST TIME, NO, SIR, I DID NOT.

Q OKAY.

A I DON'T KNOW HOW MANY MORE TIMES I CAN ANSWER THAT.

Q ALL RIGHT.

THE COURT: YOU CAN ASK IT UNTIL THERE'S -- YOU CAN ANSWER THE QUESTION AS MANY TIMES AS IT'S ASKED, UNTIL THERE'S AN OBJECTION THAT IS SUSTAINED. OKAY?

MR. COKER: I UNDERSTAND THAT, JUDGE.

THE COURT: VERY WELL.

YOU MAY PROCEED, MR. CUMMINGS.

MR. CUMMINGS: THANK YOU, JUDGE.

Q NOW WHEN YOU GET BACK ABOUT THE TIME YOU GET BACK, THERE'S -- YOU'RE PRESENT, MR. VAN DORAN IS PRESENT, AND YOU TAKE AN ADDITIONAL STATEMENT FROM THIS GENTLEMAN; CORRECT?

A CORRECT.

Q ALL RIGHT. HOW WAS THAT STATEMENT REDUCED TO WRITING?

A I BELIEVE AGAIN DETECTIVE VAN DORAN WROTE THAT STATEMENT FOR HIM.

Q OKAY. DID YOU INFORM MR. BOWMAN THAT HIS FIRST STATEMENT WAS INCORRECT OR WHATEVER LANGUAGE YOU USED TO TELL

HIM TO GET AN ADDITIONAL STATEMENT?
A I DID NOT. MAJOR STEPHENSON AND DETECTIVE VAN DORAN HAD ALREADY DONE SOME PRE-INTERVIEW BEFORE I WALKED IN. IN FACT, I THINK, DETECTIVE VAN DORAN WAS JUST BEGINNING TO DO THE SECOND INTERVIEW WHEN I WALKED BACK IN.
Q WAS THIS GENTLEMAN -- AGAIN, YOU WERE JUST COMING BACK IN?
A YES, SIR.
Q SO YOU DON'T KNOW IF HE WAS ALLOWED TO GET UP, USE THE REST ROOM, GO GET FOOD OR ANYTHING ELSE WHILE YOU WERE OUT? YOU DON'T KNOW THAT?
A I DON'T KNOW THAT.
Q AND WHEN YOU GET BACK THERE NOW, YOU'RE BACK IN THE SAME CHIEF'S OFFICE?
A NO, SIR. WE WERE BACK IN ANOTHER OFFICE WHERE THEY DONE ---
Q DO YOU REMEMBER WHICH ONE THAT WAS, SIR?
A IT WAS -- IF YOU WALK IN THEIR HALLWAY TO THEIR BUILDING, YOU GOT THE CHIEF'S OFFICE ON THE LEFT; THEN THERE'S A CENTER OFFICE ON THE LEFT; AND THEN THERE'S A THIRD OFFICE DOWN NEAR THE END. I BELIEVE THEY WAS IN THE MIDDLE OFFICE.
Q AND YOU DON'T KNOW WHO OPENED UP THAT OFFICE?
A NO, SIR.
Q OKAY. WHEN YOU GET IN THERE THIS TIME, PLEASE TELL ME

THE WORDS THAT YOU USED TO ILLICIT ANOTHER STATEMENT FROM MR. BOWMAN? WHY DID YOU WANT HIM TO TALK?

A WELL, AT THAT POINT IN TIME WE NEEDED TO KNOW THE TRUTH ABOUT WHAT HE KNEW ABOUT MISS MARTIN.

Q HOW DID YOU KNOW IT WAS NOT THE TRUTH? AND THAT'S WHERE I'M TRYING TO GO.

A BASED ON THE POLYGRAPH RESULTS.

Q ALL RIGHT, THE POLYGRAPH RESULTS?

A YES, SIR.

Q AND MR. STEPHENSON TOLD YOU WHAT ABOUT THE POLYGRAPH RESULT, SIR?

A THAT HE FELT HE WAS BEING DECEPTIVE.

Q OKAY. DID THE NUMBERS OF NEGATIVE-8 MEAN ANYTHING TO YOU OR DID YOU EVER HEAR THOSE NUMBERS BY ANYBODY?

A NO, SIR. I'VE HEARD THE NUMBERS. I DON'T KNOW HOW THEY GRADE THEM. NEVER BEEN TO POLYGRAPH SCHOOL SO I DON'T KNOW.

Q AND DID ANYBODY TELL MR. BOWMAN THAT POLYGRAPHS ARE ONLY USED AS AN INVESTIGATIVE TOOL, IN YOUR PRESENCE?

A I MAY HAVE TOLD HIM THAT, WHICH I NORMALLY DO. BEFORE I EVEN GET SOMEONE TO TAKE A POLYGRAPH I WILL LET THEM KNOW THAT NORMALLY WE DON'T USE OR CAN'T USE THEM IN COURT.

Q ALL RIGHT, SIR.

A BUT THAT WE USE THEM AS A TOOL.

Q AND PLEASE TELL ME ABOUT THE SECOND STATEMENT NOW,

EXACTLY HOW YOU DID IT AND WHAT WAS SAID DURING THAT STATEMENT FROM MR. BOWMAN, PLEASE?

A MAY I BE ALLOWED TO REFER TO MY NOTES?

Q YES, SIR.

(PAUSE.)

A MR. BOWMAN TOLD US THAT HE HAD SEEN A GENTLEMAN BY THE NAME OF TERRY KELLY, A/K/A PEANUT, DRIVING KANDEE MARTIN'S CAR AND THAT KELLY HAD PARKED THE CAR NEAR THE SOUTH CAROLINA HIGHWAY DEPARTMENT SHED NEXT TO THE BRANCHVILLE VILLAS APARTMENTS; AND THAT KELLY HAD TOLD MR. BOWMAN THAT KANDEE HAD TOOK HIS CRACK COCAINE AND THAT HE, MR. KELLY, HAD -- TO USE HIS WORDS -- FUCKED HER UP.

MR. BOWMAN STATED THAT HE SAW BLOOD ON KELLY'S SHOES AND THAT KELLY ALSO HAD BLOOD ON HIS SHIRT. KELLY SHOWED BOWMAN A GRAY AND SILVER BLACK SEMI-AUTOMATIC HANDGUN AND THAT KELLY TOLD HIM THAT HE NEEDED TO GET RID OF THE GUN AND THAT THE CAR -- THE GUN AND THE CAR, AND THAT HE WAS THINKING ABOUT PUTTING THEM IN THE RIVER NEAR REEVESVILLE. BOWMAN THEN TOLD MR. KELLY, SUPPOSEDLY, THAT HE DID NOT -- OR NOT TO DO THAT BECAUSE IT WOULD PUT TOO MUCH HEAT ON THEM IN THAT AREA.

MR. BOWMAN TOLD US THAT KELLY THEN GOT A PLASTIC GALLON JUG AND A TWO-LITER SODA BOTTLE AND THAT KELLY GOT INTO KANDEE'S CAR AND DROVE AWAY. AND ABOUT 15 MINUTES LATER HE RETURNED TO THE VILLAS WALKING. SAID THAT KELLY WASN'T

WEARING ANY SHOES AND HE SMELLED LIKE GAS.

MARION THEN WENT TO HOME AND GOT KELLY A PAIR OF SHOES TO WEAR. AND THAT MARION LATER WENT TO ALAN MURRAY'S CLUB WITH SOMEONE NAMED TYRONE IN A BLUE CADILLAC. AND THAT TERRY KELLY APPROACHED HIM AT THE CLUB AND GAVE HIM HIS SHOES BACK AND BOWMAN STATED THAT TYRONE, SOME GUY NAMED RYAN, AND SOMEONE ELSE NAMED RON, ALL WITNESSED KELLY GIVE HIM THE SHOES.

TERRY KELLY THEN TOLD THEM THAT HE AND TAURUS GANTT HAD KILLED KANDEE AND THAT THEY HAD BOTH SHOT HER. THEN TAURUS GANTT WANTED HIM, KELLY, TO HAVE SEX WITH HER AFTER THEY HAD KILLED HER. AND THAT TERRY KELLY GAVE BOWMAN A WATCH AND THEN WENT BACK TO THE CLUB. AND MARION SAID HE DID NOT SEE HIM AGAIN THAT NIGHT.

AND THEN TRAVIS FELDER GAVE MARION A RIDE HOME. AND MARION LOOKED AT THE WATCH TO SEE WHAT TIME IT WAS AND REALIZED THAT IT WAS KANDEE'S WATCH.

Q ALL RIGHT, SIR. AND APPROXIMATELY WHAT TIME DID THAT STATEMENT END, OF YOUR KNOWLEDGE?

A IT WOULD HAVE -- I DIDN'T WRITE THE TIME THAT IT ENDED, SIR. WE STARTED AT 16:40; WE WERE PROBABLY THERE AT LEAST AN HOUR.

Q BASED ON WHAT WAS THE VERBAL STATEMENT, MR. VAN DORAN REDUCED IT TO WRITING AGAIN?

A I'M READING THIS FROM MY NOTES, I'M NOT READING THE

ACTUAL STATEMENT.

Q OKAY. SO THOSE ARE YOUR NOTES TAKEN?

A YES, SIR.

Q THOSE ARE THE TYPED NOTES RIGHT NOW?

A YES, SIR.

Q NOT YOUR FIELD NOTES?

A NO, THIS IS MY TYPED NOTES.

Q AND WHEN YOU WERE DONE WITH THE STATEMENTS, DID YOU ASK MR. BOWMAN ANY QUESTIONS?

A I DON'T RECALL ASKING HIM ANY.

Q IT DOESN'T SHOW ANYTHING IN YOUR NOTES ABOUT IT?

A NO, SIR.

Q ASKING ANY OTHER QUESTIONS?

A NO, SIR.

Q ALL RIGHT. AS A RESULT OF THIS STATEMENT OR STATEMENTS MADE BY MR. BOWMAN, WHAT DID YOU DO? WHAT WAS THE NEXT THING YOU DID?

A I THINK I WENT OUT AND TRIED TO INTERVIEW SOME OTHER PEOPLE. BECAUSE MARION WAS LATER INTERVIEWED AND WE MAY HAVE EVEN GOT HIM SOMETHING TO EAT AFTER THAT.

Q BECAUSE HE'S BEEN IN CUSTODY NOW FOR ABOUT EIGHT HOURS?

A YES, SIR.

Q AND YOU WENT OUT TO INTERVIEW SOMEBODY ELSE?

A POSSIBLY. IT WAS, LIKE I SAY, A LOT GOING ON.

Q WELL, DO YOU REMEMBER WHAT HAPPENED TO MR. BOWMAN'S

PERSON?
A AT SOME POINT HE WAS TAKEN TO -- LATER THAT NIGHT HE WAS TAKEN TO ORANGEBURG ...
Q DO YOU REMEMBER BY WHOM?
A IN THEIR JAIL.
ONE OF THE ORANGEBURG COUNTY UNITS. I DON'T REMEMBER WHO TOOK HIM.
Q AND AS A RESULT OF THAT SECOND STATEMENT BEING TAKEN, WERE YOU PRESENT WHEN HE RECEIVED A COPY OF IT BACK?
A YES, SIR.
Q ALL RIGHT. I KNOW YOU DIDN'T HAVE A TIME DOWN AT THE END OF IT?
A NO, SIR.
Q DID YOU TAKE THAT STATEMENT OUT TO THE HIERARCHY OR, LIKE YOU SAID, THE COMMAND STAFF TO HAVE THEM READ THE STATEMENT OVER, THAT YOU AND MR. VAN DORAN HAD JUST ELICITED?
A I'M SURE THEY HAD LOOKED AT IT.
Q BECAUSE, I MEAN ---
A I DON'T REMEMBER WHO LOOKED AT IT, NOR PUT IT IN MY CASE FILE, BUT IT WAS THE CASE WE WERE WORKING. THEY WERE ALL INTERESTED IN WHAT WAS GOING ON.
Q AND I'M TRYING TO VERIFY HERE, DID YOU GIVE MR. BOWMAN A COPY OF HIS SECOND STATEMENT?
A I DON'T RECALL WHETHER I HANDED IT TO HIM OR DETECTIVE VAN DORAN GAVE IT TO HIM, BUT ONE OF US GAVE HIM A COPY OF

IT.

Q ALL RIGHT, SIR. AND YOUR SIGNATURE WOULD BE ON THAT AND HIS INITIALS WOULD BE ON EVERY LINE THAT MIRANDA WAS GIVEN AGAIN; RIGHT?

A YES, SIR.

Q OKAY.

AT THIS TIME, JUDGE, I BEG THE COURT'S INDULGENCE.

THE COURT: ALL RIGHT.

(PAUSE.)

Q MR. COKER, EXCUSE ME, IS IT YOUR TESTIMONY -- AND AGAIN, I APPRECIATE YOU BEING AS CANDID AS YOU CAN HERE -- ARE YOU CERTAIN THAT MR. BOWMAN WAS GIVEN SOMETHING TO EAT BETWEEN 16:45 AND THE SECOND STATEMENT?

A I CAN'T BE CERTAIN. LIKE I SAY, I WAS IN AND OUT ALL DAY. I WASN'T THERE THE ENTIRE TIME ALL THIS WAS GOING ON.

Q AND YOU DON'T HAVE ANY RECOLLECTION EITHER IN YOUR NOTES IN YOUR CASE FIELD NOTES ABOUT WHAT TIME YOU LEFT BRANCHVILLE P.D. TO GO TO ORANGEBURG?

A IT MAY BE IN MY NOTES. IT MAY HAVE BEEN LATER THAT NIGHT THAT THEY TOOK HIM, BUT HE -- AT SOME POINT THAT NIGHT THEY TOOK HIM TO ORANGEBURG. I DON'T HAVE THE EXACT TIME.

Q WOULD YOU AGREE IT WAS PROBABLY ABOUT 11:00 AT NIGHT?

A IT'S VERY POSSIBLE.

Q ALL RIGHT, SIR. NORMALLY, WHEN THEY TRANSFER A PRISONER, SOMEBODY GIVES A RADIO SAYING THEY'RE 10'S -- IF

I'M NOT USING THE CODES WRONG, PLEASE REFRESH MY MEMORY -- THEIR 1067 ONE TIME AND THE MILEAGE OR THE TIME?

A NORMALLY. DIFFERENT DEPARTMENTS HAVE DIFFERENT RULES ON THAT.

Q OKAY. AND DO YOU KNOW WHAT TIME YOU CLEARED THE BUILDING?

A I DON'T KNOW. OUR RADIOS -- EXCUSE ME, OUR RADIOS, IT WAS LATE, PROBABLY -- IT WAS PROBABLY CLOSE TO MIDNIGHT WHEN I LEFT BRANCHVILLE P.D. THAT NIGHT.

Q AND YOU WOULDN'T HAVE LEFT BEFORE MR. BOWMAN LEFT, WOULD YOU?

A YES, SIR. HE HAD ALREADY BEEN TRANSPORTED TO ORANGEBURG BY THE TIME I LEFT. HE HAD BEEN GONE FOR SOME TIME BEFORE I LEFT.

MR. CUMMINGS: AGAIN, BEG THE COURT'S INDULGENCE.

(PAUSE.)

JUDGE, THAT'S ALL THE QUESTIONS I HAVE OF THE GOOD DETECTIVE AT THIS TIME, SUBJECT TO RECALL.

THE COURT: VERY WELL.

MR. BAILEY: YOUR HONOR, NO FURTHER QUESTIONS UP THROUGH THE FIRST VERBAL STATEMENT ON THE MORNING OF THE SEVENTEENTH.

THE COURT: ANY OBJECTION TO THAT?

MR. CUMMINGS: NO OBJECTION.

THE COURT: ALL RIGHT, YOU MAY COME DOWN.

WE'RE GOING TO TAKE A LITTLE SHORT BREAK.

(THE WITNESS IS NOW EXCUSED FROM THE WITNESS STAND.)

MR. CUMMINGS: I WAS GOING TO ASK, JUDGE, IF WE MAY BE SO KIND AS TO TAKE A SHORT BREAK.

(COURT IS NOW IN A BRIEF RECESS.)

THE BAILIFF: PLEASE RISE.

THE COURT: THANK YOU, THANK YOU. Y'ALL PLEASE BE SEATED. THANK YOU.

MR. BAILEY: LET ME GET MR. VAN DORAN. HE'S RIGHT OUT HERE, I BELIEVE.

THE COURT: YOU CAN COME ON RIGHT HERE.

MR. BAILEY: THANK YOU, YOUR HONOR.

THE COURT: FOR THE RECORD, YOU'VE JUST CALLED MR. VAN DORAN BACK TO THE STAND; IS THAT RIGHT, MR. BAILEY?

MR. BAILEY: THAT'S CORRECT, YOUR HONOR.

THE COURT: ALL RIGHT, YOUR WITNESS.

MR. BAILEY: THANK YOU.

DIRECT EXAMINATION CONTINUED BY MR. BAILEY:

Q MR. VAN DORAN, YOU'VE PREVIOUSLY TESTIFIED AND I WANT TO BACK UP A LITTLE BIT TO MAKE SURE EVERYTHING IS COVERED AND I WANT TO TAKE IT UP FROM WHEN YOU LEFT [redacted] AND WENT TO THE BRANCHVILLE POLICE DEPARTMENT.

A YES, SIR.

Q ALL RIGHT, SIR. AND I'M GOING TO HAND YOU WHAT'S BEEN MARKED STATE'S NUMBER ONE FOR IDENTIFICATION AND ASK IF

YOU'LL LOOK AT THIS FORM AND SEE IF YOU CAN IDENTIFY THAT OR RECOGNIZE IT?

A YES, SIR.

Q ALL RIGHT, SIR. IS THAT THE MIRANDA RIGHTS FORM THAT WAS GIVEN TO MR. MARION BOWMAN AT APPROXIMATELY 11:25 A.M. ON FEBRUARY THE 17TH, 2001?

A YES, SIR, IT IS.

Q AND WOULD YOU TELL THE COURT, PLEASE, WHAT INVOLVEMENT, IF ANY, YOU HAD IN GIVING MIRANDA RIGHTS TO MR. BOWMAN ON THAT OCCASION?

A I WAS PRESENT, AND LOOKING AT THE MIRANDA FORM I'M SURE THAT DEPUTY COKER -- EXCUSE ME, SORRY -- SERGEANT COKER PROBABLY READ THE MIRANDA FORM TO HIM.

Q ALL RIGHT.

A MY SIGNATURE IS ON IT BUT IT APPEARS THAT SERGEANT COKER FILLED OUT THE FORM AND I FEEL COMFORTABLE THAT HE PROBABLY READ IT TO HIM.

Q OKAY. WERE YOU PRESENT WHEN IT WAS READ TO HIM?

A I WAS, SIR.

Q OKAY. AND DO YOU RECALL MR. BOWMAN'S DEMEANOR AT THE TIME THE MIRANDA RIGHTS WERE GIVEN TO HIM?

A WE WERE JUST SITTING THERE TALKING.

Q OKAY.

A HAVING WHAT I WOULD CONSIDER TO BE A NORMAL CONVERSATION.

Q OKAY. ALL RIGHT. ANYTHING UNUSUAL ABOUT HIS DEMEANOR OR ANYTHING?
A NO, SIR.
Q OKAY. GOING OVER THAT FORM WITH YOU, MR. VAN DORAN, THE INITIALS OUT TO THE LEFT-HAND SIDE OF EACH ONE OF THE RIGHTS, DID YOU OBSERVE MR. BOWMAN SIGN THOSE ---
A I DID.
Q --- OR INITIAL THOSE?
A YES, SIR.
Q AS EACH RIGHT WAS READ?
A YES, SIR.
Q OKAY. AND YOUR SIGNATURE APPEARS AS A WITNESS ON THE BOTTOM OF THE FORM; IS THAT CORRECT?
A THAT'S CORRECT, SIR.
Q OKAY. AND WHEN MR. BOWMAN WAS GIVEN HIS RIGHTS, DID HE APPEAR TO UNDERSTAND THEM, TO THE BEST OF YOUR KNOWLEDGE?
A YES, SIR.
Q DID HE ASK ANY QUESTIONS ABOUT HIS RIGHTS?
A I DON'T BELIEVE HE ACTUALLY SAID, "CAN YOU CLARIFY THAT FOR ME" OR ANYTHING. HE JUST SAID, "YES, I UNDERSTAND."
Q OKAY. AND THE TIME DOWN AT THE BOTTOM, 11:25 ON FEBRUARY 17TH, WOULD THAT BE THE CORRECT DATE AND TIME THE RIGHTS WERE GIVEN?
A YES, SIR.
Q OKAY. DID EITHER YOU OR MR. COKER OR ANYBODY ELSE

OFFER ANY INDUCEMENT TO MR. BOWMAN IN ORDER TO TALK TO Y'ALL AFTER YOU ADVISED HIM OF HIS RIGHTS AND ADVISED HIM OF THE WAIVER OF THOSE RIGHTS AND HE SIGNED THAT FORM?

A WE DID NOT, SIR.

Q OKAY. DID YOU MAKE ANY PROMISES TO HIM OF ANY KIND OF LENIENCY, ANYTHING OF THAT NATURE, IN ORDER TO INDUCE A STATEMENT?

A NO, SIR.

Q OKAY. ANY THREATS OR ANY VERBAL ABUSE OR PHYSICAL ABUSE OR ANYTHING OF THAT NATURE?

A NO, SIR.

Q WERE YOU PRESENT AFTER THE WAIVER OF RIGHTS WAS SIGNED BY MR. BOWMAN AND WITNESSED BY YOU AND MR. COKER, WHEN MR. BOWMAN GAVE A VERBAL STATEMENT?

A YES, SIR.

Q IN REGARD TO THE DEATH OF KANDEE MARTIN?

A YES, SIR.

Q DID YOU TAKE ANY NOTES OF THAT VERBAL STATEMENT?

A I DID NOT TAKE ANY NOTES.

Q OKAY. DO HAVE ANY RECOLLECTION OF WHAT MR. BOWMAN TOLD Y'ALL VERBALLY AFTER BEING ADVISED OF HIS MIRANDA RIGHTS AND WAIVING THOSE RIGHTS?

A YES, SIR. I HAVE SOME INVESTIGATIVE NOTES THAT I MADE LATER.

Q ALL RIGHT, SIR. DO YOU HAVE THOSE WITH YOU?

A YES, SIR.
Q OKAY. REFERRING TO THOSE, IF YOU NEED TO, TO REFRESH YOUR MEMORY, WHAT IS YOUR RECOLLECTION OF WHAT MR. BOWMAN TOLD YOU IN REGARD TO THE DEATH OF KANDEE MARTIN?
A OTHER THAN WHAT HE PUT IN HIS WRITTEN STATEMENT, HE ALSO TOLD ---
Q I'M GOING TO ASK YOU ABOUT THAT IN A MINUTE BUT RIGHT NOW JUST THE VERBAL STATEMENT.
A YES, SIR. HE STATED THAT HE HAD SEEN HER THE DAY BEFORE, THAT THEY HAD HAD -- EXCUSE ME -- ORAL AND VAGINAL SEX AND THAT HE'D USED A CONDOM DURING THAT ENCOUNTER. AND HE WENT ON TO TELL US THE REST OF WHAT HE PROVIDED TO US.
Q OKAY. ALL RIGHT, SIR, I WANT TO CALL YOUR ATTENTION TO ABOUT 2 P.M. THAT SAME DAY AND ASK YOU WHETHER OR NOT YOU WERE STILL PRESENT AT THE BRANCHVILLE POLICE STATION WITH MR. COKER AND WITH MR. BOWMAN?
A YES, SIR, I WAS.
Q OKAY. DID HE MAKE A FURTHER VERBAL STATEMENT AT THAT TIME?
A HE PROVIDED FURTHER VERBAL INFORMATION THAT WAS LATER PLACED ON A STATEMENT FORM, SIR.
Q OKAY. AND I'M GOING TO HAND YOU A THREE-PAGE DOCUMENT AND ASK YOU TO IDENTIFY THIS?
A YES, SIR.
Q WHAT IS THAT?

A THIS IS A SECOND STATEMENT THAT WAS TAKEN AT ABOUT 2:10 P.M. THIS WOULD HAVE BEEN AFTER MAJOR STEPHENSON HAD SPOKE WITH THE DEFENDANT.

Q WHOSE HANDWRITING IS THE STATEMENT IN?

A IT'S IN MY HANDWRITING, SIR.

Q OKAY. IS IT BASED ON INFORMATION THAT MR. BOWMAN GAVE TO YOU?

A HE PROVIDED THAT INFORMATION DIRECTLY AS I WROTE IT, SIR.

Q NOW YOU REFER TO THAT AS A "SECOND STATEMENT"?

A YES, SIR.

Q LET ME ASK YOU TO LOOK AT IT AGAIN AND NOTE THE TIME AS BEING 2:10 AND ASK WHETHER OR NOT THAT IS THE FIRST WRITTEN STATEMENT ON THAT DAY? LET ME HAND YOU THIS, IT MAY HELP. THAT'S ANOTHER DOCUMENT.

A THAT'S CORRECT, SIR. THIS WOULD HAVE BEEN THE FIRST STATEMENT AND THIS WOULD HAVE BEEN THE SECOND STATEMENT. YOU'RE CORRECT, SIR.

Q ALL RIGHT, SIR.

LET ME GO AHEAD AND MARK THIS FOR IDENTIFICATION AT THIS TIME, JUDGE.

MR. CUMMINGS: FOR I.D., YES, MA'AM.

THE COURT: VERY WELL.

(STATE'S EXHIBIT NUMBER TWO, DEFENDANT'S FIRST STATEMENT, IS NOW MARKED FOR IDENTIFICATION.)

MR. BAILEY: THANK YOU.

Q I'M GOING TO HAND BACK TO YOU STATE'S EXHIBIT FOR IDENTIFICATION.

A YES, SIR.

Q WHO WAS PRESENT, BESIDES YOU AND MR. BOWMAN, WHEN THAT -- I CALL IT "WRITTEN STATEMENT NUMBER ONE" -- WAS GIVEN?

A DURING THE ACTUAL TIME THAT THE STATEMENT WAS TAKEN, SERGEANT COKER AND MAJOR STEPHENSON WERE IN AND OUT OF THE ROOM. I WAS SITTING AT THAT TABLE TAKING THE STATEMENT FROM THE DEFENDANT.

Q OKAY. AND REFERRING TO THE STATEMENT, WHO FILLED OUT THE TOP PORTION OF THAT STATEMENT?

A I DID, SIR.

Q OKAY. AND AGAIN, WHOSE WRITING IS THAT -- THE HANDWRITTEN STATEMENT IS WRITTEN BY WHOM?

A MYSELF, SIR.

Q OKAY. AND DID YOU -- WHAT INFORMATION DID YOU BASE THAT ON? WHO DID YOU GET THE INFORMATION FROM TO WRITE THAT STATEMENT OUT?

A THIS WAS TAKEN AS THE DEFENDANT STATED IT TO ME.

Q OKAY. IS ALL THE INFORMATION CONTAINED IN THAT THREE-PAGE STATEMENT INFORMATION YOU GOT DIRECT FROM MARION BOWMAN?

A YES, SIR.

Q OKAY. THERE ARE A COUPLE PLACES IN THERE WHERE SOME INITIALS APPEAR, I THINK THE SECOND PAGE ABOUT IN THE MIDDLE

THERE'S AN INITIAL, "M.B."?
A YES, SIR.
Q WHOSE INITIALS ARE THOSE?
A THOSE ARE THE DEFENDANT'S.
Q OKAY. DID YOU SEE HIM MAKE THOSE INITIALS THERE?
A I DID, SIR.
Q OKAY. DID YOU MAKE ANY PROMISES TO MR. BOWMAN IF HE WOULD GIVE YOU THAT WRITTEN STATEMENT?
A ABSOLUTELY NOT, SIR.
Q OKAY. DID YOU THREATEN HIM IN ANY WAY TO GET HIM TO GIVE YOU THE STATEMENT?
A NO, SIR.
Q WAS THAT STATEMENT GIVEN FREELY AND VOLUNTARILY, TO THE BEST OF YOUR KNOWLEDGE?
A YES, SIR.
Q NOW AFTER THAT STATEMENT WAS WRITTEN OUT, WHAT DID YOU DO, IF ANYTHING, WITH IT? AFTER YOU WROTE THE STATEMENT OUT IN YOUR HANDWRITING, WHAT DID YOU DO WITH IT?
A AFTER THE STATEMENT WAS WRITTEN OUT I READ IT BACK TO HIM TO MAKE SURE THAT THIS IS WHAT HE WANTED TO SAY IN HIS STATEMENT.
Q OKAY. AND BY "HIM," YOU'RE REFERRING TO MARION BOWMAN; IS THAT CORRECT?
A TO THE DEFENDANT, YES, SIR.
Q ALL RIGHT, SIR.

A HE ACKNOWLEDGED THAT IT WAS AT THAT TIME TRUE. AND I ASK HIM THAT QUESTION, I SAID, "IS THIS STATEMENT TRUE? ARE YOU TELLING THE TRUTH IN THIS STATEMENT?" AND HE SAID, "YES."

Q OKAY.

A I SAID, "OKAY. WELL THEN WHAT I WANT YOU TO DO FOR ME IS I WANT YOU TO INITIAL THE AREAS THAT WERE MARKED OUT AND THEN I'D LIKE YOU TO SIGN IT, IF THAT STATEMENT IS TRUE."

Q AND DID HE SIGN IT IN YOUR PRESENCE?

A HE DID, SIR.

Q AND THE SIGNATURES THAT APPEAR THERE, "MARION BOWMAN, JR.," DID YOU SEE HIM SIGN THAT?

A I DID, SIR.

Q OKAY. AND DID YOU WITNESS THE STATEMENT?

A I WITNESSED IT, AND MAJOR STEPHENSON CAME BACK IN THE ROOM, I LOOKED AT THE DEFENDANT, ASKED HIM IF THIS WAS HIS STATEMENT, ASKED HIM IF HE SIGNED IT. HE SAID, "YES." AND I ASKED MAJOR STEPHENSON TO WITNESS THE STATEMENT.

Q AND DID YOU WITNESS MAJOR STEPHENSON'S WITNESSING THE STATEMENT?

A I DID, SIR.

Q ALL RIGHT, SIR. AND AFTER THAT WOULD YOU STATE WHETHER OR NOT MARION BOWMAN WAS GIVEN A COPY OF THAT STATEMENT?

A HE WAS, SIR.

MR. BAILEY: YOUR HONOR, THAT'S ALL I HAVE OF MR. VAN

DORAN IN REGARD TO THAT STATEMENT. I'LL TURN HIM OVER TO MR. CUMMINGS.

THE COURT: THANK YOU, MR. BAILEY.

MR. CUMMINGS?

MR. CUMMINGS: THANK YOU, JUDGE.

CROSS-EXAMINATION CONTINUED BY MR. CUMMINGS:

Q HELLO, MR. VAN DORAN, AGAIN.

A YES, SIR.

Q MR. VAN DORAN, I WANT TO TAKE YOU RIGHT BACK TO THIS DOCUMENT MR. BAILEY JUST HANDED YOU; ALL RIGHT? IS IT YOUR TESTIMONY THAT YOU READ HIM THE MIRANDA WARNINGS, OR DID MR. COKER READ HIM THE MIRANDA WARNINGS?

A AFTER LOOKING AT THE MIRANDA FORM, ITSELF, WE WERE BOTH PRESENT IN THE ROOM, BUT I FEEL COMFORTABLE THAT SERGEANT COKER ACTUALLY READ IT.

Q ARE YOU AS SURE OF THAT AS YOU ARE ON ALL YOUR TESTIMONY AS WE'VE TAKEN SO FAR TODAY, SIR?

A WELL, I FEEL REAL COMFORTABLE ABOUT IT, YES, SIR.

Q ALL RIGHT. AND YOU'D AGREE WITH ME THAT'S A VERY CRUCIAL THING TO KNOW, THAT SOMEBODY READ HIM HIS MIRANDA WARNINGS, NOT JUST, "HERE'S A PIECE OF PAPER, SIGN IT"?

A RIGHT.

Q OKAY. BUT YOU'VE ALWAYS, ACCORDING TO WHAT YOU'VE BEEN TESTIFYING ABOUT NOW, REQUIRED AT LEAST TWO PEOPLE TO SIGN OR WITNESS A STATEMENT; RIGHT?

A NOT ALWAYS. BUT I TRY TO DO THAT AS A COURSE, YES, SIR.

Q IS THAT A DEPARTMENTAL POLICY FOR YOU FOLKS?

A NO, SIR.

Q OKAY. AND YOU DO HAVE A WRITTEN POLICY PROCEDURE MANUAL FOR THE DORCHESTER COUNTY SHERIFF'S DEPARTMENT, DO YOU NOT?

A THERE IS A POLICY AND PROCEDURE MANUAL BUT THERE'S NOTHING THAT I KNOW OF THAT REQUIRES TWO PEOPLE WITNESS THE STATEMENT.

Q ALL RIGHT. WOULD YOU AGREE THAT THERE IS A POLICY AND PROCEDURE MANUAL AS TO INTERVIEWS AND INTERROGATIONS?

A I KNOW OF NO POLICY AND PROCEDURE MANUAL OF THE DORCHESTER COUNTY SHERIFF'S OFFICE FOR THAT MATTER.

Q LET ME SHOW THIS TO MR. BAILEY FIRST AND THEN I'LL BRING IT TO YOUR ATTENTION, SIR.

BEG THE COURT'S INDULGENCE, JUDGE.

THE COURT: ALL RIGHT.

(PAUSE.)

MR. CUMMINGS: IF I MAY APPROACH THE WITNESS, YOUR HONOR?

THE COURT: YES, SIR.

Q TERRY, THIS IS A COPY OF A PAGE THAT WE SUBPOENAED FROM THE ELECTED SHERIFF, AN INVESTIGATION POLICY AND PROCEDURE ACT, 11-01-01.

A YES, SIR.
Q ARE YOU FAMILIAR WITH THAT?
A (WITNESS INDICATED AFFIRMATIVELY)
Q ALL RIGHT. THIS VERY TOP LINE SAYS, "ALL SUSPECT INTERVIEWS AND SURVEILLANCES WILL BE CONDUCTED BY TWO PERSONS;" RIGHT?
A I'M FAMILIAR WITH THIS, BUT THIS IS NOT -- WELL, I'M FAMILIAR WITH IT, YES, SIR.
Q OKAY. WOULD YOU SAY THAT IS THE POLICY AND PROCEDURE MANUAL FOR YOUR DEPARTMENT?
A I'D SAY IT'S A GUIDE. I'D SAY THAT THIS IS SOMETHING THAT THEY WOULD LIKE US TO FOLLOW, BUT IT'S NOT ABSOLUTELY MANDATORY.
MR. CUMMINGS: YOUR HONOR, I WOULD LIKE TO HAVE THAT MARKED AS DEFENDANT'S EXHIBIT NUMBER ONE FOR I.D. ONLY AT THIS TIME.
THE COURT: ALL RIGHT.
Q AND IF I MAY HAVE THAT FOR JUST ONE MOMENT.
(DEFENDANT'S EXHIBIT NUMBER ONE, INVESTIGATOR POLICY AND PROCEDURES, 11-01-01, IS NOW MARKED FOR IDENTIFICATION.)
Q I'M GOING TO HAND THIS BACK TO YOU, SIR, POLITELY.
A YES, SIR.
Q OKAY, SO THIS IS A GUIDE FOR WHATEVER YOU USED IT AS A TOOL TO FOLLOW?
A YES, SIR.

Q IS THAT YOUR STATEMENT? OKAY.

AND THEN IT SAYS NUMBER TWO, "BEFORE ANY INTERVIEWS OF SUSPECTS OR WITNESSES TAKE PLACE, UPON FIRST CONTACT WITH SAID PERSON THE INVESTIGATOR PRODUCES HIS BADGE, ALONG WITH THE DORCHESTER COUNTY SHERIFF'S OFFICE I.D. CARD"?

A OKAY.

Q DID YOU DO THAT?

A I HAD MY BADGE IN PLAIN VIEW, YES, SIR. HE COULD SEE IT WITHOUT ANY PROBLEMS WHATSOEVER.

Q OKAY. BUT A MOMENT AGO YOU SAID IT'S NOT NECESSARY ALL THE TIME THAT TWO PEOPLE WITNESS A STATEMENT; RIGHT?

A WELL, IT'S IDEAL, BUT IF THERE'S NOT TWO PEOPLE TO WITNESS IT, THEN OF COURSE THAT'S NOT GOING TO HAPPEN.

Q OKAY. AND YOUR SIGNATURE IS ON THE DOCUMENT THAT YOU REDUCED TO WRITING THAT MR. BAILEY JUST ASKED YOU ABOUT, I THINK IT'S STATE'S I.D. NUMBER TWO?

A YES, SIR.

Q ALL RIGHT. AND I WANT TO --- PUT THAT THING DOWN ON YOUR DESK HERE SO YOU DON'T HAVE TO HOLD IT.

A THANK YOU, SIR.

Q OKAY. NOW LET'S GO BACK A LITTLE BIT HERE SO I CAN REFRESH MY MEMORY. AFTER YOU CAME BACK FROM GETTING YOUR COKE AND STUFF, MR. BOWMAN'S PERSON WENT TO MAJOR STEPHENSON? HIS BODY WENT OVER THERE TO HIM?

A THAT'S THE BEST I CAN REMEMBER, SIR.

Q OKAY. BECAUSE LOOKING THE TIME FACTOR HERE ON STATE'S NUMBER TWO FOR I.D. IT SAYS, "THIS STATEMENT GIVEN AT 2/17/01 AT 2:10 P.M.?

A YES, SIR.

Q WELL, WHEN WAS HE DELIVERED TO MAJOR STEPHENSON FOR HIS POLYGRAPH TEST, SIR?

A AS BEST I CAN REMEMBER IT WAS EITHER AT THIS TIME OR IT WAS BETWEEN THIS AND THE SECOND STATEMENT. IT'S BEEN A LONG TIME.

Q I UNDERSTAND THAT. AND IT'S BEEN A LONG TIME FOR MR. BOWMAN TO BE IN THAT POLICE STATION.

BECAUSE WHAT I'M TRYING TO GET AT NOW IS, WHAT DID YOU DO WHILE HE WAS IN POSSESSION OF MR. STEPHENSON? IN OTHER WORDS, WHILE HE WAS PHYSICALLY WITH MR. STEPHENSON, WHAT WERE YOU DOING?

A I WAS OUT OF THE ROOM.

Q DOING WHAT, SIR?

A LIKE I SAID, GETTING A SODA, JUST STANDING AROUND.

Q OKAY. IN YOUR CAR DID YOU HAVE A TAPE RECORDER?

A NO, SIR.

Q DID YOU HAVE ANY KIND OF CAMERA OR RECORDING DEVICES AT ALL?

A NOT WITH ME AT THAT TIME, NO, SIR.

Q DID YOU HAVE AMPLE TIME TO MAYBE GO TO THE OFFICER HERE IN ST. GEORGE TO GET ONE AND GO BACK?

A I MAY HAVE BEEN ABLE TO BUT I DIDN'T.
Q OKAY. WAS EARL ASBELL PRESENT THERE, OUR CRIME SCENE GUY?
A NO, SIR, NOT AT THAT TIME.
Q OKAY. WAS SLED THERE AT THAT TIME?
A NOT THAT I REMEMBER, SIR.
Q ALL RIGHT. WERE ORANGEBURG COUNTY DETECTIVES THERE TOO?
A YES, SIR.
Q ALL RIGHT. DO YOU REMEMBER THE COMMAND STAFF THAT WAS PRESENT, OTHER THAN WE KNOW MAJOR STEPHENSON AND MAJOR TURNER? WHO ELSE WAS THERE?
A THROUGHOUT THE DAY DIFFERENT PEOPLE, OF COURSE, CAME AND LEFT. BUT I THINK BETWEEN NOON AND 3 OR 4 O'CLOCK IT WOULD HAVE BEEN LIEUTENANT NETTLES, MAJOR TURNER AND MAJOR STEPHENSON.
Q ALL RIGHT, SIR. YOU, PERSONALLY, SIR, DID YOU EVER ASK ANYBODY TO GET A TAPE RECORDER? YOU HAD A KID WHO WAS TALKING AND NORMALLY -- AND I'VE SEEN SOME OF THE GOOD WORK YOU'VE DONE IN THE PAST AND SOME YOU'VE SERVED TAPES ON ME BEFORE. DID ANYBODY THINK ABOUT GETTING THIS RECORDED TO HAVE IT FOR INFINITUM?
A I DID NOT, SIR.
Q DID ANYBODY TALK ABOUT IT AT ALL?
A NOT THAT I CAN REMEMBER.

Q YOU GUYS HAVE A STATEMENT WHERE HE SAYS -- AND THE FIRST STATEMENT IS, "I'VE DONE NOTHING ABOUT THIS, DON'T KNOW ANYTHING ABOUT IT," OTHER THAN WHAT HE TOLD YOU? THERE'S NO ADMISSION TO WHAT HE DID TO ANY PERSON; RIGHT?

A THAT'S TRUE, SIR.

Q AND THEN SOMEBODY WANTS TO HAVE HIM GO TAKE A POLYGRAPH TEST?

A YES, SIR.

Q YOU MADE THAT CALL; RIGHT?

A IT WAS PARTLY MY DECISION, YES, SIR.

Q WHAT I MEAN, IT WAS YOU, MR. COKER AND MAJOR STEPHENSON; RIGHT?

A YES, SIR.

Q OKAY. AND YOU DIDN'T BELIEVE WHAT HE WAS SAYING?

A I JUST WANTED TO VERIFY WHAT HE WAS SAYING.

Q OKAY. AND AS A RESULT OF THAT HE GOES INTO THE POLYGRAPH ROOM; RIGHT?

A YES, SIR.

Q AND WHAT DOES STEPHENSON TELL YOU WHEN HE COME OUT?

A THAT HE WANTS TO PROVIDE ANOTHER STATEMENT, THAT HE HAS OTHER INFORMATION HE WANTS TO PROVIDE TO US.

Q DID MAJOR STEPHENSON, OF YOUR PERSONAL KNOWLEDGE, READ HIM ANY MIRANDA WARNINGS OR GET HIM TO STOP TALKING FOR ANY REASON?

A I CAN TELL YOU AFTER THE FACT THAT I KNOW THAT HE DID.

HE PROVIDED HIM HIS MIRANDA RIGHTS DURING THE POLYGRAPH SESSION.

Q ALL RIGHT, SIR. DID YOU PHYSICALLY SEE THAT OR HEAR IT?

A NO, SIR, I DID NOT SEE THAT.

Q ALL RIGHT. AT ANY TIME DID MR. BOWMAN SAY THAT HE WANTED TO STOP TALKING TO ANY LAW ENFORCEMENT PERSONNEL?

A NOT THAT I'M AWARE OF.

Q HAD THAT PIECE OF PAPER OR THE WARRANT ARRIVED SAYING THAT YOU FOLKS HAD LAWFUL POSSESSION OF MR. BOWMAN'S BODY BY THIS TIME?

A I CAN'T ANSWER THAT, SIR. I DON'T KNOW.

Q YOU NEVER SAW THE WARRANT OR NEVER FOUND OUT WHAT LEGAL AUTHORITY YOU HAD?

A I DON'T REMEMBER IF I ACTUALLY SAW IT OR NOT. I KNOW THAT I WAS TOLD DIRECTLY BY CHIEF WALTERS THAT THERE WAS A WARRANT. I DON'T REMEMBER IF HE TOLD ME HE HAD IT IN HIS HAND OR NOT.

Q ALL RIGHT, SIR. YOU WOULD NOT HAVE ANY OTHER REASON TO TALK TO MR. BOWMAN BUT FOR HIM BEING IN LAWFUL CUSTODY; RIGHT?

A WELL, WE WOULD HAVE STILL WANTED TO TALK TO HIM EITHER WAY.

Q AND WOULD IT BE EITHER AT HIS HOUSE OR HIM VOLUNTARILY COMING TO THE POLICE DEPARTMENT?

A YES, SIR, THAT'S CORRECT.
Q AND HE CLEARLY DIDN'T COME VOLUNTARILY?
A NOT AT THAT POINT BECAUSE OF THE OUTSTANDING ORANGEBURG WARRANT.
Q OKAY. AND THAT IS THE BASIS OF YOU TAKING HIM INTO CUSTODY, WAS THAT ORANGEBURG WARRANT?
A WELL, IT WAS THE BASIS OF ORANGEBURG TAKING HIM INTO CUSTODY, YES, SIR.
Q OKAY. ALL RIGHT. NOW WHEN HE COMES OUT OF THE POLYGRAPH ROOM, WHAT EXACTLY DID YOU SAY TO HIM TO GET HIM TO GIVE A SECOND STATEMENT?
A HE DIDN'T ACTUALLY COME OUT. I WENT IN.
Q OH, EXCUSE ME. ALL RIGHT.
A AND SAT DOWN AT THE TABLE WITH HIM.
AND MAJOR STEPHENSON DID A BRIEF ON WHAT THEY HAD DISCUSSED AND THEN HE SAID, "WOULD YOU MIND TAKING HIS WRITTEN STATEMENT?"
AND I SAID, "I'LL BE GLAD TO."
AND SO I SAT AND WROTE DOWN WHAT HE TOLD ME AGAIN.
Q ALL RIGHT. AND ON THE FORM ---
AND AGAIN, IF I MAY APPROACH HIM, PLEASE, YOUR HONOR?
THE COURT: YOU MAY.
Q AND I KNOW THIS IS JUST DOUBLE-CHECKING HERE. DID YOU ADVISE HIM TO INITIAL DOWN THE COLUMNS OF THE MIRANDA WARNING, SIR? AND THAT'S PLAINTIFF'S (SIC) EXHIBIT NUMBER

A I WAS PRESENT WHEN HE DID THAT.

Q OKAY.

A I DON'T REMEMBER IF SERGEANT COKER OR I SAID, "WOULD YOU PLEASE INITIAL NEXT TO IT THAT YOU UNDERSTAND IT."

Q OKAY. DO YOU HAVE PEOPLE INITIAL THE LINE RIGHT UNDERNEATH "WAIVER OF RIGHTS FORM" ON YOUR PLAINTIFF'S (SIC) EXHIBIT NUMBER ONE?

A I DON'T NORMALLY. AS I SAID, LOOKING AT THAT FORM, IT'S CLEAR TO ME THAT SERGEANT COKER FILLED THAT FORM IN.

Q OKAY. NOT YOU?

A I NORMALLY FILL IT IN WITH DIFFERENT THINGS.

Q OKAY. AND CLEARLY IT'S NOT INITIALED IN THIS CORNER WHERE IT SAYS "WAIVER OF RIGHTS"?

A THAT'S CORRECT, SIR. THAT LINE IS NOT INITIALED.

Q OKAY.

A BUT THAT, IF I MAY ADD, THAT'S THE REASON THE SIGNATURE LINE IS BELOW IT, BECAUSE I NORMALLY READ THAT AND HAVE THEM SIGN THAT THEY UNDERSTAND WHAT THAT SAYS.

Q BECAUSE THAT'S AN IMPORTANT FACTOR AND THAT'S WHY I'VE ASKED YOU THAT ---

A THAT'S CORRECT, SIR.

Q --- IT'S ON YOUR POLICY AND PROCEDURES IN THE PAST IN DEALING WITH YOU PROFESSIONALLY ---

A THAT'S CORRECT.

Q --- THAT YOU HAVE THAT THING INITIALED AND EVEN ALMOST -- FOR LACK OF A BETTER WORD -- STARRED OR HIGHLIGHTED THAT THEY UNDERSTAND IT?
A YES, SIR.
Q THAT'S YOUR POLICY AND PROCEDURE?
A I TAKE GREAT PAINS AT MAKING SURE SOMEONE UNDERSTANDS THEIR RIGHTS AND IT'S MY OPINION THAT HE CERTAINLY UNDERSTOOD THEM, YES, SIR.
Q AS FAR AS YOU SAYING THAT THOUGH, THAT IS A SUBJECTIVE ISSUE FOR YOU. YOU DIDN'T KNOW WHAT WAS GOING ON INSIDE OF HIS HEAD. HE JUST SIGNED THIS, INITIALED THAT, AS YOU FOLKS TOLD HIM; RIGHT?
A CERTAINLY AT ANY POINT IN TIME YOU HAVE TO MAKE A DECISION AS TO WHETHER SOMEONE UNDERSTANDS WHAT YOU'RE SAYING TO THEM. IT'S MY OPINION THAT HE DID UNDERSTAND.
Q AFTER YOU DID THAT, AFTER YOU DID THAT FORM, AND THEN HE'S GOT THE SECOND POLYGRAPH, DID YOU READ HIM MIRANDA AGAIN BEFORE YOU TOOK THAT SECOND STATEMENT?
A I REMINDED HIM OF HIS MIRANDA, I DIDN'T READ THEM TO HIM AGAIN. I JUST SAID, "YOU KNOW YOU HAVE THE RIGHT TO REMAIN SILENT," ETCETERA.
Q SO YOU DIDN'T FOLLOW THE ACTUAL MIRANDA PROCEDURE?
A I DIDN'T GIVE HIM ANOTHER WRITTEN FORM, NO, SIR.
Q ALL RIGHT. SO YOU WOULD AGREE WITH ME THAT THAT DOES NOT MEET THE REQUIREMENT OF THE MIRANDA ---

MR. BAILEY: OBJECTION. YOUR HONOR, THAT WOULD BE A LEGAL QUESTION FOR THE COURT, NOT FOR HIM TO TRY TO ANSWER.

THE COURT: WOULD YOU LIKE TO CONCLUDE YOUR QUESTION?

MR. CUMMINGS: YES, I WOULD.

THE COURT: DO NOT ANSWER THE QUESTION UNTIL I HAVE RULED. THE'S AN OBJECTION.

Q MY QUESTION TO YOU, SIR, IS, YOU DID NOT FOLLOW THE ACTUAL MIRANDA DECISION IN STATING OUT ALL OF THE FIVE QUESTIONS, STATEMENTS, AND THEN THE LAST ONE SAID, "DO YOU UNDERSTAND YOUR MIRANDA WARNINGS," WHEN YOU NEXT MET MR. BOWMAN? YOU JUST GAVE HIM A HIGHLIGHTED VERSION OF THE MIRANDA WARNING, SIR?

MR. BAILEY: YOUR HONOR, LET ME STATE MY OBJECTION, IS THAT MY RECOLLECTION OF THE MIRANDA DECISION IS THAT YOU HAVE TO GIVE MIRANDA RIGHTS, NOT NECESSARY IN WRITING BUT AT LEAST VERBALLY, BUT THERE'S NO REQUIREMENT THAT YOU REPEAT THOSE RIGHTS WHEN YOU HAVE MULTIPLE STATEMENTS GIVEN THE SAME DATE.

THE COURT: THE QUESTION THAT YOU'VE ASKED THIS WITNESS, "DID YOU NOT VIOLATE THE MIRANDA CASE?" I'M GOING TO SUSTAIN THE OBJECTION.

MR. CUMMINGS: YES, MA'AM. AND I APOLOGIZE, JUDGE.

Q YOU JUST GAVE HIM A HIGHLIGHTED SECOND ISSUE; RIGHT? THE SECOND WARNING, YOU KIND OF HIGHLIGHTED IT?

A I JUST WANTED TO REMIND HIM OF HIS RIGHTS.

Q OKAY. AND THEN YOU TOOK A SECOND STATEMENT FROM HIM?

A I DID, SIR.
Q AND AGAIN, THIS IS NOT HIS WARNINGS -- OR HIS WRITINGS, THIS IS IN YOUR WRITING ON YOUR RECOLLECTION?
A AS HE STATED IT, I WROTE IT.
Q ACTUALLY VERBATIM THIS TIME?
A AS BEST I COULD.
Q OKAY.
A CERTAINLY IF THERE WAS SOME "UHS" AND "THE'S" AND WHATEVER, I CLEANED IT UP AS I WENT WITHOUT HAVING TO WRITE ALL THAT. BUT WHAT HE STATED TO ME IS WHAT WAS WRITTEN. AND AT THE END I READ IT BACK TO HIM TO ENSURE THAT THAT'S WHAT HE WANTED TO SAY.
Q DID YOU EVER ASK MR. BOWMAN TO READ HIS STATEMENT VERBALLY TO YOU, SIR, TO ACKNOWLEDGE THAT HE COULD READ AND WRITE?
A I DID NOT. I TURNED IT AROUND, PUT IT IN FRONT OF HIM, AND TOLD HIM THAT HE COULD CERTAINLY RE-READ IT AND HAVE THE OPPORTUNITY TO REVIEW IT BEFORE HE SIGNED IT.
Q AND HOW MANY PEOPLE WERE IN THE ROOM AT THAT TIME? I KNOW THERE WAS YOU AND MR. STEPHENSON WITNESSED THE SECOND STATEMENT; CORRECT?
A IN AND OUT, AS WE WERE TALKING. SOMETIMES THE DOOR WAS OPEN, SOMETIMES IT WASN'T. PEOPLE WOULD WALK IN AND JUST WOULD SAY, "OKAY, YOU KNOW, TERRY AND HIM ARE OKAY IN THERE." AND AT THE END, THE SIGNATURES WERE TAKEN TO ENSURE THAT

PEOPLE WOULD BE ABLE TO SAY THAT THAT WAS HIS STATEMENT.

Q I NOTICED ON THE SECOND STATEMENT, SIR, THERE'S NOT A TIME WHERE IT ENDED. IS THAT FAIR TO SAY?

A NORMALLY WE ONLY PUT THE TIME WHEN WE STARTED AT THE TOP OF THE PAGE.

Q WELL, HOW LONG HAD MR. BOWMAN BEEN IN CUSTODY OF THE POLICE AS THIS SECOND STATEMENT WAS BEING TAKEN?

A APPROXIMATELY SIX HOURS.

Q ALL RIGHT, SIR. BECAUSE THIS BASICALLY IS LIKE A THIRD TIME HE'S BEING INTERVIEWED BY LAW ENFORCEMENT; THE FIRST, WHEN HE'S PICKED UP ---

A I'D SAY THAT'S TRUE, SIR.

Q OKAY. AND AT THE CONCLUSION OF THIS STATEMENT DID ANYBODY TELL HIM THAT HE WAS FREE TO GO OR COULD GO, THAT DORCHESTER COUNTY WAS DONE WITH HIM?

A HE CERTAINLY KNEW HE WAS NOT FREE TO LEAVE BECAUSE HE KNEW HE WAS UNDER ARREST BY ORANGEBURG. BUT NOBODY FROM DORCHESTER COUNTY TOLD HIM HE COULD GO HOME, IF THAT'S WHAT YOU'RE ASKING.

Q DID ANYBODY TELL HIM IF HE PASSED THE POLYGRAPH HE COULD LEAVE?

A I HAVE NO IDEA BUT I ABSOLUTELY NEVER TOLD HIM ANYTHING LIKE THAT.

Q ALL RIGHT, SIR. AS FAR AS WHEN THIS STATEMENT FINISHED UP NOW, THIS SECOND STATEMENT, WHAT HAPPENED TO MR. BOWMAN'S

PERSON WHEN HE COMPLETED THE SECOND STATEMENT BY YOU? WHAT ACTUALLY HAPPENED TO HIM?

A I BELIEVE THAT SHERIFF WILLIAMS WAS THERE BY THAT TIME AND AT SOME POINT I KNOW THAT HE SPOKE WITH THE SHERIFF IN ORANGEBURG -- OF ORANGEBURG COUNTY.

Q WERE YOU PRESENT WHEN THAT CONVERSATION TOOK PLACE?

A I THINK I WAS PRESENT WHEN THEY FIRST STARTED TALKING AND THEN I LEFT.

Q OKAY. WHAT WAS THE PURPOSE OF THE SHERIFF GOING IN TO TALK TO MR. BOWMAN, SIR?

A I THINK THAT HE HAD ASKED TO SPEAK TO THE SHERIFF, IF I REMEMBER RIGHT.

Q I JUST WANT TO GET THIS STRAIGHT. NOW YOU BASICALLY HAD CONTROL OF MR. BOWMAN; RIGHT? YOU WERE TAKING A STATEMENT FROM HIM, HE WAS IN YOUR ---

A WE HAD FINISHED THE STATEMENT, YES, SIR.

Q DID YOU GO BACK IN AND TAKE A COPY OF WHAT YOU HAD JUST TRANSCRIBED DOWN, TAKE IT BACK TO ANY OF THE SUPERVISORS OR ANYBODY ELSE TO REVIEW WHAT YOU JUST DID?

A SURE. YES, SIR. THEY LOOKED AT IT.

Q BASED ON THAT, WHAT DID THEY TELL YOU TO DO OR WHAT HAPPENED NEXT?

A WELL, THEY DIDN'T -- EXCUSE ME -- I DON'T KNOW THAT THEY TOLD ME TO DO ANYTHING. I BELIEVE THAT THERE WAS A DISCUSSION ABOUT HIM SPEAKING TO THE SHERIFF AND THAT'S WHAT

RESULTED, THAT HE DID IN FACT SPEAK WITH THE SHERIFF.

Q AND THIS IS ABOUT WHAT TIME, OF YOUR BEST KNOWLEDGE?

A IT'S LATER AFTERNOON, AFTER 4 O'CLOCK, I WOULD SAY.

Q HAD ANYBODY BROUGHT HIM ANY FOOD OR ANYTHING TO DRINK OR ANY TYPE ---

A YES, SIR. HE WAS PROVIDED IT. SOMEBODY WENT ACROSS THE STREET AND GOT A MEAL AND HE WAS ALLOWED TO EAT, OR HIS WIFE HAD BROUGHT HIM SOMETHING. I CAN'T REMEMBER WHICH, BUT SOMEBODY BROUGHT HIM SOME FOOD. AND HE WAS GIVEN DRINKS ANYTIME HE WANTED TO. HE WAS LET GO TO THE BATHROOM ANYTIME HE WANTED TO.

Q WHEN DID YOU FINISH WITH MR. BOWMAN THAT NIGHT, SIR? WHAT TIME?

A I THINK THE LAST TIME I ACTUALLY SPOKE WITH HIM WAS -- THAT I ACTUALLY HAD ANY INTERACTION WITH HIM WOULD HAVE BEEN 4:30, 5:00, WHEN I ACTUALLY SPOKE WITH HIM FOR ANY LENGTH OF TIME, OTHER THAN JUST STANDING THERE NEARBY.

Q AND OF YOUR PERSONAL KNOWLEDGE, DO YOU KNOW WHEN MR. BOWMAN WAS TAKEN OUT OF THE BRANCHVILLE POLICE DEPARTMENT BUILDING?

A I DON'T REMEMBER WHAT TIME HE WAS ACTUALLY TRANSPORTED TO THE ORANGEBURG COUNTY JAIL.

Q WOULD YOU SAY EVENING?

A IT WAS EVENING. I DON'T KNOW IF IT WAS 6:00, 7:00; I JUST DON'T REMEMBER.

Q ALL RIGHT, SIR. WHAT DID YOU DO AFTER THAT? YOU JUST STAYED AROUND AND REVIEWED EVIDENCE, OR WHAT EXACTLY DID YOU DO?

A WE CONTINUED TO FOLLOW UP ON THE INVESTIGATION. WE HAD A TIP ABOUT WHERE A GUN MAY HAVE BEEN. WE WENT AND SEARCHED THE AREA WHERE THE GUN MAY HAVE BEEN WITH NEGATIVE RESULTS. AND TO THE BEST OF MY RECOLLECTION SOMETIME AROUND MIDNIGHT I ENDED UP HEADING HOME.

Q WHILE ANY LAW ENFORCEMENT OFFICERS WERE IN YOUR PRESENCE, SIR, DID ANYBODY PUT HANDS ON MR. BOWMAN AT ALL?

A NO, SIR.

Q ALL RIGHT.

A DO YOU MEAN PHYSICALLY?

Q YES, SIR. I DON'T MEAN WITH ANY DISRESPECT, I'M SAYING TO YOU NOW -- I KNOW THAT PEOPLE GUIDE, SOMEBODY WAS UNDER ARREST AND YOU TOUCHED THEM ON THEIR ELBOW ---

A YES, SIR.

Q --- DID ANYBODY PHYSICALLY ASSAULT MR. BOWMAN?

A ABSOLUTELY NOT IN MY PRESENCE.

Q DID ANYBODY IN YOUR PRESENCE PROMISE HIM ANYTHING TO GET HIM TO TALK TO YOU GENTLEMEN?

A NOT THAT I'M AWARE OF, SIR.

Q ALL RIGHT, SIR. AND AGAIN, IN YOUR PRESENCE, DID ANYBODY OFFER HIM ANY INDUCEMENTS OR REWARDS?

A NO, SIR.

Q DID THEY TELL HIM THAT, YOU KNOW, THIS WOULD HELP HIM BY TALKING?

A CERTAINLY DURING AN INTERVIEW YOU TELL PEOPLE THAT IT'S BEST TO TELL THE TRUTH, BUT SHORT OF THAT, THAT'S ALL THAT ANYBODY SUGGESTED TO HIM.

MR. CUMMINGS: BEG THE COURT'S INDULGENCE, YOUR HONOR.

THE COURT: YES, SIR.

Q IN YOUR PRESENCE, DID ANYBODY EVER GIVE HIM A COPY OF THE WARRANT OR EVER SHOW MR. BOWMAN WHAT HE WAS BEING HELD FOR OR IN CUSTODY?

A I DON'T REMEMBER, SIR.

Q DID YOU EVER TELL HIM WHAT HE WAS UNDER ARREST FOR OR IN CUSTODY FOR?

A I KNOW I TOLD HIM THAT ORANGEBURG HAD A WARRANT FOR HIS ARREST. I DID NOT KNOW IF I ACTUALLY SAID "FOR GRAND LARCENY" OR WHATEVER THE WARRANT WAS FOR.

Q DID YOU TELL MR. BOWMAN HE WAS NOT FREE TO LEAVE? IN OTHER WORDS, THERE WAS A WARRANT AND HE WAS NOT FREE TO LEAVE WHEN HE WAS BROUGHT TO THE STATION?

A CERTAINLY. HE KNEW HE WAS UNDER ARREST AT THAT TIME, YES, SIR.

Q AND THEN DO YOU REMEMBER -- YOU SAID THAT SOMEBODY, YOU THOUGHT HIS WIFE OR SOMEBODY, HAD BROUGHT HIM FOOD. WAS HE EVER ALLOWED TO EAT THAT MEAL?

A YES, SIR. HE DID INSIDE THE COURTROOM AREA. I

REMEMBER HIM SITTING THERE AND EATING IT.

Q WERE YOU PRESENT OR SOMEBODY ELSE PRESENT?

A I WAS IN AND OUT, YES, SIR.

Q HOW MANY POLICEMEN WERE IN AN OUT? I MEAN, IF YOU CAN GIVE US A BALLPARK FIGURE, BECAUSE WHAT I'M TRYING TO GET AT IS, HOW MANY LAW ENFORCEMENT OFFICERS WERE AROUND THIS MAN DURING THAT DAY?

A WELL, CERTAINLY SOME PEOPLE JUST CAME IN BECAUSE THEY WERE USING IT AS A STOPPING POINT TO GO TO THE BATHROOM AND DO WHATEVER THEY NEEDED TO DO AS PART OF THE INVESTIGATION PROCESS. BUT THAT WOULD HAVE ACTUAL INTERACTION WITH THE DEFENDANT, MYSELF, DETECTIVE COKER, MAJOR STEPHENSON, THE CHIEF.

Q CHIEF OF BRANCHVILLE?

A CHIEF OF BRANCHVILLE. SHERIFF -- I MAY HAVE ALREADY SAID THE SHERIFF ---

Q SHERIFF WILLIAMS?

A SHERIFF WILLIAMS.

Q ALL RIGHT.

A I THINK THAT'S ALL THAT ACTUALLY HAD DIRECT INTERACTION WITH HIM THAT DAY.

Q OF YOUR PERSONAL KNOWLEDGE OR BEING IN YOUR PRESENCE?

A BEST I CAN REMEMBER, SIR.

Q ALL RIGHT, SIR. DID ANYBODY ELSE ASK HIM QUESTIONS, OTHER THAN YOU, MR. COKER, AND OF COURSE MAJOR STEPHENSON ON

THE POLYGRAPH MATTER? BUT DID ANYBODY ELSE INTERROGATE HIM OR ASK HIM QUESTIONS?

A MY UNDERSTANDING IS HE HAD A CONVERSATION WITH SHERIFF WILLIAMS. AND MAJOR STEPHENSON WAS IN THERE BUT I DON'T KNOW HOW LONG HE WAS IN THERE OR WHEN HE MAY HAVE LEFT THE ROOM OR --- I JUST KNOW THAT THERE WAS THAT CONVERSATION.

Q ALL RIGHT, SIR.

A HE ACTUALLY PROVIDED A STATEMENT FOR SHERIFF WILLIAMS, AS WELL, DURING THAT CONVERSATION.

MR. CUMMINGS: BEG THE COURT'S INDULGENCE AGAIN, PLEASE.

THE COURT: ALL RIGHT.

(PAUSE.)

MR. CUMMINGS: JUDGE, THIS IS ALL THE QUESTIONS I HAVE FOR THIS GENTLEMAN, AGAIN, SUBJECT TO RECALL, PLEASE.

THE COURT: THANK YOU VERY MUCH.

YES, SIR, MR. BAILEY, REDIRECT?

REDIRECT EXAMINATION BY MR. BAILEY:

Q MR. VAN DORAN, IN ADDITION TO THE LAW ENFORCEMENT OFFICERS THAT YOU TESTIFIED WERE PRESENT TO THE BEST OF YOUR RECOLLECTION, DO YOU RECALL ANY OF THE SLED PEOPLE BEING IN AND OUT OF THE BRANCHVILLE POLICE DEPARTMENT?

A THEY CAME IN AND OUT, YES, SIR.

Q OKAY.

A I DON'T REMEMBER SPECIFICALLY WHAT THEY DID OR WHAT

THEY WERE DOING, BUT I REMEMBER THEM COMING IN AND OUT OF THE BUILDING.

Q OKAY. THANK YOU.

YOUR HONOR, THAT'S ALL I HAVE IN REGARD TO THE FIRST WITNESS STATEMENT.

MR. CUMMINGS: CAN I JUST ASK ONE FINAL QUESTION?

THE COURT: YES.

RECROSS-EXAMINATION BY MR. CUMMINGS:

Q I KNOW YOU TOLD ME ABOUT THE FIVE GUYS, THE FIVE LAW ENFORCEMENT OFFICERS THAT WORKED WITH MR. BOWMAN. ANY OF THE SLED GUYS, OF YOUR PERSONAL KNOWLEDGE, SPEAK TO HIM OR TALK TO HIM AT ALL?

A IF THEY DID, I DON'T REMEMBER. AND IF THEY DID, IT WOULD HAVE BEEN VERY SHORT IN DURATION, JUST -- I JUST DON'T REMEMBER IF THEY DID OR NOT.

Q BUT YOU WOULD AGREE WITH ME, IT WOULD BE VERY IMPORTANT TODAY FOR PURPOSES OF ANY STATEMENTS AND VOLUNTARINESS FOR HER HONOR TO RULE ON ABOUT WHAT LAW ENFORCEMENT OFFICERS AND HOW MANY OF THEM WERE TALKING TO MR. BOWMAN DURING THIS DAY?

A YES, SIR. I FEEL IT'S IMPORTANT, I JUST DON'T REMEMBER A SLED AGENT SPOKE WITH HIM.

Q OKAY, SIR. THANK YOU VERY MUCH.

THANK YOU, MA'AM.

THE COURT: ALL RIGHT.

I RECALL THAT YOU SAID A MOMENT AGO, MR. BAILEY, THAT

THIS WOULD BE ALL FROM THIS WITNESS ON THE FIRST STATEMENT AND SECOND STATEMENT, SECOND WRITTEN STATEMENT?

MR. BAILEY: THE FIRST WRITTEN STATEMENT IS AS ---

THE COURT: FIRST WRITTEN STATEMENT.

MR. BAILEY: --- FAR AS I GOT INTO IT. THEN MR. CUMMINGS KIND OF GOT AHEAD OF IT AND GOT INTO THE SECOND STATEMENT. BUT I REALLY HADN'T EVEN GOTTEN TO THE SECOND SIGNATURE ON THE FIRST STATEMENT YET. SO THAT'S ...

THE COURT: OKAY. I'M WITH YOU.

MR. BAILEY: HE'S A STEP AHEAD OF ME.

THE COURT: I'M WITH YOU. VERY WELL THEN.

YOU MAY COME DOWN.

MR. VAN DORAN: THANK YOU, MA'AM.

THE COURT: THANK YOU.

(THE WITNESS IS NOW EXCUSED FROM THE WITNESS STAND.)

THE COURT: IF YOU'D CALL YOUR NEXT --

MR. BAILEY: WOULD YOU ASK TIM STEPHENSON TO STEP IN?

THE COURT: --- YES, WOULD YOU ASK ...

YES, SIR, IF YOU'D PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND.

(**TIM STEPHENSON**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE COURT: VERY WELL. ONCE YOU ARE SEATED AND HAVE ADJUSTED THE MIC, AND IF YOU NEED ANY HELP -- THERE YOU GO -- AND WHEN YOU ARE SITUATED, IF YOU WOULD PLEASE STATE YOUR

FULL NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

MR. STEPHENSON: TIM STEPHENSON; LAST NAME IS SPELLED S-T-E-P-H-E-N-S-O-N.

THE COURT: YOUR WITNESS.

MR. BAILEY: OKAY, THANK YOU.

DIRECT EXAMINATION BY MR. BAILEY:

Q MR. STEPHENSON, YOU'RE A MAJOR WITH THE DORCHESTER COUNTY SHERIFF'S OFFICE; IS THAT CORRECT?

A THAT'S CORRECT.

Q ALL RIGHT, SIR. AND HOW LONG HAVE YOU WORKED FOR THE SHERIFF'S OFFICE?

A A LITTLE OVER FIVE YEARS.

Q I WANT TO CALL YOUR ATTENTION TO FEBRUARY THE 17TH, 2001, AND ASK WHETHER OR NOT IN THE COURSE OF YOUR DUTIES YOU WENT TO THE BRANCHVILLE POLICE DEPARTMENT AROUND NOON, THEREABOUTS?

A YES, I DID.

Q ALL RIGHT, SIR. AND WERE THERE OTHER LAW ENFORCEMENT OFFICERS PRESENT AT THE BRANCHVILLE POLICE DEPARTMENT WHEN YOU ARRIVED?

A YES, THERE WERE.

Q OKAY. WERE THEY FROM ORANGEBURG AND DORCHESTER COUNTIES?

A MY RECOLLECTION WAS THERE WAS ORANGEBURG, DORCHESTER, AND I THINK A BRANCHVILLE POLICE OFFICER.

Q OKAY. AND WOULD YOU STATE WHETHER OR NOT MARION BOWMAN, JR., THE DEFENDANT IN THIS CASE, WAS PRESENT AT THE POLICE DEPARTMENT WHEN YOU ARRIVED THERE?
A YES, HE WAS.
Q ALL RIGHT, SIR. CAN YOU POINT HIM OUT, PLEASE, FOR THE RECORD?
A IT WOULD BE HIM OVER THERE AT THE TABLE, NEXT TO NORV CUMMINGS, IN THE WHITE SHIRT.
Q ALL RIGHT, SIR. AND WHAT DO YOU RECALL OF MR. BOWMAN'S APPEARANCE AND DEMEANOR WHEN YOU SAW HIM AT THE POLICE DEPARTMENT?
A I MEAN, HE APPEARED TO BE ALERT AND ABLE TO TALK FREELY.
Q AND TO YOUR KNOWLEDGE, WAS HE UNDER ARREST FOR AN ORANGEBURG CHARGE AT THAT TIME?
A YES, HE WAS.
Q ALL RIGHT, SIR. AND I'M GOING TO ASK WHETHER OR NOT YOU WERE THERE FOR THE PURPOSE OF GIVING A POLYGRAPH TEST TO HIM?
A YES, I WAS.
Q OKAY. AND I'M GOING TO HAND YOU A DOCUMENT AND ASK IF YOU CAN IDENTIFY IT?
A YES. THIS IS A ADVICE OF RIGHTS FORM.
MR. BAILEY: LET ME SHOW THAT TO MR. CUMMINGS.
MR. CUMMINGS: THANK YOU, SIR.

THANK YOU, JUDGE. I THINK MR. BAILEY IS GOING TO MARK IF FOR IDENTIFICATION ONLY AT THIS TIME.

THE COURT: OKAY.

(STATE'S EXHIBIT NUMBER THREE, MIRANDA FORM USED BY THE PALEOGRAPHER AND SIGNED BY THE DEFENDANT, IS NOW MARKED FOR IDENTIFICATION.)

Q MR. STEPHENSON, I'M GOING TO HAND YOU THIS BACK. I'M GOING TO ASK A FEW QUESTIONS ABOUT IT.

A OKAY.

Q IS THAT A MIRANDA FORM THAT YOU USED IN CONJUNCTION WITH THE ADMINISTERING THE POLYGRAPH TEST TO THE DEFENDANT?

A THAT IS.

Q OKAY. AND DO YOU RECALL WHERE YOU WERE IN THE BRANCHVILLE POLICE DEPARTMENT WHEN YOU SAW MR. BOWMAN AND YOU WENT OVER THAT FORM WITH HIM?

A YES, SIR, I DO.

Q OKAY. AND WOULD YOU GO AHEAD AND, HERE IN COURT TODAY, GO OVER THAT FORM, YOU KNOW, IF YOU READ IT OR EXPLAINED IT OR HOWEVER YOU DID IT, THE SAME WAY YOU DID WITH MR. BOWMAN ON THE 17TH OF FEBRUARY, 2001?

A YES, SIR. WHEN I WENT OVER THIS FORM WITH MR. BOWMAN, I PUT THIS FORM IN FRONT OF HIM, AND AS IT WAS IN FRONT OF HIM ON THE TABLE I READ IT TO HIM; "THAT BEFORE WE ASK YOU ANY QUESTIONS YOU MUST UNDERSTAND YOUR RIGHTS."

AS I READ EACH LINE ON THIS, I'M ALSO POINTING WITH MY

FINGER AT EACH LINE AS I'M GOING DOWN ON TO SAY, "THAT YOU HAVE THE RIGHT TO REMAIN SILENT. THAT ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW. YOU HAVE A RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM OR HER PRESENT WITH YOU DURING QUESTIONING.

"IF YOU HAVE NO MONEY FOR LAWYER'S FEES, THE COURT WILL APPOINT ONE TO REPRESENT YOU WITHOUT COST TO YOU, IF YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME UNTIL YOU TALK WITH A LAWYER.

"I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE."

I ASKED HIM TO SIGN IF HE UNDERSTANDS WHAT I JUST READ TO HIM, IF THERE'S ANY QUESTIONS. AND HE SIGNED.

Q DID HE HAVE ANY QUESTIONS?

A NO, SIR.

Q DID HE APPEAR TO UNDERSTAND THOSE RIGHTS WHEN YOU GAVE THEM TO HIM?

A YES, SIR.

Q OKAY. GO AHEAD AND CONTINUE, PLEASE.

A I GO ON TO TELL HIM THAT THE NEXT PART OF IT IS, THAT SAYS, "THAT I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I

UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME OR NO PRESSURES OR COERCIONS OF ANY KIND HAS BEEN USED AGAINST ME."

AND I ASK HIM IF HE UNDERSTANDS THAT; HE ACKNOWLEDGED THAT HE DID; AND I ASK HIM TO SIGN, TO VERIFY, THAT HE UNDERSTOOD IT, WHICH HE DID.

Q OKAY. AND YOU SAW HIM SIGN THAT?

A YES, SIR, I DID.

Q DID YOU SIGN AS A WITNESS IMMEDIATELY BELOW THAT ACKNOWLEDGING THAT HE HAD SIGNED BOTH THE ADVICE FOR THE RIGHTS AND THE WAIVER OF RIGHTS PORTION?

A YES, SIR.

Q ALL RIGHT, SIR. NOW DID MR. BOWMAN APPEAR TO BE UNDER THE INFLUENCE OF ANY DISABILITY, ALCOHOL, DRUGS, MENTAL CONFUSION, OR ANYTHING, WHEN YOU WENT OVER THOSE RIGHTS WITH HIM?

A NO, HE DID NOT.

Q DID HE APPEAR TO UNDERSTAND THE RIGHTS WHEN YOU GAVE IT TO HIM AND UNDERSTAND THE WAIVER PORTION?

A YES, HE DID.

Q AND DID YOU GO AHEAD AND PUT THE TIME AND DATE ON THAT FORM DOWN AT THE BOTTOM? EXCUSE ME ---

A IT'S UP AT THE TOP.

Q --- AT THE TOP OF THE FORM?

A YES. IT'S DATED THE 17TH OF FEBRUARY, 2001, AT 12:34

P.M.

Q OKAY. AND DID YOU THREATEN HIM, TO TALK TO YOU OR ANYBODY ELSE, AFTER SIGNING THAT WAIVER OF RIGHTS FORM?

A NO, I DID NOT.

Q OKAY. DID YOU MAKE HIM ANY PROMISES, ANY INDUCEMENT, TO GET HIM TO TALK TO YOU OR ANY OTHER LAW ENFORCEMENT OFFICERS?

A NO, SIR.

Q WAS THERE ANY PHYSICAL ABUSE THAT YOU'RE AWARE OF THAT OCCURRED DURING THE TIME YOU WERE WITH MR. BOWMAN?

A NO, SIR.

Q ALL RIGHT, SIR. I WANT TO CALL YOUR ATTENTION NOW TO ABOUT 2 P.M. THAT SAME DAY, ROUGHLY 2:00: WERE YOU STILL AT THE BRANCHVILLE POLICE DEPARTMENT?

A YES, SIR.

Q OKAY. AND DO YOU RECALL WHETHER OR NOT TERRY VAN DORAN WAS PRESENT?

A YES, HE WAS.

Q OKAY. WHAT ABOUT MARION BOWMAN, WAS HE STILL THERE?

A YES, HE WAS.

Q OKAY. AND ARE YOU AWARE OF A WRITTEN STATEMENT THAT WAS GIVEN SHORTLY AFTER 2 P.M. ON FEBRUARY 17TH?

A YES.

Q AND DID YOU WITNESS THAT STATEMENT?

A YES, I DID.

Q ALL RIGHT, SIR. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S NUMBER TWO FOR IDENTIFICATION AND ASK IF YOUR NAME APPEARS THERE ON THE FIRST PAGE AS A WITNESS?

A YES, IT DOES.

Q OKAY. AND THE SECOND PAGE, WOULD YOU TURN THAT OVER? DOES YOUR SIGNATURE APPEAR THERE ALSO?

A THERE AS WELL, YES.

Q OKAY. THE THIRD PAGE?

A AS WELL, YES.

Q OKAY. DID YOU WITNESS MARION BOWMAN SIGN EACH OF THOSE THREE PAGES?

A YES, I DID.

Q AND AGAIN, WITH REGARD TO THAT PARTICULAR STATEMENT, TO YOUR KNOWLEDGE, WERE ANY PROMISES OR THREATS OR INDUCEMENTS OR ANY TYPE OF INFLUENCE EXERTED TO MAKE HIM OR PERSUADE HIM TO GIVE THAT WRITTEN STATEMENT?

A NOT TO MY KNOWLEDGE, NO.

Q OKAY. TO THE BEST OF YOUR KNOWLEDGE, WAS THAT WRITTEN STATEMENT GIVEN FREELY AND VOLUNTARILY?

A YES.

Q MR. STEPHENSON, PLEASE ANSWER ANY QUESTIONS THAT MR. CUMMINGS MAY HAVE FOR YOU.

THE COURT: CROSS-EXAMINATION, MR. CUMMINGS.

MR. CUMMINGS: THANK YOU, JUDGE.

CROSS-EXAMINATION BY MR. CUMMINGS:

Q GOOD AFTERNOON, SIR.

A HOW ARE YOU?

Q I'M DOING GREAT HERE. THANK YOU FOR YOUR KINDNESS AND WAITING PATIENTLY OUT BACK.

I WANT TO BRING YOU BACK TO THAT DAY. WHAT TIME DID THEY GET YOU OUT OF BED TO GO UP TO NURSERY ROAD?

A I DON'T THINK I -- I WENT STRAIGHT TO THE POLICE DEPARTMENT THAT DAY.

Q OKAY. SO YOU NEVER WENT TO THE SCENE, MAJOR, AND YOU HAD NOTHING TO DO AT THAT POINT?

A NO, SIR.

Q ALL RIGHT. WHO CALLED YOU AND TOLD YOU TO COME OUT, SIR?

A I AM NOT SURE. I WANT TO SAY I GOT THERE SOMETIME RIGHT AROUND MID-DAY. I DON'T RECALL WHO CALLED ME.

Q ALL RIGHT, SIR. DID YOU LEAVE YOUR HOME OR DID YOU LEAVE THE SHERIFF'S BUILDING, SIR?

A I LEFT THE OFFICE IN SUMMERVILLE.

Q ALL RIGHT. WHAT DID THEY TELL YOU TO BRING WITH YOU WHEN YOU LEFT THE SHERIFF'S OFFICE, SIR? AGAIN, I'D LIKE TO ASK YOU WHO, BUT ...

A I DON'T THINK THEY TOLD ME TO BRING ANYTHING, JUST ME.

Q OKAY. WHY WERE YOU COMING UP THERE?

A TO ASSIST IN WHATEVER WAY I COULD WITH THE INVESTIGATION.

Q DO YOU NORMALLY CARRY THE POLYGRAPH MACHINE AROUND WITH YOU IN YOUR CAR?
A EVERYDAY. IT'S WITH ME RIGHT NOW.
Q DO YOU HAVE A RECORDING DEVICE IN THE CAR WITH YOU EVERYDAY?
A SOMETIMES I DO, SOMETIMES I DON'T.
Q DID YOU HAVE ONE THAT DAY, ON FEBRUARY 17TH OF 2001?
A I DON'T RECALL.
Q ALL RIGHT. BUT YOU WERE CLEARLY AT THE SHERIFF'S DEPARTMENT BUILDING WHERE THERE'S EQUIPMENT THERE TO RANDOMLY EASY ACCESS TO GET TO; RIGHT?
A SURE.
Q AND YOU'RE ONE OF THE BOSSES OR MAJOR? I KNOW, THAT'S FINE.
A YES, SIR.
Q YES, SIR. ALL RIGHT. DID ANYBODY ASK YOU TO EVER BRING A TAPE RECORDER WITH YOU, OR A VIDEO CAMERA TO VIDEO TAPE ANY STATEMENTS?
A NO, SIR.
Q OKAY. WHEN YOU GOT THERE NOW, AND USING YOUR AGE, EDUCATION, EXPERIENCE, AND TRAINING, DID YOU SUGGEST TO ANYBODY THAT ANY STATEMENTS TAKEN FROM THE DEFENDANT FOR THIS ALLEGED CRIME THAT YOU GUYS WERE INVESTIGATING, THAT SOMEBODY SHOULD TAKE A VIDEO STATEMENT OF IT OR A RECORDING OF IT?
A WELL, SIR, I THINK AT THIS POINT, WHEN I WAS FIRST

NOTIFIED, YOU KNOW, I HAD HEARD THAT, YOU KNOW, THIS INCIDENT HAD OCCURRED. AND I HAD REALLY NO KNOWLEDGE OF WHO WAS WHERE, WHAT WAS GOING ON, SO I DON'T KNOW IF I CAN ACCURATELY ANSWER THAT, IN THAT I WAS NOT SUPPLIED WITH ANY INFORMATION THAT MIGHT MAKE ME THINK ALONG THOSE LINES.

Q SO IT'S YOUR TESTIMONY THAT THEY DID NOT TELL YOU TO LEAVE THE SHERIFF'S BUILDING AND COME UP TO ADMINISTER A POLYGRAPH EXAM?

A NO. I DO NOT RECALL ANYBODY REQUESTING ME TO COME TO SPECIFICALLY ADMINISTER A TEST.

Q ALL RIGHT, SIR. WHEN YOU GOT THERE, WHO WERE YOU BRIEFED BY, SIR?

A I AM ALMOST CERTAIN THAT THE FIRST PERSON I TALKED TO WAS TERRY VAN DORAN.

Q ALL RIGHT, SIR. AND AT THAT TIME YOU WERE THE DEPARTMENT'S ONLY PALEOGRAPHER?

A HE WAS A -- IF I'M NOT MISTAKEN, HE WAS AN INTERN EXAMINER.

Q ALL RIGHT, JUST TRYING TO LEARN?

A RIGHT.

Q BUT YOU WERE THE ONLY ONE THAT HAD BEEN TRAINED AND CERTIFIED TO DO IT?

A THAT'S CORRECT.

Q OKAY. AND AT THAT POINT, WHEN YOU GOT THERE, I WANT YOU, IF YOU WOULD, PLEASE -- AND TAKE A FEW MOMENTS -- TELL

EXACTLY WHAT WAS GOING ON WHEN YOU GOT THERE? AND YOU SAID YOU MET MR. VAN DORAN, BUT EXACTLY WHAT WAS THE NATURE OF WHY HE WAS BRIEFING YOU, SIR? I KNOW YOU'RE A SUPERVISOR, BUT WHAT WAS THE PURPOSE?

A HE WAS BRIEFING ME IN REFERENCE TO THIS INCIDENT THAT HAD OCCURRED, THE HOMICIDE THAT HAD OCCURRED, AND WAS WANTING TO -- THEY HAD EVIDENTLY SPOKEN WITH MR. BOWMAN AND WANTED TO LOOK INTO THE POSSIBILITY OF VERIFYING WHAT HE HAD TOLD THEM, WAS THAT TRUTHFUL OR NOT?

Q ALL RIGHT, SIR. DID THEY GIVE YOU A STATEMENT TO READ THAT HAD BEEN TAKEN FROM MR. BOWMAN BY EITHER MR. COKER OR MR. VAN DORAN?

A I DON'T RECALL. ALL I REMEMBER IS THEM VERBALLY GOING OVER SOME OF THE FACTS OF THE CASE AND, YOU KNOW, WHAT SPECIFICALLY MY ISSUE WOULD BE IF I WERE TO RUN A TEST.

Q ALL RIGHT, SIR. DID YOU EVER LEARN WHAT MR. BOWMAN -- WHY HE WAS AT THE POLICE DEPARTMENT, SIR, WHY HE WAS OFFICIALLY THERE?

A MY ONLY UNDERSTANDING WAS IT WAS FOR ANOTHER CHARGE.

Q ALL RIGHT, SIR. DID YOU VERIFY THAT HE WAS UNDER ARREST?

A MY UNDERSTANDING WAS THAT HE WAS UNDER ARREST.

Q ALL RIGHT, SIR. AND YOU FELT COMFORTABLE -- DID YOU KNOW THE CHARGE OR DID YOU KNOW, YOU KNOW, WHETHER OR NOT HE HAD BEEN PICKED UP ON A FRESH WARRANT OR A BENCH WARRANT?

A TO BE HONEST WITH YOU, I DO NOT RECALL.
Q ALL RIGHT, SIR. AND YOU DID NOT ASK, AS A GENTLEMAN?
A I DON'T RECALL WHETHER I ASKED OR NOT. IT'S JUST SO FAR BACK I REALLY DON'T REMEMBER.
Q WELL, NORMALLY YOU GIVE A POLYGRAPH TO TWO KINDS OF PEOPLE, RIGHT? THE VOLUNTARILY POLYGRAPH, SOMEBODY WALKS IN AND YOU'RE INVESTIGATING, EITHER A DETECTIVE OR SOMEBODY HAS ASKED YOU TO ADMINISTER A TEST TO SOMEBODY VOLUNTARILY; CORRECT?
A YES, SIR. THAT WOULD BE ---
Q NOT YOUR QUESTION, I PROMISE YOU.
A WELL, YOU SAID THERE WAS TWO REASONS AND I WAS ---
Q ONE IS A VOLUNTARILY, SOMEBODY WANTS TO HAVE YOU COME IN VERIFY WHAT THEY'RE SAYING IS CORRECT?
A OKAY.
Q ALL RIGHT. AND THE OTHER ONE IS USUALLY EITHER APPLICATIONS OR SOMEBODY APPLYING FOR THE SHERIFF'S DEPARTMENT OR ---
A WE CURRENTLY DO NOT DO PRE-EMPLOYMENT TESTING.
Q OKAY. SO THE ONLY PURPOSE FOR YOU TO HAVE BEEN THERE THEN AND ADMINISTER THAT TEST WAS TO VERIFY HIS STATEMENT'S ACCURACY, SIR?
A THAT'S CORRECT.
Q OKAY. WHO GAVE YOU WHAT I CALL COMMONLY THE BASELINE QUESTIONS? THEY'RE USUALLY ONE, TWO OR THREE QUESTIONS, THAT

ARE AT THE HEART OF THE MATTER?

A WHEN YOU SAY "BASELINE," YOU MEAN THE RELEVANT ISSUE?

Q THAT'S RIGHT, SIR.

A OKAY.

Q I MEAN, IF I'M USING TERMINOLOGY YOU DON'T UNDERSTAND, PLEASE CORRECT ME.

A OKAY.

Q BUT AS FAR AS THE QUESTIONS, WHO COMES UP WITH THOSE QUESTIONS TO ASK?

A I DO.

Q ALL RIGHT. THEN NORMALLY YOU HAVE A QUESTION TO CORROBORATE THE MACHINE, LIKE, "IS TODAY FRIDAY ABOUT 1:00?"

A WELL TYPICALLY, THERE'S RELEVANT, IRRELEVANT, AND CONTROL ISSUES.

Q OKAY. ALL RIGHT. SO THE IRRELEVANT QUESTIONS TO SOMEBODY WOULD BE LIKE WHAT TO MR. BOWMAN?

A AN IRRELEVANT QUESTION WOULD BE QUESTIONS SUCH AS "IS TODAY FRIDAY? IS YOUR LAST NAME BOWMAN?

Q AND IN PARTICULAR, SIR, DID YOU RECORD OR WRITE DOWN THE QUESTIONS YOU ASKED HIM FOR THE IRRELEVANT NATURE OF QUESTIONS?

A YES, I DID.

Q ALL RIGHT. AND YOU HAVE THOSE WITH YOU IN YOUR NOTES OR ---

A I DO NOT HAVE THOSE WITH ME TODAY.

Q OKAY. OF YOUR PERSONAL MEMORY, DO YOU REMEMBER WHAT IRRELEVANT QUESTIONS YOU ASKED HIM?
A NOT SPECIFICALLY WITHOUT BEING ABLE TO REFER TO MY NOTES.
Q ALL RIGHT, SIR. HOW ABOUT THE RELEVANT QUESTIONS, DO YOU REMEMBER THAT?
A NOT SPECIFICALLY WITH BEING ABLE TO REFER TO MY NOTES.
Q AND YOU DON'T HAVE THOSE WITH YOU?
A NO, I DO NOT.
Q AS FAR AS RELEVANT, DID YOU EVER ASK IF HE KILLED KANDEE MARTIN?
A TO BE BEST OF MY RECOLLECTION, MY RELEVANT ISSUE WAS DID HE SHOOT KANDEE MARTIN.
Q OKAY. AND DO YOU REMEMBER THE OTHER RELEVANT QUESTIONS?
A IS THERE ANYTHING YOU'RE WITHHOLDING ABOUT THIS CASE FROM THE POLICE -- CONCERNING THIS CASE FROM THE POLICE?
Q AND HOW MANY QUESTIONS DID YOU ASK MR. BOWMAN IN TOTAL, IF YOU RECALL?
A TOTAL?
Q YES, SIR.
A ON THE WHOLE TEST?
Q RIGHT.
A IT WOULD HAVE EITHER BEEN EIGHT OR TEN, DEPENDING ON THE TYPE OF TEST.

Q HOW MANY TESTS DID YOU RUN ON MR. BOWMAN?
A ONE.
Q AND ONLY ONE?
A TO THE BEST OF MY RECOLLECTION, I DID ONE EXAMINATION ON HIM.
Q ALL RIGHT, SIR. AND DID YOU GRADE THOSE -- I UNDERSTAND THERE ARE MORE COMPUTERIZED METHODS OUT HERE NOW, AND AS THE OLD FASHIONED WAY WE USED TO SIT DOWN AND BASICALLY WATCH THE GRAPH, CIRCLE, POINTS OR THINGS THAT YOU NOTICE.
A WHEN I GRADE, REGARDLESS OF WHETHER I'M USING COMPUTERIZED POLYGRAPH OR ANALOG INSTRUMENT, I ALWAYS GRADE NUMERICALLY BY HAND.
Q OKAY. AT THE CONCLUSION OF YOUR TEST, DID YOU HAVE A CONVERSATION WITH MR. BOWMAN?
A NOT THAT I RECALL ANY CONVERSATION IN LENGTH AT THAT TIME RIGHT AFTER THE TEST.
Q WELL, WHAT WOULD YOU HAVE SAID TO MR. BOWMAN AT THE CONCLUSION OF THE TEST?
A I MAY HAVE INFORMED HIM AS THE RESULTS OF THE EXAMINATION.
Q AND WHAT WERE THE RESULTS FROM YOUR MARKINGS OF THE EXAM, SIR?
A TO THE BEST OF MY RECOLLECTION, IT WAS A FAILURE.
Q ALL RIGHT. DID YOU EVER HEAR THE NUMBERS "NEGATIVE

EIGHT" OR A ---

A CERTAINLY.

Q AND WHAT IS THAT, SIR?

A THERE'S A NUMERICAL SCORING ANALYSIS OF THE CHARTS THAT'S RECORDED THE PSYCHO-PHYSIOLOGICAL STIMULUS FROM MR. BOWMAN. AND THERE IS A NUMERICAL SCORE THAT WE GIVE ON EITHER A PLUS OR A MINUS FOR EACH COMPONENT AT EACH SPOT OF THE QUESTION AS IT'S ASKED. AND SO YOU'RE EITHER A MINUS, A ZERO -- YOU'RE A MINUS-SOMETHING, A ZERO, OR A PLUS-SOMETHING.

Q ALL RIGHT. AND WHO COMES UP WITH THESE NUMBERS OR RESULTS OR A SCORING ON A MECHANISM, SIR?

A WELL, YOUR SCORING IN LIKE A STANDARD BIZONE (PHONETICALLY) COMPARISON TEST, YOU ARE SCORING A REACTION IN ONE SPOT IN THE EXAMINATION TO ANOTHER SPOT, QUESTION, IN THE EXAMINATION.

Q AND I'M TAKING YOU BACK TO THAT DAY AND SITTING IN THIS ROOM THERE'S YOU SITTING AT A CONFERENCE TABLE?

A YES, SIR.

Q ALL RIGHT. AND I THINK YOU TESTIFIED EARLIER THERE WERE A LOT OF PEOPLE IN AND OUT, WHEN YOU GOT THERE, NOT OF THE ROOM BUT AT THE BUILDING?

A THERE WAS PEOPLE IN THE BUILDING. WE WERE IN A ROOM TOWARDS THE BACK OF THE POLICE DEPARTMENT ON THE LEFT-HAND SIDE, IF YOU WALK IN FROM THE FRONT DOOR. AND WHILE WE WERE

TOGETHER DURING THE EXAMINATION THERE WAS NOBODY ELSE IN THE ROOM.

Q ALL RIGHT. AND YOU TRY TO CONTROL THAT ENVIRONMENT BECAUSE YOU WANT IT QUIET?

A CERTAINLY.

Q A PERSON HAS TO BE STILL?

A SURE.

Q ALL RIGHT. AND THERE WERE NO INTERRUPTIONS WHILE YOU WERE IN THERE?

A NO, SIR.

Q OKAY. AND IS IT FAIR TO SAY THAT YOU USED THE SUMMARY COURT CHAMBERS, LIKE, A JUDGE'S CHAMBERS?

A NOT WHEN WE RAN THE EXAMINATION. THIS WAS DONE IN A ROOM THAT WAS ACROSS THE HALL, I WANT TO SAY IT'S LIKE A COUNCIL ROOM ON SIDE, AND THEN THERE WAS TWO BACK OFFICES. AND THE ONLY THING IN THESE OFFICES WERE LITERALLY EMPTY DESKS.

Q AND DURING YOUR PROCEDURES, YOU PULLED OUT YOUR ADVISEMENT OF RIGHTS FORMS THAT YOU FILLED OUT; RIGHT?

A CORRECT.

Q AND NOBODY ELSE WITNESSED THAT, OTHER THAN YOU, SIR?

A THAT'S RIGHT.

Q DID YOU ASK ANYBODY ELSE TO COME IN AND VERIFY HIM SIGNING THAT OR ANYTHING AT THAT TIME?

A NO, I DID NOT.

Q OKAY. AND YOU'RE A PART OF THE COMMAND STAFF, ARE YOU NOT, SIR?

A THAT'S CORRECT.

MR. CUMMINGS: I'M GOING TO ASK IF I MAY APPROACH THE WITNESS FOR A MOMENT?

THE COURT: YES.

Q I'M SURE YOU'RE FAMILIAR WITH POLICY AND PROCEDURES OF YOUR DEPARTMENT, IF I MAY BE FAIR TO ASK YOU THAT QUESTION?

A YES, SIR.

Q I'M SORRY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS DEFENDANT'S EXHIBIT NUMBER ONE AND ASK YOU IF YOU'RE FAMILIAR WITH THAT PAGE OUT OR POLICY AND PROCEDURES MANUAL FROM YOUR ELECTED SHERIFF?

A OKAY. THIS IS NOT POLICY AND PROCEDURE AT THE SHERIFF'S OFFICE.

Q ALL RIGHT, SIR. AND THAT'S YOUR TESTIMONY, THAT WOULD NOT BE THE POLICY AND PROCEDURE OF THE SHERIFF'S OFFICE?

A WHAT THIS IS -- A POLICY AND PROCEDURE HAS A DIFFERENT HEADING UP AT THE TOP OF THE PAPER. I KNOW THIS BECAUSE I DO A LOT OF THE POLICIES AND PROCEDURES. AND EACH ONE IS SIGNED OFF BY THE SHERIFF. THIS MAY BE SOME SORT OF DIRECTIVE FROM SOMEBODY, BUT THIS IS NOT A POLICY AND PROCEDURE AS IT IS IN THE OFFICIAL <u>DORCHESTER COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURE MANUAL</u>.

Q I DON'T MEAN TO EVER TURN MY BACK AND I APOLOGIZE ---

A OKAY.

Q --- TO YOU AS A GENTLEMAN, SIR. BUT IF YOU'LL GRANT ME A MOMENT HERE.

A WITHOUT EVEN HAVING READ IT, I CAN SEE THAT.

(PAUSE.)

Q I'M GOING TO SHOW YOU A LETTER, SIR, AND ASK YOU IF YOU'LL JUST TAKE A MOMENT AND READ THIS LETTER FIRST? AND UNDERSTANDING THAT IT WAS NOT ADDRESSED TO YOU, BUT JUST A MOMENT, PLEASE, AND READ THAT LETTER AND A SUBPOENA ON THE SECOND PAGE?

(PAUSE.)

A OKAY.

Q YOU HAD NOTHING TO DO WITH ANSWERING THAT SUBPOENA; CORRECT, SIR?

A NO, SIR.

Q AND YOU'LL NOTICE HOW THE THIRD PAGE, WHAT IS ATTACHED?

A THE SAME FORM YOU HANDED ME.

Q AS DEFENDANT'S EXHIBIT NUMBER ONE?

A RIGHT.

Q ALL RIGHT. AND I'M ASKING YOU THIS NOT TO PUT YOU ON THE SPOT, SIR.

A I UNDERSTAND.

Q ALL RIGHT. THIS IS REQUESTED BY THE DEFENSE TO TRY TO FIND OUT WHAT POLICY AND PROCEDURES THESE OFFICERS HAVE TO WORK UNDER, INCLUDING YOURSELF, SIR, AS A MAJOR.

A RIGHT.
Q AND SO IT'S YOUR TESTIMONY TODAY, AS I ASKED YOU, THAT IS NOT THE PAPERWORK FOR POLICIES AND PROCEDURES AS TO INTERVIEWS AND INTERROGATIONS; CORRECT?
A NO, THIS IS NOT.
Q ALL RIGHT, SIR.
A LIKE I'VE SAID BEFORE, AN OFFICIAL POLICY AND PROCEDURE OF THE SHERIFF'S OFFICE IS A TOTALLY DIFFERENT FORMAT THAN THIS. IT'S SIGNED OFF BY THE SHERIFF, DATED, NUMBERED. SO THIS IS NOT AN OFFICIAL DORCHESTER COUNTY POLICY AND PROCEDURE.
Q YES, SIR. UNDERSTANDING -- I KNOW MR. BAILEY, THE SOLICITOR, WILL INSTRUCT YOU ACCORDINGLY AS TO ANYTHING THAT WE MAY SAY IN HERE, BUT ALL OF THE WITNESSES HAVE BEEN SEQUESTERED?
A RIGHT.
Q AND WHICH MEANS NOBODY TALKS ABOUT IT TO EACH OTHER AND I KNOW YOU KNOW THAT FROM PROFESSIONAL STANDARDS?
A SURE.
Q I WOULD ASK YOU, PLEASE, NOT TO DISCUSS THAT WITH ANYBODY ELSE, OTHER THAN MR. BAILEY.
AND I WOULD ASK HER HONOR AT THE END OF THIS, IF YOU WOULD, PLEASE DIRECT THAT TO EVERYBODY.
Q BECAUSE IT'S IMPORTANT THAT WE GET THE INFORMATION FROM THE DEPARTMENT AS TO WHAT THESE FELLOWS HAVE TO GO BY; RIGHT?

A ABSOLUTELY.

Q AND THERE'S NO -- THAT WASN'T AN INTENTIONAL THING ON ANYBODY'S PART AND YOUR PART. DID YOU EVEN SEE THAT SUBPOENA?

A NO, SIR.

Q OKAY. AND WAS NOT SERVED THAT? I WANT TO PUT THAT ON THE RECORD.

A NOT ON ME, NO, SIR.

Q ALL RIGHT, SIR. IF I MAY HAVE THAT LETTER BACK.

AND I WANT TO MARK THIS AS A COURT'S EXHIBIT FOR THE RECORD, PLEASE.

THE COURT: SURE, SURELY. COURT'S EXHIBIT NUMBER ONE.

FOR THE RECORD, JUST WHEN MADAM COURT REPORTER HAS HAD AN OPPORTUNITY TO MARK IT, I WANT THE RECORD TO REFLECT SPECIFICALLY WHAT THAT IS, BECAUSE AS I UNDERSTAND IT, IT'S A COUPLE OF DOCUMENTS PUT TOGETHER.

MR. CUMMINGS: I APOLOGIZE, JUDGE. I THINK WE ...

THE COURT: ALL RIGHT, MR. CUMMINGS, I JUST WANT THE RECORD TO BE CLEAR IN CASE SOMEBODY ...

(COURT'S EXHIBIT NUMBER ONE, A LETTER, SUBPOENA, COPY OF A POLICY AND PROCEDURE, AND AN ENVELOPE, ARE NOW MARKED FOR PURPOSES OF THE RECORD.)

THE COURT: THANK YOU SO MUCH.

AND THAT IS -- I BELIEVE IT'S AN ENVELOPE.

MR. CUMMINGS: YES, MA'AM.

MAY IT PLEASE THE COURT, JUDGE? THIS IS A COPY OF A LETTER TO THE ELECTED SHERIFF, DATED MARCH 27TH, 2002 ---

THE COURT: OKAY.

MR. CUMMINGS: --- SHERIFF RAY NASH. THE ORIGINAL LETTER HAS BEEN SENT BACK TO ME.

PAGE TWO IS A COPY OF A SUBPOENA IN A CRIMINAL CASE, MEANING MR. BOWMAN'S CASE, INDICTMENT NUMBER 1-GS-18-0348 AND 0349, SIGNED BY CHERYL GRAHAM.

AND, JUDGE, THE ANSWER TO THE SUBPOENA WAS, "INVESTIGATIONS POLICY AND PROCEDURES, 11-01-01," THAT'S ACTUALLY BEEN STAPLED TO OUR REQUEST. AND AN ENVELOPE, MA'AM, FROM THE OFFICE OF THE SHERIFF BACK TO MY LAW FIRM.

THE COURT: THANK YOU.

Q ANYWAY, WE'LL GET BACK. AND PUT THAT THING DOWN. I'M SORRY. AND THANK YOU FOR HOLDING IT.

BUT ANYWAY, THAT DAY IN PARTICULAR, YOU CONDUCT THE POLYGRAPH, OKAY. AND YOU TOLD MR. BOWMAN WHAT, SIR?

A AT WHICH POINT?

Q THE END OF THE POLYGRAPH. WHAT DID YOU TELL HIM?

A THAT HE DID NOT DO TOO GOOD ON THE TEST, THAT HE FAILED.

Q DID YOU USE THOSE NUMBERS "NEGATIVE EIGHT" TO HIM?

A WITHOUT HAVING MY PACKET WITH ME, I CAN'T TELL YOU WHAT THE SCORE WAS. BUT I DOUBT VERY SERIOUSLY THAT I WOULD EVER MENTION A SCORE. IT'S PASS OR FAIL. BECAUSE WHETHER IT'S

ONE OR THE OTHER, IT -- THERE'S NO DEGREE OF FAILING, IT'S PASS OR FAIL.

Q ALL RIGHT, MAJOR. AND IS IT FAIR TO SAY THEN THAT YOU TOLD HIM HE FAILED?

A YES.

Q ALL RIGHT. AND BASED ON THAT, WHAT DID YOU NEXT ADVISE MR. BOWMAN AFTER YOU TOLD HIM HE FAILED? WHAT DID YOU SAY?

A EXACTLY WHAT I SAID AT THAT POINT, I'M NOT SURE ON; THAT, I'M SURE, HE NEEDED TO TELL THE TRUTH, THAT I DID NOT BELIEVE WHAT HE WAS SAYING, YOU KNOW, THAT HE DID IN FACT HAVE SOME INVOLVEMENT IN THIS THAT HE HAD NOT TOLD US.

Q DID YOU MAKE ANY FIELD NOTES OF THIS OR ANY OTHER TYPE NOTES, AFTER YOU HAD CONDUCTED THIS TEST, SIR?

A WITHOUT BEING ABLE TO SEE MY PACKET, I'M NOT SURE.

Q ALL RIGHT, SIR. AND WHAT DID YOU DO WITH MR. BOWMAN'S PERSON AFTER YOU COMPLETED THIS TEST, SIR?

A AFTER I COMPLETED THE TEST, I THINK THAT I WALKED OUT OF THE ROOM AND DETECTIVE SERGEANT VAN DORAN CAME IN AND BEGAN TALKING WITH HIM.

Q ALL RIGHT. AND AGAIN, I'M GOING TO ASK YOU SOME OLD COP STUFF. YOU WENT UP TO TERRY, PROBABLY, MR. VAN DORAN, AND STATED, "LOOK, THE GUY FAILED ---

A RIGHT.

Q --- AND MAYBE YOU NEED TO TAKE ANOTHER QUESTION FROM HIM OR QUESTION MORE ABOUT THIS"?

A THAT'S POSSIBLE.
Q ALL RIGHT. I DON'T WANT TO PUT WORDS IN YOUR MOUTH, NOW.
A NO. I MEAN, I'M SURE THAT I TOLD HIM. I REMEMBER TELLING HIM THAT HE FAILED, THAT, YOU KNOW, ONTO THE ISSUE AT HAND ON WHETHER OR NOT HE SHOT KANDEE MARTIN, AND THAT, YOU KNOW, "HE'S NOT TELLING THE TRUTH. YOU MIGHT WANT TO TRY TO TALK TO HIM SOME MORE."
Q HE NEVER ADMITTED TO SHOOTING KANDEE MARTIN TO YOU AT ALL, DID HE?
A NO. NO, NOT -- NO, NOT THEN.
Q ALL RIGHT. AND THERE'S NOTHING IN ANY OF YOUR NOTES THAT YOU CAN RECALL -- AND THAT'S A PRETTY DARN IMPORTANT THING -- TO SAY THAT TO ME TODAY? DO YOU KNOW?
A NOT THAT I CAN RECALL RIGHT NOW WITHOUT BEING ABLE TO LOOK AT MY NOTES.
Q ALL RIGHT. AND ALSO, WHEN HE HAD COME IN TO YOU, HE HAD GIVEN A STATEMENT NOT ADMITTING ANY CULPABILITY IN THIS ACTION AT ALL?
A CORRECT.
Q OKAY. DID YOU TELL HIM THAT HIS POLYGRAPH TEST WAS VOLUNTARY?
A ABSOLUTELY.
Q OKAY, SIR. AND DID YOU ALSO ADVISE HIM THAT, AT LEAST PURSUANT TO ANY INSTRUCTIONS FURTHER FROM HER HONOR OR ANY

OTHER CASE LAW THAT I'M NOT AWARE OF RIGHT NOW, THAT POLYGRAPH EXAMINATIONS AREN'T USUALLY ADMISSIBLE IN ANY CRIMINAL COURT?

A THERE IS A FORM THAT EVERYBODY THAT I POLYGRAPH, THAT I GO OVER THAT'S A CONSENT TO INTERVIEW WITH THE POLYGRAPH FORM, AND IT SPELLS ALL THIS OUT.

Q ALL RIGHT, SIR. AND YOU MAKE THAT VERY CLEAR TO PEOPLE?

A ABSOLUTELY.

Q ALL RIGHT. AND WHEN YOU WENT THROUGH THE INTERVIEW, COMPLETED, GOT WITH MR. VAN DORAN BACK AGAIN, WHAT DID YOU DO NEXT?

A AFTER SERGEANT VAN DORAN CAME IN?

Q YES, SIR.

A AFTER THE TEST?

Q CORRECT.

A I THINK I WENT TO GET SOMETHING TO EAT.

Q ABOUT WHAT TIME DID YOU LEAVE?

A THE TEST WOULD HAVE PROBABLY TAKEN AN HOUR, MAYBE AN HOUR AND 15 MINUTES, SO WHATEVER TIME FROM WHEN I STARTED THE TEST.

Q AND PURSUANT TO THE ITEMS YOU'VE EITHER GIVEN TO YOUR CASE OFFICER, MR. COKER, OR TO MR. SOLICITOR, DO YOU REMEMBER WHAT TIME YOU FINISHED UP?

A FINISHED UP COMPLETELY THAT DAY?

Q YES, SIR, COMPLETELY.
A I THINK I WAS THERE TILL THAT EVENING.
Q ABOUT WHAT TIME?
A I REALLY DON'T RECALL. I'M PRETTY SURE IT WAS DARK WHEN I LEFT.
Q WAS MR. BOWMAN STILL THERE?
A I THINK SO, YES. BECAUSE THERE WAS ANOTHER CONVERSATION THAT I REMEMBER HAVING WITH HIM LATER ON THAT DAY WITH ANOTHER INDIVIDUAL.
Q ALL RIGHT. AND I DON'T WANT TO JUMP TOO FAR AHEAD.
A OKAY.
Q BUT ABOUT APPROXIMATELY WHAT TIME DID THAT TAKE PLACE?
A WITHOUT BEING ABLE TO LOOK AT MY NOTES, IT IS SO FAR BACK, IT IS LITERALLY HARD TO REMEMBER.
Q WOULD IT BE BETTER FOR US TODAY -- AND MAYBE PERHAPS ASK HER HONOR -- THAT YOU'RE NOT HAVING A CHANCE TO RECALL VERY SPECIFIC ITEMS, TO REVIEW YOUR NOTES AND TESTIFY AGAIN AT A LATER DATE?
A IT MAY BE VERY HELPFUL TO ME, YES.
Q AND THE REASON I'M ASKING THAT IS BECAUSE, YOU KNOW, MR. BOWMAN SOMEHOW ARRIVES IN POSSESSION OF THE POLICE DEPARTMENT AND THE STATEMENTS ARE TAKEN FROM HIM. ONE OF ISSUES TODAY FOR YOU, SIR, IS YOU WERE ASKED TO COME IN DO A POLYGRAPH TEST AFTER STATEMENTS ALLEGEDLY HAD BEEN TAKEN. AND THEN TO DO YOUR FINDINGS AND THEN TO BASICALLY DO

WHATEVER THE MAJOR IS REQUIRED TO DO OR THE SHERIFF REQUIRES YOU TO DO; RIGHT?

A THAT'S CORRECT.

Q AND ASSIST IN ANY OTHER WAY.

WHEN YOU WERE DONE WITH THAT AND YOU WERE GOING TO DO ANOTHER STATEMENT, OKAY, AFTER YOU FINISHED THE POLYGRAPH TEST AND THEN DO THE NEXT TEST, DID ANYBODY TRY TO THINK ABOUT GETTING A RECORDING DEVICE OR A VIDEO CAMERA TO GET THIS SECOND STATEMENT RECORDED?

A NOT TO MY KNOWLEDGE.

Q AND, MAJOR, AGAIN, I DON'T MEAN TO PICK ON YOU BECAUSE YOU'VE GOT BARS AND AN OAK LEAF CLUSTER ON YOU, BUT I'M TRYING TO SAY, DID ANYBODY OF COMMAND AUTHORITY TELL THESE GUYS, I MEAN THE OFFICERS, TO GO GET SOME RECORDING DEVICE, BECAUSE YOU JUST LAID A BOMBSHELL AT THEIR FEET?

A NOT TO MY KNOWLEDGE.

Q AND YOU DID NOT THINK OF THAT AS A NORMAL INVESTIGATORY PROCEDURE?

A THAT IS SOMETHING THAT WE DO FROM TIME TO TIME BUT I WOULD NOT CONSIDER IT A NORMAL INVESTIGATIVE PROCEDURE. A LOT DEPENDS ON, YOUR HONOR, WHAT FACILITY YOU'RE AT, AND HERE WE ARE AT A DIFFERENT FACILITY. SO, I MEAN, IT'S NOT UNCOMMON.

Q BUT IT DIDN'T TAKE THEM LONG TO GET YOU TO LEAVE THE BUILDING AND GET UP THERE TO DO THAT POLYGRAPH; RIGHT? I

MEAN, NOT JUST TIME-WISE, IT DIDN'T TAKE THEM LONG FOR SOMEBODY TO REQUEST YOU AND YOU CAME?

A WHOEVER REQUESTED ME, "I'LL BE RIGHT THERE."

Q THAT'S RIGHT, SIR.

BEG THE COURT'S INDULGENCE, PLEASE.

THE COURT: VERY WELL.

(PAUSE.)

Q IF I MAY JUST FOLLOW UP WITH A FEW QUESTIONS HERE.

IS IT YOUR TESTIMONY THAT YOU DID TAKE SOME FIELD NOTES OUT THERE THAT DAY?

A THERE MAY BE SOME NOTES CONTAINED WITHIN MY PACKET ON -- THERE'S SEVERAL DOCUMENTS THAT ARE PART OF A POLYGRAPH FOLDER: THE ADVICE OF RIGHTS FORM, THE CONSENT TO INTERVIEW FORM, QUESTIONS, AND ANY NOTES THAT I MIGHT HAVE MADE.

Q ALL RIGHT, SIR. WOULD YOU HAVE, IN THE NORMAL COURSE OF BUSINESS OR IN THE NORMAL COURSE OF YOUR PROCEDURES, TURNED OVER YOUR FIELD NOTES UPON REQUEST TO EITHER MR. SOLICITOR OR THE CASE OFFICER HERE?

A YES.

Q ALL RIGHT, SIR. OF YOUR PERSONAL KNOWLEDGE HAVE YOU TURNED OVER YOUR SEALED NOTES TO MR. BAILEY OR TO MR. COKER, SIR?

A NO, I HAVE NOT.

Q AND HAVE YOU BEEN ASKED BY ANYBODY TO DO THAT?

A NONE.

Q OKAY. SO THEY WOULD STILL BE IN YOUR POSSESSION?
A SHOULD BE, YES, SIR. WHATEVER IS IN THE PACKET WILL BE IN THE PACKET.
Q ALL RIGHT. AND AS FAR AS MEETING WITH MR. BOWMAN, AGAIN, HOW MANY OFFICERS WERE PRESENT WITH MR. BOWMAN, PHYSICAL AROUND HIM, AT VARIOUS TIMES THAT YOU WOULD BE INVOLVED?
A I DON'T KNOW THAT I UNDERSTAND YOUR QUESTION.
Q ALL RIGHT. WHEN YOU FIRST GOT THERE, HOW MANY POLICEMEN WERE STANDING AROUND MR. BOWMAN AT THE BRANCHVILLE POLICE DEPARTMENT?
A I REALLY DO NOT RECALL. WHEN I WALKED IN I REMEMBER HAVING CONVERSATION WITH DETECTIVE SERGEANT VAN DORAN ABOUT THE TRUTHFULNESS OF WHAT HE WAS SAYING AND WE WERE GOING TO VERIFY IT. I DON'T REMEMBER SEEING HIM. AT THAT PARTICULAR POINT IN TIME I WAS GOING BACK INTO THAT OFFICE TO GET SET UP TO RUN THE TEST.
Q ALL RIGHT. AND HE WAS ALONE WITH YOU WHEN YOU DO THE TEST?
A WHEN HE WAS BROUGHT IN, YES.
Q AND WHEN YOU FINISHED YOUR EXAMINATION, YOU TURNED HIM BACK OVER TO MR. VAN DORAN OR MR. COKER?
A I BELIEVE IT WAS SERGEANT VAN DORAN.
Q DID YOU HAVE ANY OTHER INVOLVEMENT IN THAT INTERROGATION OR INTERVIEW, THE SECOND STATEMENT?

A OTHER THAN TO COMING IN AT THE END TO WITNESS HIM SIGN THE STATEMENT.
Q AT THE END OF THAT STATEMENT OF YOU WITNESSING THERE, DID YOU ASK HIM ANY QUESTIONS OR DID YOU SAY, "DO YOU UNDERSTAND YOUR AGREEMENT OR YOUR STATEMENT?"
A NO, SIR. I WITNESSED HIS SIGNATURE.
Q JUST WITNESSED IT?
A YES, SIR.
Q OKAY. AND AS FAR AS -- AND AGAIN, I DON'T WANT TO JUMP TOO FAR AHEAD, BUT WAS SHERIFF LARRY WILLIAMS PRESENT AT THIS TIME?
A AT THE TIME THAT I WITNESSED THE STATEMENT WITH SERGEANT VAN DORAN?
Q YES.
A NOT TO MY KNOWLEDGE, NO, SIR.
Q DID YOU HAVE ANY CONVERSATIONS WITH SHERIFF WILLIAMS, SIR?
A I REMEMBER TALKING TO HIM THAT DAY, YES, SIR.
Q DO YOU REMEMBER THE CONTEXT OF YOUR CONVERSATION IN DEALING WITH MR. BOWMAN, SIR?
A COULD YOU REPEAT THAT, PLEASE?
Q DO YOU REMEMBER THE EXTENT OF YOUR CONVERSATION DEALING WITH THE EXTENT OF MR. MARION BOWMAN, SIR?
A NOT REALLY. I REMEMBER SEEING THE SHERIFF, SHAKING HIS HAND.

Q DID YOU REQUEST HIM TO GO IN AND SPEAK TO MR. BOWMAN?
A NO, SIR.
Q ALL RIGHT, SIR. DID HE REQUEST ANY PERMISSION FROM YOU AS A COMMAND OFFICER TO ASK PERMISSION TO GO IN AND SPEAK TO MR. BOWMAN?
A I DON'T REMEMBER IF HE ASKED PERMISSION. I REMEMBER THAT HE SAID THAT HE WOULD LIKE TO TALK WITH HIM. I THINK THAT THEY -- I WAS UNDER THE IMPRESSION THAT THEY KNEW EACH OTHER.
Q AND ANY CONSENT FORM SIGNED BY YOU WOULD BE IN YOUR NOTE PACKAGES OR AVAILABLE FOR THE SOLICITOR?
A THAT'S CORRECT.
Q OR AVAILABLE TO THE CASE OFFICER?
A THAT'S CORRECT.
Q AND YOU HAVE A SEPARATE FOLDER AT YOUR OFFICE, SIR, CONCERNING THE CASE ON MR. BOWMAN?
A PER AS IT RELATES TO POLYGRAPH, YES, SIR.
Q YES, SIR. OR ANY INTERVIEW OR INTERROGATION THAT YOU DID?
A AS IT WOULD RELATE TO THE SCOPE OF THAT TEST, YES, SIR.
Q BECAUSE AS YOU UNDERSTAND, YOU'RE TESTIFYING TODAY ABOUT STATEMENTS MADE BY MR. BOWMAN AND HER HONOR HAS TO RULE AS TO THE VOLUNTARINESS OF THEM AND WHETHER OR NOT THEY WERE GIVEN PURSUANT TO OUR COURT RULES AND CASE LAW?
A CORRECT.

Q AND SO THE EXTENT OF THE CONVERSATIONS THAT YOU WOULD TESTIFY ABOUT MR. BOWMAN SAID WOULD BE WHAT, SIR?

A I WOULD HAVE TO REFER TO MY NOTES.

Q YOU DON'T REMEMBER ANYTHING ELSE ABOUT PERSONAL RECOLLECTION?

A I REMEMBER RUNNING THE TEST, GOING OVER THE QUESTIONS. I REMEMBER RUNNING THE TEST AND AFTER THE FAILURE. I HAD VERY LITTLE CONVERSATION WITH HIM DURING THE TEST.

Q AND AGAIN, I KNOW WE'VE KIND OF GOT STARTED A LITTLE BIT DIFFERENT THIS MORNING. DID YOU REVIEW YOUR NOTES PRIOR TO COMING TO COURT TODAY?

A FOR THIS AS IT RELATED TO THE POLYGRAPH?

Q YES, SIR.

A NO, SIR, I DID NOT.

MR. CUMMINGS: BEG THE COURT'S INDULGENCE, YOUR HONOR?

THE COURT: ALL RIGHT.

(PAUSE.)

MR. CUMMINGS: THANK YOU. THAT'S ALL THE QUESTIONS WE HAVE FOR THIS GENTLEMAN, JUDGE.

THE COURT: ALL RIGHT, VERY WELL. ANY REDIRECT?

MR. BAILEY: YOUR HONOR, THAT'S ALL I HAVE FOR MAJOR STEPHENSON AT THIS POINT, IN REGARD TO HIS WRITTEN MIRANDA FORM AND HIS INVOLVEMENT IN THE FIRST STATEMENT. HE WAS INVOLVED LATER ON THAT EVENING WITH LARRY WILLIAMS AT THE INITIATION OF A WRITTEN STATEMENT LARRY WILLIAMS GOT BUT I'LL

KEEP IN SEQUENCE AND CALL HIM LATER, IF THAT'S ALL RIGHT.

THE COURT: ALL RIGHT. VERY WELL. AND DO YOU ANTICIPATE THAT THAT WILL BE TODAY, GIVEN THE HOUR?

MR. BAILEY: PROBABLY NOT, IF WE'RE GOING TO STOP AT TWO, BECAUSE MR. VAN DORAN WOULD BE NEXT.

THE COURT: THAT'S WHAT I WAS ANTICIPATING. SO IT WOULD BE ON TUESDAY OR SOMETIME NEXT WEEK?

MR. BAILEY: YES, MA'AM.

THE COURT: VERY WELL.

BRING YOUR NOTES.

MR. STEPHENSON: YES.

THE COURT: BRING ALL OF YOUR NOTES.

MR. CUMMINGS: JUDGE, MAY I PLEASE -- AGAIN, I'M NOT TRYING TO BE RUDE OR ANYTHING -- I KNOW YOUR HONOR WOULD INSTRUCT EVERYBODY THAT WE'VE BEEN SEQUESTERED AND THAT ---

THE COURT: I'D BE HAPPY TO DO THAT, BE HAPPY TO DO THAT. AND I CAN ACTUALLY ADDRESS BOTH OF YOU AND WILL ANYONE ELSE.

WHEN YOU ARE SEQUESTERED, AS YOU WELL KNOW, BUT FOR OUR RECORD, WHEN YOU ARE SEQUESTERED THAT IS BEYOND JUST NOT BEING IN THE COURTROOM WHILE EACH OF YOU TESTIFY, THAT ALSO MEANS YOU DID NOT TALK ABOUT YOUR TESTIMONY WITH ANYONE WHO IS TO TESTIFY OR HAS TESTIFIED. AND I WOULD ASK YOU TO BE MINDFUL OF THAT, IN THAT THERE WILL BE A BREAK BETWEEN YOUR TESTIMONY TODAY AND WHEN WE -- WHEN I UNDERSTAND THAT YOU

WILL COME BACK.

MR. STEPHENSON: YES, MA'AM.

THE COURT: THANK YOU SO MUCH.

MR. STEPHENSON: THANK YOU.

THE COURT: ALL RIGHT.

MR. CUMMINGS: THANK YOU, JUDGE.

MR. BAILEY: THANK YOU, YOUR HONOR.

THE COURT: ANY OBJECTION TO MY INSTRUCTION?

MR. CUMMINGS: ABSOLUTELY NONE.

AND I THANK THIS GENTLEMAN.

MR. BAILEY: NONE FROM THE STATE, YOUR HONOR.

THE COURT: VERY WELL.

THANK YOU. IF YOU DROP THOSE RIGHT THERE, IT WILL BE PERFECT. THANK YOU.

(THE WITNESS IS NOW EXCUSED FROM THE WITNESS STAND.)

MR. BAILEY: YOU COULD ASK TERRY TO STEP IN, IF YOU WILL?

MR. STEPHENSON: SURE.

MR. BAILEY: JUDGE, IF I COULD POINT OUT SOMETHING -- THIS MAY BE THE APPROPRIATE TIME TO DO IT ---

THE COURT: ALL RIGHT.

MR. BAILEY: --- THE EVENTS WE'RE TALKING ABOUT OCCURRED ON FEBRUARY 17TH, 2001, AND APPARENTLY THIS POLICY AND PROCEDURE DOCUMENT IS DATED NOVEMBER THE 1ST, 2001, WHICH WOULD BE SOME NINE MONTHS AFTER THE FACT.

THE COURT: ALL RIGHT. AND THERE'S SOME QUESTION ABOUT WHAT THAT IS, IN FACT. THERE'S BEEN A DOCUMENT REQUESTED, THERE'S BEEN A DOCUMENT WHICH HAS BEEN SENT. AND YOU'RE POINTING THAT OUT, EVEN ASSUMING THAT IT IS A POLICY AND PROCEDURE, THAT IT WOULD NOT BE AS OF TIME OF THESE EVENTS.

MR. BAILEY: NOT IN EFFECT AT THE TIME WE'RE TALKING ABOUT.

THE COURT: VERY WELL.

MR. CUMMINGS: BUT, JUDGE, AND AGAIN, JUST TO PROTECT THE RECORD HERE ---

THE COURT: YES.

MR. CUMMINGS: --- I SUBPOENAED AND I THINK MY SUBPOENA SAYS "ANY AND ALL POLICY AND PROCEDURES," AND THAT'S WHAT WAS SENT TO US BY THEIR OFFICE. AND SO IF THERE IS AN UPDATED VERSION, I'D LIKE TO HAVE THE OLD ONE.

THE COURT: I'M SORRY, YOU'D LIKE TO HAVE IT?

MR. CUMMINGS: IF THERE WAS AN UPDATED VERSION ON 11-1-01, I WOULD LIKE THE OLD ONE.

THE COURT: SURELY.

MR. CUMMINGS: BUT I'LL RE-SERVE ANOTHER SUBPOENA ON THE SHERIFF TO VERIFY.

THE COURT: WELL, YOU HAVE TO RELY THAT THEY WILL READ AND PROVIDE YOU WITH WHAT YOU WOULD OBJECT OR PRAY BEFORE THE COURT.

THE COURT: THANK YOU, JUDGE.

THE COURT: I CERTAINLY UNDERSTAND THE CIRCUMSTANCE FROM BOTH OF YOUR PERSPECTIVES. ALL RIGHT.

YES, MR. VAN DORAN.

HE HAS BEEN SWORN.

THANK YOU. YOU KNOW THERE'S A PITCHER OF WATER AND CUPS THERE WHEN YOU DECIDE YOU WOULD LIKE SOMETHING TO DRINK. BUT I FIGURED THAT YOU WERE GETTING COCO-COLA OR COFFEE OUTSIDE.

MR. VAN DORAN: THANK YOU, MA'AM.

THE COURT: YOU'RE WELCOME.

YOUR WITNESS, MR. BAILEY.

MR. BAILEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION CONTINUED BY MR. BAILEY:

Q MR. VAN DORAN, WHAT I WANT TO DO IS REFER YOU AGAIN TO THAT SAME DATE WE'VE BEEN TALKING ABOUT, FEBRUARY 17TH, 2001, LOCATION, BRANCHVILLE POLICE DEPARTMENT, AND MOVE INTO THE AFTERNOON NOW TO ABOUT 4:40 P.M. WERE YOU AT THE BRANCHVILLE POLICE STATION?

A YES, SIR.

Q ALL RIGHT, SIR. AND DID YOU HAVE ANY INVOLVEMENT AT ABOUT THAT TIME WITH MARION BOWMAN?

A YES, SIR.

Q WHAT, IF ANYTHING, DID YOU DO IN REGARD TO ANY MIRANDA RIGHTS?

A I JUST REMINDED HIM THAT HIS MIRANDA RIGHTS WERE STILL

IN EFFECT, THAT HE STILL HAD HIS RIGHTS.
Q ALL RIGHT, SIR. AND WERE YOU AWARE THAT MAJOR STEPHENSON HAD PREVIOUSLY, A SHORT TIME BEFORE THAT, ADMINISTERED A POLYGRAPH TO HIM?
A I KNOW THAT THAT'S HIS NORMAL ROUTINE, YES, SIR.
Q OKAY. AND DO YOU KNOW THAT PART OF THAT ROUTINE IS TO GIVE MIRANDA WARNINGS?
A YES, SIR.
Q ALL RIGHT, SIR. ALL RIGHT. NOW WHEN YOU REMINDED HIM OF HIS MIRANDA RIGHTS, WHAT WOULD YOU HAVE SAID TO HIM? CAN YOU RECALL JUST ---
A BASICALLY, I JUST BASICALLY TOLD HIM THAT HE STILL HAD THE RIGHT TO REMAIN SILENT, THAT HE SHOULD REMEMBER THAT HE HAS HIS RIGHTS, AND ASK HIM IF HE WAS WILLING TO GIVE ME ANOTHER STATEMENT, AND HE SAID HE WAS.
Q AND DID HE APPEAR TO UNDERSTAND THOSE RIGHTS AT THAT TIME?
A YES, SIR.
Q OF THE REMINDER OF THOSE RIGHTS?
A YES, SIR.
Q AFTER REMINDING MR. BOWMAN OF HIS MIRANDA RIGHTS, DID YOU GIVE HIM ANY INDUCEMENT TO GET HIM TO TALK TO YOU?
A NO, SIR.
Q OKAY. DID YOU MAY ANY PROMISES, THREATS, ANY PHYSICAL ABUSE, OR ANYTHING OF THAT NATURE?

A NO, SIR.
Q OKAY. AND DID HE AGREE THE TALK FURTHER WITH YOU?
A YES, SIR.
Q OKAY. AND WHO ELSE WAS PRESENT AT THAT TIME? AND AGAIN, WE'RE TALKING ABOUT 4:40 P.M.
A IN THE ROOM WITH HE AND I, THE DEFENDANT AND I -- AND AGAIN, MAJOR STEPHENSON HAD DISCUSSED TAKING A STATEMENT FROM HIM -- MAJOR STEPHENSON WAS IN AND OUT OF THE ROOM. HE WAS ACTUALLY STILL PACKING UP HIS POLYGRAPH INSTRUMENT. AND SERGEANT COKER WAS RIGHT NEARBY.
Q ALL RIGHT, SIR. AND DO YOU HAVE TYPED -- DO YOU HAVE AN RECOLLECTION OF ANY VERBAL STATEMENT THAT HE MAY HAVE GIVEN YOU SHORTLY AFTER 16:40 P.M.? ANY RECOLLECTION?
A MAY I REFER TO MY NOTES?
Q YES, SIR.
(PAUSE.)
A I JUST HAVE IN MY NOTES THAT HE IMPLICATED TERRY KELLY AS THE PERSON WHO SHOT KANDEE MARTIN AND I SAY "SEE STATEMENTS."
Q OKAY.
A AND THAT WOULD HAVE CAME FROM THE SECOND STATEMENT.
Q DID HE SUBSEQUENTLY GIVE YOU A WRITTEN STATEMENT WHICH WOULD HAVE BEEN THE SECOND WRITTEN STATEMENT THAT DAY?
A THAT'S CORRECT, SIR.
Q LET ME HAND YOU ANOTHER THREE-PAGE DOCUMENT, I THINK

BRIEFLY LOOKED AT IT PRIOR TO TESTIMONY, AND ASK IF YOU RECOGNIZE THAT?

A YES, SIR. THAT WOULD BE THE SECOND STATEMENT.

Q ALL RIGHT, SIR. AND THAT HAS A ROMAN NUMERAL TWO UP IN THE UPPER RIGHT-HAND?

A IT DOES, SIR.

Q OKAY.

MR. CUMMINGS: THERE'S NO OBJECTION TO I.D.

THE COURT: VERY WELL. STATE'S EXHIBIT ...

COURT REPORTER: FOUR.

THE COURT: THANK YOU.

FOUR FOR IDENTIFICATION PURPOSES.

(**STATE'S EXHIBIT NUMBER FOUR, THE SECOND STATEMENT OF THE DEFENDANT**, IS NOW MARKED FOR IDENTIFICATION.)

Q MR. VAN DORAN, I'M GOING TO HAND YOU STATE'S FOUR FOR IDENTIFICATION AND I WANT TO GET YOU TO REFER TO THAT, I WANT TO ASK YOU A COUPLE QUESTIONS ABOUT THAT DOCUMENT.

A YES, SIR.

Q BEAR WITH ME A SECOND, PLEASE. REFERRING TO THE TOP PORTION OF THAT STATEMENT, THAT FORM ON THE FIRST PAGE, WHO FILLED THAT OUT?

A I DID, SIR.

Q OKAY. AND WHOSE WRITING IS THE STATEMENT, ITSELF, IN?

A MINE, SIR.

Q OKAY. AND DID YOU WRITE THAT OUT AT MARION BOWMAN'S

REQUEST?
A I DID, SIR.
Q AND WOULD YOU STATE WHETHER OR NOT ALL THE INFORMATION CONTAINED IN THAT THREE-PAGE STATEMENT CAME FROM MARION BOWMAN?
A IT DID, SIR.
Q DID YOU SUPPLEMENT THAT IN ANY WAY FROM ANY OTHER INFORMATION YOU GATHERED IN YOUR INVESTIGATION?
A NO, SIR.
Q THERE ARE SEVERAL PLACES IN THAT STATEMENT WHERE THERE ARE SOME INITIALS, M.B.?
A YES, SIR.
Q WHO PUT THOSE INITIALS THERE?
A THE DEFENDANT DID, SIR.
Q OKAY. DID YOU SEE HIM DO THAT?
A I DID, SIR.
Q AND AGAIN, DID YOU MAKE ANY PROMISES IF HE WOULD GIVE YOU THAT WRITTEN STATEMENT?
A NO, SIR.
Q ANY THREATS OR INDUCEMENT OF ANY TYPE?
A NO, SIR.
Q WAS THAT STATEMENT GIVEN FREELY AND VOLUNTARILY BY MARION BOWMAN, TO THE BEST OF YOUR KNOWLEDGE?
A YES, SIR.
Q OKAY. AFTER THE STATEMENT WAS WRITTEN OUT, AFTER YOU

WROTE IT OUT BASED ON THE INFORMATION HE GAVE YOU, WHAT DID YOU DO WITH IT?

A PROVIDED HIM WITH A COPY AND THEN I ALLOWED -- EXCUSED ME -- OF COURSE, HE'S SEATED -- SERGEANT COKER WITNESSED THIS STATEMENT AS IS REFLECTED ON THE STATEMENT, ITSELF.

Q OKAY.

A AND OTHER PEOPLE THAT WERE THERE WERE PROVIDED THE OPPORTUNITY TO LOOK OVER IT AND READ IT. AND HE WAS GIVEN HIS COPY.

Q WHEN YOU SAY "HE," FOR THE RECORD, ARE YOU TALKING ABOUT MARION BOWMAN?

A THE DEFENDANT WAS GIVEN HIS COPY, YES, SIR.

Q ALL RIGHT. WAS THE STATEMENT READ TO HIM?

A YES, SIR.

Q GONE OVER WITH HIM?

A I READ IT TO HIM. THE STATEMENT, ITSELF, REFLECTS HIS INITIALS AND I DO THIS JUST ABOUT ON EVERY STATEMENT THAT I TAKE FOR SOMEONE, SAYS, "I, DETECTIVE VAN DORAN, AM WRITING THIS STATEMENT AT THE REQUEST OF MARION BOWMAN AS HE STATES IT," AND HIS INITIALS ARE RIGHT AFTER THAT.

Q OKAY.

A THEN WHERE I DID LIKE A QUESTION AND ANSWER WITH HIM OR ANYTIME YOU SEE THAT, THEN I ASK HIM TO INITIAL AT THE END OF THE ANSWER. AND ANYTIME I MIGHT MARK SOMETHING OUT OR ADD SOMETHING, I ASK THEM TO INITIAL IT.

Q OKAY.
A TO MAKE SURE THAT THAT'S WHAT -- THAT THEY KNOW ABOUT IT AND WHY IT'S THERE.
Q OKAY. NOW AGAIN, WAS THE STATEMENT READ TO HIM WORD FOR WORD AFTER ---
A YES, SIR, IT WAS.
Q OKAY. AND DID HE HAVE ANY QUESTIONS ABOUT IT?
A NO, SIR. HE SAID THAT THAT WAS HIS STATEMENT.
Q AND DID HE THEN SIGN EACH PAGE OF HIS STATEMENT?
A HE DID, SIR.
Q DID YOU WITNESS THE SIGNATURE ALONG WITH SERGEANT COKER?
A YES, SIR.
Q OKAY. AND THEN I BELIEVE YOU TESTIFIED TO THIS EFFECT, BUT WAS HE GIVEN A COPY OF THE STATEMENT AFTERWARDS?
A HE WAS, SIR.
Q ALL RIGHT, SIR. PLEASE ANSWER ANY QUESTIONS MR. CUMMINGS MAY HAVE FOR YOU.

MR. CUMMINGS: THANK YOU, SOLICITOR.

THE COURT: YES, SIR, CROSS-EXAMINATION.

MR. CUMMINGS: THANK YOU, JUDGE.

CROSS-EXAMINATION CONTINUED BY MR. CUMMINGS:

Q THIS SECOND STATEMENT OR WORDS TAKEN FROM MR. BOWMAN CAME AS A RESULT OF HAVING A MEETING WITH STEPHENSON, WHERE HE APPROACHED YOU GENTLEMEN THINKING THAT THE STATEMENT (SIC)

HE HAD EARLIER GIVEN BY MR. BOWMAN WAS NOT ACCURATE; IS THAT FAIR TO SAY?

A I WOULD SAY HE CHOSE TO CHANGE HIS FIRST STATEMENT, YES, SIR.

Q MR. BOWMAN CHOSE OR ---

A MR. BOWMAN DECIDED THAT HE WOULD LIKE TO TELL US OTHER INFORMATION OR PROVIDE US WITH OTHER INFORMATION WHEN I TOOK THE SECOND STATEMENT. YES, SIR.

Q DID HE JUST VOLUNTARILY BLURT OUT HE'D LIKE TO CHANGE HIS STATEMENT? BECAUSE, I MEAN ---

A WELL, I THINK IT CAME AS A RESULT OF MAJOR STEPHENSON AND WHAT HE HAD DONE PRIOR TO ME TAKING THE SECOND STATEMENT.

Q AFTER BEING TOLD THAT HE'D FAILED THE POLYGRAPH? WOULD THAT BE FAIR TO SAY?

A I WOULD SAY THAT HE WAS CONFRONTED ABOUT THE TRUTHFULNESS OF HIS FIRST STATEMENT, YES, SIR.

Q WHO CONFRONTED HIM, YOU, SIR, OR MR. STEPHENSON?

A AT FIRST MAJOR STEPHENSON WOULD HAVE DONE THAT, AND THEN DURING THE ACTUAL DISCUSSION BEFORE TAKING THE STATEMENT, WE DISCUSSED THE FACT THAT HE WANTED TO CHANGE HIS STATEMENT.

Q PLEASE TELL ME AS CLOSELY AS THE WORDS AS YOU CAN, SIR, WHEN HE LEFT MAJOR STEPHENSON'S TEST AND HE CAME IN TO SEE YOU AGAIN, DID YOU APPROACH HIM AND SAY, "LISTEN, YOU'VE GOT TO SIT DOWN, YOU'VE GOT TO TELL ME THINGS, BECAUSE IT'S NOT

CORRECT?"
A WELL ACTUALLY, HE WAS STILL IN THE SAME ROOM, AS BEST I REMEMBER. I CAME IN, MAJOR STEPHENSON SAID THAT THEY HAD DISCUSSED THE ISSUE, THAT HE WANTED TO PROVIDE ANOTHER STATEMENT, ASKED ME IF I'D TAKE THE STATEMENT, AND THAT'S WHAT I DID.
Q YOU DIDN'T SAY ANY WORDS TO HIM ABOUT, "NOW IS THE TIME TO COME AND TELL ME."
A I ALWAYS TELL PEOPLE "THE BEST THING YOU CAN DO IS TELL US THE TRUTH. AND IF THE FIRST STATEMENT WASN'T THE TRUTH THEN PLEASE TELL ME THE TRUTH ON THIS ONE."
Q BECAUSE YOU WERE ASKED THE QUESTION ABOUT INDUCEMENTS AND STUFF AND THE ONLY THING YOU SAID TO HIM IS, "YOU'VE GOT TO TELL ME THE TRUTH"?
A I TOLD HIM THAT I THINK IT WOULD BE IN HIS BEST INTEREST TO TELL THE TRUTH, YES, SIR.
Q WELL, WHY WOULD IT BE IN HIS BEST INTEREST AT THAT POINT, DETECTIVE?
A SO THAT WE WOULD KNOW THE TRUTH.
Q THE TRUTH ABOUT PROSECUTING MR. BOWMAN WITH A CHARGE OR THE TRUTH ABOUT GATHERING THE FACTS OF AN INVESTIGATION?
A THE FACTS OF THE INVESTIGATION, THE TRUTH OF THE MATTER.
Q ALL RIGHT, SIR. BECAUSE HE HAD GIVEN A STATEMENT ALREADY WHERE HE HAD NOT INCULPATED HIMSELF OR SAID ANYTHING

ABOUT HIMSELF AT ALL; CORRECT? ON THE FIRST STATEMENT?
A I WOULD HAVE TO RE-READ THE ENTIRE STATEMENT, BUT TO THE BEST OF MY KNOWLEDGE HE DID NOT IMPLICATE HIMSELF IN ANY WRONGDOING IN THE FIRST STATEMENT.
Q ALL RIGHT. SO THEN HE'S PUT ON A POLYGRAPH ABOUT THAT?
A YES, SIR.
Q AND AS A RESULT OF THE POLYGRAPH, NOW HE WANTS TO CHANGE HIS WORDS, CHANGE HIS STATEMENT?
A WANTS TO CHANGE HIS STATEMENT, YES, SIR.
Q ALL RIGHT. AND HE GIVES A SECOND STATEMENT?
A YES, SIR.
Q AND SO WHY WOULD IT BE ANY BETTER FOR HIM TO TELL THE TRUTH ABOUT THE SECOND STATEMENT? AND THAT'S WHY I'M ASKING THAT, WHAT WAS THE INCENTIVE, THE INDUCEMENT, FOR MR. BOWMAN TO TELL YOU THAT?
A WELL I DIDN'T PROVIDE HIM ANY INDUCEMENT OR INCENTIVE, I JUST ASKED HIM TO TELL ME THE TRUTH ABOUT WHAT HAPPENED.
Q AND AS A RESULT OF THAT HE JUST GAVE YOU -- SPOKE TO YOU AND YOU PUT DOWN THE WORDS HE SPOKE AS HE WENT ALONG; CORRECT?
A THAT'S CORRECT, SIR.
Q ALL RIGHT. AND THIS IS NOW STARTING AT ABOUT 4:40 IN THE AFTERNOON?
A YES, SIR.
Q ALL RIGHT. IN THAT STATEMENT DOES HE ADMIT TO ANY

WRONGDOING WITH MISS KANDEE MARTIN? AND I'LL ASK YOU TO PLEASE TAKE YOUR TIME AND READ THAT SECOND STATEMENT.

(PAUSE.)

A DIRECTLY, NO.

Q ALL RIGHT. WELL, TELL ME INDIRECTLY?

A INDIRECTLY HE WOULD HAVE KNOWLEDGE THAT SOMETHING HAD HAPPENED TO KANDEE MARTIN; WHETHER IT WOULD NECESSARILY REFLECT ON HIM NEGATIVELY OR NOT WOULD BE OPEN FOR INTERPRETATION, I GUESS.

Q YOU ARE THE INTERPRETER AT THAT POINT BECAUSE YOU'VE GOT SOMEBODY IN CUSTODY AND YOU'RE USING THESE WORDS TO EITHER, "A," BRING A CHARGE AGAINST HIM, BECAUSE HE'S NOT FREE TO GO, AND YOU'RE INVESTIGATING A HOMICIDE FROM YOUR OWN STATEMENTS EARLIER?

A THAT'S CORRECT.

Q ALL RIGHT. SO WOULD YOU NOT AGREE WITH ME THAT THAT IS THE MOST IMPORTANT THING IN THE WORLD, TO BE PUTTING HIM ON NOTICE OF WHY YOU'RE TRYING TO TALK TO HIM?

A WELL, THERE'S NO DOUBT IN MY MIND HE KNEW WHY WE WERE TALKING TO HIM.

Q WELL, THAT'S A SUBJECTIVE ANSWER. AND HOW DO YOU KNOW HE KNEW THAT? DID YOU TELL HIM?

A YES, SIR.

Q YOU TOLD HIM?

A WE TOLD HIM WE WERE INVESTIGATING A DEATH OF A PERSON.

AT THE TIME THAT WE WERE TALKING TO HIM, WE WERE RELATIVELY SURE OF WHO THAT PERSON WAS.

Q OKAY. AND YOU TOLD HIM THAT?

A YES, SIR.

Q ALL RIGHT. AND AT THE END OF YOUR SECOND STATEMENT THERE THOUGH, DOES HE ADMIT TO DOING ANYTHING TO THE PERSON OF MISS KANDEE MARTIN?

A NO, SIR.

Q ALL RIGHT. AND YOUR INDIRECT KNOWLEDGE THEN, WHAT YOU'RE TRYING TO SAY IS HOW HE INDIRECTLY INCULPATES HIMSELF, WOULD BE BASED ON WHAT SPECIFICALLY IN THAT STATEMENT, DETECTIVE, PLEASE?

A THAT HE WAS AWARE -- HE IMPLICATED ANOTHER PERSON AS BEING INVOLVED IN ANY WRONGDOING, IF ANY WRONGDOING HAD OCCURRED, AND THAT IT WAS VERY PROBABLE THAT THEY HAD CAUSED HARM TO THE VICTIM.

Q ALL RIGHT. AND DID YOU FOLLOW THAT QUESTION UP, LIKE I KNOW YOU NORMALLY WOULD DO IN YOUR GOOD POLICE PROCEDURES AND SAY, "HOW DID YOU LEARN THIS INFORMATION, MR. BOWMAN?"

A WELL, HE PUT THAT IN HIS STATEMENT.

Q AND PLEASE READ THAT TO HER HONOR RIGHT NOW, HOW THAT HAPPENS, BECAUSE THAT KEEPS HIM IN THAT ROOM AND KEEPS HIM THERE FOR THE SECOND STATEMENT NOW; RIGHT? YOU'RE TRYING TO USE THIS STATEMENT TO CLEAR UP THIS CASE AT THAT POINT; AM I CORRECT?

A I'M UNSURE WHICH STATEMENT YOU'RE TALKING ABOUT NOW.
Q THE SECOND STATEMENT, AND I THINK YOU'RE HOLDING IT IN YOUR HAND RIGHT NOW.
A YES, SIR.
Q WHAT, EXACTLY, DOES HE SAY IN THERE THAT MAKES YOU BELIEVE THAT MR. BOWMAN WAS SOMEHOW INVOLVED IN THIS CASE?
A WELL, IF HE WASN'T INVOLVED, HE CERTAINLY HAD KNOWLEDGE THAT WE WANTED TO CONTINUE TO PURSUE.
Q AND THAT'S MY POINT. WHY? WHAT WERE YOU GOING AFTER IN PARTICULAR IN TALKING WITH MR. BOWMAN, PLEASE, SIR? HE'S GIVEN YOU TWO STATEMENTS NOW AND ---
A YES, SIR.
Q --- "I'M NOT INVOLVED IN IT." BUT YET, YOU'RE NOT LETTING UP. YOU GUYS AREN'T LETTING HIM GO FOR WHAT REASON, SIR?
A WELL, IF YOU LOOK AT THE STATEMENT IN ITS TOTALITY, IT LEADS YOU TO BELIEVE THAT THERE'S A LOT MORE GOING ON THAN HE'S ADMITTED TO.
Q AND DID YOU TELL HIM THAT?
A I TOLD HIM THAT WE CERTAINLY NEEDED TO CONTINUE TO FOLLOW UP THIS INVESTIGATION, YES, SIR.
Q OKAY. AND THAT WAS THE PURPOSE OF THE SECOND STATEMENT; RIGHT?
A CERTAINLY.
Q OKAY. SO AGAIN, I'M NOT TRYING TO TRICK YOU HERE, YOU

TOLD HIM IT'S BETTER TO TELL THE TRUTH, AND SINCE HE'S NOT INCULPATED HIMSELF IN ANY WAY WHERE, YOU KNOW, HE GAVE STATEMENTS SAYING THAT HE DID ANYTHING WRONG TO THIS PERSON, WHAT MORE WOULD YOU HAVE GOTTEN AT THE END OF THAT STATEMENT? I MEAN, AT THE END OF THAT, DID YOU HAVE ENOUGH TO CHARGE HIM WITH ANYTHING DEALING WITH MISS MARTIN?

A I WOULD HAVE TO GIVE YOU AN OPINION ANSWER BUT MY OPINION IS THAT HE WOULD PROBABLY HAVE OPENED HIMSELF UP TO AT LEAST AN ACCESSORY ISSUE AS WE CONTINUED TO INVESTIGATE THE CASE.

Q ACCESSORY ISSUE, WHO WOULD HAVE BEEN YOUR PRINCIPAL?

A WELL, IF HE WAS -- IF THE STATEMENT WAS TRUTHFUL ---

MR. BAILEY: JUDGE, I WANT TO OBJECT TO HIM ASKING THIS WITNESS TO SPECULATE ON WHAT HE WOULD HAVE DONE. AND AGAIN, THIS HAS NO BEARING ON THE VOLUNTARINESS OR THE TRUTHFULNESS OF THE STATEMENTS THAT WERE GIVEN.

MR. CUMMINGS: JUDGE, THIS GOES RIGHT TO THE HEART OF THE MATTER, PARTICULARLY WHEN WE'VE GOT MORE ISSUES COMING UP WITH THE NEXT ROUND OF STATEMENTS COMING UP NEXT WEEK. AND I WANT TO LAY THIS OUT ABOUT WHY THEY HAVE ONE STATEMENT, NOW A SECOND ONE IN A MATTER OF HOURS, AND HOW LONG HE'S KEPT THERE AND THEN HOW THE NEXT STATEMENT IS TAKEN. PLEASE, I WOULD ASK THE COURT ---

THE COURT: I'M GOING TO ALLOW IT.

MR. CUMMINGS: --- TO PLEASE GIVE ME SOME LEEWAY,

BECAUSE RIGHT NOW ---

AGAIN, I KNOW YOU HAVE TO RULE ON THE OBJECTION.

THE COURT: I DID. I OVERRULED IT.

MR. CUMMINGS: THANK YOU.

THE COURT: YOU MAY PROCEED. THANK YOU.

Q SO AFTER YOU READ THIS NOW YOU'RE SAYING, "ALL RIGHT, ACCESSORY IN SOME MANNER." DID YOU TELL HIM THAT, THAT HE MAY BE FACING ACCESSORY CHARGE BASED ON HIS STATEMENT?

A NO, SIR.

Q NO, HE'S STILL THERE ONLY FOR THE ORANGEBURG WARRANT THAT NOBODY KNOWS WHAT THE CHARGE IS OFFICIALLY? AND THAT'S MY POINT NOW, THIS IS ---

A WELL, HE'S THERE BECAUSE HE'S UNDER ARREST, BUT HE'S ALSO THERE BECAUSE HE'S VOLUNTARILY AGREEING TO SPEAK TO US.

Q I KNOW THAT'S HER HONOR'S RULING UPON THE CASE HERE, BUT YOUR STATEMENT ---

A WELL, THAT'S MY OPINION.

Q --- IS THAT HE'S THERE VOLUNTARILY; RIGHT?

A YES, SIR. I MEAN, HE CERTAINLY COULD HAVE STOPPED TALKING ANYTIME HE WANTED TO.

Q AND I KNOW YOU TOLD HIM THAT HOW MANY TIMES?

A NUMEROUS TIMES.

Q YOU TOLD HIM HE HAD THE RIGHT TO STOP?

A YES, SIR.

Q OKAY. I MEAN, VERBALLY, OR JUST BY THE HEADING ON THE

MIRANDA WARNINGS?

A BOTH.

Q OKAY. AND AGAIN, THERE'S NO RECORDINGS OF THIS TO VERIFY THAT YOU WOULD SAY THIS TO HIM; RIGHT, SIR?

A WELL, IT WAS REPEATED TO HIM NUMEROUS TIMES, YES, SIR, FROM THE MIRANDA FORMS AND IN DEFINITION FORM. IN OTHER WORDS, I EXPLAINED TO HIM THAT HE CAN STOP TALKING ANYTIME HE WANTED TO.

Q ALL RIGHT. SO NOW WE CONCLUDE THIS STATEMENT. I KNOW THERE'S NO LINES ON THE BOTTOM OF PLAINTIFF'S (SIC) EXHIBIT NUMBER FOUR ENDING THE STATEMENT, THERE'S NO TIME STATING WHEN IT ENDED, BUT I KNOW YOU BY PROFESSION AND REPUTATION THAT WHEN IT'S OVER, YOU DON'T EVER CHANGE THE FORM; CORRECT? I MEAN THAT'S IT?

A THAT'S CORRECT, SIR.

Q YOUR SIGNATURE IS ON, MAJOR STEPHENSON COMES BACK IN TO SIGN IT, AND IT'S DONE?

A WELL, SERGEANT COKER ACTUALLY WITNESSED THIS ONE, YES, SIR.

Q YOU'RE RIGHT AND I APOLOGIZE TO YOU, SIR.

A THAT'S OKAY.

Q ALL RIGHT. SO YOU'RE DONE, RIGHT? THAT'S THE SECOND STATEMENT NOW TAKEN, OKAY. WHERE MR. BOWMAN AFTER YOU TAKE THAT STATEMENT?

A HE'S STILL IN THE ROOM AND WE'RE DISCUSSING HIS

STATEMENT.

Q OKAY. AND WHO ARE YOU DISCUSSING IT WITH?

A SERGEANT COKER AND WITH -- AS I SAID, CHIEF WILLIAMS HAD ARRIVED, OR I KNEW FOR SURE HE WAS THERE AT THAT TIME, AND TO THE BEST OF MY RECOLLECTION HE HAD ASKED TO SPEAK TO SHERIFF WILLIAMS.

Q ALL RIGHT. DID HE ASK YOU, SIR?

A I DON'T REMEMBER IF HE ASKED ME. I JUST KNOW THAT HE ASKED TO SPEAK TO SHERIFF WILLIAMS AND SHERIFF WILLIAMS AGREED TO SPEAK TO HIM.

Q OKAY. AT THAT SECOND STATEMENT, HOW LONG WAS IT AFTER UNTIL SHERIFF LARRY WILLIAMS COMES IN TO SEE MR. BOWMAN?

A AS BEST I CAN REMEMBER IT WAS JUST A MATTER OF MINUTES, 10 MINUTES, 15 MINUTES, NOT LONG.

Q HAVE YOU PERSONALLY LET MR. WILLIAMS READ ANY OF THE -- EITHER THE FIRST STATEMENT OR THE SECOND STATEMENT OR ANYTHING ABOUT THE POLYGRAPH?

A I BELIEVE HE HAD READ AT LEAST THE SECOND STATEMENT, YES, SIR, OR AT LEAST WE HAD DISCUSSED IT.

Q OKAY. WELL, SHERIFF WILLIAMS LEGALLY HAD NO INVOLVEMENT IN ANYTHING THAT HAPPENED IN DORCHESTER COUNTY; WOULD THAT BE FAIR TO SAY? NURSERY ROAD?

A I THINK HE'S A LAW ENFORCEMENT OFFICER AND CERTAINLY BECAUSE THE DEFENDANT WAS IN HIS COUNTY, IF HE WANTED TO SPEAK WITH HIM, HE HAD THAT RIGHT, JUST LIKE ANY OTHER LAW

ENFORCEMENT OFFICER WOULD HAVE THAT RIGHT.
Q HE WAS NOT INVOLVED IN THE CASE?
A I WOULD SAY HE'S DIRECTLY INVOLVED, BUT INDIRECTLY HE, IF -- YOU KNOW, SINCE THE DEFENDANT ASKED TO SPEAK TO HIM AND HE AGREED TO SPEAK THE HIM, INFORMATION IS INFORMATION.
Q THE REASON I ASK THIS NEXT QUESTION, SIR, IS AS FOLLOWS: WHEN YOU LEFT HIM, HE INITIALED EVERYTHING, QUESTION AND ANSWER IS DONE; DID YOU TELL HIM THAT WE'RE GOING TO PUT ON THE POLYGRAPH NOW TO VERIFY WHAT YOU SAID AGAIN?
A I DON'T -- I HAVE DONE THAT BEFORE BUT I DON'T THINK I DID THAT IN THIS CASE. I DON'T THINK I TOLD HIM, "LOOK, YOU NEED TO TELL ME THE TRUTH BECAUSE WE MAY POLYGRAPH YOU AGAIN TO MAKE SURE YOU TOLD THE TRUTH THIS TIME." I HAVE DONE THAT BEFORE THOUGH.
Q SURE. AND THE REASON I ASKED THAT QUESTION IS BECAUSE I PERSONALLY OR ACTUALLY KNOW THAT FROM YOU. BUT IT WASN'T DONE HERE?
A I DON'T REMEMBER IF I SAID IT OR NOT.
Q BECAUSE NOW WE'VE GOT TWO STATEMENTS, ONE IS CONFLICTING WITH THE FIRST ONE.
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q IN PARTS. BUT AT THE END OF THIS NOW WERE YOU SATISFIED WITH THIS? WERE YOU DONE WITH YOUR INVESTIGATION AT THAT POINT, WHEN YOU FINISHED THAT STATEMENT, SIR?

A ABSOLUTELY NOT. I CERTAINLY THOUGHT THAT WE HAD A LOT MORE INVESTIGATING TO DO.
Q ON WHO AND WHAT?
A ON A LOT OF DIFFERENT ISSUES.
Q WITH MR. BOWMAN?
A YES, SIR. NUMEROUS ISSUES.
Q GIVE ME AN EXAMPLE, SIR?
A WELL, WE HAD TO VERIFY WHETHER OR NOT HE WAS ACTUALLY WITH THE PEOPLE HE SAID HE WAS WITH, AND THAT WHAT HAPPENED HE SAID HAPPENED, ETCETERA. I MEAN, THERE WAS A LOT OF DIFFERENT THINGS THAT WOULD HAVE TO BE DONE.
Q OKAY. AND YOU STAYED UP AT THE BRANCHVILLE POLICE DEPARTMENT; RIGHT?
A SIR?
Q WERE YOU STILL THERE AT THE BRANCHVILLE POLICE DEPARTMENT AFTER THIS SECOND STATEMENT?
A YES, SIR.
Q OKAY. SO NONE OF THAT WAS BEING FOLLOWED UP WITH AFTER THIS STATEMENT AND YOU WERE THERE?
A WE CONTINUED TO FOLLOW UP ON THINGS. THERE WERE PEOPLE THAT WERE LEAVING AND GOING AND FOLLOWING UP ON THINGS AS THE INTERVIEWS WERE CONTINUING.
Q WELL, HOW MANY PEOPLE WOULD YOU SAY WERE DOING THAT?
A WELL, SERGEANT COKER WOULD LEAVE AND GO DO THINGS; MAJOR STEPHENSON, AFTER THE POLYGRAPH, LEFT AND DID A COUPLE

OF THIS.
Q LIKE WHAT? PLEASE TELL ME WHAT HE DID?
A FOLLOW UP ON -- EXCUSE ME -- TALKING ABOUT ISSUES WITH TRYING TO FIND ANY OTHER INFORMATION AT THE APARTMENT WHERE WE NOW KNOW THE SISTER WAS STAYING; WHERE MARION WAS LIVING; TALKING TO HIS WIFE; TALKING TO OTHER PEOPLE CONCERNING ANY INFORMATION THAT WE COULD OBTAIN. I MEAN, AS INFORMATION COULD BE GATHERED, PEOPLE WERE TRYING TO GATHER IT.
Q OKAY. SO PEOPLE WERE COMING AND GOING ALL DAY LONG, FROM YOUR TESTIMONY ABOUT THIS?
A WELL, THAT'S MY TESTIMONY, YES, SIR.
Q OKAY. AS FAR AS FINISHING THIS STATEMENT NOW, DID YOU ASK -- DID YOU EVER ASK SHERIFF WILLIAMS TO GO IN AND SPEAK TO THIS MAN?
A DID I ASK HIM TO?
Q YES, SIR.
A PERSONALLY SAY, "WILL YOU GO SPEAK TO HIM?"
Q YES, SIR.
A NO, SIR.
Q ALL RIGHT. DID YOU HAVE ANY CONVERSATIONS AT ALL TO INDUCE THE SHERIFF TO GO AND SPEAK TO HIM?
A WE SPOKE ABOUT WHETHER OR NOT IT WOULD BE A GOOD IDEA FOR HIM TO CONTINUE TO SPEAK TO HIM, AND THE SHERIFF SAID HE WOULD.
Q DID YOU LEARN OF ANY FAMILY RELATIONSHIP BETWEEN

SHERIFF WILLIAMS AND MR. BOWMAN, OR ANYTHING THAT WOULD MAKE SHERIFF WILLIAMS, ESPECIALLY THE BIG-SIZE GUY HE IS, THAT HE WOULD WANT TO GO IN AND SPEAK TO MR. BOWMAN?

A I KNEW OF NO FAMILY RELATIONSHIP, NO, SIR.

Q OKAY. JUST A PROFESSION COLLEAGUE GOING IN TO SEE IF HE COULD TALK TO MR. BOWMAN?

A THAT WAS MY UNDERSTANDING AT THAT TIME, YES, SIR.

Q SHERIFF WILLIAMS NEVER ELICITED ANYTHING TO YOU ABOUT FRIENDSHIP OR FAMILY RELATIONS AT ALL?

A HE SAID HE KNEW HIM. I DON'T REMEMBER HIM TALKING ABOUT FAMILY OR ANYTHING LIKE THAT. HE JUST SAID HE KNEW -- YOU KNOW, HE KNEW HIM.

MR. CUMMINGS: BEG THE COURT'S INDULGENCE, YOUR HONOR.

THE COURT: ALL RIGHT.

(PAUSE.)

Q DETECTIVE, I APOLOGIZE, AND THIS IS REDUNDANT TO YOU, DID YOU EVER TELL MR. BOWMAN THAT YOU WERE THERE TO INVESTIGATE THE BURNING OF A CAR AND NOT A HOMICIDE?

A WE TOLD HIM THAT WE WERE INVESTIGATING A BURNT CAR THAT HAD A BODY IN IT AND WE WERE PRETTY SURE THAT IT WAS KANDEE MARTIN.

Q AND I KNOW MY QUESTION ---

A WE DIDN'T IMMEDIATELY TELL HIM THAT, LIKE WITHIN THE FIRST FEW MINUTES OF TALKING TO HIM, BUT I EVENTUALLY TOLD HIM THAT, YES, SIR. AND CERTAINLY BEFORE THE SECOND

STATEMENT.

Q SO THE FIRST STATEMENT WAS YOU WERE INVESTIGATING AN ARSON OF A CAR?

A AND THERE WAS A FOUND BODY?

Q OKAY. NOT A HOMICIDE?

A I DON'T KNOW IF I USED THE WORD "HOMICIDE" AT FIRST OR NOT, BUT EVENTUALLY WE SAID THAT WE FELT THAT IT WAS HOMICIDE RELATED.

Q OKAY. AND IT'S YOUR TESTIMONY AS YOU LEGALLY STAND TODAY THAT MR. BOWMAN IN YOUR PRESENCE ASKED TO SPEAK TO SHERIFF WILLIAMS?

A THAT'S THE BEST OF MY RECOLLECTION, YES, SIR.

MR. CUMMINGS: THANK YOU, YOUR HONOR. THAT'S ALL THE QUESTIONS WE HAVE OF THIS GENTLEMAN AT THE PRESENT TIME, SUBJECT TO RECALL. THANK YOU.

THE COURT: THANK YOU. ALL RIGHT.

ANY REDIRECT, MR. BAILEY?

MR. BAILEY: NO REDIRECT.

THE COURT: VERY WELL. ALL RIGHT.

LET ME JUST IN AN ABUNDANCE OF CAUTION, AND I KNOW THAT YOU UNDERSTAND THE RULES OF BEING A SEQUESTERED WITNESS, BUT IN THAT I BELIEVE THAT YOU WILL BE JOINING US NEXT WEEK AS WE CONTINUE THESE HEARINGS, I'M GOING TO ASK YOU TO PLEASE BE MINDFUL NOT TO TALK ABOUT YOUR TESTIMONY AND REMEMBER YOU ARE SEQUESTERED AND NOT BE WITH ANY OF THE OTHER OFFICERS OR

ANYONE TO DISCUSS YOUR TESTIMONY, OTHER THAN PERHAPS SOLICITOR BAILEY.

MR. VAN DORAN: YES, MA'AM.

THE COURT: ALL RIGHT. BUT CERTAINLY DON'T TALK TO ANY OF THE OTHER WITNESSES, REALLY ANYONE ABOUT WHAT WAS TALKED ABOUT, WHAT WERE THE QUESTIONS, ETCETERA.

MR. VAN DORAN: YES, MA'AM.

THE COURT: AND HAVE A GOOD WEEKEND.

MR. VAN DORAN: THANK YOU, MA'AM.

THE COURT: ALL RIGHT, SIR.

(THE WITNESS IS NOW EXCUSED FROM THE WITNESS STAND.)

THE COURT: ANY OBJECTION TO MY COMMENTS?

MR. CUMMINGS: NO, JUDGE, NOT AT ALL. AND I THANK THIS GOOD GENTLEMAN.

MR. BAILEY: NOT FROM THE STATE, YOUR HONOR.

THE COURT: THANK YOU. ALL RIGHT.

I THINK PROBABLY GIVEN THE TIME THAT THE TIMING IS ACTUALLY RATHER PERFECT ---

MR. BAILEY: OKAY.

THE COURT: --- FOR US TO CONCLUDE, UNLESS THAT DOES NOT COMPORT WITH YOUR SCHEDULE, MR. BAILEY.

MR. BAILEY: NO, THAT'S FINE, JUDGE.

THE COURT: VERY WELL. THEN WE WILL RECONVENE TUESDAY MORNING, 9:30.

MR. CUMMINGS: TUESDAY, AS I UNDERSTAND IT.

THE COURT: IS THAT ACCEPTABLE TO EVERYONE?

MR. BAILEY: YES, THAT'S FINE.

MR. CUMMINGS: TUESDAY AT 9:30?

THE COURT: VERY WELL.

THERE ARE A COUPLE OF THINGS THAT I WANTED TO ASK JUST -- AND THEY TRULY ARE IN THE NATURE OF HOUSEKEEPING. I JUST HAD AN OPPORTUNITY TO LOOK AT THE ORIGINAL APPOINTMENT OF DEFENSE COUNSEL AND IT IS THE NORMAL APPOINTMENT ORDER THAT IS DONE THROUGH THE CLERK'S OFFICE.

WHAT I WOULD LIKE TO SUPPLEMENT THAT ORDER WITH WOULD BE -- AND WE'LL DO IT TUESDAY -- IF YOU HAVE YOUR CERTIFICATION FROM THE SUPREME COURT, I LIKE TO MAKE A COPY OF THAT A PART OF THE RECORD. IF NOT, MR. CUMMINGS AND MS. HARDEE-THOMAS, I'M GOING TO ASK YOU TO HELP ME JUST MAKE A RECORD REGARDING YOUR QUALIFICATIONS BECAUSE AS I LOOKED BACK, I DID NOT SEE THAT THAT WAS MADE A PART OF THE RECORD.

I'M WELL AWARE OF BOTH OF YOUR QUALIFICATIONS BUT I THINK IT'S IMPORTANT TO MAKE THOSE QUALIFICATIONS A PART OF THIS RECORD, IF YOU WOULD BE SO KIND.

MR. CUMMINGS: YES, MA'AM.

THE COURT: AND WE CAN CERTAINLY DO THAT TUESDAY MORNING. AND I JUST -- I NEED TO SEE -- I THINK I HAVE SOMETHING FOR YOU, IF YOU'LL JUST STOP OFF.

MR. CUMMINGS: JUDGE, THERE'S ONE THING I WANT TO PUT ON THE RECORD FOR HOUSEKEEPING TOO. MR. BAILEY AND I TALKED

ABOUT THE JURY QUESTIONNAIRE AND ---

THE COURT: ON, THANK YOU FOR BRING THAT UP. YES.

MR. CUMMINGS: --- WE HAVE RETYPED IT AND I SENT IT OUT TO BOTH MY CO-COUNSEL AND MR. BAILEY. WE'VE GOT ONE ACADEMIC ARGUMENT ON A QUESTION.

THE COURT: SURE.

MR. CUMMINGS: BUT THAT HAS BEEN RETYPED AND READY TO GO, EVEN IF WE DIFFER OF YOUR HONOR'S FINAL WORD ON IT, BUT THAT WOULD BE PREPARED AND I WILL SUBMIT THAT TO YOU ON TUESDAY ALSO, BECAUSE I KNOW YOU WANT TO GET THAT TO MADAM CLERK.

THE COURT: GOOD. BECAUSE WE DO NEED TO GET THAT TO THE CLERK'S OFFICE SO THEY CAN COPY IT BECAUSE IT WILL NEED TO GO OUT, I THINK, NEXT WEEK.

MR. CUMMINGS: YES, MA'AM, THAT'S WHY I WANTED TO LET THE COURT KNOW WE HAVE DONE THAT ALREADY AND ...

THE COURT: THANK YOU FOR THAT.

MR. CUMMINGS: THANK YOU, JUDGE.

MR. BAILEY: JUDGE, COULD I SAY A COUPLE THINGS HERE?

THE COURT: PLEASE, YES, SIR.

MR. BAILEY: I THINK WE'RE GOING TO HAVE A DIFFERENT COURT REPORTER FROM HERE ON OUT AND I WAS WONDERING IF WE COULD MAYBE TURN THESE EXHIBITS OVER TO MR. COKER, WHO HAD THEM ORIGINALLY, WITH THE CONSENT OF THE DEFENSE.

MR. CUMMINGS: JUDGE, I HAVE NO OBJECTION. I DON'T

THINK THAT -- OR EVEN LEAVE THEM WITH MR. BAILEY'S POSSESSION. IT DOESN'T MATTER, I'M SATISFIED WITH EITHER.

BUT I WOULD ASK, AND AGAIN ON THE RECORD, I THINK BOTH MR. BAILEY AND I WOULD LIKE TO HAVE A COPY OF THE PROCEEDINGS. AND I KNOW WE'VE BEEN ASKING FOR VERBATIM DAILY AND I KNOW WE HAVE A COURT REPORTER ISSUE TODAY.

THE COURT: WE DO. AND WE MAY HAVE A COURT REPORTER ISSUE. AS YOU ALL KNOW, WE HAD ANTICIPATED HAVING MS. KEIL TRANSCRIBE THIS CASE; THAT MAY NOT BE POSSIBLE. AND SHE MAY BE REQUIRED TO ASK FOR REASSIGNMENT. SHE'S BEEN ASSIGNED TO THIS CASE BUT SHE MAY NEED TO ASK FOR REASSIGNMENT. HOPEFULLY BY TUESDAY I CAN GIVE YOU THAT -- GIVE YOU AND UPDATE ON THAT SO THAT YOU WILL KNOW WHAT THAT STATUS IS.

AND I AM HOPEFUL THAT SHE WILL BE ABLE TO JOIN US BUT I DON'T KNOW THAT AS OF THIS MOMENT. I THINK I WILL KNOW BY TUESDAY.

--- END OF REQUESTED TRANSCRIPT OF RECORD ---

I, THE UNDERSIGNED, CAROL L. LeFEBVRE, OFFICIAL 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 THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR DORCHESTER COUNTY, SOUTH CAROLINA, ON THE 5TH DAY OF APRIL, 2002.

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

APRIL 8, 2002

Carol L. LeFebvre

CAROL L. LeFEBVRE

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

INDICTMENT
2001GS18-0348

At a Court of General Sessions, convened on June 18, 2001 the Grand Jurors of Dorchester County present upon their oath:

MURDER

That Marion Bowman, Jr., did in Dorchester County, on or between February 16, 2001 and February 17, 2000, with malice aforethought, kill one Kandee Martin by means of shooting the victim in the head, and the said victim did die as a proximate result thereof.

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

Walter Bailey SOLICITOR

WITNESSES

DET. A. COKER, DCSD

25

ARREST WARRANT NUMBER

G326978

Arrested: Feb 20, 2001

ACTION OF GRAND JURY

True Bill

Date 6/14/01

Foreperson of Grand Jury

Date: June 14, 2001

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2001GS18-0348

The State of South Carolina

County of

DORCHESTER

COURT OF GENERAL SESSIONS

JUNE 18, 2001 TERM

THE STATE
vs.

Marion Bowman, Jr.

Indictment for

MURDER

SC Code: **16-03-10 / 16-03-20**
CDR Code: **0116**
Class: **FEL-EXM**

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

Defendant

I

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

Defendant

Witness:

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

5256

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

INDICTMENT
2001GS18-0349

At a Court of General Sessions, convened on June 18, 2001 the Grand Jurors of Dorchester County present upon their oath:

ARSON - 3RD DEGREE

That Marion Bowman, Jr., did in Dorchester County, on or about February 16, 2001, willfully, unlawfully and maliciously burn or cause to be burned, with intent to destroy, a car belonging to Cordellia Martin and/or Kandee Martin. This offense being a violation of Section §16-11-100(c) of the South Carolina Code of laws, 1976 as amended.

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

Walter Bailey SOLICITOR

WITNESSES

DET. A. COKER, DCSD

5257

ARREST WARRANT NUMBER

G326979

Arrested: Feb 20, 2001

ACTION OF GRAND JURY

True Bill

Date 6/14/01

Foreperson of Grand Jury

Date: June 14, 2001

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2001GS18-0349

The State of South Carolina

County of

DORCHESTER

COURT OF GENERAL SESSIONS

JUNE 18, 2001 TERM

THE STATE
vs.

Marion Bowman, Jr.

Indictment for

ARSON - 3RD DEGREE

SC Code: 16-11-110(C)
CDR Code: 0008
Class: FEL-E

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

Defendant

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

Defendant

Witness:

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

ARREST WARRANT

G-428029

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of
ORANGEBURG COUNTY

5258

THE STATE 200002724
against

MARION JR BOWMAN

Address: [redacted]
BRANCHVILLE, SC 29432

Phone: _____ SSN: [redacted]

Sex: M Race: B Height: 6 2 Weight: 170

DL State: _____ DL#: _____

DOB: [redacted] Agency ORI#: _____

Prosecuting Agency: SHERIFF'S DEPARTMENT

Prosecuting Officer: DET. KENNY KINSEY

Offense: RECEIVING STOLEN GOODS, $1000 TO $5000 Offense Code: 0513

Code/Ordinance Sec. 16-13-0180 2

This warrant is **CERTIFIED FOR SERVICE** in the [ ] County/ [ ] Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant MARION JR BOWMAN

on _____.

ARREST: TRUE COPY

_____
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO: ORANGEBURG MAGISTRATE 1 DAVIS
Orangeburg Magistrate SC 29116
Orangeburg County, South Carolina

AFFIDAVIT

Form Approved by S.C. Attorney General July 26, 1990 SCCA 518

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
ORANGEBURG COUNTY

Personally appeared before me the affiant DET. KENNY KINSEY who being duly sworn deposes and says that defendant MARION JR BOWMAN did within this county and state on 10/28/00 violate the criminal laws of the State of South Carolina (or ordinance of [ ] County/ [ ] Municipality of _____) In the following particulars:

DESCRIPTION OF OFFENSE: RECEIVING STOLEN GOODS, $1000 TO $5000

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

BASED ON AN INVESTIGATION BY OCSO, THAT ON OR ABOUT OCTOBER 28, 2000, THE DEFENDANT MARION BOWMAN, JR., ANG WITH A CO-DEFENDANT DID VIOLATE SECTION 16-13-180 OF THE SC CODE OF LAWS, RECEIVING STOLEN GOODS, IN THAT HE DID SELL 4 GUNS THAT WERE STOLEN IN THE BURGLARY OF JEWELL PROCTOR'S RESIDENCE, 822 BANNING ST., COPE, SC THIS INCIDENT TOOK PLACE IN ORANGEBURG COUNTY, STATE OF SOUTH CAROLINA.

Sworn to and subscribed before me on 12/01/00

_____ (L.S.)
Signature of Issuing Judge

_____
Signature of Affiant

Affiant's Address P. O. BOX 1360
ORANGEBURG, SC 29116

Affiant's Telephone 803 531-4641

CERTIFIED COPY
2004 FEB 17 AM 11:12
CLERK OF COURT
ORCHESTER COUNTY

ARREST WARRANT

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
ORANGEBURG COUNTY

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

It appearing from the above affidavit that there are reasonable grounds to believe tha on 10/28/00 defendant MARION JR BOWMAN did violate the criminal laws of the State of South Carolina (or ordinance of [ ] County/ [ ] Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: RECEIVING STOLEN GOODS, $1000 TO $5000

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her befor me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to th defendant at the time of its execution, or as soon thereafter as is practicable.

_____ (L.S.)
Signature of Issuing Judge

Judge Code: 721

Judge's Address P.O. BOX 9000
ORANGEBURG SC 29116

Judge's Telephone _____

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

AUDIT COPY

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	IN THE COURT OF GENERAL SESSIONS FOR THE FIRST JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA Plaintiff, vs. MARION BOWMAN, JR. Defendant.	INDICTMENT NO.: 2002-GS-18-348 & 349 **NOTICE OF EVIDENCE IN MITIGATION**

TO: THE SOLICITOR, WALTER M. BAILEY, JR., AND THE HONORABLE DIANE S. GOODSTEIN

YOU WILL PLEASE TAKE NOTICE, that pursuant to **Section 16-3-20, SC Code Ann., 2000 Cumm. Supp.**, the Defendant's attorneys submit the following mitigating circumstances on behalf of their client, Marion Bowman, Jr, to wit:

1. The Defendant has no significant history of prior criminal conviction involving the use of violence against another person.

2. The capacity of the Defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

3. The age or mentality of the Defendant at the time of the crime.

4. Or any other mitigating factors that the Jury may find.

Marva A. Hardee-Thomas, Esq

Marva A. Hardee-Thomas, Esquire
130 East Richardson Avenue
Summerville, SC 29483
843-873-8622

Norbert Cummings, Esquire
100 South Main Street
Summerville, SC 29483
843-821-9999

21st day of May, 2002.
Summerville, South Carolina.

5260

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF DORCHESTER	)	INDICTMENT # 2001-GS-18-0348 & 0349

FILED RECORDED
2001 JUL 18 PM 12:18
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA,	)	
	)	
-versus-	)	**NOTICE OF INTENT TO SEEK DEATH PENALTY**
	)	
MARION BOWMAN, JR.,	)	
	)	
Defendant.	)	

TO: THE DEFENDANT, MARION BOWMAN, JR. AND HIS ATTORNEY, MARVA HARDEE-THOMAS:

YOU WILL PLEASE TAKE NOTICE, that, pursuant to **Section 16-3-26, SC Code Ann., 2000 Cumm. Supp.**, upon trial of the above entitled action at least thirty (30) days from the date of service hereof and of which you will be timely notified, the imposition of a sentence of death upon the defendant, **Marion Bowman, Jr.**, will be sought by the State.

Walt M. Bailey

WALTER M. BAILEY, JR.
SOLICITOR, THE FIRST JUDICIAL CIRCUIT
Post Office Box 2520
Summerville, South Carolina 29484
(843) 871-2640

CERTIFIED COPY
7-303
Cheryl Graham
Clerk of Court
Dorchester County

July 13, 2001

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF DORCHESTER	)	INDICTMENT # 2001-GS-18-0348 & 0349
STATE OF SOUTH CAROLINA,	)	
	)	
-versus-	)	**NOTICE OF EVIDENCE IN AGGRAVATION**
	)	
MARION BOWMAN, JR.,	)	
	)	
Defendant.	)	

TO: THE DEFENDANT, MARION BOWMAN, JR. AND HIS ATTORNEY, MARVA HARDEE-THOMAS:

YOU WILL PLEASE TAKE NOTICE, that, pursuant to **Section 16-3-20, SC Code Ann., 2000 Cumm. Supp.**, upon trial of the above entitled action at least thirty (30) days from the date of service hereof and of which you will be timely notified, the State will seek to introduce into evidence aggravating circumstances in the above matter as follows, to wit:

(1) The murder of Kandee Martin was committed while in the commission of kidnapping.

(2) The murder of Kandee Martin was committed while in the commission of criminal sexual conduct in any degree.

(3) The murder of Kandee Martin was committed while in the commission of robbery while armed with a deadly weapon.

(4) The murder of Kandee Martin was committed while in the commission of larceny with use of a deadly weapon.

WALTER M. BAILEY, JR.
SOLICITOR, THE FIRST JUDICIAL CIRCUIT
Post Office Box 2520
Summerville, South Carolina 29484
(843) 871-2640

July 13, 2001

FILED-RECORDED
2002 FEB -1 PM 2:17
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
01-GS-18-0349
)
STATE OF SOUTH CAROLINA,)
)
vs.)
)
MARION BOWMAN, JR.,) MOTION IN LIMINE
) REGARDING EVIDENCE
DEFENDANT.)
)
)

COMES NOW the Defendant by and through his undersigned attorneys and moves this Court for an entry of an Order that the Solicitor and his witnesses refrain from introducing into evidence any photographic or physical evidence not needed to establish any material element of the State's case if the evidence is of such a gruesome or objectionable character so as to inflame and prejudice the jurors.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30th, 2002

CERTIFIED COPY
1-3-03
Cheryl Graham
Clerk of Court
Dorchester County

5263

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FILED-RECORDED
COUNTY OF DORCHESTER 2002 JAN 30 PM 3:34) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA CLERK OF COURT
DORCHESTER COUNTY
vs.)
)
MARION BOWMAN, JR.,) MOTION IN LIMINE TO PRECLUDE STATE
) FROM CALLING AS WITNESSES MEMBERS
DEFENDANT.) OF THE VICITM'S FAMILY OR FRIENDS WHO
) HAVING NOTHING SUBSTATIVE TO STATE
) ABOUT CHARGES BROUGHT IN THIS ACTION

COMES NOW the Defendant by and through his undersigned attorneys who moves this Court for an entry of an Order, pursuant to the Sixth and Fourteenth Admendments to the United States Constitution to enjoin the State from calling as witness any member of the victim's family or friends of the victim who have nothing significant to relate about the substantive charges in this action.

CERTIFIED COPY
1-30-03
Cheryl Graham
Clerk of Court
Dorchester County

AS GROUNDS for this Motion, Defendant would show:

1. Any testimony of a member of the victim's family or friends that has nothing substantive about the charges in the case would clearly be highly prejudicial and inflammatory while by definition having little or no probative value. Such testimony would deny Defendant his right to a fair trial and due process of law, in violation of the Sixth and Fourteenth Admendments to the United States Constitution.

2. An in Limine Order is the most desirable method in terms of

judicial economy and fundamental fairness of resolving the issue presented.

3. Should the Solicitor call such a witness, the effect will be so prejudicial to the Defendant's rights as to negate the possibility of correction by curative instruction and mandating a mistrial.

4. There will be no issue or challenge brought by the Defense as to the identity of the victim.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30, 2002

FILED-RECORDED
2002 JAN 30 PM 2:34
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER	)	INDICTMENT NO. 01-GS-18-0348 01-GS-18-0349
STATE OF SOUTH CAROLINA	)	
vs.	)	
MARION BOWMAN, JR.,	)	MOTION TO EXCLUDE PHOTOGRAPHS OF VICTIM
DEFENDANT.	)	

COMES NOW the Defendant by and through his undersigned attorneys and moves this Court for an entry of an Order excluding from consideration by the jury all photographs made of the crime scene and which show the body of the deceased victim. The Defendant further requests an in camera hearing before the Court as to the admissibility of such photographs, before the Solicitor attempts to introduce same before the jury panel. In support of this Motion, the Defendant shows:

1. That there is no dispute as to the identity of the victim or the cause of death; that testimony surrounding these issues is expected to be uncontradicted; and that the Defendant is willing to make stipulations in this area of testimony.

CERTIFIED COPY
1-303
Cheryl Graham
Clerk of Court
Dorchester County

2. That introduction of these photographs would inflame the passion and prejudice of the jury; without making any contribution to the factual basis on which the guilt phase should be decided.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30, 2002

5267

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF DORCHESTER) INDICTMENT NO. 2001-GS-18-0348 & 0349

MOTION NO. 3

FILED RECORDED
2002 FEB 28 AM 11:24
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA,)

-versus-)

MARION BOWMAN, JR.,)

Defendant.)

NOTICE OF MOTION AND MOTION TO COMPEL DEFENDANT TO PRODUCE WITNESS LIST

TO: NORBERT E. CUMMINGS, JR. AND MARVA HARDEE-THOMAS ATTORNEYS FOR THE DEFENDANT, MARION BOWMAN, JR.:

YOU WILL PLEASE TAKE NOTICE that ten days from today's date or as soon as counsel may be heard, the State of South Carolina, by and through Solicitor Walter M. Bailey, Jr., will move before the Honorable Diane S. Goodstein, Presiding Judge for the within matter, for an Order compelling the defendant to disclose to the Court a list of potential defense witnesses. The grounds for said Motion being that it is the duty of the trial judge to see that a jury of unbiased, fair and impartial persons is impaneled. **State v. Matthews, 291 SC 339, 353, SE2d 444 (1986); State v. Caldwell, 300 SC 494, 388 SE2d 816 (1990).** The determination of whether a juror is qualified to serve on a death penalty case is within the sole discretion of the trial judge and is not reversible on appeal unless wholly unsupported by the evidence. **State v. Plemmons, 286 SC 78, 332 SE2d 765 (1985), vacated on other grounds, 476 US 1102, 106 S.Ct. 1943, 90 Led 353 (1986); State v. Spann, 279 SC 399, 308 SE2d 518 (1983).**

A TRUE COPY

2-28-02

Cheryl Graham

Clerk of Court
Dorchester County

Prior to State v. Powers, 501 SE2d 116 (1998), our Supreme Court had not previously addressed this issue. Other courts have mandated a defendant divulge his witness list prior to voir dire of the jury. See State ex rel Hill v. Reed, 483 SE2d 89 (W.Va. 1996) (lower court acted within its discretion in ordering state and petitioner to provide the court with a list of witnesses on the first day to trial prior to voir dire of jury); People v. Cangiano, 502 N.Y.S.2d 349 (1986) (disclosure of prospective witnesses is required to determine whether any prospective juror is related to or knows any one of them and may be challenged for cause, and disclosure immediately prior to jury selection cannot prejudice defense absent extraordinary circumstances); State v. Ussery, 416 SE2d 610 (N.C. 1992) (no abuse of discretion in requirement that defendant divulge potential witnesses for voir dire purposes); People v. Perry, 569 N.E.2d 287 (Ill. App. 1991); Com. v. Larsen, 682 A.2d 783 (Pa. 1996). See also Mau v. North American Asbestos Corporation, 509 N.E.2d 112 (Ill. App. 1987) (list of witnesses is not "work product" and statute limiting disclosure of witnesses applied only to pretrial discovery).

In State v. Powers, the Supreme Court found that the trial court acted within its discretion in requiring disclosure of Powers' witness list during jury selection.

Accordingly, the State requests the defendant provide his list of potential defense witnesses to ensure the proper administration of justice.

WALTER M. BAILEY, JR., SOLICITOR
FIRST JUDICIAL CIRCUIT
Post Office Box 2520
Summerville, South Carolina 29484
(843) 871-2640

FEBRUARY 21, 2002

FILED-RECORDED
2002 JAN 30 PM 2:31
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348 01-GS-18-0349
STATE OF SOUTH CAROLINA)	
vs.)	
MARION BOWMAN, JR.,)	MOTION IN LIMINE TO PROHIBIT TESTIMONY REGARDING ALLEDGED SUFFERING OF THE VICTIM
DEFENDANT.)	

COMES NOW the Defendant by and through his undersigned attorneys and moves this Court for an entry of an Order and ruling prohibiting testimony regarding the alleged suffering of the victim herein.

Such testimony is irrelevant and would inject an arbitrary factor into the jury's deliberations, in violation of the Defendant's right of due process of law under the South Carolina and United States Constitutions.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Malva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30, 2002

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2002 JAN 30 PM 2:34
CHARLIE GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA)	
)	
vs.)	
)	
MARION BOWMAN, JR.,)	MOTION FOR IN CAMERA INSPECTION
)	OF THE PROSECUTOR'S FILE
DEFENDANT.)	
)	
)	

NOW COMES the Defendant by and through his undersigned attorneys who moves for an Order requiring the State to make available to the Court all information and evidence obtained by the State or any Law Enforcement Agency during the investigation of the above captioned case so as to enable the Trial Judge to make an in camera inspection of said information and evidence so as to insure that the State has complied with the requirements of Brady v. Maryland, 373 U.S. 83 (1963), Giglio v United States, 405 U.S. 150 (1972) and State v. Goodson, 255 S.E. 2nd 679 (1979).

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30, 2002

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FILED-RECORDED
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348
)	2002 JAN 30 PM 2:34 01-GS-18-0349
STATE OF SOUTH CAROLINA,)	CHERYL GRAHAM
)	CLERK OF COURT
vs.)	DORCHESTER COUNTY
)	
MARION BOWMAN, JR.,)	MOTION TO COMPLY TO INSURE
)	STATE'S COMPLIANCE WITH DISCLOSURE
DEFENDANT.)	
)	
)	

NOW COMES the Defendant by and through his undersigned attorneys who moves for an Order requiring disclosure of all evidence or information presently in possession of the Solicitor, any County or Municipal Law Enforcement Agency, the South Carolina Law Enforcement Division, or any other law enforcement agency of the State of South Carolina, and moves the Court to make photo static copies of all materials viewed by this Court to be sealed and included in the record of this case for the purpose of insuring effective view of the State's compliance with Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States, 405 S.S. 150 (1972).

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30, 2002

FILED - RECORDED
2002 JAN 30 PM 2:34
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA	IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER	INDICTMENT NO. 01-GS-18-0348 01-GS-18-0349
STATE OF SOUTH CAROLINA vs. MARION BOWMAN, JR., DEFENDANT.	MOTION FOR ACCESS TO EXHIBITS

COMES NOW the Defendant by and this his undersigned attorneys and moves this Court for an entry of an Order that the Clerk, Court Reporter or whomsoever shall have control of the exhibits and physical evidence during the trial of this case shall make them available to the defense counsel as needed, for inspection or duplication.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30, 2002

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSION
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
)
STATE OF SOUTH CAROLINA,)
)
vs)
) MOTION TO PRODUCE
MARION BOWMAN, JR.,)
)
Defendant.)

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2002 FEB -1 PM 3:47
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

The Defendant requests the opportunity to review all Physical evidence and the results of all scientific tests Conducted by the State of South Carolina; and if necessary to have made available such evidence for the purpose of conducting independent scientific examinations by the defense.

Respectfully Submitted

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30th, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FILED-RECORDED
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348
)	2002 FEB -1 PM 3:47 01-GS-18-0349
STATE OF SOUTH CAROLINA,)	CHERYL GRAHAM
)	CLERK OF COURT
vs.)	DORCHESTER COUNTY NOTICE OF MOTION FOR PRODUCTION
)	OF TAPED OR WRITTEN OR VIDEOTAPED
MARION BOWMAN, JR.,)	STATEMENTS
)	
Defendant.)	
)	

TO: WALTER BAILEY, SOLICITOR FIRST JUDICIAL CIRCUIT

NOW COMES the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys who move this Court for an Order compelling the Solicitor, the South Carolina Law Enforcement Division, and any County or Municipal Law Enforcement Agency to disclose and produce for inspection and copying by the Defendant, the taped or written or videotaped statements of any witnesses intended to be used at trial taken by the Solicitor, agents of South Carolina Law Enforcement Division and any County or Municipal Law Enforcement Agency. Furthermore, the Defendant, Marion Bowman, Jr., moves for the results of any polygraph testing conducted on such witnesses.

This motion is made under the authority of Brady v. Maryland 273 U.S. 83 (1963), and Giglio v. United States 405 U.S. 150 (1972).

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas
Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30th, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.) NOTICE OF MOTION FOR PRODUCTION
) OF TAPED OR WRITTEN OR VIDEOTAPED
MARION BOWMAN, JR.,) STATEMENTS
)
Defendant.)
)

FILED AND RECORDED
2002 FEB -1 PM 3:47
CHERYL L. GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: WALTER BAILEY, SOLICITOR FIRST JUDICIAL CIRCUIT

NOW COMES the Defendant by and through his undersigned attorneys who move this Court for an Order compelling the Solicitor, the South Carolina Law Enforcement Division, and any County or Municipal Law Enforcement Agency to disclose and produce for inspection and copying by the Defendant, the taped or written or videotaped statements of any witnesses intended to be used at trial taken by the Solicitor, agents of South Carolina Law Enforcement Division and any County or Municipal Law Enforcement Agency.

Furthermore, the Defendant moves for the results of any polygraph testing conducted on such witnesses.

This motion is made under the authority of Brady v. Maryland 273 U.S. 83 (1963), and Giglio v. United States 405 U.S. 150 (1972).

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas
Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30th, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FILED-RECORDED
COUNTY OF DORCHESTER	)	INDICTMENT NO. 01-GS-18-0348
	)	2002 FEB -1 PM 3:47 01-GS-18-0349
STATE OF SOUTH CAROLINA,	)	CHERYL GRAHAM
	)	CLERK OF COURT
vs.	)	DORCHESTER COUNTY NOTICE OF MOTION FOR PRODUCTION
	)	OF TAPED STATEMENTS
MARION BOWMAN, JR.,	)	
	)	
Defendant.	)	
	)	

TO THE HONORABLE WALTER BAILEY, SOLICITOR FOR THE FIRST JUDICIAL CIRCUIT:

YOU WILL PLEASE TAKE NOTICE that on the 15th day of September or as soon thereafter as counsel can be heard, the undersigned attorneys for the Defendant, Marion Bowman, Jr. will move before the Honorable Diane S. Goodstein, Presiding Judge of the First Judicial Circuit, for an Order compelling the Solicitor of the First Judicial Circuit, the Honorable Diane S. Goodstein to disclose and produce for inspection and copying by the Defendant the taped statements taken by the Solicitor for the First Judicial Circuit agents of the Dorchester County Sheriff's Department.

Furthermore, the Defendant, Marion Bowman, Jr. moves for the results of any polygraph testing conducted.
This Motion is made under authority of Brady vs. Maryland, 273 U.S. 83 (1963) and Giglio vs. United States, 405 U.S. 150 (1972)

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas
Attorneys for the Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30th, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSION
COUNTY OF DORCHESTER)

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CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

INDICTMENT NO. 01-GS-18-0348
01-GS-18-0349

STATE OF SOUTH CAROLINA)
)
vs)
)
MARION BOWMAN JR.,)
)
Defendant.)

MOTION FOR PRODUCTION OF PHYSICAL EVIDENCE

Defendant, by and through counsel, moves this court for An order requiring that the State Law Enforcement Division make available to the defense, for testing, a portion of the evidence allegedly recovered from the body of the deceased victim. In order to permit testing to be conducted prior to trial, it is requested that evidence be provided to the defense no later than February 18,1999.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30th, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

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CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER	)	INDICTMENT NO. 01-GS-18-0348
	)	01-GS-18-0349
STATE OF SOUTH CAROLINA	)	
	)	MOTION TO DISCLOSE
vs.	)	NAMES AND ADDRESSES
	)	STATE'S WITNESSES
MARION BOWMAN, JR.,	)	
	)	
Defendant.	)	
	)	

Comes now the Defendant through his attorneys and moves this Court for an order which orders the Solicitor to provide to Defense Counsel the names, addresses and phone numbers of all State's witnesses. The Defendant is informed and believes that he is entitled to this information in order to receive the effective assistance of counsel and to insure that he is able to effectively confront those witnesses during cross-examination under 6th Amendment to the United States Constitution.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas
Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30th, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERA SESSIONS
)	
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA,)	
)	
vs.)	MOTION FOR INFORMATION
)	CONCERNING POTENTIAL STATE'S
MARION BOWMAN, JR.,)	WITNESSES
)	
Defendant.)	
)	

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CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

Defendant, by and through his counsel, moves this Court for an order requiring that the First Judicial Solicitor's office provide to the counsel for the defense the name of each potential State's expert witness along with that expert's purported qualifications and a list of cases in which that expert has either testified or prepared material for testimony. In support of this motion, counsel for defense submits that it is impossible for the defense to gather this information in any other fashion and it is necessary for this information to be provided so that the qualifications of the experts can be investigated both through the analysis of their qualifications and the analysis of their testimony in other matters. Failure to provide this information to the defense will deprive the Defendant of his right to effective assistance of counsel in violation of the United States and South Carolina Constitution.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas
Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER)
) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.) MOTION FOR DISCOVERY
) OF WITNESS LIST
MARION BOWMAN, JR.,)
)
Defendant.)
)

FILED IN RECORDED
2002 FEB 1 PM 3:47
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

NOW comes Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, and moves before this Honorable Court to require the State to furnish the Defendant with a list of the names, addresses, and telephone numbers of all witnesses and prospective witnesses interviewed by the State's agents in connection with the above entitled cause for the reason that the Defendant has no way of knowing the existence of any relationships between such witnesses and the prospective jurors and, therefore, the Defendant cannot make any intelligent use of his right to voir dire and his peremptory challenges without such knowledge and that the Defendant has no way of knowing the identity of the witnesses during the trial of this matter, upon whose statements and affidavits the warrant was filed and upon whose testimony the indictment was returned, and that the failure to be provided with such witnesses list would prevent the accused from receiving a fair trial. In addition, the Defendant further moves that upon discovery by the State of additional witnesses, that the State shall be required to supplement said list.

Wherefore, the Defendant respectfully prays that this Honorable Court Order that the prosecution to provide the Defendant with the described list of witnesses, and for such other and further relief as this Honorable Court shall deem appropriate.

Respectfully submitted

Norbert E. Cummings, Jr.

Marva Hardee-Thomas, Esq.

Marva Hardee-Thomas
Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.) MOTION FOR LIST OF
) PROSECUTION WITNESSES
MARION BOWMAN, JR.,)
)
Defendant.)

FILED AND RECORDED
2003 FEB -1 PM 3:50
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

Now comes the Defendant, by and through counsel, who moves the Court for an order directing that the First Circuit Solicitor's Office, no later than two weeks prior to trial, provide defense counsel with a complete list of names and the addresses of all witnesses the State intends to call during the guilt/innocence phase of the trial and, if necessary, during the punishment phase. In support of this motion, Defendant submits:

1) That he was indicted by the Dorchester County Grand Jury for the crimes of Arson 3rd Degree and Murder;

2) That the First Circuit Solicitors office delivered to defense counsel written notice that the State would seek the Death Penalty against the Defendant;

3) That on information and belief, law enforcement authorities and staff members of the First Circuit Solicitor's Office have interviewed numerous witnesses who may testify during the guilt/innocence or punishment phases of the trial' or both;

4) That Death penalty trials are divided into two phases as mandated by the United States Supreme Court decision of Furman v. Georgia, 408 U.S. 238 (1972);

5) That if the attorneys for defendant are not provided, at least two weeks prior to trial, with a complete list of the names of the witnesses to be used during the guilt/innocence and punishment phases of the trial, the defendant will be denied his Sixth Amendment right to effective assistance of counsel as guaranteed by the United States and South Carolina Constitutions. Failure to require such a list would also constitute a violation of fundamental fairness guaranteed by Due Process Clauses of the Fourteenth Amendment of the United States Constitution and Article 1 of the South Carolina Constitution, As the United States Supreme Court has recognized: "The right of an accused in a criminal trial to due process, in essence, the right to a fair opportunity to defend against the State's accusations." Chambers v. Mississippi, 410 U.S. 238 (1973);

6) That where, as here, the trial may result in Death, the

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Cheryl Graham
Clerk of Court
Dorchester County

State must extend to the Defendant every procedural substantive right to which he is arguably due. "When the accused's life is at stake, technical rules of procedure must give way in order that justice may prevail." Bowman v. Commonwealth of Kentucky, 290 S.W. 2d 814 817 (Ky.1956).

WHEREFORE, Defendant prays that this Court Order that the First Circuit Solicitor's Office provide, at least two weeks prior to trial, a complete list of the names and addresses of all witnesses the State intends to call during the guilt/ innocence and penalty phases of the trial with a designation as to the particular phase in which they will be called to testify.

Respectfully submitted

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30th, 2002

STATE OF SOUTH CAROLINA)
) FILED IN THE COURT OF GENERAL SESSION
COUNTY OF DORCHESTER) RECORDED
2002 FEB -1 PM 3:50
) INDICTMENT NO. 01-GS-18-0348
) CHERYL GRAHAM 01-GS-18-0349
STATE OF SOUTH CAROLINA) CLERK OF COURT
) DORCHESTER COUNTY
)
vs.) MOTION TO RETAIN EVIDENCE
)
MARION BOWMAN, JR.,)
)
Defendant.)

Now comes the defendant Marion Bowman, Jr., who moves the Court pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the Constitution of the State of South Carolina, and other applicable laws and who will show unto the court as follows:

1) That the Defendant has been arrested and charged with the crimes of Murder, and Arson 3rd Degree.

2) That subsequent to the arrest of the Defendant, an autopsy was done on the victim of the homicide resulting in the collection of some questioned evidence for further examination and comparison.

3) That a vehicle belonging to Kandee Martin was seized by the Dorchester county Sheriff's Department and evidence was taken from the vehicle.

4) That the State of South Carolina pursuant to the authority of Schmerber v. California was granted the right to seize certain samples from the Defendant and it is believed that these samples will be compared with the evidence from the victim and the evidence taken from the vehicle for use in a Death Penalty Trial.

5) That the Defendant must have an opportunity to have independent tests run on the evidence so that he might effectively challenge and cross-examine the State's witnesses and evidence and prepare and present an adequate defense.

6) That the agencies involved should be required to retain adequate amounts of the samples so that the Defendant's experts will have a sufficient amount of the material to perform at least the same and further tests if they deem it necessary to properly challenge the State's case and to prepare and

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Clerk of Court
Dorchester County

present the Defendant's case.

7) That the Defendant has no available means of securing the evidence in question other than by the Court Order without which the Defendant will be deprived of his rights to prepare and present an adequate defense guaranteed by the Constitution of the United States and South Carolina.

Wherefore, Defendant prays this court issue its order directing the State Law Enforcement Division, the Dorchester County Sheriff's Department and any and all other agencies and business cooperating with them in testing the samples and evidence in question to retain a sufficient amount for testing by the Defendant; that the evidence be retained in an atmosphere not subject to contamination; and the Attorney for the Defendant be notified of its location immediately after the State has completed it's testing. For such other and further relief as this Court deem just and proper.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for the Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30th, 2002

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.) MOTION FOR DISCLOSURE OF
) IMPEACHING INFORMATION
MARION BOWMAN, JR.,)
)
Defendant.)

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CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

Defendant, by and through his counsel, respectfully moves court for the entry of an order directing the Solicitor, by and through his agents, to investigate and disclose all of the following within the possession, custody, and control of the Solicitor or his agents, or existence of which is known, or by the exercise of due diligence, could be known to the Solicitor or his agents:

1. Any and all consideration or promises of consideration given to or made on behalf of the State's witnesses. By "Consideration," Defendant refers to absolutely anything of value or use, including but not limited to immunity grants, witness fees, transportation assistance, assistance to members of the witnesses family or associates of the witness, assistance or favorable treatment with respect to any criminal, civil or administrative dispute with the State or the United States, and anything else which could arguably create an interest or bias in the witness in favor of the State or against the Defendant, or act as an inducement to testify or not testify.

2. Any and all prosecutions, investigations or possible prosecutions pending or which could be brought against the witness and any probationary, parole, or deferred prosecution status of the witness.

3. Any and all records and information revealing arrests and /or convictions for criminal offenses attributed to any witness for the State.

4. Any and all records and information showing prior misconduct or bad acts committed by any witness for the State.

5. Any and all personnel files for any witness for the State.

6. The same information requested in paragraphs 1 through 5 above is requested with respect to any non-witness whose statement or information may be offered into evidence by the State in this case or which, whether offered or not, may be beneficial to defendant in casting doubt on his guilt or in mitigating the possible imposition of the death penalty.

WHEREFORE, Defendant respectfully requests that this Court issue an Order:

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Cheryl Graham
Clerk of Court
Dorchester County

1. Directing that all of the above-requested information be supplied to Defendant immediately for his inspection and use at trial; and

2. Requiring that these disclosures be continuing ones in effect up until the time of the trial.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Marva Hardee-Thomas
Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30th, 2002

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSION
)	
COUNTY OF DORCHESTER)	2002 FEB -1 PM 3:50
)	INDICTMENT NO. 01-GS-18-0348
)	CHERYL GRAHAM 01-GS-18-0349
)	CLERK OF COURT
STATE OF SOUTH CAROLINA,)	DORCHESTER COUNTY
)	
vs.)	
)	MOTION TO REVEAL APPLICANTS
MARION BOWMAN, JR.,)	TO BE EXECUTIONERS
)	
Defendant.)	
)	

Defendant, by and through his counsel, requests this court to order the Department of Corrections and all their appropriate personnel to reveal to the Court and to counsel those individuals in Dorchester County who have applied to be the Executioner for the South Carolina Department of Corrections. In support of this motion, Defendant would show unto the court:

1) That upon reinstatement of the Death Penalty in South Carolina, the South Carolina Department of Corrections sought applications for Executioner. It is reasonable to believe that at least some of those applications came from Dorchester County residents.

2) It is conceivable and possible that some of these applicants could be called for jury duty. Support for capital punishment to the extent of willingness to actually kill another human being would clearly be grounds for a defense challenge for cause to that prospective juror.

3) Defendant therefore requests this Court Order the appropriate Department of Corrections' personnel to reveal to the Court and counsel the names of Dorchester county residents who have applied for this position. This information would not released to the general public but only to the Court and counsel of record.

WHEREFORE, Defendant respectfully requests that this Court order the Department of Corrections and the appropriate personnel to reveal to the court and counsel of record the names of Dorchester county residents who have applied to be the South Carolina Executioner.

7-303

Cheryl Graham

Clerk of Court
Dorchester County

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30th, 2002

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CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.) NOTICE OF MOTION AND MOTION
) TO COMPEL PRODUCTION
MARION BOWMAN, JR.,)
)
Defendant.)

TO: WALTER BAILEY, SOLICITOR FIRST JUDICIAL CIRCUIT, THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION

YOU WILL PLEASE TAKE NOTICE, that the Defendant, by and through his undersigned attorney's will move before the presiding Judge of the First Judicial Circuit at a date and time to be established by this Court, for an order requiring the production of all information requested below.

The Defendant respectfully requests an Order compelling the immediate production of the following items from the DNA laboratory of the Federal Bureau of Investigation and from the DNA laboratory of the South Carolina Law Enforcement Division.

1. Data Base. Copy of the raw data base including case numbers or gel numbers, for each entry and their respective frequencies.

The Data Base should include data from each ethnic group, as well as each locus or probe utilized. This information is essential to the fair determination of the admissibility of the mathematical statistics or probabilities generated in this case. Examination of the data base additionally will allow verification of whether or not the molecular probes used in the laboratories analysis are functioning independently.

2. Bottom line report. This report, in the above stated case, includes statistical estimates and estimates of allele fragments from all samples and specimens used in this specific case.

3. Autoradiograms. The South Carolina State Law Enforcement Division must furnish copies of all exposures, radiograms related

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Cheryl Graham
Clerk of Court
Dorchester County

to this case. It is a universally accepted practice at the Laboratory to x-ray, photograph and make an autoradiograph of the DNA as they appear in the supporting medium. Photographs allow for independent verification of the analysis. Genetic marker spots or patterns which provide old and/or degraded stains are not objective but rather they must be subject to interpretation. Thus, the person against whom the test are offered should not be required to accept the word of the technician who reads the test results.

4. Original Autoradiograms. The South Carolina State Law Division must allow the defense attorneys or experts to examine the original Autoradiograms as information may be lost in duplication.

5. Laboratory Bench Notes and Names of Technicians Who Actually Performed Analysis in this Case. Laboratory bench notes of analysts who ran the tests are very important. These notes are made in the laboratory at the time of testing and form an integral part of the scientific process. These notes show the analysts actual reading of the DNA spots on the Autoradiograms. They may also contain the analysts subjective remarks or comments regarding the distinctiveness and strength of the markings. They also contain other information, including the date, the initials of the examiner, the type of and the beginning and end of each test and the conditions under which it was done and identification and position of each sample of the gel involved. These notes are recognized as the proof of what the scientist did and observed. They are considered as scientists to be the "raw data" of the test. They may have been substituted by later reports which paraphrase the raw data.

6. Proficiency Studies. The South Carolina State Law Division must provide copies of all autoradiographs generated in proficiency studies in which the South Carolina State Law Division has participated (e.g. CACLD blind studies) as well as any correspondence related to such studies between South Carolina State Law Division and the agency coordinating the blind study.

7. Examination of Original Polaroids. The South Carolina State Law Division must allow examination (and the copying if desired) of all polaroid photographs related to the instant case.

8. Database Autoradiograms. The South Carolina State Law Division must allow a designated defense expert to select from the South Carolina State Law Division population database 50 autoradiographs in order to assess the overall validity of the database. (see #1 above). the defense additionally must be

allowed to make copies of 10 of the above stated autoradiographs.

9. The Protocol Used by the South Carolina State Law Division in DNA Analysis. The defense further requests that the Court Order that the South Carolina State Law Division allow the inspection of it's DNA Laboratory by defense experts in order to verify the quality controls imposed during laboratory testing, how allele fragment sizes are determined, as well as to verify the chain-of-custody of evidentiary materials.

10. The Original Specimens. The original specimens taken for examination, including any blood from the victim or Defendant. The defense requests that the Court Order the State's Attorney to furnish the defense with detailed description of how all evidence in the case was preserved from first acquired to its present condition.

The defense requests the Court to Order that the State's Attorney furnish the defense with a detailed description of the chain of custody of all recovered evidence from when first acquired to its present state.

The defense requests that the Court Order all samples collected in this case be preserved for independent DNA testing by the defense.

The above requested items are in the control of the State and/or the FBI. The defense has substantial need for these materials and is unable to obtain them from any other source. This Motion is further based upon the South Carolina Rules of Criminal Procedure, Brady vs. Maryland, 373 U.S. 83, and previous Motions to produce.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas
Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 30, 2002

FILED-RECORDED
2002 FEB -1 PM 3:47
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER	)	INDICTMENT NO. 01-GS-18-0348 01-GS-18-0349
STATE OF SOUTH CAROLINA,	)	
vs.	)	
MARION BOWMAN, JR.,	)	MOTION FOR CHANGE OF VENUE
DEFENDANT.	)	

This Motion is based on the belief that the Defendant cannot receive a fair and impartial trial in the county where prosecution has commenced. South Carolina Constitution Article V, 19; South Carolina Code 17-21-80 (1976).

The Defendant believes that a change of Venue Motion is discretionary and the trial Judges' disposition of the Motion will not be reversed unless it is shown that there was an abuse of discretion. State vs. Fuller, 227 South Carolina 138.

The Defendant is informed and believes that he cannot receive a fair trial because of extensive adverse publicity and public hostility and extreme prejudice on the part of the community, taken in conjunction with extensive freedom granted the press in covering the case.

The Defendant requests the right to preserve and argue the change of Venue Motion at the time of Jury Selection to properly learn the potential influence the media has caused on potential jurors.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas Esq

Marva Hardee-Thomas
Attorneys for Defendant

Summerville, South Carolina

Dated: January 30th, 2002

Marion Bowman, Jr.

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7-303
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) INDICTMENT NO.: 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.)
)
MARION BOWMAN, JR.,)
)
Defendant.)

FILED FOR RECORD
2002 FEB -1 PM 3:46
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

NOTICE OF MOTION AND MOTION TO DECLARE THE DEATH PENALTY UNCONSTITUTIONAL

TO: FIRST CIRCUIT SOLICITOR'S OFFICE: WALTER BAILEY, SOLICITOR:

Now comes the undersigned attorneys appointed for the Defendant, Marva Hardee-Thomas and Norbert E. Cummings, Jr. hereby move to have the presiding Judge to declare that the death penalty is unconstitutional and in violation of the Defendant's 5th and 14th amendment rights.

Further, the sentence of death is cruel and unusual punishment in violation of the 8th amendment.

Therefore, the attorneys for the Defendant move for this court to declare that the Death Penalty is a violation of the Defendant's constitutional rights.

Marva A. Hardee-Thomas, Esq
Marva Hardee- Thomas
P.O. Box 50503
Summerville, SC 29485-05003
(843)873-8622

Norbert E. Cummings, Jr.
Norbert E. Cummings, Jr.
100 S. Main Street., Suite B
P.O. Box 1318
(843)821-9999

ATTORNEYS FOR DEFENDANT

Summerville, South Carolina
30th Day of January, 2002

7-303

Clerk of Court
Dorchester County

5294

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FILED-RECORDED
COUNTY OF DORCHESTER)	2002 FEB 1 PM 3:50 INDICTMENT NO. 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA,)	CHERYL GRAHAM CLERK OF COURT DORCHESTER COUNTY
vs.)	
)	MOTION TO REVEAL THE DEAL
MARION BOWMAN, JR.,)	
)	
Defendant.)	

TO: WALTER BAILEY, SOLICITOR; FIRST JUDICIAL CIRCUIT

NOW COMES the Defendant, Marion Bowman, Jr. by and through his undersigned attorneys, who respectfully move this court to order the State to reveal any offers of immunity, offers to reduce charges, offers to recommend sentences, offers not to prosecute or any other offers made or deals made, with any State's witnesses in exchange for their testimony or in exchange for their agreement not to testify for the Defendant in regard to the murder in the above-captioned case. In support of the foregoing Motion, the Defendant would show the following:

1. That the State is seeking the death penalty against the Defendant for the offense of Murder.

2. That the Defendant is informed and believes that certain State's witnesses now have criminal charges pending against them in the State of South Carolina or have violated the laws of the State of South Carolina and face potential prosecution.

3. That the Defendant is informed and believes that the State has through negotiations with these witnesses or their attorneys, made certain offers to those State's witnesses for the purpose of obtaining their testimony against the Defendant, Marion Bowman, Jr.

4. That the reliability, believability and credibility of the given State's witness may well be determinative of the issue of guilt or innocence in this case, it is imperative for the purposes of showing any bias, prejudice or interest in the outcome of the case; the Defendant and his attorneys know of the examination of that witness on the stand before the jury.

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Cheryl Graham
Clerk of Court
Dorchester County

5. That the requested information is material, inasmuch as it would have a profound effect on the judgement of the jury as to the witness' credibility and to insure Due Process of Law guaranteed under the Fourteenth Amendment of the United States Constitution, such information should be devulged to Defendant or his attorneys prior to the call of this case.

Wherefore, the Defendant respectfully requests that this Court compel the State to reveal any such negotiations, promises or deals prior to the call of this case.

Respectfully submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 3rd, 2002

5296

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSION
)
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs)
MARION BOWMAN, JR.,)
)
Defendant.)

FILED IN RECORDED
2002 FEB -1 PM 3:47
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

MOTION TO PRESERVE EVIDENCE
FOR INDEPENDENT DNA TESTING

The defendant now moves for the preservation of evidence Samples currently being used for DNA testing by the State. The Defendant intends to perform independent DNA testing with Which to challenge State findings, if such tests without appropriate samples, we hereby move the State to preserve Sufficient samples from evidence already in its possession so that we may exercise our right to an independent expert.

Respectfully Submitted,

Norbert E. Cummings

Norbert E. Cummings, Jr.

Marva A Hardee Thomas

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30th, 2002

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1-3-03
Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA,)	
)	
vs.)	
)	
MARION BOWMAN, JR.,)	NOTICE OF MOTION
)	AND MOTION TO INSPECT
DEFENDANT.)	
)	

FILED RECORDED
2002 FEB 1 PM 3:07
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: FIRST JUDICIAL CIRCUIT SOLICITOR'S OFFICE DORCHESTER COUNTY SHERIFF'S DEPARTMENT, THE STATE LAW ENFORCEMENT DIVISION ANY OTHER AGENCY OR BUSINESS EMPLOYED TO ASSIST IN PERFORMING TESTS ON THE ITEMS IN QUESTION

You will please take notice that the Defendant will move before the Presiding Judge at the Dorchester County Courthouse, St. George, South Carolina, or at chambers, as soon as counsel may be heard for an order requiring each of you to retain sufficient samples of evidence seized as a result of the investigation of the death of Kandee Martin to include any evidence:

1) Removed from the body of Kandee Martin during the Autopsy;

2) Collected at or near the location where Kandee Martin's body was found;

3) Taken from the vehicle held as evidence; and,

4) Taken from the Defendant, Marion Bowman, Jr., or any Co-Defendants in this case;

5) Any other evidence seized during the investigation so that the Defendant may have the opportunity to have independent scientific tests conducted, should the Defendant desire.

CERTIFIED COPY
1-3-03
Cheryl Graham
Clerk of Court
Dorchester County

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January 30th, 2002

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF DORCHESTER	)	INDICTMENT NO. 2001-GS-18-0348 & 0349
		MOTION NO. 1
STATE OF SOUTH CAROLINA,	)	
	)	
-versus-	)	**NOTICE OF MOTION AND**
	)	**MOTION IN LIMINE**
MARION BOWMAN, JR.,	)	
	)	
Defendant.	)	

FILED RECORDED
2002 FEB 26 AM 11:24
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: NORBERT E. CUMMINGS, JR. AND MARVA HARDEE-THOMAS, ATTORNEYS FOR THE DEFENDANT, MARION BOWMAN, JR.:

YOU WILL PLEASE TAKE NOTICE that ten (10) days from today's date or as soon as counsel may be heard, the State of South Carolina, by and through Solicitor Walter M. Bailey, Jr., will move in limine before the Honorable Diane S. Goodstein, Presiding Judge for the within matter, for an Order prohibiting both the State and the Defendant from injecting religious arguments at any stage during the trial of the within case. Said Motion is made pursuant to **State v. Raymond Patterson, 482 SE2d 760 (1997) and State v. Wesley Shafer, 531 SE2d 524 (2000).**

WALTER M. BAILEY, JR., SOLICITOR
FIRST JUDICIAL CIRCUIT
Post Office Box 2520
Summerville, South Carolina 29484
(843) 871-2640

FEBRUARY 21, 2002

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7-303
Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF DORCHESTER	)	INDICTMENT NO. 2001-GS-18-0348 & 0349
		MOTION NO. 2
STATE OF SOUTH CAROLINA,	)	
	)	
-versus-	)	**NOTICE OF MOTION AND**
	)	**MOTION IN LIMINE**
MARION BOWMAN, JR.,	)	
	)	
Defendant.	)	

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2002 FEB 26 AM 11:24
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

CERTIFIED COPY
2-26-02
Cheryl Graham
Clerk of Court
Dorchester County

TO: NORBERT E. CUMMINGS, JR. AND MARVA HARDEE-THOMAS, ATTORNEYS FOR THE DEFENDANT, MARION BOWMAN, JR.:

YOU WILL PLEASE TAKE NOTICE that ten (10) days from today's date or as soon as counsel may be heard, the State of South Carolina, by and through Solicitor Walter M. Bailey, Jr., will move in limine before the Honorable Diane S. Goodstein, Presiding Judge for the within matter, for an Order prohibiting the Defendant from, in any manner, either during voir dire or the trial, attempting to advise the jury as to the legal effect of a divided verdict at the penalty phase.

Basis for said motion will be that the portion of **Section 16-3-20(C)** addressing the legal effect given to the existence of a divided jury is addressed to the trial judge only and should not be divulged to the jury. **State v. Sylvester Adams (I), 283 SE2d 582 (1981); State v. Copeland and Roberts, 300 SE2d 63 (1982); State v. Dale Yates (I), 310 SE2d 805 (1982); State v. Sterling Spann, 308 SE2d 518 (1983); State v. Raymond Patterson (II), 384 SE2d 699 (1989); State v. Anthony Green, 392 SE2d 157 (1990).**

The United States Supreme Court has recently come to the same conclusion.

In Jones v. United States, 527 US 373, 119 S.Ct. 2090, 144 LEd2d 370 (1999), the Court held as follows:

> **"[T]he Eighth Amendment does not require that the jury be instructed as to the consequences of their failure to agree.....**
>
> **The truth of the matter is that the proposed instruction has no bearing on the jury's role in the sentencing process. Rather, it speaks to what happens in the event that the jury is unable to fulfill its role–when deliberations break down and the jury is unable to produce a unanimous sentence recommendation.....**
>
> **We have long been of the view that "[t]he very object of the jury system is to secure unanimity by a comparison of views, and by arguments among the jurors themselves.....**
>
> **We are of the view that a charge to the jury of the sort proposed by petitioner might well have the effect of undermining this strong governmental interest....."**

WALTER M. BAILEY, JR., SOLICITOR
FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 2520
SUMMERVILLE, SOUTH CAROLINA 29484
(843) 871-2640

FEBRUARY 21, 2002

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER)

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2002 FEB 28 AM 11:24
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

INDICTMENT NO. 2001-GS-18-0348 & 0349
MOTION NO. 4

STATE OF SOUTH CAROLINA,)
)
-versus-)
)
MARION BOWMAN, JR.,)
)
Defendant.)

NOTICE OF MOTION AND
MOTION TO PRESERVE NOTES

CERTIFIED COPY
7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

TO: NORBERT E. CUMMINGS, JR. AND MARVA HARDEE-THOMAS
ATTORNEYS FOR THE DEFENDANT, MARION BOWMAN, JR.:

YOU WILL PLEASE TAKE NOTICE that ten days from today's date or as soon as counsel may be heard, the State of South Carolina, by and through Solicitor Walter M. Bailey, Jr., will move before the Honorable Diane S. Goodstein, Presiding Judge for the within matter, for an Order requiring any experts retained by the defendant in the above captioned case to retain and preserve any and all notes and documents related to the discharge of their expert services.

The State has been made aware that the defense has retained at least one or more experts for the purpose of assisting in the preparation of the defendant's case and may possibly have retained others. The State submits that it would be entitled to cross-examine any expert witnesses as to the bases of their opinions. Pursuant to Rule 705 of South Carolina Rules of Evidence, the defendant's experts may be required to "disclose the underlying facts and data" of their opinion when cross-examined. Obviously, this avenue of cross-examination would be fruitless if the underlying data and facts were destroyed prior to testimony.

For the foregoing reasons, the State would therefore respectfully request that this Court issue an order requiring the defendant's experts to retain all notes, documents or materials which were generated or relied upon in forming that expert's opinion.

WALTER M. BAILEY, JR., SOLICITOR
FIRST JUDICIAL CIRCUIT
Post Office Box 2520
Summerville, South Carolina 29484
(843) 871-2640

FEBRUARY 21, 2002

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF DORCHESTER	)	INDICTMENT NO. 2001-GS-18-0348 & 0349
		MOTION NO. 5
STATE OF SOUTH CAROLINA,	)	
	)	
-versus-	)	**STATE'S NOTICE OF MOTION AND**
	)	**MOTION IN LIMINE TO PROHIBIT THE**
MARION BOWMAN, JR.	)	**DEFENDANT FROM ARGUING**
	)	**PROPORTIONALITY OR EVIDENCE OF**
Defendant.	)	**OTHER DEFENDANTS' SENTENCES**

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2002 FEB 20 AM 11:24
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

CERTIFIED COPY
7-303 TO:
Cheryl Graham
Clerk of Court
Dorchester County

NORBERT E. CUMMINGS, JR. AND MARVA HARDEE-THOMAS, ATTORNEYS FOR THE DEFENDANT, MARION BOWMAN, JR.:

YOU WILL PLEASE TAKE NOTICE that ten (10) days from today's date or as soon as counsel may be heard, the State of South Carolina, by and through Solicitor Walter M. Bailey, Jr., will move in limine before the Honorable Diane S. Goodstein, Presiding Judge for the within matter, for an Order prohibiting the Defendant from arguing proportionality or evidence of other defendants' sentences.

INTRODUCTION

Several other persons, other than the defendant, have been charged with various offenses surrounding the murder of Kandee Martin. It is anticipated that one or more co-defendants may testify in the defendant's trial pursuant to plea agreement. The State concedes that evidence of any co-defendant's sentence would be appropriate impeachment testimony and the defendant may argue as such. However, any attempt by defendant to compare the death penalty for defendant Marion Bowman, Jr. with sentences to be received by any co-defendants would be

inappropriate as mitigation evidence for several reasons. Regardless of the guise in which it is offered, evidence relating to the sentencing outcomes of other defendants, even co-defendants, is inadmissible proportionality evidence.

It is important to understand the constraints on relevancy in a capital sentencing hearing. The United State Supreme Court in **Lockett v. Ohio** concluded: "...(T)hat the Eighth and Fourteenth Amendments require that the sentencer, in all but the rarest kind of capital case, not be precluded from considering as a mitigating factor, any aspect of a defendant's character or record and any of the circumstances of the offense that the defendant proffers as a basis for a sentence less than death." **Lockett v. Ohio, 438 US 586, 98 S.Ct. 2954, 57 LE2d 973 (1978).** "Any mitigating circumstances otherwise authorized or allowed by law would simply be any aspect of the defendant's character or record and any of the circumstances of the offense proffered as a basis for a sentence less than death which are supported by competent evidence. **State v. Michael Linder, 278 SE2d 335 (1981).**

GUILT PHASE

In a recent Court of Appeals ruling, **State v. Michael Moore, Opinion No. 3042, filed August 30, 1999,** several occupants of a van were charged with possession with intent to distribute crack. All but defendant Moore pled guilty. At this trial, Moore sought to introduce the guilty pleas of the other occupants of the van. The trial judge refused to allow this evidence. The Court of Appeals affirmed, holding that [A] co-defendant's guilty plea may, in some cases, be admissible to impeach the credibility of the testifying defendant. Guilty pleas of co-defendants are not relevant to or admissible as substantive evidence of a defendant's guilt or innocence.

PENALTY PHASE

South Carolina's capital sentencing scheme limits consideration of proportionality evidence to our Supreme Court. **Section 16-3-25 (C)(3)** states with regard to the sentence, the Court shall determine whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. Our case law has consistently limited comparison to other cases in which a jury awarded the death penalty and held that comparisons did not extend it to non-capital outcomes of other trials.

In **State v. James Charping (II), 508 SE2d 851 (1998),** our Supreme Court held that the trial judge did not err in refusing to let the defense introduce evidence of co-defendant's life sentence. The Court held that a co-defendant's sentence is not mitigating evidence and does not show characteristics of the defendant or circumstances of the crime. Further, the Court held that it is not for the jury in a capital case to weigh the sentence of similarly situated defendant.

The **Charping** decision was cited in the most recent death penalty decision, **State v. Mar-Reece Aldean Hughes, 521 SE2d 500 (1999).** In this case, the defendant's co-defendant had previously received a life sentence in his capital trial. Hughes contended the trial judge erred in refusing to allow him to introduce the co-defendant's life sentence as mitigation evidence. Our Supreme Court held the trial judge was correct in excluding this testimony. The Court stated as follows:

> **"In a capital case, the sentences may not be precluded from considering as mitigating evidence (1) any aspect of the defendant's character or record and (2) any circumstances of the crime that may serve as a basis for a sentence less than death. State v. Bell, 305 SC 11, 406 SE2d 165 (1991), cert. denied, 502 US 1038 (1992) (citing Hitchcock v. Dugger, 481 US 393 (1987)). In Bell, we found evidence of a co-defendant's demeanor and record was properly excluded because it fit neither of these categories of mitigating evidence. Similarly, co-defendant Forney's life sentence does not qualify as mitigating evidence here. Forney's sentence does not**

demonstrate appellant's character or record, nor does it reveal anything about the circumstances of McCant's murder. Accordingly, this evidence was properly excluded."

SUMMARY

The only conceivable grounds for allowing the introduction of a co-defendant's sentence would be limited to impeachment where a co-defendant testifies pursuant to a plea agreement with the State.

The defendant's mitigation testimony should be limited to statutory mitigating circumstances, the circumstances of the crime and the character of the defendant. Since the sentences co-defendants receive have no relevance as mitigation, any such comparison should be prohibited by the Court.

Respectfully submitted.

WALTER M. BAILEY, JR., SOLICITOR
FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 2520
SUMMERVILLE, SOUTH CAROLINA 29484
(843) 871-2640

FEBRUARY 21, **2002**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF DORCHESTER	)	INDICTMENT NO. 2001-GS-18-0348 & 0349
		MOTION NO. 6
STATE OF SOUTH CAROLINA,	)	
	)	
-versus-	)	**STATE'S NOTICE OF MOTION AND**
	)	**MOTION IN LIMINE TO PROHIBIT THE**
MARION BOWMAN, JR.,	)	**DEFENDANT FROM ATTEMPTING TO**
	)	**INTRODUCE PENALTY PHASE "EXECUTION**
Defendant.	)	**IMPACT" EVIDENCE**

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2002 FEB 28 AM 11:24
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CLERK OF COURT
DORCHESTER COUNTY

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7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

TO: NORBERT E. CUMMINGS, JR. AND MARVA HARDEE-THOMAS, ATTORNEYS FOR THE DEFENDANT, MARION BOWMAN, JR.:

YOU WILL PLEASE TAKE NOTICE that ten (10) days from today's date or as soon as counsel may be heard, the State of South Carolina, by and through Solicitor Walter M. Bailey, Jr., will move in limine before the Honorable Diane S. Goodstein, Presiding Judge for the within matter, for an Order prohibiting the Defendant from attempting to introduce any evidence or testimony relating to opinions, personal beliefs or feelings of any defense witnesses or experts about whether the defendant should or should not receive the death penalty and/or the impact of defendant's potential execution on him or his family and friends. The State submits that such evidence is irrelevant, improper and in contradiction of the South Carolina capital sentence jurisprudence.

INTRODUCTION

At the outset, the State wishes to make clear that there is no provision, constitutional, statutory or procedural, which either provides a legal designation of "victim" to any of defendant's family members or grants them leave to provide "victim impact" testimony or evidence. Without wishing to be unduly harsh, the State must point out that the family of a capital

defendant are not legal victims under any definition of that term, nor are they equally situated with the family of the murdered victim in a capital case. Undoubtedly, the State understands that the suffering that has resulted from the crime at issue here is not confined to family of Kandee Martin. However, that understanding does not equate defendant's family with the family of the murdered victim on either a legal or moral plane. It is clear that the defendant's family and friends cannot lay claim to the statutory privileges accorded the family of the victim in a capital case.

THE STATUTES AND LEGISLATIVE POLICY

Our **State Constitution, Article 1, Section 24 (A)(5)** empowers victims to give victim impact evidence. This Section reads as follows:

> **"To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to be heard at any proceeding involving a post-arrest release decision, a plea or sentencing."**

There is no corresponding constitutional provision or statute granting the defendant's family members the right to be heard at sentencing. It is noteworthy that while a capital defendant who receives a life sentence may be removed from the day to day life of his loved ones, he is still available to them in many ways. However, when a murder victim dies, there is no opportunity to maintain family or loving relationships in any fashion. It is that difference which mandates disparate treatment for the families of a murder victim and the families of those who have murdered.

In State v. Earl Matthews, 373 SE2d 587 (1988), our Supreme Court held that the trial judge properly prohibited testimony from a capital murder defendant concerning the appropriate sentence, stating that the ultimate issue of the appropriate sentence is for the jury.

In State v. Michael Torrence (I), 406 SE2d 315 (1991), our Supreme Court held as follows:

> **"[A]lthough a defendant may present witnesses who know and care for him and are willing on that basis to ask for mercy on his behalf, a defendant may not present witnesses to testify merely to their religious or philosophical attitudes about the death penalty..... Nor is a defendant entitled to present the opinion of a witness about what verdict the jury "ought" to reach."**

Chief Justice Finney did state in the Torrence decision that the following question and answer were admissible. Question: "Do you have a basis for asking this jury to spare your son's life." Answer: "That's my son. I don't want him to die."

Our Supreme Court reconciled these two holdings in State v. Roger Dale Johnson, 525 SE2d 519 (2000). In Johnson, the defendant asserted that the trial judge erred in refusing to allow the defense to ask the defendant's sister whether or not she wanted the defendant to die. The Court held as follows:

> **"In State v. Matthews, the defendant argued that the trial court erred when it prohibited defense counsel from asking members of defendant's family which sentence they thought defendant should receive. We held that there was no error because "[t]he line of questioning prohibited... went to the ultimate issue to be decided by the jury – life imprisonment versus death penalty– and was properly reserved for jury determination." State v. Matthews, 296 S.C. at 393, 373 SE2d at 595.**
>
> **We later distinguished Matthews in State v. Torrence, 305 SC 45, 406 SE2d 315 (1991). In Torrence, we adopted the Georgia Supreme Court's distinction between a plea for mercy and the ultimate questions to be decided by the jury:**

> **[A]lthough a defendant may present witnesses who know and care for him and are willing on that basis to ask for mercy on his behalf, a defendant may not present witnesses to testify merely to their religious and philosophical attitudes about the death penalty.... Nor is a defendant entitled to present the opinion of a witness about what verdict the jury "ought" to reach. Torrence, 305 SC at 51, 406 SC2d at 318 (quoting Childs v. State, 357 SE2d 48, 60 (Ga. 1987)). In Torrence, defense counsel attempted to ask the defendant's mother the following question at sentencing: "Do you have a basis for asking this jury to spare your son's life?" The prosecutor objected, arguing the questions went to the ultimate issue to be decided by the jury. The trial court sustained the objection. We disagreed and found the questions was proper because it sought only to have the witness make a general plea for mercy for the life of her son. We distinguished Matthews by stating, "[Torrence] did not seek to elicit testimony about what verdict the witness thought should be imposed, as was the case in State v. Matthews." Id. At 51, 406 SE2d at 319. Nevertheless, we found that the defendant was not prejudiced by the trial court's ruling because the witness was able to make a general plea for mercy on the defendant's behalf.**
>
> **Here, the defense did not seek to elicit the opinion of Johnson's sister about what verdict the jury "ought" to reach. Defense counsel merely proposed to ask her whether she wanted Johnson to die. Like Torrence, the prohibited question did not address the ultimate issue to be decided by the jury. However, despite the trial court's ruling which limited her testimony, Johnson's sister was able to make a general plea for mercy on her brother's behalf. In addition to her testimony concerning their abusive family life, she clearly expressed her love and affection for Johnson at trial. Therefore, we conclude Johnson has failed to demonstrate that he was prejudiced by the trial court's ruling."**

SUMMARY

Our statutory death penalty scheme and case law limit the jury's consideration of mitigation to that evidence which is relevant to the defendant's character, background and history, but precludes the consideration of opinion or feeling testimony or evidence from the defendant's witnesses regarding the possible impact of a death sentence on defendant's loved ones. Further, an analysis of the cases set forth above, makes it clear that, with the exception of brief testimony by family members that they do not want the defendant to be executed, any further attempt to elicit

opinions, personal beliefs or feelings from individual witnesses regarding their views or the views of others about whether the defendant should receive the death penalty would be improper.

Respectfully submitted.

WALTER M. BAILEY, JR., SOLICITOR
FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 2520
SUMMERVILLE, SOUTH CAROLINA 29484
(843) 871-2640

FEBRUARY 21, 2002

FILED-RECORDED
2002 FEB 28 PM 12:42
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER)
) INDICTMENT NO.: 2001-GS-18-348; 349
STATE OF SOUTH CAROLINA)
)
Plaintiff,)
vs.) **MOTION TO SUPPRESS**
) **SEARCH WARRANT**
MARION BOWMAN, JR.)
)
Defendant.)

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned counsel, who moves this Court for an entry of an Order to suppress the search warrant issued.

THIS MOTION is made on the following grounds:

1. The lack of probable cause
2. The warrant was issued four months after the arrest
3. No evidence that items were in house
4. No reasonable basis
5. Items not fruit of crime or stolen property

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Cheryl Graham
Clerk of Court
Dorchester County

Not in compliance with the fourth amendment of the United States Constitution and the South Carolina Constitution.

Respectfully submitted:

Marva A. Hardee-Thomas, Esquire

Norbert E. Cummings, Jr., Esquire

Attorneys for the Defendant, Marion Bowman

Summerville, South Carolina
25th day of February 2002.

FILED-RECORDED
2002 FEB 28 PM 12:42
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA	IN THE COURT OF GENERAL SESSIONS
	FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	
	INDICTMENT NO.: 2001-GS-18-348; 349
STATE OF SOUTH CAROLINA	
Plaintiff,	
vs.	**MOTION FOR PRODUCTION OF PHYSICAL EVIDENCE**
MARION BOWMAN, JR.	
Defendant.	

Defendant, by and through counsel, moves this Court for an Order requiring that the State Law Enforcement Division make available to the defense, a portion of the evidence allegedly recovered from the body of the deceased victim. In order to permit testing to be conducted prior to trial, it is requested that evidence be provided to the defense no later than March 15, 2002.

Respectfully submitted:

Marva A. Hardee-Thomas, Esq

Marva A. Hardee-Thomas, Esquire

Norbert E. Cummings, Jr., Esquire

Attorneys for the Defendant, Marion Bowman

Summerville, South Carolina
25th day of February, 2002.

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSION
)
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA)
)
vs.) MOTION TO RELEASE EVIDENCE
) FOR INDEPENDENT SCIENTIFIC TESTING
MARION BOWMAN, JR.,)
)
Defendant.)

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2002 FEB 28 PM 12:47
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

The Defendant, Marion Bowman, Jr., by and through his undersigned attorneys moves before this Court to Order the South Carolina Law Enforcement Division along with the Office of the Solicitor for the First Judicial Circuit to release the Hi-Point Model CF semiautomatic pistol, 380 Auto caliber, serial number P703855 so that the Defendant's Firearm Expert can exam said weapon.

The Defense has agreed not to challenge the chain of custody as to said weapon for the release of the pistol from the South Carolina Law Enforcement Division to Mr. Mauer, the Firearms Expert for the Defendant, Marion Bowman, Jr..

Mr. Mauer states by way of his affidavit that he cannot perform the necessary tests unless the weapon is released to him. See affidavit attached.

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7-303
Cheryl Graham
Clerk of Court
Dorchester County

Time is of the essence. The State is now objecting to the Release of this evidence for independent testing and it will take weeks for said testing to be completed with this case now tentatively schedule for trial the week of May 13, 2002.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas
Attorneys for the Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated February 25th, 2002

5316

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2002 FEB 28 PM 1:47
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA)	
)	
vs.)	
)	
MARION BOWMAN, JR.,)	AFFIDAVIT OF CLEON C. MAUER
)	
DEFENDANT.)	
)	

PERSONALLY APPEARED before me Cleon C. Mauer, who being duly sworn, deposes and says the following:

I am the firearms examiner for the defense of the Defendant, Marion Bowman, Jr.. I have been asked if I could move the equipment that is necessary to conduct the necessary examinations of the firearm items from Virginia to Columbia, South Carolina. The comparison microscope that is needed to conduct the necessary examinations of the firearm items is not mobile in the sense that it cannot be routinely put into a vehicle and taken to various locations and set up. The comparison microscope is a delicate piece of equipment. It would need to be disassembled, packaged, crated and shipped then reassembled in Columbia, South Carolina. Upon completion of the examinations the same procedure would be necessary to return the equipment to the laboratory. Other equipment such as a zoom microscope, balance, recovery tank and reference material to name a few may be needed. It is not practical to move this type of equipment from location to location.

If the prosecutor or judge would permit me to receive the evidence in person and returning it in person this would of course be fine, but costly. I can understand the hesitation to transfer the evidence by commercial means.

I am sure SLED has a policy that prohibits independent examiners from using their equipment. However if they could either send their tests which I am sure they would be reluctant to do, or test fire the firearm again and send me the test bullets and cartridge cases along with the evidence cartridge cases and bullets, I could conduct the necessary examinations without the firearm.

I feel that time is of the essence in this case for I understand the trial date has been moved up from June to May, 2002.

It has been agreed by the defense not to challenge the chain of custody as to said weapon from the release of the pistol from the South Carolina Law Enforcement Division to myself.

Cleon C. Mauer
Cleon C. Mauer
Forensic Firearms Examiner
For Defendant

SWORN TO and Subscribed before me this
27th day of February, 2002

Joslee C Hall
NOTARY PUBLIC FOR VIRGINIA
My Commission Expires: February 28, 2002

SEAL

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
)
COUNTY OF DORCHESTER) INDICTMENT No.: 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.) **Motion to Prevent Disqualification**
) **of Scrupled Jurors During Guilt Phase**
MARION BOWMAN, JR.,)
)
Defendant.)

FILED-RECORDED
2002 MAR 11 PM 4:51
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY SC

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court for entry of an Order permitting jurors who have scruples against the imposition of the death penalty to serve during the guilt determination phase of this trial by either:

1. Seating and qualifying two juries, one of which has been "death qualified" so that the jurors have not expressed an inability to impose the death penalty (which would hear all of the testimony but only be called upon if a penalty phase is necessary), and another jury which has not been "death qualified"; or, in the alternative;

2. Using one jury to hear both phases of the trial, with the principal twelve being selected without regard to the ability of the jurors to impose a death penalty sentence and with sufficient alternatives being selected to replace my scrupled jurors during the penalty phase of the trial.

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Dorchester County

This Motion is made on the ground that a so-called "death qualified" jury is not composed of a true cross-section of the community, in violation of Defendant's rights to due process and equal protection of the laws under the Constitutions of South Carolina and the United States of America.

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Norbert E. Cummings, Jr.
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(843)821-9999

ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of March, 2002

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER)
) INDICTMENT No.: 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.) **Motion Requesting Trial Judge**
) **Make Findings Of Fact When**
MARION BOWMAN, JR.,) **Jurors Are Struck For Cause**
)
Defendant.)
)

FILED-RECORDED
2002 MAR 11 PM 4:51
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court for the placing in the record of specific findings of fact as to why the Court removes jurors for cause.

This Motion is specifically directed at jurors who removed for cause by the Trial Judge after being questioned upon their voir dire. Only if such findings of fact are placed in the record will the issue of the correctness of the Trial Judge's ruling be preserved for appellate review. The Defendant intends to appeal any conviction and sentence of death and needs a full and complete record in order to properly pursue his appeal.

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Cheryl Graham
Clerk of Court
Dorchester County

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
6th Day of March, 2002

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER)

FILED-RECORDED
2002 MAR 11 PM 4:51
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

INDICTMENT No.: 01-GS-18-0348
01-GS-18-0349

STATE OF SOUTH CAROLINA,)
)
vs.)
)
MARION BOWMAN, JR.,)
)
Defendant.)
)

Motion In The Alternative To Make Results Of Police Record Checks OR Investigations Of Jury Venire Members Available To Defense Counsel

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Should the Court see fit to deny Defendant's Motion to Prevent Police Investigation of Jurors, then the Defendant, Marion Bowman, Jr., reserving his rights under that Motion, will respectfully move in the alternative that this Court issue an Order requiring the Solicitor to make prompt disclosure to defense counsel of:

1. Any and all records of arrest, conviction, prior jury service of potential jurors furnished to him by any law enforcement agency; and

2. The results of any investigation or inquiry by law enforcement agency or other state agency, to include the Solicitor and staff, confirming the backgrounds, prior jury service, attitudes, or characteristics of any member of the petit jury venire. Brady v. Maryland, 373 U.S. 83 (1963).

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Cheryl Graham
Clerk of Court
Dorchester County

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of March, 2002

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FILED-RECORDED FOR THE FIRST JUDICIAL CIRCUIT
)	2002 MAR 11 PM 4:51
COUNTY OF DORCHESTER)	INDICTMENT No.: 01-GS-18-0348
)	CHERYL GRAHAM 01-GS-18-0349
STATE OF SOUTH CAROLINA,)	CLERK OF COURT
)	DORCHESTER COUNTY
vs.)	**Motion to disclose Past and**
)	**Present Relationships, Associations,**
MARION BOWMAN, JR.,)	**and ties between the Prosecuting**
)	**Solicitors and Prospective Jurors**
Defendant.)	
)	

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court for entry of an Order requiring the Solicitor to disclose any and all relationships, ties, and associations between himself and/or his agents, including members and employees of the following law enforcement agencies: St. George Police Department, Dorchester County Sheriff's Department, Dorchester County Coroner's Office, Dorchester County EMS, South Carolina Law Enforcement Division (SLED), the Solicitor for the First Judicial Circuit, and prospective jurors and their families. The within Motion is made upon the following grounds:

1. That the selection of an impartial jury will be difficult due to excessive pretrial publicity and the fact that sensitive emotional issues are likely to be raised;

2. The difficulty in selecting an impartial jury is compounded by size of the community and the fact that the Solicitor and his assistant are well known in the community with many personal ties to prospective jurors which might impede their ability to make a fair and impartial determination on the issues;

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Cheryl Graham
Clerk of Court
Dorchester County

3. That the discovery of religious, social, business, professional, recreational or political associations, previous employment by or dealing with any prospective juror's family as the criminal system is essential to a thorough voir dire of the jurors and a selection of an impartial jury; and
4. Those prospective jurors are often hesitant to reveal such relationships.

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of May 2002

5326

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FILED-RECORDED FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER)	2002 MAR 11 PM 4:51
)	
)	CHERI DIGIMENT No.: 01-GS-18-0348
)	CLERK OF COURT 01-GS-18-0349
STATE OF SOUTH CAROLINA,)	DORCHESTER COUNTY
)	
vs.)	**Motion for individual examination of**
)	**prospective jurors and sequestration**
MARION BOWMAN, JR.,)	**of jurors during examination**
)	
Defendant.)	
)	

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court to allow attorneys for Defendant to examine the prospective jurors individually, separate and apart from others, and sequester the jury panel from the courtroom during the examination in order to prevent the panel from hearing questions being asked the individual jurors. In support of this Motion, Defendant shows as follows:

1. That Section 16-3-20 (d) of the Code of Laws of South Carolina states " not with standing the provisions of § 14-7-1020, in cases involving capital punishment, any person called as a juror shall be examined by the attorney for the defense."

2. That emotionally charged and prejudicial publicity appeared in local newspapers and on television describing the acts with which Defendant is charged.

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Cheryl Graham
Clerk of Court
Dorchester County

3. That collective examination of jurors in panels as to their familiarity with the crime, the victim, or the probability of the Defendant's guilt or innocence, will educate all jurors to prejudicial and incompetent material, thereby rendering it impossible to select a fair and impartial jury.

4. That the issues in the case require that the voir dire examination include sensitive and potentially embarrassing questions, exploring the prospective juror's bias or prejudices.

5. That collective examination of jurors in the panels will preclude the candor and honesty on the part of the jurors which is necessary in order for the counsel to intelligently exercise Defendant's peremptory challenges, as well as challenges for cause.

6. That the request procedure is necessary to ensure a fair and impartial jury as guaranteed by the Constitutions of the State of South Carolina and the United States of America.

WHEREFORE, Defendant prays that the Court order individual examination of each prospective juror and that each be examined separately and in isolation from the remaining jury panel. In addition, Defendant requests that panel members chosen for the petit jury be kept thenceforth in isolation from the jury panel, with no contact what so ever being allowed except upon Order of the Court, and that bailiffs and court personnel not be allowed to speak to the panel concerning the selection or rejection, or reasons therefore, of various individuals as they are called to the courtroom for the voir dire examination.

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of March, 2002

FILED-RECORDED
2002 MAR 11 PM 4:51
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	INDICTMENT No.: 01-GS-18-0348
	)	01-GS-18-0349
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	**Motion To Prevent Trial Judge From Asking Certain Leading Questions During Voir Dire**
	)	
MARION BOWMAN, JR.,	)	
	)	
Defendant.	)	
	)	

Dorchester County
7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court for entry of an Order restraining the trail judge from asking certain questions to the jurors during their voir dire in an attempt to rehabilitate jurors who in any way express the belief that the death penalty is the only appropriate penalty in cases of murder. In support of this Motion, Defendant would show:

1. Defendant stands indicted for murder and the State is seeking the death penalty against him;

2. It is anticipated that some jurors, upon their voir dire, may express the opinion that the death penalty is the only appropriate penalty for murder;

3. When such an idea is expressed by a juror during voir dire, trial judges often attempt to qualify such a juror by asking leading questions, such as (a) "Can you set your beliefs aside and follow the law as I give it to you?" and (b) "Despite your beliefs, can you follow the law as I give it to you and consider imposing a life sentence?";

4. Trial judges, particularly in a capital case, occupy a unique position in the eyes of the jurors, in that they are perceived by jurors as the authority figure in the courtroom and on the law, whom everyone must please. When a trial judge asks leading questions that suggest answers, jurors' perception that they must please the trial judge will inevitably lead them to give the answer suggested to them;

5. When the trial judge asks such questions, receives the inevitable answer, and thereafter qualifies a juror who is in realty opposed to a life sentence for murder and therefore is unqualified, he deprives the defendant in a capital case a fair jury selection process, deprives him of peremptory challenge without the due process of law, and deprives him of rights afforded under the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
5th Day of March, 2002

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE FIRST JUDICIAL CIRCUIT
)	FILED RECORDED
COUNTY OF DORCHESTER)	2002 MAR 11 PM 4:51
)	INDICTMENT No.: 01-GS-18-0348
STATE OF SOUTH CAROLINA,)	01-GS-18-0349
)	CHERYL GRAHAM
vs.)	CLERK OF COURT
)	DORCHESTER COUNTY
MARION BOWMAN, JR.,)	**Motion**
)	
Defendant.)	
)	

TO: FIRST CIRCUIT SOLICITOR'S OFFICE: WALTER BAILEY., SOLICITOR:

Now comes before the undersigned attorneys Norbert E. Cummings, Jr. and Marva A. Hardee-Thomas who respectfully request that the court allow both attorneys to work regular hours of courtroom time so that the Defendant and his undersigned attorneys can prepare in the evening hours; in addition, so that both attorneys for the Defendant can be rested and do not have to choose between resting and continuing to work in compliance with the client's wishes and courtroom procedures.

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of March, 2002

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Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER)
) INDICTMENT No.: 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
) **MOTION IN LIMINE**
vs.) **(EVIDENCE)**
)
MARION BOWMAN, JR.,)
)
Defendant.)
)

FILED-RECORDED
2002 MAR 11 PM 4:49
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court for entry of an Order that the Solicitor and his witnesses refrain from introducing into evidence any photographic or physical evidence not needed to establish any material element of the State's case if the evidence is of such gruesome or objectional character so as to inflame and prejudice the jurors.

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of March, 2002

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Dorchester County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT

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2002 MAR 11 PM 4:51
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

COUNTY OF DORCHESTER) INDICTMENT No.: 01-GS-18-0348
01-GS-18-0349

STATE OF SOUTH CAROLINA)
)
vs.) **Motion To Produce Chain Of Custody of all Exhibits**
)
MARION BOWMAN, JR.,)
)
Defendant.)
)

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court for entry of an Order requiring the State to produce for examination, prior to trial, the chain of custody of all items of physical evidence which the State intends to introduce at trial and which require proof of a chain of custody in order to be admitted into evidence.

This motion is made on the grounds that this information is necessary for the Defendant to prepare for trial, and that that production of such material prior to trial should help establish a chain of custody with respect to any item of evidence that may constitute exculpatory matter under the case of Brady v. Maryland, 373 U.S. 83 (1963).

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of March, 2002

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER)	INDICTMENT No.: 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA,)	
)	
vs.)	**Motion To Surpress**
)	**(Statements)**
MARION BOWMAN, JR.,)	
)	
Defendant.)	
)	

FILED-RECORDED
2002 MAR 11 PM 4:51
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that upon the call of the above entitled case, the Defendant will move before the Presiding Judge for an Order suppressing as evidence all written and oral statements heretofore made by the Defendant to officers, or employees, of the State of South Carolina, upon the grounds:

1. All the statements, whether written or oral, which were obtained from the Defendant in violation of the rights afforded him by the Fourth, Fifth, Sixth and Fourteenth Amendments to the Constitution, were made without counsel being present, at a time during which the Defendant was under going mental strain and stress; and

2. That the oral statements were made as a result of a promise by the police officers to the Defendant.

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7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

3. That the Defendant was coerced, forced by law enforcement to give oral statements without benefit of counsel this is in violation of his Fourth, Fifth, Sixth and Fourteenth Amendments.

THIS MOTION to be based upon the transcript of the oral statement made by the Defendant.

PLEASE BE PRESENT TO DEFEND THIS MOTION IF SO MINDED.

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of March, 2002

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2002 MAR 11 PM 4:53
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER) INDICTMENT No.: 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.)
) **Motion in Limine**
MARION BOWMAN, JR.,) **(Statements By Defendant)**
)
Defendant.)

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court for entry of an Order instructing the Solicitor of this Circuit, his staff, and all of the State's witnesses, not allude to, refer to, or in any way bring before the jury, whether as a panel or jury selected to try this case, any statements, oral admissions, written statements, audio, video or taped recordings of any alleged statements made by the Defendant to law enforcement officers or agents of the Solicitor's office, until such time as the Jackson v. Denno hearing is held to determine the admissibility of such alleged statements.

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7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
6th Day of March, 2002

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE FIRST JUDICIAL CIRCUIT
)	FILED/RECORDED
)	2002 MAR 11 PM 4:49
COUNTY OF DORCHESTER)	CHERYL GRAHAM
)	INDICTMENT NO. CLERK OF COURT 01-GS-18-0348
STATE OF SOUTH CAROLINA,)	DORCHESTER COUNTY 01-GS-18-0349
)	
vs.)	
)	**Motion In Limine**
MARION BOWMAN, JR.,)	**(OPENING AND CLOSEING**
)	**ARGUMENTS BY THE STATE)**
Defendant.)	
)	

TO: WALTER BAILEY, JR., SOLICITOR, FIRST JUDICIAL CIRCUIT

Now comes the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys, who moves this Court to instruct the Solicitor not to allude or refer to, or in any way bring before the jury, whether as a panel or jury selected to try this case, any reference to Defendant's rights to remain silent during the trial, if he chooses, as protected by Article I, Section 12 of the South Carolina Constitution and the Fifth and Fourteenth Amendments to the United States Constitution.

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7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

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ATTORNEY FOR DEFENDANT

Summerville, South Carolina
8th Day of March, 2002

Consent to Motion

5341

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER)	CASE NO.: 2002-GS-18-203; 204
)	
)	
STATE OF SOUTH CAROLINA)	
)	
)	**NOTICE OF MOTION AND MOTION TO SUPPRESS THE EVIDENCE, TO WIT THE TESTIMONY OF WAYNE MAURICE MOOD, AS A WITNESS IN THIS CASE**
vs.)	
)	
MARION BOWMAN,)	
)	
Defendant.)	
)	

FILED-RECORDED
2002 MAY -9 AM 11:50
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO THE HONORABLE WALTER BAILEY, SOLICITOR:

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through his undersigned attorney, Norbert E. Cummings, Jr., will move before the Honorable Diane Goodstein in the Court of General Sessions, First Judicial Circuit at St. George, South Carolina on the _____ day of _____, 2002, at _____ o'clock ___.m., or as soon thereafter as this matter may be heard, for an Order to Suppress the evidence in this case, to wit, any testimony of one Wayne Maurice Mood as a witness in this case, because of the failure of the prosecution to comply with Brady v. Maryland[1] and Rule 5 of the South Carolina Rules of Criminal Procedure.[2] As grounds for this motion, the Defendant would show that on May 7, 2002, the prosecution provided by fax, information for the first time concerning their intent to use the aforementioned witness in this case, even though the prosecution has had possession of

[1] 373 U.S. 83 (1963).
[2] Rule 5, SCRCrimP, Disclosure in Criminal Cases.

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Cheryl Graham
Clerk of Court
Dorchester County

this information for approximately three (3) months. All parties have been aware that the trial is scheduled to begin May 13, 2002. This short notice on such potentially important information prejudices the Defendant and deprives him of due process and fundamental fairness required by law.

WHEREFORE, the Defendant will move that the aforementioned evidence, to wit, any testimony of one Wayne Maurice Mood as a witness in this case, be Suppressed.

PLEASE BE PRESENT TO DEFEND AGAINST THIS MOTION IF SO MINDED.

THE CUMMINGS LAW FIRM

Norbert E. Cummings, Jr.
100 S. Main St., Suite B
P.O. Box 1318
Summerville, SC 29484
Phone (843) 821-9999
Fax (843) 851-0062
ATTORNEY FOR DEFENDANT

Maura Hardee-Thomas, Esq

Summerville, South Carolina

May 8th, 2002

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2002 MAY 14 AM 9:53
Cheryl Graham
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER)	WARRANT NO.: G-326978
	G-326979
STATE OF SOUTH CAROLINA)	
)	
PLAINTIFF,)	MOTION FOR A ORDER PROHIBITING
)	ANY FURTHER COMMENT ABOUT THIS
VS.)	CASE TO THE NEWS MEDIA, T.V.
)	STATION OR RADIO STATIONS
MARION BOWMAN, JR.)	
)	
DEFENDANT)	
)	

The defendant by and through his undersigned attorneys, and moves this court For an Order restraining any and all oral or written comments from the Solicitor, Law Enforcement, the Jail, and Defense Counsel from commenting anymore about This case or having any releases made to the press concerning Mr. Marion Bowman case.

I so move!

Marva Hardee-Thomas

Marva Hardee-Thomas
P.O. Box, 50503
Summerville, SC 29485-0503

I so move !

Norbert E. Cummings, Jr

Norbert E. Cummings, Jr
100 S. Main St, STE B
Summerville, SC 29483

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7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

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2002 MAY 14 AM 8:52
CLERK OF COURT
DORCHESTER

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER) INDICTMENT NO: 2001-GS-18-348
) 2001-GS-18-349
THE STATE OF SOUTH CAROLINA)
Plaintiff,) NOTICE OF MOTION AND MOTION TO
) PROHIBIT ELECTRONIC BROADCASTING
) OF COURT PROCEEDING
VERSUS)
)
MARION BOWMAN, JR.)
)
Defendant.)

CERTIFIED COPY
7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

TO: WLATER BAILEY, SOLICITOR, FIRST JUDICIAL COURT:

YOU WILL PLEASE TAKE NOTICE that at 9:00 a.m. on Monday May 13, 2002, or at such other time as the Court may direct, the undersigned attorneys for the Defendant Marion Bowman, Jr. will move before the Court of General Sessions, Honorable Diane Goodstein, presiding, at the Dorchester County Courthouse, to exclude cameras and other electronic broadcast media from the courtroom during the trial of the above case.

MEMORANDUM OF IN SUPPORT OF MOTION

Rule 605, S. C. A. C. R. "Media Coverage of Court Proceeding" provide that " [t] he presiding judge may refuse, limit, or terminate media coverage of an entire case, portions thereof, or testimony of particular witnesses as may be required in the interest of justice. " Rule 605 (b) (3). The trial court's discretion appears to be final in the " [i] is not intended that a grant of denial of media coverage by subject to appellate review insofar as it pertains to and arises under the Rule, except as otherwise provided by law. " See Rule

605 (h) .

Exclusion of electronic broadcast coverage under Rule 605 is, or course, entirely different form closure of the proceeding. Closure of a hearing implications very substantial First Amendment rights. See Richmond Newspapers V. Virginia, 448 U. S. 555 (1980) . Rule 605, by contrast, authorizes a form of news media intrusion into the courtroom that was until recently prohibited, see Estes V. Texas, 381 U. S. 532 (1965), that is still barred throughout the federal courts, Rule 53, Fed. R. Crim. P., and that is guaranteed by no constitutional provisions. Thus the Court's discretion to bar cameras from the court room is very broad, and may be exercised for any valid reason even in the absence of an affirmative showing of the denial of a constitutional right.

In authorizing a court to permit camera coverage of proceeding, Rule 605 appears to f Focus on the potential "public educational benefits flowing from the photographing and Recording of court proceeding." See Rule 605 (b) (2) . Although cameras are permitted, The trial court retains broad discretion to exclude the coverage "in the interest of justice." For the reasons that follow, the defendant submits that this discretion should be exercised to Bar electronic media coverage in this case.

I. EFFECT OF TELEFISION ON THE EXERCISE OF PROSECUTORIAL DISCRETION

Marion Bowman faces the most severe punishment our society can inflict, death. This fact, standing alone, might nor normally be enough to require the filing of this motion. The public is undoubtedly entitled to learn about the fact of this case, and about the procedures employed in South Carolina's courts for the determination of a Defendant's guilt and of his punishment if convicted. Furthermore, it can be argued that the public should be able to

observe first hand how elected prosecutors exercise their very broad discretion in capital cases.

However, given the unusual circumstances of this case, the educational opportunity that televised proceeding offer the public is outweighed by the likelihood that the proceedings themselves will be both needlessly prolonged and adversely affected by "a media circus" atmosphere. Marion Bowman's case has received a tremendous amount of local, statewide and national media attention. For this state, the media attention has been truly unprecedented. Under these circumstances, pressure of desire to perform before a statewide and national audience may impede an elected prosecutor from exercising the discretion necessary to proper resolution of this case. When a prosecutor decide to seek the Death Penalty and thereafter might determine that a sentence less than death may be proper or bargained for the legal proceeding are drastically curtailed, and trail by jury is dispensed with entirely. In a case that proceeds under the glare of television lights, such a decision means foregoing not only a trail, but a once-in-a-lifetime opportunity for celebrity and national exposure. Any risk that such extraneous and arbitrary factors might affect the exercise of the prosecutor's discretion of this case. This is too much for this court to tolerate. The Court should not allow cameras now, and let the case proceed in the somewhat less frenzied atmosphere that would follow.

The risk that the prospect of television exposure might affect the course of the prosecution in this case not confined to television's effect on the prosecuting attorneys. In addition, the prospect of almost unprecedented national exposure via live, television any reasonably tend to affect the conclusions of expert witnesses employed by the state, and may color their conclusions and advice to the solicitor in such a way as to hamper the plea bargaining

process, and to ensure that this case will be forced to trial. That will benefit only the careers and professional reputations of the experts.

In his separate concurring opinion in Gregg V. Georgia , 428 U.S. 153 (1976), Justice White addressed the claim that the existence of prosecutorial discretion to seek or forego Capital punishment would inevitable cause the infliction of the death penalty to be impermissibly arbitrary, capricious, and discriminatory, and this violative of the eight Amendment principle established in Furman V. Georgia, 408 U.S. 238 (1972) . Rejecting that assertion, he wrote, "Absent fact to the contrary, it cannot be assumed that prosecutors will be motivated by factors other than the strength of their case and the likelihood that a jury would impose the death penalty if it convicts. " 428 U.S. at 225.

The opportunity which television affords public prosecutors and expert witnesses to become national media celebrities is just such an irrelevant and arbitrary factor, and one that should not be permitted to affect the exercise of the prosecutor's life-or-death discretion to the slightest degree. The paramount obligation of both side to this case is not To present a televised spectacle, but to reach a just result at the lowest possible cost in resources and additional human suffering. The public has every right to read, hear and know about the proceedings in this case as they occur. But neither the public nor the vast new industry have any right to insist that this tragic as be served up as live televised entertainment. Because the televising of further proceedings in this case creates a substantial risk that the conduct of the prosecution will be affected by factors extraneous to the facts of the case and the character and record of accursed, the court should exercise its discretion to bar television and radio broadcast of the proceedings.

II. EFFECT OF TELEVISED PROCEEDING ON WITNESSES

In addition to distorting the exercise of proper prosecutorial discretion, the televising of so sensational a case as this one poses substantial risk to the fact-finding process itself. The full extent to which witness in this case fine themselves intimidated and constrained by the knowledge that their testimony is being watched by millions can only be assessed at the time of trial. But defense counsel's pretrial investigation has uncovered Substantial reason to fear such an intimidating and distorting effect. As the Court already knows, the facts of this case involve private aspects of the lives of a number of people including and especially the victim in this case. The intrusiveness of public testimony Concerning extremely private matters poses difficulties enough in any case. But this intrusiveness in multiplied many times over when each witness must testify in the knowledge that his or her name, face, and voice are being broadcast throughout the community, the state, and nation, and indeed throughout the world. In a case that will require the sensitive and careful exploration of "compassionate or mitigating factors stemming from the diverse frailties of humankind," " WOODSON V. NORTH CAROLINA, 428 U.S. 280, 304 (1976) this added pressure on each and every witness poses an undeniable risk to the reliability of the fact-finding process.

The facts of this case may usefully be contrasted with those of Chandler V. Florida, 449 U.S. 560 (1981) , the case in which the United States Supreme Court removed the arguably absolute federal constitutional prohibition on television coverage of criminal jury trial. Cf. Estes V. Texas, 381 U. S. 532 (1965). Chandler involved a locally-publicized burglary trial involving former members of the Miami Beach Police Department Only a single witness's testimony was broadcast during the trail, and that was from the

prosecution's start witness, described by the Supreme Court as "an amateur radio operator who by sheer chance, had overheard and recorded conversations between the appellants over their police walkie-talkie radios during the burglary." 449 U.S. at 567. No defense testimony was televised. The defendants did not allege any adverse affect on the testimony of witnesses and there appears to have been no reason to suspect that any witness in Chandler would have had reason to feel intimidated or embarrassed by the very limited television broadcast which occurred.

Should the Court require a particularized showing of how potential witness might be intimidated or otherwise affected by the prospect of having their testimony broadcast on television, defense counsel respectfully request an opportunity to make such a showing in an in camera proceeding from which the news media and public are excluded.

Despite the very benign facts of Chandler, the Supreme Court was careful to note "the potential danger to the fairness of a trial in a particular case," and cautioned that " [t]he risk of prejudice to particular defendants is ever present and must be examined carefully as cases arise." 449 U.S. at 582. It is altogether likely that had the facts of Chandler resembled those presented her either in the extraordinary intensity of the media coverage of the case, or in the sensitivity of much of the anticipate testimony the Supreme Court's Judgement would have been different. Even more importantly for purposes of the motion, it is likely that under these facts the Florida state courts would have exercised their deiscretion to bar televised coverage. Like the petitioner in Chandler, Marion Bowman cannot demonstate before trial that the danger of adverse affect on witnesses will be realized when the witnesses actually take the stand. But unlike in Chandler he bears no burden to establish, prior to trial that his federal constitutional right to due process of law will necessarily be denied by

electronic media coverage of his trial. While the defendant does believe that gravel-to-gravel electronic coverage of trial testimony will in fact impermissibly impede his due process and eight amendment rights to present evidence on his own behalf, see generally, crane V. Kentucky, 476 U.S. 683 (1986), Skipper V. South Carolina, 476 U.S. 1 (1986) his burden here is merely to establish a reasonable basis for the Court to exercise its discretion against broadcast transmission of the trial proceeding.

The Court as well as the entire County has just lived through a year of the "O.J. Simpson" trial on national television. The spectacle of that trial and thereafter the comments of the public and by the very Jurors themselves about the television media should caution this Court. The Defendant is entitled to a fair trial and not to be part of a Soap opera drama which is played for the public knowledge.

The Presiding Judge in the famous Menedez Case in California has closed his courtroom to television and in court cameras to avoid the circus like atmosphere in the "O.J. Case" to protect the integrity of the Judicial system and to ensure a fair trial. The factors he has cited support such an exercise of the court's discretion, and the countervailing considerations are insufficiently substantial to outweigh his concerns.

WHEREFORE, having set fourth his grounds, the defendant, Marion Bowman, Jr. request that the court issue its order prohibiting electronic broadcasting of courtroom proceedings in this case.

Respectfully Submitted

Norbert E. Cummings, Jr.
100. S. Main St. Suite B
Summerville, SC 29483

Marva Hardee-Thomas
P.O. Box, 50503
Summerville, SC 29485-0503

Summerville, SOUTH CAROLINA

This 7th day of May 2002

STATE OF SOUTH CAROLINA) IN THE GENERAL SESSIONS COURT
)
COUNTY OF DORCHESTER) Indictment Nos: 2001-GS-18-348
) 2001-GS-18-349
STATE OF SOUTH CAROLINA)
) MOTION TO FOR INDIVIDUAL VOIR
VS.) DIRE AND SEQUESTRATION OF
) JURORS DURING AND AFTER
MARION BOWMAN, JR.) VOIR DIRE
)
DEFENDANT)

FILED - RECORDED
2003 MAY 14 AM 9:58
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY SC

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7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

NOW COMES the Defendant, by and through his undersigned attorney, and Moves the Court to allow counsel to voir dire the prospective jurors individually, Under oath, separate and apart from the other and sequester the jurors from the Courtroom during the voir dire and after each juror has been subjected to voir dire In order to prevent the jury panel from hearing the questions being asked of Individual jurors.

In support of this Motion, the Defendant would show as follows:

1. That Section 16-3-20 (d) of the Code of Laws of South Carolina states "notwithstanding the provision of Section 14-7-1020, in cases involving capital punishment, any person called as a juror shall be examined by the attorney for the defense."

2. That emotionally charged and prejudicial publicity appeared in the local newspapers and on television describing the acts with which the Defendant is Charged.

3. That collective examination of jurors in panels as to their familiarity with the crime, the victim or the probability of Defendant's guilt or innocence, will educate all jurors to prejudicial and incompetent material, thereby rendering it impossible

to select a fair and impartial jury.

4. That the issues in the case require that the voir dire examination include sensitive and potentially embarrassing questions exploring the prospective juror's bias or prejudice.

5. That collective examination of jurors in panels will prelude the candor and honesty on the part of the jurors which in necessary in order for counsel to intelligently exercise the Defendant's preemptory challenges, as well as challenges for cause.

6. That the requested procedure in necessary to insure a fair and impartial jury As guaranteed by the Constitution of the State of South Carolina and the United States of America.

WHEREFORE, Defendant prays the Court order individual examination of each Prospective juror and that each be examined separately and in isolation from the Remaining jury panel. In addition, Defendant requests that the panel members Chosen for the petit jury be kept thenceforth in insolation for the jury panel, with No contact whatsoever being allowed except upon Order of the Court, and that Bailiff's and Court personnel not be allowed to speak to the panel concerning the Selection or rejection, or reason therefore, of various individuals as they are called To the courtroom for the voir dire examination.

Respectfully Submitted:

Norbert E. Cummings, Jr.
P.O. Box 1318
Summerville, SC 29484

5354

Marva A Hardee Thomas

Marva Hardee-Thomas
P.O. Box 50503
Summerville, SC 29485-0503

This 9th day of May, 2002.

Summerville, South Carolina

STATE OF SOUTH CAROLINA) IN THE GENERAL SESSIONS COURT

FILED - RECORDED
2002 MAY 14 AM 9:57
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

COUNTY OF DORCHESTER) Indictment Nos: 2001-GS-18-348
2001-GS-18-349

STATE OF SOUTH CAROLINA)
)
VS.) MOTION TO PREVENT
) DISQUALIFICATION OF
MARION BOWMAN JR,) JURORS OPPOSED TO
) CAPITAL PUNISHMENT

DEFENDANT)

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7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

NOW COMES the Defendant, by and thorugh his undersigned attorneys, who moves that no juror be disqualified, excused, or excluded from service as a juror in the trial of the Defendant's guilt in this case by reason of his or her beliefs or attitudes against capital punishment, unless such beliefs or attitudes would render him or her unable to render a verdict of guilty according to law. The within Motion is made on the following grounds:

1. That such exclusion is precluded by the clear language of SC Code Ann. Section 16-3-20 (e) 1976.

2. The interpretation given to said statute by the Supreme Court of the State of South Carolina is contrary to the clear meaning to the statute, thereby violating the Defendant's right to due process of law pursuant to SC Const. Art. 1 Sec.3 and the U.S. Constitution, Amend XIV. The interpretation given to the clear language of this statute is Also an illegal usurpation of legislative authority by the South Carolina Supreme Court.

Respectfully Submitted:

Norbert E. Cummings, Jr.
P.O. Box 1318
Summerville, SC 29484

Marva Hardee-Thomas
P.O. Box 50503
Summerville, SC 29485-0503

ATTORNEYS FOR THE DEFENDANT

BY:

This 7th day of May, 2002

Summerville, South Carolina

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF Dorchester) THE FIRST JUDICAL CIRCUIT
) INDICTMENT NO: 2001-GS-180-348
STATE OF SOUTH CAROLINA,) 2001-GS-180-349
)
vs.) MOTION TO SEQUESTER
) THE JURY
MARION BOWMAN, JR.)
)
Defendant.)

FILED-RECORDED
2002 MAY 14 AM 9:57
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

COMES NOW the Defendant by and through his undersigned attorney, who moves this Court to direct that the jurors, once sworn, shall not be allowed to disperse, but shall remain together throughout the proceedings in this case and shall not be allowed to communicate with anyone except the Court or its bailiffs, and all such communication shall be reported to the attorneys for the Defendant. Defendant submits that this procedure is essential to protect his right to a fair and impartial trial jury to due process and equal protection under the South Carolina and States Constitu

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Cheryl Graham
Clerk of Court
Dorchester County

Summerville, South Carolina

May 5th, 2002

WE SO MOVE:

Norbert E. Cummings, Jr.
Attorney for the Defendant

Marva A. Hardee-Thomas

FILED-RECORDED
2002 MAY 14 AM 9:57
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) THE FIRST JUDICAL CIRCUIT
COUNTY OF Dorchester) INDICTMENT NO: 2001-GS-180-348
) 2001-GS-180-349
STATE OF SOUTH CAROLINA)
) **MOTION IN LIMINE TO PROHIBIT**
vs.) **ANY REFERENCE TO THE TRUTHFULNESS**
) **OF A STATE WITNESS BY SOLICITOR**
MARION BOWMAN, JR.)
)
Defendant.)

COMES NOW the Defendant by and through his undersigned attorney, who moves this Court for entry of an Order which precludes the Solicitor prosecuting this case from advising the trial jury in any manner whatsoever that a witness is testifying under the terms of a plea agreement which requires him to testify truthfully or to suggest in any manner whatsoever the truthfulness or accuracy of said witness has been or will be independently verified by the Solicitor's office. This Motion is based upon the following grounds:

1. That such statements are totally improper and invade the province of the jury to determine the credibility of witness; and constitutes an improper bolstering of said witness without benefit of confrontation for cross-examination as guaranteed by South Carolina and United States Constitution.

2. That it is improper and unethical under the Code of Professional Responsibility for an attorney to argue to a jury that he personally believes that a

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Clerk of Court
Dorchester County

witness is telling the truth. Rule 32 of the Rules of The Supreme Court, DR7-106(3) and (4).

Summerville, South Carolina

May 5th, 2002

WE SO MOVE:

Norbert E. Cummings, Jr.

Marva A. Hardee-Thomas

Attorneys for the Defendant

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER) INDICTMENT NO: 2001-GS-18-348
) 2001-GS-18-349
THE STATE OF SOUTH CAROLINA)
)
Plaintiff,) NOTICE OF MOTION AND
) MOTION IN LIMINE
)
VERSUS)
)
MARION BOWMAN, JR.)
)
Defendant.)
)

FILED-RECORDED
2002 MAY 14 AM 9:58
CHERYL A. GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

CERTIFIED COPY
7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

TO: WALTER BAILEY, SOLICITOR, FIRST JUDICIAL COURT:

YOU WILL TAKE NOTICE that the defendant, Marion Bowman, Jr. will move before this Honorable Court to exclude any and all reference and/or testimony or evidence regarding any and all reference by the State to the Defendant as "Black" on the grounds that the prejudicial value of such subject far outweighs any probative or evidentiary value in the instant case. The Defendant is an African-American male and the victim is a white female and any reference to race may cause undue prejudice and prevent the defendant from receiving a fair and impartial trial.

The Defendant believes and therefore asserts that based upon what has been disclosed through discovery to date, the State will seek to introduce the aforementioned reference and or testimony or evidence in an effort to cloud the essential issues in this case and to arouse and inflame the juror's passions and prejudices against the Defendant. The Defendant furthermore submits that these issues lack the requisite evidentiary safeguards of foundation and relevance and consequently should not be raised in voir dire or the course of

this trial.

The Defendant respectfully requests that this Court grant the Motion in Limine as to the aforementioned issue and instruct the Solicitor not to reference or introduce any testimony or evidence related to the subject matters raised herein.

Respectfully Submitted

Norbert E. Cummings, Jr.
100. S. Main St. Suite B
Summerville, SC 29483

Marva Hardee-Thomas
P.O. Box, 50503
Summerville, SC 29485-0503

Summerville, SOUTH CAROLINA

This 9th day of May 2002

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER) INDICTMENT NO: 2001-GS-18-348
) 2001-GS-18-349
THE STATE OF SOUTH CAROLINA)
Plaintiff,) NOTICE OF MOTION AND MOTION TO
) PROHIBIT ELECTRONIC BROADCASTING
) OF COURT PROCEEDING
VERSUS)
)
MARION BOWMAN, JR.)
)
Defendant.)

FILED RECORDED
2002 MAY 14 AM 9:56
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

CERTIFIED COPY
7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

TO: WLATER BAILEY, SOLICITOR, FIRST JUDICIAL COURT:

YOU WILL PLEASE TAKE NOTICE that at 9:00 a.m. on Monday May 13, 2002, or at such other time as the Court may direct, the undersigned attorneys for the Defendant Marion Bowman, Jr. will move before the Court of General Sessions, Honorable Diane Goodstein, presiding, at the Dorchester County Courthouse, to exclude cameras and other electronic broadcast media from the courtroom during the trial of the above case.

MEMORANDUM OF IN SUPPORT OF MOTION

Rule 605, S. C. A. C. R. "Media Coverage of Court Proceeding" provide that " [t] he presiding judge may refuse, limit, or terminate media coverage of an entire case, portions thereof, or testimony of particular witnesses as may be required in the interest of justice. " Rule 605 (b) (3). The trial court's discretion appears to be final in the " [i] is not intended that a grant of denial of media coverage by subject to appellate review insofar as it pertains to and arises under the Rule, except as otherwise provided by law. " See Rule

605 (h) .

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I. EFFECT OF TELEFISION ON THE EXERCISE OF PROSECUTORIAL DISCRETION

Marion Bowman faces the most severe punishment our society can inflict, death. This fact, standing alone, might nor normally be enough to require the filing of this motion. The public is undoubtedly entitled to learn about the fact of this case, and about the procedures employed in South Carolina's courts for the determination of a Defendant's guilt and of his punishment if convicted. Furthermore, it can be argued that the public should be able to

observe first hand how elected prosecutors exercise their very broad discretion in capital cases.

However, given the unusual circumstances of this case, the educational opportunity that televised proceeding offer the public is outweighed by the likelihood that the proceedings themselves will be both needlessly prolonged and adversely affected by "a media circus" atmosphere. Marion Bowman's case has received a tremendous amount of local, statewide and national media attention. For this state, the media attention has been truly unprecedented. Under these circumstances, pressure of desire to perform before a statewide and national audience may impede an elected prosecutor from exercising the discretion necessary to proper resolution of this case. When a prosecutor decide to seek the Death Penalty and thereafter might determine that a sentence less than death may be proper or bargained for the legal proceeding are drastically curtailed, and trail by jury is dispensed with entirely. In a case that proceeds under the glare of television lights, such a decision means foregoing not only a trail, but a once-in-a-lifetime opportunity for celebrity and national exposure. Any risk that such extraneous and arbitrary factors might affect the exercise of the prosecutor's discretion of this case. This is too much for this court to tolerate. The Court should not allow cameras now, and let the case proceed in the somewhat less frenzied atmosphere that would follow.

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process, and to ensure that this case will be forced to trial. That will benefit only the careers and professional reputations of the experts.

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II. EFFECT OF TELEVISED PROCEEDING ON WITNESSES

In addition to distorting the exercise of proper prosecutorial discretion, the televising of so sensational a case as this one poses substantial risk to the fact-finding process itself. The full extent to which witness in this case fine themselves intimidated and constrained by the knowledge that their testimony is being watched by millions can only be assessed at the time of trial. But defense counsel's pretrial investigation has uncovered Substantial reason to fear such an intimidating and distorting effect. As the Court already knows, the facts of this case involve private aspects of the lives of a number of people including and especially the victim in this case. The intrusiveness of public testimony Concerning extremely private matters poses difficulties enough in any case. But this intrusiveness in multiplied many times over when each witness must testify in the knowledge that his or her name, face, and voice are being broadcast throughout the community, the state, and nation, and indeed throughout the world. In a case that will require the sensitive and careful exploration of "compassionate or mitigating factors stemming from the diverse frailties of humankind," " WOODSON V. NORTH CAROLINA, 428 U.S. 280, 304 (1976) this added pressure on each and every witness poses an undeniable risk to the reliability of the fact-finding process.

The facts of this case may usefully be contrasted with those of Chandler V. Florida, 449 U.S. 560 (1981) , the case in which the United States Supreme Court removed the arguably absolute federal constitutional prohibition on television coverage of criminal jury trial. Cf. Estes V. Texas, 381 U. S. 532 (1965). Chandler involved a locally-publicized burglary trial involving former members of the Miami Beach Police Department Only a single witness's testimony was broadcast during the trail, and that was from the

prosecution's start witness, described by the Supreme Court as "an amateur radio operator who by sheer chance, had overheard and recorded conversations between the appellants over their police walkie-talkie radios during the burglary." 449 U.S. at 567. No defense testimony was televised. The defendants did not allege any adverse affect on the testimony of witnesses and there appears to have been no reason to suspect that any witness in Chandler would have had reason to feel intimidated or embarrassed by the very limited television broadcast which occurred.

Should the Court require a particularized showing of how potential witness might be intimidated or otherwise affected by the prospect of having their testimony broadcast on television, defense counsel respectfully request an opportunity to make such a showing in an in camera proceeding from which the news media and public are excluded.

Despite the very benign facts of Chandler, the Supreme Court was careful to note "the potential danger to the fairness of a trial in a particular case," and cautioned that " [t]he risk of prejudice to particular defendants is ever present and must be examined carefully as cases arise." 449 U.S. at 582. It is altogether likely that had the facts of Chandler resembled those presented her either in the extraordinary intensity of the media coverage of the case, or in the sensitivity of much of the anticipate testimony the Supreme Court's Judgement would have been different. Even more importantly for purposes of the motion, it is likely that under these facts the Florida state courts would have exercised their deiscretion to bar televised coverage. Like the petitioner in Chandler, Marion Bowman cannot demonstate before trial that the danger of adverse affect on witnesses will be realized when the witnesses actually take the stand. But unlike in Chandler he bears no burden to establish, prior to trial that his federal constitutional right to due process of law will necessarily be denied by

electronic media coverage of his trial. While the defendant does believe that gravel-to-gravel electronic coverage of trial testimony will in fact impermissibly impede his due process and eight amendment rights to present evidence on his own behalf, see generally, crane V. Kentucky, 476 U.S. 683 (1986), Skipper V. South Carolina, 476 U.S. 1 (1986) his burden here is merely to establish a reasonable basis for the Court to exercise its discretion against broadcast transmission of the trial proceeding.

The Court as well as the entire County has just lived through a year of the "O.J. Simpson" trial on national television. The spectacle of that trial and thereafter the comments of the public and by the very Jurors themselves about the television media should caution this Court. The Defendant is entitled to a fair trial and not to be part of a Soap opera drama which is played for the public knowledge.

The Presiding Judge in the famous Menedez Case in California has closed his courtroom to television and in court cameras to avoid the circus like atmosphere in the "O.J. Case" to protect the integrity of the Judicial system and to ensure a fair trial. The factors he has cited support such an exercise of the court's discretion, and the countervailing considerations are insufficiently substantial to outweigh his concerns.

WHEREFORE, having set fourth his grounds, the defendant, Marion Bowman, Jr. request that the court issue its order prohibiting electronic broadcasting of courtroom proceedings in this case.

Respectfully Submitted

Norbert E. Cummings, Jr.
100. S. Main St. Suite B
Summerville, SC 29483

Marva Hardee-Thomas
P.O. Box, 50503
Summerville, SC 29485-0503

Summerville, SOUTH CAROLINA

This 7th day of May 2002

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER) WARRANT NO: G-326978
) G-326979
)
STATE OF SOUTH CAROLINA)
)
PLAINTIFF,) MOTION FOR A ORDER PROHIBITING
) ANY FURTHER COMMENT ABOUT THIS
VS.) CASE TO THE NEWS MEDIA, T.V.
) STATION OR RADIO STATIONS
MARION BOWMAN, JR.)
)
DEFENDANT)

FILED-RECORDED
2002 MAY 14 AM 9:56
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

The defendant by and through his undersigned attorneys, and moves this court For an Order restraining any and all oral or written comments from the Solicitor, Law Enforcement, the Jail, and Defense Counsel from commenting anymore about This case or having any releases made to the press concerning Mr. Marion Bowman case.

I so move!

Marva Hardee-Thomas
P.O. Box, 50503
Summerville, SC 29485-0503

I so move !

Norbert E. Cummings, Jr
100 S. Main St, STE B
Summerville, SC 29483

CERTIFIED COPY
7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA	IN THE GENERAL SESSIONS COURT
COUNTY OF DORCHESTER	Indictment Nos: 2001-GS-18-348 2001-GS-18-349
STATE OF SOUTH CAROLINA VS. MARION BOWMAN JR, DEFENDANT	MOTION TO PREVENT DISQUALIFICATION OF JURORS OPPOSED TO CAPITAL PUNISHMENT

NOW COMES the Defendant, by and thorugh his undersigned attorneys, who moves that no juror be disqualified, excused, or excluded from service as a juror in the trial of the Defendant's guilt in this case by reason of his or her beliefs or attitudes against capital punishment, unless such beliefs or attitudes would render him or her unable to render a verdict of guilty according to law. The within Motion is made on the following grounds:

1. That such exclusion is precluded by the clear language of SC Code Ann. Section 16-3-20 (e) 1976.

2. The interpretation given to said statute by the Supreme Court of the State of South Carolina is contrary to the clear meaning to the statute, thereby violating the Defendant's right to due process of law pursuant to SC Const. Art. 1 Sec.3 and the U.S. Constitution, Amend XIV. The interpretation given to the clear language of this statute is Also an illegal usurpation of legislative authority by the South Carolina Supreme Court.

CERTIFIED COPY
7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

Respectfully Submitted:

Norbert E. Cummings, Jr.
P.O. Box 1318
Summerville, SC 29484

Marva Hardee-Thomas
P.O. Box 50503
Summerville, SC 29485-0503

ATTORNEYS FOR THE DEFENDANT

BY: _____

This 7th day of May, 2002

Summerville, South Carolina

FILED-RECORDED
2002 MAY 13 AM 9:12
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) INDICTMENT NO. 2001-GS-18-0348 & 0349
)
STATE OF SOUTH CAROLINA,)
)
-versus-) **NOTICE OF MOTION AND**
) **MOTION FOR RECONSIDERATION**
MARION BOWMAN, JR.,)
)
Defendant.)

CERTIFIED COPY
7-3-03
Cheryl Graham
Clerk of Court
Dorchester County

TO: NORBERT E. CUMMINGS, JR. AND MARVA HARDEE-THOMAS, ATTORNEYS FOR THE DEFENDANT, MARION BOWMAN, JR.:

YOU WILL PLEASE TAKE NOTICE that ten (10) days from today's date or as soon as counsel may be heard, the State of South Carolina, by and through Solicitor Walter M. Bailey, Jr., will move before the Honorable Diane S. Goodstein, Presiding Judge for the within matter, for a reconsideration of the Court's verbal Interlocutory Order of May 2, 2002, suppressing a written confession given by the defendant to Sheriff Larry Williams on February 18, 2001.

Said motion is based inter alia on the grounds that the ambiguity in the State's testimony primarily related to events which occurred after the defendant gave his written confession to the Sheriff at the Orangeburg County Sheriff's Office; that the record is devoid of any motive as to why the Sheriff would perjure himself in testifying that the confession was not coerced by threats against the defendant's wife and/or stepchildren; that the defendant, who is a convicted felon, offered no corroboration to his story that he was beaten by the Sheriff; that his wife was threatened with criminal prosecution and that his children would be placed in DSS custody. The defendant's wife specifically testified that she was not threatened and the defendant's credibility is highly suspect due

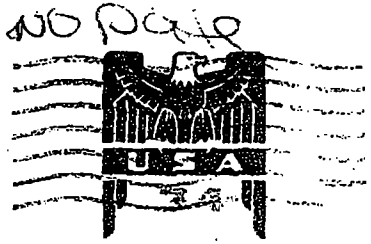
to his lying under oath regarding his ability to read and his denials that he was mirandized.

The State avers that admission of the defendant's confession of February 18, 2001, is critical since his prior and subsequent statements were inconsistent with one another and exculpatory. Copies of seven (7) letters written by the defendant to his wife, Dorothy Mae Bowman, which came into the State's possession on Friday, May 10, 2002 and which can be authenticated by Dorothy Mae Bowman are attached hereto and incorporated by reference as they are relevant not only to the defendant's literacy, but to his efforts to suborn perjury of other witnesses.

WALTER M. BAILEY, JR., SOLICITOR
FIRST JUDICIAL CIRCUIT
140 North Main Street, Suite 102
Summerville, South Carolina 29483
(843) 871-2640

May 13, 2002





25432/0131

5376 Soon

I love you. Write back
I need this information bad
Very Important

Dear Roo,

How are you doing. Fine I hope. Do I thank you for keeping it real with me. I glad to know that my Baby and Kids are doing Fine. It's important that you tell you lawyer that you found that gun after someone put that blood in that house tell Hiram that if the police ask him what kind of gun he saw in my lap it was a revolver shaped like a 32 cal. or 38 cal. I don't know if you know it of Not but they ask me to testify of everybody I told them No, I Need you to call Travis 274-8644) tell Travis I need to know what he told the police if he say he didn't tell them nothing tell he pleas don't say anything and I sorry he in this mess, but don't worry and don't say anything and I will clear him in court, tell him I told my lawyer he don't know Nothing and have nothing to do with this case so please don't say anything Tell Hiram he might have to say he saw me with a 32 that Nite in

I got you letter about the Party 5377

I Love And Miss Y'All

1-9-02

Hi Boo,

I miss you and my kids very much. How else you mom and the rest of the family of in-laws doings? Tell them I said Hi. What is TRINA up to Now who she talk to now. I miss Cricket too tell her I saw what up. How is shelton doing. well I decided to write to let you know how much I love you and my children. I hope they still being good in school and home. you can have them beds anything else you want after all it is ours together. Remember we are one and the same Dot that mean what mine is yours and what's yours is mine. I order you a Birthday card to let you know I will always love and cherish you Baby I'm sorry for Not being there. when did someone get kill at 829. I didn't read it in the papers. Anyway I told Not to club because I don't want you end up back in here. IF the police ask you about me and a knife tell them nothing. where do you plan to move. I hope you are going to church because when you praise God He will bless you very ⇒

much Boo. Take my childrend to church on sunday please and God will bless my wife sons and daughter and me too... I go to church sunday and I know God is going to work something out. Oh what boy stay to my Mom house that Kendra wanted you to sleep with. It don't worry about that because I know you love me and yes I glad you told me before someone else did. I love you very much take care and write back soon.

Love

Daddy

Dot / Marissa / Tejuan / corijon / Marion

I'll

5379

CHARLESTON SC
RM
29
1 34
US Postage
Dorothy Bowers
Branchville SC 29432

P.S write me back
I miss you and my kidsvery
much I will call daddy and
see what he is talking about

I Love You
Dottie MacBoman
Black

5380

Hi Boo,

I miss you very Much and can take it any more. I did not kill candy Martin. Why are people saying I was messing with all those girls I don't know. I never messed with or got my dick sucked by them. Who ever is telling you this is just trying to break me and you apart. They know as long as I got you I am strong so they felt if they get you out of my corner they can hurt me. But by the Grace of God I know I'll be alright the can find all the guns they want I don't own a gun and never did. How many more month before my child is born. Is my two kid doing fine. did they pass in school. I don't know what to say about mom and my sisters they don't come see me or bring me money. I don't here from them of nothing. I only hear from you and my kids. so if you can find out anything write me and let me know Mail me a money order please don't give me Money to mom no more cause I don't get it. Mater of fact tell Sandra I said thanks alot for help me like

5381

3-26-01

With Love

Dear Dot

How Are you and my kids? I Hope youre all doing fine. I miss yall very much. Mom told me this weekend you were sick I hope you are better now. I continue to pray everday for us and I hope you are doing the same. I was waiting on letter to come it has not gotten here yet so I write to let you know **I LOVE U** very much. And to answer your question about my baby in your stoma I always want my child to be by someone I Love and that is you Dorothy mae Bowman. I someth wake up in the Night wanting to hold you in my arm and start crying and praying. I need you so bad Dot. Do not do anything to stupid to go to jail Dot we dont need that. I hope ya'll are the to get the NLPA people to help me. Dot when you get some money please, please go to a lawyer and ask them where can you find a law book on statement and evidence Suppression and buy it and mail it to me. Make sure it is a paperback book that you buy. Thanks alot Boo.

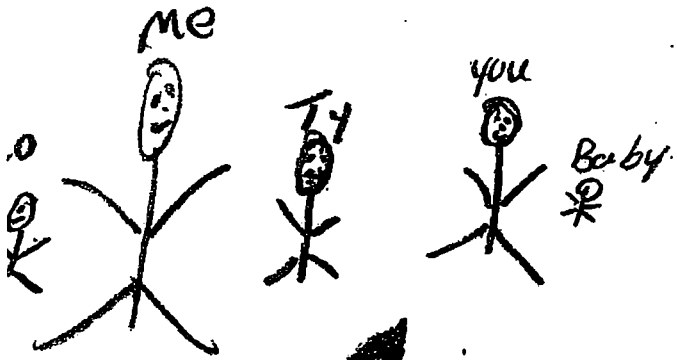
I hope you eat the right foods and drink a lot of apple juice Mom said you are

eating a whole lot. I'm glad to here that so I know my baby will big and Healthy and you too. Is my kids being good. Tell the I Love them and I got their letters they make me feel real happy to Know they Love me. I'm so glad I have ya'll as my family. I told mom ya'll sbould go over those paper ya'll got real good. I Love u

Keep me up to date on the doctor please

I Love ya'll very Much

Love
Daddy



1 HAPPY FAMILY

Keep praying write back soon

Tell
P.S. Hiram to send me a letter Of What he told th Police Please. it's important

Daddy

5383

what are the Names you came up with for the Baby. MARION Mar. 12, 01

Dear Dot,

How are you and my children doing? I hope you'll doing fine I really miss you very much. I know don't me worrying about the baby, but I couldn't help but wonder if you were using the bathroom alot. Tell Trijion and Corijion I Love them very much. I was waiting on a letter for you, but since I didn't get one of see last weeken I got worried. There isn't much to say but I was just thinking of you and my chidren and wanted to write a few line of love to you. When I think of the times you said Black what are you going to do? And all I said was I don't know I No know why you was so worried I Need to be there for me Dot I love you very much. I pray that you are going to church and ask God to be there for us. I hope you are eating the right foods, and going to the doctor on time this is our first child and don't want any more to happen this time around. I hope you come see me sunday. Keep praying and if you take any pictures send them to me please. You said you will be put money in my canteen and I thank you for that. Did you talk Big Larry ye I suppose to Bond hearing between the 19-26 of this month.

Please write me back Dot. I miss hearing your voice and looking into you little pretty eyes when you stare at me and $wist you mouth around. Did you tell Ed & Ty about the baby yet if so what do they think where they happy. I hope mom isn't worried I wrote to her what happen she is to tell you do you go around there to her house? I hope No NIGGA is coming to see you while I'm in here you know that would hurt me don't you I miss you and the boys so much write back soon

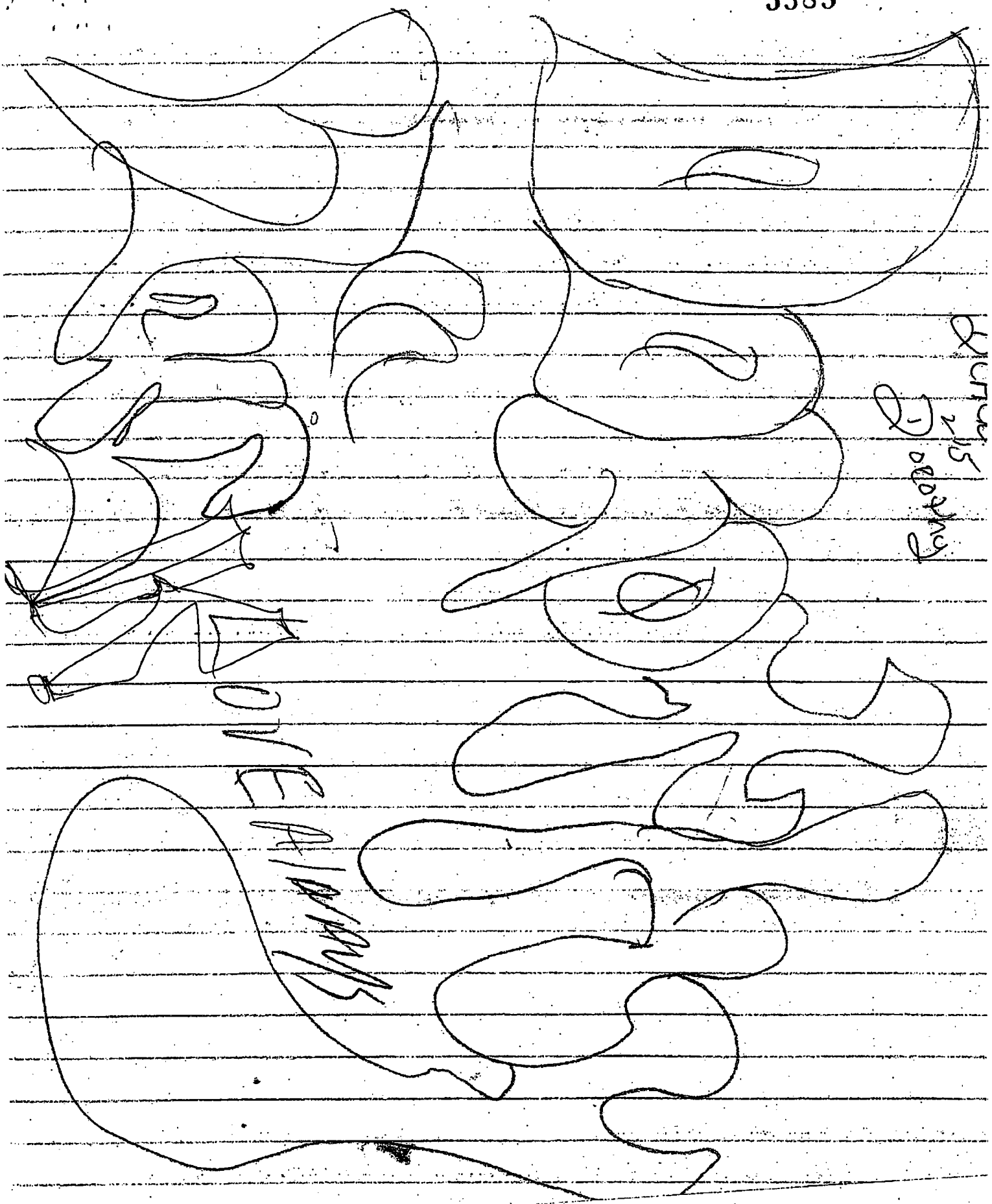
LOVE BABY

Dorothy
Marion
Leigh Ann
My
little one

P.S. go to church

Love always

write back



You know I Love you
who else would I
wait for St. George
WHEN you wouldn't come
out the motel room that
time. (smile remember what we have that's Love)

5386

5-1-01

When you Love Some one you don't give up. Ever

Dear Boo,

What's going on out there? How are my Kids? How are you feeling I hope you are Not out there stressing yourself over Nothing. I want my baby Name after me too. So I was sort of hurt when Kendra said y'all wanted to Name My baby Orin Whole Name. I am scare. that you will Not stick by me. I know you will be there and love me forever, but sometimes I get scared. I ask you to open your heart to God and get saved that's the only way things will work out. I miss you very much and I want to be there with you more than anything in this world. I read a book about Raising our children for God and I sometime cry when I read it because all I can thing of is YOU AND My KIDs. So stop saying I have a child when you know the only Kid I have is Tie/Co/And little Black So stop please You and the Boys are all I have besa God. I love you so stop upsetting yourself I can take it if you worry. You got to be Strong out there so I can be Strong in here. until I can be safe again rapped in you arms and love. I LOVE YOU and My Boy

Boo/Tie/Co/BLACK/and ME DADDY I Cu
(Boys) LILL

P.S. KEEP Praying / Keep Hope Alive th
are your words so remember them don't give up on
me I ♡ you

5388 P.S. How is Shelton doing

4-11-01

Dear Boo

I miss you. How are things going out there? I just want to make sure you and My kids were okay. Thanks for the card you sent. How's the baby. Do you talk to her about her daddy. How was Tie B-Day? Nice I hope. Don't you let nothing worry you. If mom ask you for money tell her you don't have any. When they start bothering you tell Jesus about it. He will make every thing alright. Dot listen no matter what the police or anyone say don't believe them. I need you to say that you did not tell police to search house and that only thing they said was that they had warrent to arrest me for Receiving stolen Good and that was all they said. My lawyer is not try to help me so I need your help Boo please don't let me down. This is important. I want to know what ya'll found out about them statements. I know you are having a hard time out there, but Dot don't let what happen last time happen this time. My letter is short and to the point

I Love you write Brad

Ans. soon

From

Lord

Happy

Family

Baby

Dad

Dad

With Love

5389

STATE OF SOUTH CAROLINA	) IN THE COURT OF GENERAL SESSIONS
	) FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	) CASE NO.: 01-GS-18-348
	) 01-GS-18-349
STATE OF SOUTH CAROLINA,	)
	)
Plaintiff,	)
	)
VS.	) NOTICE OF MOTION AND MOTION
	) TO QUASH SUBPOENA
MARION BOWMAN, JR.	)
	)
Defendant.	)
	)

TO THE DEFENDANT ABOVE NAMED, BY HIS ATTORNEYS MARVA A. HARDEE-THOMAS AND NORBERT E. CUMMINGS, JR., AND THE SOLICITOR, WALTER M. BAILEY:

PLEASE TAKE NOTICE that the South Carolina Department of Social Services will move before the presiding judge of the Court of General Sessions for the First Judicial Circuit 20th day of May, 2002 at 4:00 PM. at the Dorchester County Courthouse, 101 Ridge Street, St. George, South Carolina, or as soon thereafter as counsel may be heard for a protective order pursuant to Rule 45(c)(3)(A), SCRCP, quashing the subpoena served upon it, upon the grounds that the subpoena is overly broad and indefinite and will require the witness to go to great expenditures of time and expense; that the subpoena is oppressive; and that the material seeks the disclosure of otherwise protected matter for which no waiver or exception applies.

Information with respect to the Family Independence program is rendered confidential by 27 S.C. Code Ann. Regs. 114-1170 (amended 1977). Confidentiality with respect to the food stamp program is addressed in 27 S.C. Code Ann Regs. 114-1370 and in the enabling legislation at 7 USC 2020(e)(8) and 7CFR 272.1(C). Confidentiality of these programs is further addressed in S.C. Code Ann. 43-1-150 and 160 (Sup.1993). SCDSS determines eligibility for medicaid benefits pursuant to guidelines established by the South Carolina Health and Human Services Finance Commission; confidentiality of information under this program is provided for in the state regulations at 27 S.C. Code Ann Regs. 126-170 et seq., and in federal regulations found at 42 CFR 431.301 and 431.306.

CERTIFIED COPY
7-303
Cheryl Graham
Clerk of Court
Dorchester County

Respectfully Submitted,

Mary LeMatty

Mary P. LeMatty
Post Office Box 283
Summerville, SC 29484-0283
Attorney for Department of Social Services

Summerville, South Carolina
This 20 day of May 2002

FILED-RECORDED
5-20-02
Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FILED RECORDED
COUNTY OF DORCHESTER) 2002 JAN 22 PM 2:00 INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,) CHERYL GRAHAM CLERK OF COURT DORCHESTER COUNTY
)
vs.)
)
MARION BOWMAN, JR.,) NOTICE OF MOTION
) AND MOTION TO INSPECT
DEFENDANT.)
)
)

TO: FIRST JUDICIAL CIRCUIT SOLICITOR'S OFFICE DORCHESTER COUNTY SHERIFF'S DEPARTMENT, THE STATE LAW ENFORCEMENT DIVISION ANY OTHER AGENCY OR BUSINESS EMPLOYED TO ASSIST IN PERFORMING TESTS ON THE ITEMS IN QUESTION

You will please take notice that the Defendant will move before the Presiding Judge at the Dorchester County Courthouse, St. George, South Carolina, or at chambers, as soon as counsel may be heard for an order requiring each of you to retain sufficient samples of evidence seized as a result of the investigation of the death of Kandee Martin to include any evidence:

1) Removed from the body of Kandee Martin during the Autopsy;

2) Collected at or near the location where Kandee Martin's body was found;

3) Taken from the vehicle held as evidence; and,

4) Taken from the Defendant, Marion Bowman, Jr., or any Co-Defendants in this case;

5) Any other evidence seized during the investigation so that the Defendant may have the opportunity to have independent scientific tests conducted, should the Defendant desire.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas

Summerville, South Carolina

Attorneys for Defendant

CERTIFIED COPY

Dated: _____, 2002

Marion Bowman, Jr. 7-3-03

Cheryl Graham

Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSION
)	FILED-RECORDED
COUNTY OF DORCHESTER)	2002 JAN 22 PM 2:00
)	INDICTMENT NO. 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA,)	CHERYL GRAHAM CLERK OF COURT DORCHESTER COUNTY
)	
vs.)	MOTION TO RETAIN EVIDENCE
)	
MARION BOWMAN, JR.,)	
)	
Defendant.)	

CERTIFIED COPY
7-303
Cheryl Graham
Clerk of Court
Dorchester County

Now comes the defendant Marion Bowman, Jr., who moves the Court pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the Constitution of the State of South Carolina, and other applicable laws and who will show unto the court as follows:

1) That the Defendant has been arrested and charged with the crimes of Murder, and Arson 3rd Degree.

2) That subsequent to the arrest of the Defendant, an autopsy was done on the victim of the homicide resulting in the collection of some questioned evidence for further examination and comparison.

3) That a vehicle belonging to Kandee Martin was seized by the Dorchester county Sheriff's Department and evidence was taken from the vehicle.

4) That the State of South Carolina pursuant to the authority of Schmerber v. California was granted the right to seize certain samples from the Defendant and it is believed that these samples will be compared with the evidence from the victim and the evidence taken from the vehicle for use in a Death Penalty Trial.

5) That the Defendant must have an opportunity to have independent tests run on the evidence so that he might effectively challenge and cross-examine the State's witnesses and evidence and prepare and present an adequate defense.

6) That the agencies involved should be required to retain adequate amounts of the samples so that the Defendant's experts will have a sufficient amount of the material to perform at least the same and further tests if they deem it necessary to properly challenge the State's case and to prepare and present the Defendant's case.

7) That the Defendant has no available means of securing the evidence in question other than by the Court Order without which the Defendant will be deprived of his rights to prepare and present an adequate defense guaranteed by the Constitution of the United States and South Carolina.

Wherefore, Defendant prays this court issue its order directing the State Law Enforcement Division, the Dorchester County Sheriff's Department and any and all other agencies and business cooperating with them in testing the samples and evidence in question to retain a sufficient amount for testing by the Defendant; that the evidence be retained in an atmosphere not subject to contamination; and the Attorney for the Defendant be notified of its location immediately after the State has completed its testing. For such other and further relief as this Court deem just and proper.

Respectfully Submitted,

Norbert E. Cummings

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas

Attorneys for the Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January, 2002

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA,)	
)	
vs.)	NOTICE OF MOTION FOR PRODUCTION
)	OF TAPED STATEMENTS
MARION BOWMAN, JR.,)	
)	
Defendant.)	
)	

FILED RECORDED
2002 JAN 29 PM 1:59
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

CERTIFIED COPY
2303
Cheryl Graham
Clerk of Court
Dorchester County

TO THE HONORABLE WALTER BAILEY, SOLICITOR FOR THE FIRST JUDICIAL CIRCUIT:

YOU WILL PLEASE TAKE NOTICE that on the 15th day of September or as soon thereafter as counsel can be heard, the undersigned attorneys for the Defendant, Marion Bowman, Jr. will move before the Honorable Diane S. Goodstein, Presiding Judge of the First Judicial Circuit, for an Order compelling the Solicitor of the First Judicial Circuit, the Honorable Diane S. Goodstein to disclose and produce for inspection and copying by the Defendant the taped statements taken by the Solicitor for the First Judicial Circuit agents of the Dorchester County Sheriff's Department.

Furthermore, the Defendant, Marion Bowman, Jr. moves for the results of any polygraph testing conducted.
This Motion is made under authority of Brady vs. Maryland, 273 U.S. 83 (1963) and Giglio vs. United States, 405 U.S. 150 (1972)

Respectfully Submitted,

Norbert E. Cummings

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas
Attorneys for the Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 7th, 2002

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSION
)	FILED RECORDED
COUNTY OF DORCHESTER)	2002 JAN 22 PM 1:59
)	INDICTMENT NO. 01-GS-18-0348
	01-GS-18-0349
STATE OF SOUTH CAROLINA)	CHERYL GRAHAM CLERK OF COURT DORCHESTER COUNTY
)	
vs)	
)	MOTION FOR PRODUCTION OF PHYSICAL EVIDENCE
)	
MARION BOWMAN JR.,)	
)	
Defendant.)	
)	

Defendant, by and through counsel, moves this court for An order requiring that the State Law Enforcement Division make available to the defense, for testing, a portion of the evidence allegedly recovered from the body of the deceased victim. In order to permit testing to be conducted prior to trial, it is requested that evidence be provided to the defense no later than 3/1/02.

Respectfully Submitted,

Norbert E. Cummings

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman

Summerville, South Carolina

Dated: January 7th, 2002

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF DORCHESTER) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
STATE OF SOUTH CAROLINA,)
)
vs.) NOTICE OF MOTION FOR PRODUCTION
) OF TAPED OR WRITTEN OR VIDEOTAPED
MARION BOWMAN, JR.,) STATEMENTS
)
Defendant.)
)

FILED-RECORDED
2002 JAN 22 PM 1:58
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: WALTER BAILEY, SOLICITOR FIRST JUDICIAL CIRCUIT

NOW COMES the Defendant, Marion Bowman, Jr., by and through his undersigned attorneys who move this Court for an Order compelling the Solicitor, the South Carolina Law Enforcement Division, and any County or Municipal Law Enforcement Agency to disclose and produce for inspection and copying by the Defendant, the taped or written or videotaped statements of any witnesses intended to be used at trial taken by the Solicitor, agents of South Carolina Law Enforcement Division and any County or Municipal Law Enforcement Agency. Furthermore, the Defendant, Marion Bowman, Jr., moves for the results of any polygraph testing conducted on such witnesses.

This motion is made under the authority of Brady v. Maryland 273 U.S. 83 (1963), and Giglio v. United States 405 U.S. 150 (1972).

Respectfully Submitted,

Norbert E. Cummings

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas
Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 7th, 2002

CERTIFIED COPY
1-3-03
Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSION
)	
COUNTY OF DORCHESTER)	INDICTMENT NO. 01-GS-18-0348
)	01-GS-18-0349
STATE OF SOUTH CAROLINA,)	
)	
)	
vs)	MOTION TO PRESERVE EVIDENCE
MARION BOWMAN, JR.,)	FOR INDEPENDENT DNA TESTING
)	
Defendant.)	
)	

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2002 JAN 22 PM 1:58
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

The defendant now moves for the preservation of evidence Samples currently being used for DNA testing by the State. The Defendant intends to perform independent DNA testing with Which to challenge State findings, if such tests without appropriate samples, we hereby move the State to preserve Sufficient samples from evidence already in its possession so that we may exercise our right to an independent expert.

Respectfully Submitted,

Norbert E. Cummings

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman

Summerville, South Carolina

Dated: January 7th, 2002

CERTIFIED COPY
7-303
Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSION
)	INDICTMENT NO. 01-GS-18-0348
COUNTY OF DORCHESTER)	01-GS-18-0349
)	
)	
STATE OF SOUTH CAROLINA,)	
)	
vs)	MOTION TO PRODUCE
)	
MARION BOWMAN, JR.,)	
)	
Defendant.)	

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2002 JAN 22 PM 1:57
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

The Defendant requests the opportunity to review all Physical evidence and the results of all scientific tests Conducted by the State of South Carolina; and if necessary to have made available such evidence for the purpose of conducting independent scientific examinations by the defense.

Respectfully Submitted

Norbert E. Cummings

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas

Attorneys for Defendant

Marion Bowman, Jr.

Summerville, South Carolina

Dated: January, 2002

CERTIFIED COPY
7-303
Cheryl Graham
Clerk of Court
Dorchester County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSION
)
COUNTY OF DORCHESTER)
)
STATE OF SOUTH CAROLINA) INDICTMENT NO. 01-GS-18-0348
) 01-GS-18-0349
vs.)
)
MARION BOWMAN, JR.,)
)
Defendant.)

FILED-RECORDED
2002 JAN 22 PM 1:57
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

MOTION

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7-303
Cheryl Graham
Clerk of Court
Dorchester County

Defendant, by and through his counsel, requests this court to order the Department of Corrections and all their appropriate personnel to reveal to the Court and to counsel those individuals in Dorchester County who have applied to be the Executioner for the South Carolina Department of Corrections. In support of this motion, Defendant would show unto the court:

1) That upon reinstatement of the Death Penalty in South Carolina, the South Carolina Department of Corrections sought applications for Executioner. It is reasonable to believe that at least some of those applications came from Dorchester County residents.

2) It is conceivable and possible that some of these applicants could be called for jury duty. Support for capital punishment to the extent of willingness to actually kill another human being would clearly be grounds for a defense challenge for cause to that prospective juror.

3) Defendant therefore requests this Court Order the appropriate Department of Corrections' personnel to reveal to the Court and counsel the names of Dorchester county residents who have applied for this position. This information would not released to the general public but only to the Court and counsel of record.

WHEREFORE, Defendant respectfully requests that this Court order the Department of Corrections and the appropriate personnel to reveal to the court and counsel of record the names of Dorchester county residents who have applied to be the South Carolina Executioner.

Respectfully Submitted,

Norbert E. Cummings, Jr.

Marva Hardee-Thomas, Esq

Marva Hardee-Thomas

Attorneys for Defendant
Marion Bowman, Jr.

Summerville, South Carolina
Dated: January 2nd, 2002