

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM EDGEFIELD COUNTY

Alexander S. Macaulay, Circuit Court Judge

RECEIVED

MAR 05 2012

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ROBERT LEE BANKS,

APPELLANT

RECORD ON APPEAL

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1 STATE OF SOUTH) IN THE COURT OF GENERAL
2 CAROLINA) SESSIONS
3 COUNTY OF OCONEE) INDICTMENT NO:
4) 2010-GS-37-00920
5 STATE OF SOUTH)
6 CAROLINA)
7 PLAINTIFF,) TRANSCRIPT OF RECORD
8 -VS-) TRIAL/GUILTY PLEA/
9 ROBERT LEE BANKS,) SENTENCE OF COURT
10 DEFENDANT.)
11 OCTOBER 26 AND 27, 2010
12 WALHALLA, SOUTH CAROLINA
13
14 B E F O R E:
15 THE HONORABLE ALEXANDER S. MACAULAY, JUDGE.
16
17
18 A P P E A R A N C E S:
19 DAVID WAGNER, ESQ.
20 DEPUTY ASSISTANT 10TH CIRCUIT SOLICITOR
21 ATTORNEY FOR THE STATE
22
23 R. DANIEL DAY, ESQ.
24 10TH CIRCUIT PUBLIC DEFENDER (OCONEE COUNTY)
25 ATTORNEY FOR THE DEFENDANT
ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER
POST OFFICE BOX 9
WALHALLA, SC 29691

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Oconee County Clerk Of Court RANDOM STRIKE SHEET

3-A

JUDGE NAME :

TRIAL TYPE : Criminal

PANEL ID : 2010GS3700920

COURTROOM CTRM

DESCRIPTION : State of SC V Banks, Robert Lee

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
~~1 Henderson, Angel R~~ P①	46	B	F	()	()	()	
2 Speed, Calvin E	109	B	M	()	()	()	
3 Upton, Kristen L	117	W	F	()	()	()	
~~4 [REDACTED]~~ D①	78	W	F	()	()	()	
~~5 Coates, William L JR~~ P②	17	W	M	()	()	()	
6 Walker, Pamela K	118	B	F	()	()	()	
~~7 [REDACTED]~~ P③	121	W	M	()	()	()	
8 Ellenburg, Barbara J	26	W	F	()	()	()	
9 Garzilli, Thomas J	38	W	M	()	()	()	
~~10 [REDACTED]~~ P④	100	W	F	()	()	()	
~~11 [REDACTED]~~ D②	102	W	M	()	()	()	
12 Heaton, Lane D	45	W	M	()	()	()	
13 Langston, Laicie	61	W	F	()	()	()	
~~14 [REDACTED]~~ A D③	3	W	M	()	()	()	
15 Smith, John C	104	W	M	()	()	()	
~~16 [REDACTED]~~ R D④	66	W	F	()	()	()	
17 Khorrami, Gwendolyn	57	W	F	()	()	()	
~~18 [REDACTED]~~ D⑤	114	W	F	()	()	()	
19 Jefferson, Jeremy T	52	W	M	()	()	()	
~~20 [REDACTED]~~ D⑥	113	W	F	()	()	()	
21 Black, Jerry L JR	5	W	M	()	()	()	
~~22 [REDACTED]~~ R D⑦	6	W	F	()	()	()	
23 Runz, Jeffrey M	91	W	M	()	()	()	
~~24 [REDACTED]~~ B D①	85	W	M	()	()	()	

Oconee County Clerk Of Court
RANDOM STRIKE SHEET

3-8

5

JUDGE NAME :

TRIAL TYPE : Criminal

PANEL ID : 2010GS3700920

COURTROOM CTRM

DESCRIPTION : State of SC V Banks, Robert Lee

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Macculloch, Heather J	69	W	F	()	()	()	
~~26 Distlands, Gregory B~~	~~24~~	~~W~~	~~F~~	~~()~~	~~()~~	~~()~~	
27 Cole, David S	18	W	M	()	()	()	
28 Gooding, Gregory M	40	W	M	()	()	()	
29 Brown, Arthur J	10	W	M	()	()	()	
30 Williams, Richard E	127	W	M	()	()	()	
31 Moore, Oneta A	81	W	F	()	()	()	
32 Thomas, Ashley S	115	W	F	()	()	()	
33 Schile, Bart G	96	W	M	()	()	()	
34 Frazier, Shannon S	36	W	F	()	()	()	
35 Ward, Diane G	120	W	F	()	()	()	

Total Number of Jurors:

35

** END OF REPORT **

1 ** START OF CERTIFIED ORIGINAL TRANSCRIPT OF RECORD **

2 (WHEREUPON, THE TRIAL OF THE STATE OF SOUTH
3 CAROLINA VERSUS ROBERT LEE BANKS COMMENCED,
4 WITH ALL PARTIES BEING PRESENT, IN THE OCONEE
5 COUNTY COURT OF GENERAL SESSIONS, ON THE 26TH
6 DAY AND 27TH DAY OF OCTOBER, 2010, AT
7 APPROXIMATELY 11:28 A.M.)

8 THE COURT: WE ARE ABOUT TO BEGIN THE TRIAL IN THE
9 CASE OF STATE OF SOUTH CAROLINA VERSUS ROBERT LEE BANKS,
10 2010-GS-37-920. THE INDICTMENT IS FOR -- SOLICITOR?

11 MR. WAGNER: SECOND DEGREE BURGLARY, JUDGE.

12 THE COURT: SECOND DEGREE BURGLARY. NONVIOLENT?

13 MR. WAGNER: IT'S VIOLENT, YOUR HONOR, NIGHTTIME.

14 THE COURT: ANYTHING FROM THE STATE BEFORE WE BRING
15 THE JURY IN FOR THE SELECTION OF THE JURY?

16 MR. WAGNER: NO, SIR.

17 THE COURT: FROM THE DEFENSE?

18 MR. DAY: YES, YOUR HONOR. I WANTED TO MAKE SURE
19 THERE WAS AN AMENDMENT OF THE INDICTMENT. I WANT TO MAKE
20 SURE WE ARE PROCEEDING ON THE ONE THAT'S DATED I HAVE
21 FROM THE GRAND JURY FOR OCTOBER 4TH, 2010, STATING THAT
22 IT HAPPENED ON OR ABOUT MARCH 8, 2010, ET CETERA, ET
23 CETERA, AND THAT'S THE ONE WE'RE PROCEEDING ON.

24 MR. WAGNER: THAT'S 9020 [SIC]. HERE IS THE
25 ORIGINAL. THAT'S IT.

1 (COUNSEL CONFER.)

2 MR. DAY: YES. WE HAVE A COPY OF THAT. YES, YOUR
3 HONOR.

4 THE COURT: YOU SAY 902? I'VE GOT 920.

5 MR. WAGNER: 2010 -- I'M READING IT WRONG --
6 2010-920.

7 THE COURT: 00920?

8 MR. WAGNER: YES, SIR.

9 THE COURT: VERY GOOD.

10 MR. DAY: AND, YOUR HONOR, MR. BANKS WISHES TO
11 ADDRESS THE COURT AGAIN REGARDING THE MATTER OF MY
12 REPRESENTATION.

13 THE COURT: VERY WELL, MR. BANKS.

14 DEFENDANT'S MOTION FOR CONTINUANCE TO HIRE NEW COUNSEL:

15 THE DEFENDANT: YES, SIR. IF THE COURT, I WOULD
16 LIKE TO INDULGE THE COURT, PLEASE. SINCE THEY WOULDN'T
17 APPOINT ME NEW COUNSEL, I WOULD LIKE TO PETITION THE
18 COURT FOR A CONTINUANCE TO ALLOW ME THE OPPORTUNITY TO
19 HIRE NEW COUNSEL. I ALREADY HAVE IN PROCESS AN
20 APPOINTMENT THURSDAY NIGHT WITH AN ATTORNEY HARDEN, ALLEN
21 LAW FIRM WILL BE APPOINTED THURSDAY EVENING.

22 THE COURT: ANYTHING ELSE?

23 THE DEFENDANT: NO, SIR.

24 THE COURT: ALL RIGHT. AS I UNDERSTAND, THAT
25 MR. DAY WAS APPOINTED BACK -- WAS IT MARCH?

1 MR. DAY: YES, SIR.

2 THE COURT: APPLICATION WAS MADE MARCH THE 11TH.

3 YOU WERE APPOINTED MARCH THE 29TH; IS THAT RIGHT?

4 MR. DAY: YES.

5 THE COURT: WITHIN TEN DAYS OR SO.

6 AND YOU HAVE REPRESENTED MR. BANKS SINCE THEN?

7 MR. DAY: YES, SIR.

8 THE COURT: AND HAVE YOU PROVIDED FOR DISCOVERY?

9 MR. DAY: YES, SIR.

10 THE COURT: DID YOU RECEIVE IT?

11 MR. DAY: YES, SIR.

12 THE COURT: YOU ALSO RECEIVED, I THINK THERE WERE

13 TWO VIDEOS OR DVD'S THAT WERE IN ISSUE. YOU RECEIVED

14 BOTH OF THEM?

15 MR. DAY: ACTUALLY RECEIVED FIVE OF THEM.

16 THE COURT: HAVE YOU BEEN ABLE TO REVIEW ALL OF

17 THEM?

18 MR. DAY: YES.

19 THE COURT: IS THAT THE STATE'S EVIDENCE AS FAR AS

20 VIDEO IS GONNA BE LIMITED TO, THOSE FIVE?

21 MR. WAGNER: JUST TWO ARE APPLICABLE IN THIS CASE.

22 THE COURT: YOU FURNISHED HIM WITH EVERYTHING?

23 MR. WAGNER: YES, SIR.

24 THE COURT: WAS A PRELIMINARY HEARING HELD?

25 MR. DAY: YES, SIR.

1 THE COURT: DID YOU REPRESENT MR. BANKS FOR THAT?

2 MR. DAY: YES.

3 THE COURT: IS ALL OF THAT CORRECT, MR. BANKS?

4 THE DEFENDANT: THE PRELIMINARY HEARING, I DIDN'T
5 KNOW WHAT TO EXPECT THAT DATE. I WAS IN THE ROOM BACK
6 HERE. HE WAS NOT. SAID THEY'RE NOT GONNA SEE ME TODAY.
7 I DIDN'T COME BEFORE A JUDGE.

8 THE COURT: WELL, A PRELIMINARY HEARING IS FOR THE
9 STATE TO PRESENT ITS EVIDENCE BEFORE THE MAGISTRATE TO
10 DETERMINE WHETHER OR NOT THERE IS PROBABLE CAUSE TO MOVE
11 FORWARD WITH IT. IN OTHER WORDS, YOU DO NOT PUT UP ANY
12 EVIDENCE. YOUR ATTORNEY CAN CROSS-EXAMINE. BUT YOU WERE
13 IN THE COURTHOUSE AT THE TIME?

14 THE DEFENDANT: YES.

15 COURT'S RULING ON DEFENDANT'S MOTION:

16 THE COURT: ALL RIGHT. I'M RELYING ON BOZEMAN -- OR
17 *BOZEMAN VERSUS STATE*, 307 S.C. 172, 414 S.E.2D (1991)
18 SUPREME COURT CASE. I MUST DENY YOUR MOTION TO HAVE
19 APPOINTED COUNSEL. BUT THAT WILL BE NOTED FOR THE
20 RECORD.

21 ANYTHING ELSE, MR. DAY?

22 MR. DAY: NO, SIR. JUST TO ADVISE THE COURT THERE
23 IS A STATEMENT IN THIS CASE AND WE WILL BE REQUESTING A
24 *JACKSON V. DENNO*.

25 THE COURT: IT IS MY UNDERSTANDING THAT WE ARE TO

1 DRAW THE JURY THIS MORNING AND THEN RECESS -- OR LET THE
2 JURY HAVE A BREAK UNTIL LATER TODAY, 2:30 OR SO, AND THEN
3 IN THE INTERIM AFTER THE JURY IS EXCUSED UNTIL THIS
4 AFTERNOON WE'LL HAVE THE JACKSON V. DENNO. IS THAT IT?

5 MR. DAY: YES, SIR. I WOULD ASK, IF I MAY, I WOULD
6 PREFER TO DO THE HEARING ITSELF WHEN THE JURY HAS BEEN --
7 I HATE TO HAVE A JURY SIT AROUND -- I KNOW YOU DO, TOO,
8 AND I APOLOGIZE FOR THAT. WHAT I WORRY ABOUT IS DURING A
9 JACKSON V. DENNO HEARING, MATTERS CAN BE BROUGHT UP THAT
10 WOULD NOT BE ADMISSIBLE IN COURT, NOR WOULD COME OUT IN
11 COURT AS THEY WOULD IN A JACKSON V. DENNO TO BE USED FOR
12 THE PURPOSE OF THAT PARTICULAR MOTION HEARING. WHAT I
13 FEAR IS ONE OF THE JURORS, EITHER INADVERTENTLY BEING IN
14 THE COURTHOUSE, ANYTHING LIKE THAT AND LEARNING ANYTHING
15 ABOUT WHAT WENT ON DURING THAT, SO I PREFER THEY ALREADY
16 BE HERE IN THEIR ROOM SO THEY CAN'T HEAR THAT AND THEN
17 PREPARED.

18 I WOULD THINK THAT PROBABLY THERE WILL BE MAYBE FOUR
19 WITNESSES. I WISH I COULD TELL YOU IT IS ONLY A
20 FIVE-MINUTE HEARING BUT I CANNOT SAY THAT. THAT'S THE
21 ONLY THING. MY CONCERN IS THAT THE JURY MAY SOMEHOW HEAR
22 SOME OF THAT WHICH COULD TAINT THEM.

23 THE COURT: ALL RIGHT. MR. WAGNER?

24 MR. WAGNER: YOUR HONOR, TO BE HONEST WITH YOU,
25 WHATEVER WE DO IT'S FINE WITH ME. I'VE ONLY GOT ONE

1 WITNESS FOR THE PURPOSES OF THE JACKSON V. DENNO HEARING.
2 WE'RE PREPARED TO GO FORWARD WITH THAT WHENEVER THE COURT
3 WOULD LIKE US TO, SO...

4 THE COURT: WHAT I CAN DO, AND LIKE MR. DAY
5 SUGGESTS, IT'S NOT MY PREFERENCE TO KEEP JURIES
6 SEQUESTERED LONGER THAN NECESSARY. BUT IF IT'S A
7 ONE-WITNESS JACKSON V. DENNO -- OF COURSE, THE DEFENDANT
8 CAN PUT UP ANY WITNESSES HE WOULD LIKE, BUT WE ARE NOT
9 REQUIRING HIM TO DISCLOSE HOW MANY. I'LL HAVE THEM
10 REPORT BACK AT 2:00 TO THE COURTROOM AND WE WILL START AS
11 SOON AS THEY ARE ALL PRESENT, AND I'LL LEAVE THEM IN THE
12 JURY ROOM.

13 MR. DAY: YES, SIR. LIKE I SAID, I HATE TO DO THAT.
14 I WILL HAVE TWO WITNESSES, YOUR HONOR, ON THAT ISSUE; ONE
15 I THINK WILL BE FAIRLY SHORT.

16 THE COURT: WELL, AS I SAY, I HOPE WE WILL BE ABLE
17 TO DO IT. BUT WE'LL SEE. ALSO, YOU HAD A SUPPRESSION
18 MOTION I THINK ON ONE OF THE VIDEOS?

19 MR. DAY: THAT WOULD PROBABLY COME UP AT THE TIME TO
20 DETERMINE WHETHER OR NOT WHICH VIDEOS THEY ARE GOING TO
21 USE, ET CETERA, TO PUT INTO EVIDENCE, AND I WOULD ADDRESS
22 IT AT THAT POINT.

23 THE COURT: ALL RIGHT. VERY GOOD. ANYTHING ELSE
24 FROM THE DEFENDANT?

25 MR. DAY: NO, YOUR HONOR.

1 THE COURT: ANYTHING FROM THE STATE?

2 MR. WAGNER: NO, JUDGE.

3 THE COURT: ALL RIGHT. MADAM CLERK, IF YOU WOULD
4 PLEASE ASK THE PANEL TO JOIN US.

5 ALL RIGHT. AS I UNDERSTAND IT, THIS CASE IS A
6 BURGLARY CASE WHICH PROVIDES TEN STRIKES FOR THE DEFENSE
7 AND FIVE STRIKES FOR THE STATE?

8 MR. WAGNER: YES, SIR.

9 MR. DAY: YES, SIR.

10 THE COURT: ALL RIGHT. AND I WILL HAVE AT LEAST ONE
11 ALTERNATE, AND THAT'S TWO AND ONE?

12 MR. DAY: YES, SIR.

13 MR. WAGNER: YES, SIR.

14 THE COURT: TWO FOR THE DEFENSE, ONE FOR THE STATE.

15 MR. DAY: YOUR HONOR, MR. BANKS ADVISES ME -- EXCUSE
16 ME. BEFORE THEY BRING IN ANYBODY -- HE DOES NOT WISH TO
17 STAY IN THE COURTROOM. I'VE ADVISED HIM OF HIS RIGHT,
18 THE ABSOLUTE RIGHT TO BE PRESENT DURING HIS TRIAL. HE
19 SAYS HE WANTS TO BE EXCUSED, DOES NOT WISH TO STAY IN
20 HERE, WHICH WOULD CREATE A SERIOUS PROBLEM FOR ME IF HE
21 IS NOT GONNA COOPERATE IN HIS DEFENSE.

22 THE DEFENDANT: NOT WITH PRESENT COUNSEL.

23 THE COURT: ANYTHING FROM THE STATE?

24 MR. WAGNER: NO, SIR, YOUR HONOR.

25 (THE DEFENDANT CONFERRED WITH COUNSEL OFF THE

1 RECORD.)

2 MR. DAY: YOUR HONOR, WHILE HE MAY STILL WANT TO
3 ABSENT HIMSELF FROM THE COURTROOM, HE DOES WANT TO BE
4 HERE FOR HIS JACKSON V. DENNO HEARING BECAUSE HE IS AN
5 ESSENTIAL WITNESS IN THAT.

6 THE COURT: OF COURSE HE'S ENTITLED TO BE IN THE
7 COURTROOM AT ANY TIME. HOWEVER, IF HE'S GOING TO BE
8 DISRUPTIVE OR IN ANY WAY INTERFERE WITH THE PROPER
9 PROCEEDINGS, THEN, OF COURSE, HE WILL BE REMOVED. HE
10 WILL WAIVE HIS RIGHT TO BE PRESENT DURING THE TRIAL.

11 THE DEFENDANT: THEY CAN GO TO TRIAL WITHOUT ME
12 THEN. I CAN'T GO WITH HIM REPRESENTING ME.

13 THE COURT: WELL, MR. BANKS, PLEASE STAND SO I CAN
14 BE SURE YOU UNDERSTAND WHAT I'M TELLING YOU. (DEFENDANT
15 STANDS.) THE DEFENDANT CAN WAIVE HIS RIGHT TO BE PRESENT
16 AT A CRUCIAL STAGE OF TRIAL BY DISRUPTIVE CONDUCT. THE
17 DEFENDANT MAY BE PROPERLY EXCLUDED WHEN HIS CONDUCT IS
18 DISRUPTIVE OR IS INTERFERING WITH THE PROGRESS OF THE
19 TRIAL.

20 NOW, YOU HAVE TO UNDERSTAND THAT IT'S YOUR RIGHT TO
21 BE PRESENT, BUT YOU CAN WAIVE THAT RIGHT TO BE PRESENT
22 AND ---

23 THE DEFENDANT: WAIVE THE RIGHT -- GO AHEAD. I'M
24 SORRY.

25 THE COURT: AND I UNDERSTAND THAT WE HAVE A ROOM FOR

1 YOU WHERE YOU CAN WATCH THE PROCEEDINGS. OF COURSE, YOU
2 CAN'T COMMUNICATE WITH YOUR ATTORNEY, SO IF YOU DON'T
3 FIND THAT NECESSARY AND YOU WANT TO WAIVE YOUR RIGHT TO
4 BE PRESENT, YOU CAN DO THAT.

5 THE DEFENDANT: I WANT TO FIRE MY ATTORNEY.

6 THE COURT: WELL, THAT'S FINE. LISTEN, SIR, I'VE
7 DENIED THAT MOTION. AND THAT'S ONE OF THE REASONS YOU
8 HAVE AN ATTORNEY BECAUSE THE RULES PROVIDE THAT ONCE --
9 WHEN YOU'RE READY, LET ME KNOW.

10 THE RULES PROVIDE THAT ONCE THE COURT HAS RULED ON
11 ANY MOTION, THEN THERE'S NO FURTHER ARGUMENT. NOW, IF
12 YOU'RE GOING TO CONTINUE TO DISRUPT THIS COURT BY
13 INTERFERING WITH THE PROGRESS OF THE TRIAL, THEN I WILL
14 REMOVE YOU. DO YOU UNDERSTAND?

15 THE DEFENDANT: (NO RESPONSE.)

16 THE COURT: IT'S ALL UP TO YOU. WHICH DO YOU WANT
17 TO DO?

18 THE DEFENDANT: I WOULD LIKE NEW COUNSEL, SIR.

19 THE COURT: THAT'S BEEN DENIED. NOW WHAT DO YOU
20 WANT TO DO?

21 THE DEFENDANT: (PAUSES.)

22 THE COURT: IT'S YOUR DECISION.

23 THE DEFENDANT: CAN I GET A MINUTE, PLEASE?

24 THE COURT: SIR?

25 THE DEFENDANT: CAN I GET A MINUTE, PLEASE?

1 THE COURT: CERTAINLY.

2 (DEFENDANT LEAVES COURTROOM.)

3 THE COURT: LET ME ASK YOU THIS. DO YOU HAVE AUDIO
4 IN THE ROOM?

5 MS. PRUITT: IS THERE AUDIO IN THAT ROOM? THERE
6 USED TO BE.

7 MR. DAY: I THINK ONE OF THEM HAD AUDIO.

8 THE SHERIFF'S DEPUTY: THEY SAID THERE'S A JACK BUT
9 THERE'S NO AUDIO.

10 THE COURT: YOU MEAN WE CAN'T GET AUDIO IN HERE?

11 THE CLERK: NO.

12 THE COURT: WELL, THEN WHY HAVE A JACK?

13 THE CLERK: I KNOW ON THE FOURTH FLOOR WE WERE ABLE
14 TO SET UP SPEAKERS.

15 THE COURT: HOW ABOUT IN THE PRESS ROOM?

16 THE CLERK: I KNOW ON THE FOURTH FLOOR THE SPEAKERS
17 WORKED.

18 THE COURT: WELL, LET'S SEE ON THE THIRD FLOOR
19 BECAUSE THAT'S WHERE WE ARE. LET'S SOMEBODY START
20 LOOKING AT IT AND SEE IF SOMETHING CAN BE DONE.

21 (DISCUSSION OFF THE RECORD.)

22 MR. DAY: I'M GOING BACK TO SPEAK TO HIM.

23 THE COURT: ALL RIGHT. WE'LL STAND IN RECESS.
24 ANYTHING FROM THE STATE BEFORE WE DO RECEDE?

25 MR. WAGNER: NO, YOUR HONOR.

1 THE COURT: WE'VE GOT TO GET SOMETHING DONE.

2 (A RECESS WAS TAKEN.)

3 THE COURT: ALL RIGHT. IT IS MY UNDERSTANDING WE
4 ARE READY TO PROCEED IN DRAWING A JURY. ANYTHING FROM
5 THE STATE?

6 MR. WAGNER: NO, SIR.

7 THE COURT: ALL RIGHT. MR. DAY?

8 MR. DAY: WE ARE READY TO PROCEED. MR. BANKS SAYS
9 HE WISHES TO STAY IN THE COURTROOM AND PARTICIPATE IN THE
10 TRIAL, YOUR HONOR.

11 THE COURT: ALL RIGHT. MR. BANKS, IF YOU WOULD
12 PLEASE STAND. (DEFENDANT STANDS.)

13 NOW, YOU DO UNDERSTAND YOU HAVE THE RIGHT UNDER THE
14 SIXTH AMENDMENT TO BE PRESENT IN THE COURTROOM AT EVERY
15 STAGE OF THE TRIAL. HOWEVER, YOU MAY WAIVE THAT RIGHT
16 AND BE TRIED IN YOUR ABSENCE. DO YOU UNDERSTAND THAT?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: BUT IT IS YOUR DECISION, AND I'M GIVING
19 YOU NOTICE NOW THAT YOU CAN BE -- FIRST OF ALL, YOU HAVE
20 THE RIGHT TO BE PRESENT, AND I'M ALSO GIVING YOU NOTICE
21 THAT IF YOU CHOOSE TO WAIVE THAT RIGHT AND NOT TO ATTEND,
22 THE TRIAL WILL CONTINUE IN YOUR ABSENCE. DO YOU
23 UNDERSTAND? DO YOU UNDERSTAND?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: ANY OTHER QUESTIONS?

1 THE DEFENDANT: (SHOOK HEAD.)

2 THE COURT: IF YOU SHOULD BECOME DISRUPTIVE IN ANY
3 WAY AND INTERFERE WITH THE PROCEEDINGS, THEN, OF COURSE,
4 I'LL HAVE TO REMOVE YOU. DO YOU UNDERSTAND THAT?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: ALL RIGHT. ANY QUESTIONS?

7 THE DEFENDANT: NO, SIR.

8 THE COURT: VERY GOOD. ALL RIGHT. I FIND THAT THE
9 DEFENDANT FREELY, VOLUNTARILY, KNOWINGLY AND
10 INTELLIGENTLY EXERCISED HIS RIGHT TO STAY, AND THAT IF HE
11 SHOULD DECIDE TO REMOVE HIMSELF AGAIN, THAT WOULD BE IN
12 THE SAME FASHION: KNOWINGLY, INTELLIGENTLY, FREELY, AND
13 VOLUNTARILY.

14 ALL RIGHT. YOU MAY BE SEATED. THANK YOU, SIR.

15 MR. DAY: WHILE THEY'RE BRINGING UP THE JURY, I NEED
16 TO CALL A WITNESS.

17 THE COURT: LOOKING AT THE VOIR DIRE, THE
18 DEFENDANT'S FIRST QUESTIONS, I THINK 1, 2, 3, 4 -- OR AT
19 LEAST 1, 2, 4 AND 3 ALL DEAL WITH ANY STATEMENTS THAT
20 MIGHT BE ADMITTED; IS THAT CORRECT?

21 MR. DAY: THAT'S CORRECT. JUST IN CASE.

22 THE COURT: I'M NOT GOING TO DO THOSE CHARGES
23 OBVIOUSLY UNTIL THEY ARE READY. ARE THERE ANY OTHER VOIR
24 DIRES, THOUGH?

25 MR. WAGNER: NONE FROM THE STATE, JUDGE.

1 THE COURT: ANY OTHER VOIR DIRE?

2 MR. DAY: NONE, YOUR HONOR.

3 THE COURT: ALL RIGHT. VERY GOOD. ALL RIGHT. AND
4 SO WE'LL STAND IN RECESS FOR A FEW MINUTES.

5 (A RECESS WAS TAKEN.)

6 THE COURT: IS THE STATE READY TO PROCEED?

7 MR. WAGNER: YES, YOUR HONOR.

8 THE COURT: DEFENSE READY TO PROCEED?

9 MR. DAY: YES, SIR.

10 THE COURT: ASK THE JURY TO JOIN US, PLEASE.

11 (JURY PANEL ENTERS COURTROOM.)

12 THE COURT: READY TO PROCEED FROM THE STATE?

13 MR. WAGNER: YES, SIR.

14 THE COURT: DEFENSE READY?

15 MR. DAY: YES, SIR.

16 JURY VOIR DIRE AND SELECTION:

17 THE COURT: LADIES AND GENTLEMEN, THIS IS A TERM OF
18 GENERAL SESSIONS COURT, SOMETIMES CALLED CRIMINAL COURT.
19 ITS PURPOSE IS TO RESOLVE QUESTIONS OF ALLEGED CRIMINAL
20 CONDUCT ARISING BETWEEN THE STATE OF SOUTH CAROLINA AND
21 THE DEFENDANT IN A FASHION WHICH WILL ENSURE THAT JUSTICE
22 UNDER THE LAW IS ACCOMPLISHED.

23 THE TRIAL IN A CASE BEGINS WITH THE SELECTION OF A
24 JURY. BOTH THE STATE AND THE DEFENDANT ARE ENTITLED TO
25 JURORS WHO APPROACH THIS CASE WITH AN OPEN MIND. THE

1 TRIAL JURY MUST BE FREE AS HUMANLY POSSIBLE FROM ANY
2 BIAS, PREJUDICE, OR SYMPATHY FOR EITHER SIDE AND FREE
3 FROM ANY PRECONCEIVED IDEAS ON THE FACTS OF THE CASE OR
4 THE LAW OF THE CASE.

5 THEREFORE, CERTAIN QUESTIONS WILL BE ASKED OF THE
6 ENTIRE PETIT JURY PANEL. THE QUESTIONS WHICH WILL BE
7 ASKED ARE DESIGNED TO ASSURE THAT EACH SIDE DOES HAVE A
8 FAIR AND IMPARTIAL JURY.

9 I MIGHT NOTE FURTHER THAT IF ANY PERSON SHOULD
10 ATTEMPT TO TALK WITH YOU OR TALK WITH YOU ABOUT ANY CASE
11 SCHEDULED FOR TRIAL AT THIS TERM OF COURT, IT WILL BE
12 YOUR DUTY TO IMMEDIATELY REPORT THAT MATTER TO THE COURT.
13 FROM THIS POINT ON YOU ARE MEMBERS OF THE PETIT JURY
14 PANEL OF THE COURT OF GENERAL SESSIONS FOR OCONEE COUNTY,
15 AND NO ONE IS TO INTERFERE WITH YOUR PROPER EXERCISE OF
16 THAT DUTY AND RESPONSIBILITY.

17 NOW, WE ARE ABOUT TO COMMENCE THE TRIAL OF THE CASE
18 OF -- WELL, LET'S DO THIS. THE *STATE OF SOUTH CAROLINA*
19 *VERSUS ROBERT LEE BANKS*, 2010-GS-37-920.

20 YOU MAY CALL YOUR FIRST CASE, MR. SOLICITOR.

21 MR. WAGNER: THANK YOU, YOUR HONOR. YOUR HONOR, THE
22 STATE CALLS CASE NUMBER 2010-920 CHARGING ROBERT LEE
23 BANKS WITH SECOND DEGREE BURGLARY.

24 THE COURT: ALL RIGHT. IN INDICTMENT NUMBER
25 2010-GS-37-00920 THE STATE CHARGES ROBERT LEE BANKS WITH

1 BURGLARY, VIOLENT, IN THE SECOND DEGREE.

2 NOW, THE STATE WILL BE REPRESENTED BY MR. WAGNER.

3 MR. WAGNER, IF YOU WOULD PLEASE STAND, INTRODUCE
4 YOURSELF AND ANYONE ELSE WHO MIGHT BE ASSISTING YOU
5 DURING THE TRIAL OF THIS CASE.

6 MR. WAGNER: I'M DAVID WAGNER. I'M ONE OF THE
7 ASSISTANT SOLICITORS HERE IN OCONEE COUNTY, ESSENTIALLY
8 THE PROSECUTOR. SEATED WITH ME HERE IS TIM WILLIAMSON.
9 HE WAS FORMERLY UNTIL JUST THIS SUMMER AN INVESTIGATOR
10 WITH THE CITY OF SENECA POLICE DEPARTMENT. HE HAS SINCE
11 RETIRED.

12 THE COURT: VERY WELL. THANK YOU.

13 THE DEFENDANT, MR. ROBERT LEE BANKS, IS REPRESENTED
14 BY MR. DAY.

15 MR. DAY, IF YOU WOULD STAND, INTRODUCE YOURSELF AND
16 YOUR CLIENT.

17 MR. DAY: THANK YOU, YOUR HONOR. I'M DANIEL DAY. I
18 REPRESENT MR. BANKS IN THIS MATTER. THIS IS ROBERT LEE
19 BANKS. (DEFENDANT STANDS AND FACES THE JURY PANEL.)

20 THE COURT: VERY GOOD. THANK YOU.

21 NOW, IS ANY MEMBER OF THE JURY PANEL RELATED BY
22 BLOOD OR MARRIAGE TO THE DEFENDANT, MR. ROBERT LEE BANKS?
23 IF SO, PLEASE STAND. ANY MEMBER OF THE JURY PANEL
24 RELATED BY BLOOD OR MARRIAGE, NOW OR FORMERLY, CLOSE
25 PERSONAL FRIEND OR BUSINESS ASSOCIATE OF THE DEFENDANT,

1 MR. ROBERT LEE BANKS, IF YOU WOULD PLEASE STAND AT THIS
2 TIME. (NO RESPONSE.)

3 WAS ANY MEMBER OF THE JURY PANEL A MEMBER OF THE
4 GRAND JURY FOR OCONEE COUNTY THAT RETURNED THE INDICTMENT
5 IN THIS CASE? IF SO, PLEASE STAND. (NO RESPONSE.)

6 NOW I'M GOING TO CALL OUT CERTAIN POTENTIAL
7 WITNESSES' NAMES. NOW, THESE ARE POTENTIAL WITNESSES;
8 THEY DO NOT HAVE TO BE CALLED BUT THEY MAY BE CALLED
9 DURING THE TRIAL OF THE CASE. IF THEY ARE IN THE
10 COURTROOM AT THE TIME THEIR NAMES ARE CALLED, IF THEY
11 WOULD PLEASE STAND AND LOOK UPON THE JURY.

12 THE REASON I ASK YOU TO DO THAT, IF YOU ARE A PARTY
13 OR A POTENTIAL WITNESS IN A CASE, TODAY WE SEEM TO KNOW
14 EACH OTHER OR WE MIGHT RECOGNIZE EACH OTHER, BUT WE DO
15 NOT KNOW ALWAYS THE NAMES, AND SO THEREFORE, WHEN YOUR
16 NAME IS CALLED, IF YOU WOULD STAND AND IF YOU WOULD LOOK
17 UPON THE JURY.

18 J.S. SORENSON, SENECA POLICE DEPARTMENT.

19 MICHAEL TERRAMANO, SENECA POLICE DEPARTMENT.

20 TIM WILLIAMSON, WHO IS RETIRED FROM THE SENECA
21 POLICE DEPARTMENT AND WHO HAS BEEN INTRODUCED TO YOU
22 BEFORE. (MR. WILLIAMSON STANDS.)

23 THANK YOU, SIR.

24 AL LEROY.

25 BRIAN ODOM.

1 MS. DELORES PATTERSON.

2 NOW, IS ANY MEMBER OF THE JURY PANEL RELATED BY
3 BLOOD OR MARRIAGE, CLOSE PERSONAL FRIEND OR BUSINESS
4 ASSOCIATE OF J.S. SORENSON OF THE SENECA POLICE
5 DEPARTMENT; MICHAEL TERRAMANO, SENECA POLICE DEPARTMENT;
6 TIM WILLIAMSON, RETIRED, FROM THE SENECA POLICE
7 DEPARTMENT; MR. AL LEROY OR MR. BRIAN ODOM OR MS. DELORES
8 PATTERSON? ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD
9 OR MARRIAGE OR CLOSE PERSONAL FRIENDS?

10 ALL RIGHT. IF YOU WOULD, PLEASE -- I'M CERTAIN THAT
11 YOU DO KNOW SOME OF THE SENECA POLICE.

12 PROSPECTIVE JUROR DIETTERICK: GREG DIETTERICK. I'M
13 THE CITY ADMINISTRATOR FOR THE CITY OF SENECA AND THE
14 POLICE OFFICERS ALL WORK FOR ME.

15 THE COURT: I'M GOING TO EXCUSE YOU ON THE TRIAL OF
16 THIS CASE BECAUSE THE CASE IS MADE BY THE POLICE
17 DEPARTMENT AND THEY ARE INDIVIDUALS THAT WORK IN YOUR
18 ADMINISTRATION, SO I'M GOING TO EXCUSE YOU ON THE TRIAL
19 OF THIS CASE, MR. DIETTERICK, BUT I APPRECIATE YOUR BEING
20 HERE.

21 ANYONE ELSE? (NO RESPONSE.)

22 BY THE WAY, LET ME, JUST FOR EXPLANATION, THE REASON
23 I DO THAT, WHEN I ASK IF YOU CAN BE FAIR AND IMPARTIAL,
24 THERE ARE TWO REASONS FOR THAT. ONE, OF COURSE, IS THE
25 PARTIES ARE ENTITLED TO FAIR AND IMPARTIAL JURORS. BUT

1 JUST AS IMPORTANT TO THAT, NONE OF YOU ASKED TO BE HERE,
2 SO IF YOU ARE CALLED ON TO SERVE AS A JUROR, I WANT TO BE
3 SURE THAT YOU ARE COMFORTABLE WITH WHATEVER YOU WOULD
4 HAVE TO DO UNDER THE FACTS AND CIRCUMSTANCE OF THE LAW
5 AND EVIDENCE OF THE CASE. AND SO THAT'S JUST ONE REASON.
6 RATHER THAN PUT YOU IN A SITUATION WHERE YOU MIGHT FEEL
7 SOME DISCOMFORT -- OR ANY OF THEM. THIS APPLIES TO ALL
8 THE JURORS. SO IF YOU DO RESPOND TO THE QUESTION I
9 ASK --

10 I'M GOING TO EXCUSE YOU FROM THE TRIAL OF THIS CASE.
11 THANK YOU FOR BEING HERE.

12 PROSPECTIVE JUROR DIETTERICK: THANK YOU.

13 THE COURT: ANYONE ELSE? (NO RESPONSE.)

14 HAS ANY MEMBER OF THE JURY PANEL FORMED OR EXPRESSED
15 AN OPINION ABOUT ANY MATTER THAT MIGHT BE INVOLVED IN
16 THIS CASE? IF SO, PLEASE STAND. (NO RESPONSE.)

17 IS ANY MEMBER OF THE PANEL AWARE OF ANY INTEREST,
18 BIAS, OR PREJUDICE TOWARDS EITHER THE DEFENDANT OR THE
19 STATE OF SOUTH CAROLINA? IF SO, PLEASE STAND (NO
20 RESPONSE.)

21 DOES ANY MEMBER OF THE JURY PANEL KNOW ANY REASON
22 WHY HE OR SHE COULD NOT GIVE BOTH THE STATE OF SOUTH
23 CAROLINA AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?
24 IF SO, PLEASE STAND (NO RESPONSE.)

25 ANY FURTHER QUESTIONS FROM THE STATE?

1 MR. WAGNER: NO, YOUR HONOR.

2 THE COURT: FROM THE DEFENDANT?

3 MR. DAY: NONE, YOUR HONOR.

4 THE COURT: VERY WELL.

5 ALL RIGHT. AND THE WAY WE SELECT A JURY IN GENERAL
6 SESSIONS COURT IS A LITTLE BIT DIFFERENT FROM THAT THAT
7 WE DO IN CIVIL COURT. BUT THE CLERK HAS PREPARED A LIST,
8 A RANDOM LIST OF YOUR NAMES FROM THE COMPUTER. AT ONE
9 TIME WE USED TO USE THE DRUM ON THE BACK THERE THAT HAD
10 CAPSULES IN THERE WHERE EACH CAPSULE HAD ONE OF YOUR
11 NAMES AND WE WOULD HAVE TO USE A EITHER A PERSON WHO WAS
12 LEGALLY BLIND OR A CHILD WHO COULD NOT READ OR WRITE TO
13 REACH IN AND PULL OUT A CAPSULE SO THERE WOULDN'T BE ANY
14 SORT OF INTERFERENCE WITH THE PROPER SELECTION OF A JURY.
15 NOW WE USE COMPUTERS AND THEY DO IT RANDOMLY. SO WE
16 HAVE A LIST OF, WHAT WE CALL A STRIKE SHEET OF THE
17 JURORS, THE NAMES ARE ALL, AS I SAY, IN A RANDOM ORDER,
18 AND SO WHEN YOU HEAR THE NUMBER, THE STATE AND THE
19 DEFENDANT WILL BE USING NUMBERS AS THEY APPEAR ON THE
20 LIST, IT WON'T BE YOUR JUROR NUMBER. SO IF YOU HEAR YOUR
21 NUMBER, IT DOES NOT RELATE TO YOUR JUROR NUMBER.

22 IN THIS PARTICULAR CASE THE STATE WILL HAVE FIVE
23 STRIKES AND THE DEFENSE WILL HAVE TEN STRIKES. AS WE DO
24 THIS, THE CLERK CALLS THE ROLL, CALLS THE LIST OF
25 STRIKES, AND THE, EACH PARTY WILL USE THEIR STRIKES USING

1 THE NUMBERS ON THE LEFT.

2 NOW, THE WAY WE DO IT, ALSO, IS THAT THE STATE GOES
3 FIRST AND THE SOLICITOR WILL EITHER SAY "PRESENT THE
4 JUROR" OR "EXCUSE THE JUROR." THEN, IF THEY PRESENT THE
5 JUROR, THEN THE DEFENSE WILL GO, THE DEFENSE WILL EITHER
6 SAY "EXCUSE THE JUROR" OR "SWEAR THE JUROR." AND THOSE
7 WHO ARE TO BE SWORN WILL BE SEATED IN THE BOX HERE AND WE
8 WILL DRAW 12 JURORS OR STRIKE UNTIL WE HAVE 12 JURORS AND
9 THEN WE'LL STRIKE ONE ALTERNATE.

10 AND ALSO WHAT HAPPENS IS THAT WHEN YOUR NAME IS
11 CALLED, IF YOU WOULD COME TO THE FRONT OF THE COURTROOM,
12 BRINGING ANYTHING THAT YOU MIGHT HAVE WITH YOU, LOOK
13 TOWARDS THE BACK OF THE COURTROOM WHERE THE BAILIFF IS
14 STANDING. VERY WELL. ALL RIGHT.

15 READY TO STRIKE FROM THE STATE?

16 MR. WAGNER: YES, SIR.

17 THE COURT: DEFENSE READY TO STRIKE?

18 MR. DAY: YES, YOUR HONOR.

19 THE COURT: MADAM CLERK, GIVE US A JURY.

20 THE CLERK: NUMBER 46, ANGEL HENDERSON (BLACK
21 FEMALE).

22 WHAT SAYETH THE STATE?

23 MR. WAGNER: PLEASE EXCUSE THE JUROR ON THIS CASE.

24 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED ON THIS
25 CASE, YOU MAY BE SEATED.

1 NUMBER 109, CALVIN SPEED (BLACK MALE).

2 WHAT SAYETH THE STATE?

3 MR. WAGNER: PRESENT THE JUROR.

4 THE CLERK: WHAT SAY THE DEFENSE?

5 MR. DAY: PLEASE SWEAR THE JUROR.

6 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN

7 THE JURY-BOX.

8 NUMBER 117, KRISTEN UPTON (WHITE FEMALE).

9 WHAT SAYETH THE STATE?

10 MR. WAGNER: PRESENT THE JUROR.

11 THE CLERK: WHAT SAY THE DEFENSE?

12 MR. DAY: PLEASE SWEAR THE JUROR.

13 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT

14 IN THE JURY-BOX.

15 NUMBER 78, BEVERLY MCKEE (WHITE FEMALE).

16 WHAT SAYETH THE STATE?

17 MR. WAGNER: PRESENT THE JUROR.

18 THE CLERK: WHAT SAY THE DEFENSE?

19 MR. DAY: PLEASE EXCUSE MS. MCKEE IN THIS CASE.

20 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED FROM THIS

21 CASE, YOU MAY BE SEATED.

22 NUMBER 17, WILLIAM COATES (WHITE MALE).

23 WHAT SAYETH THE STATE?

24 MR. WAGNER: PLEASE EXCUSE THE JUROR ON THIS CASE.

25 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS

1 CASE, YOU MAY BE SEATED.

2 NUMBER 118, PAMELA WALKER (BLACK FEMALE).

3 WHAT SAYETH THE STATE?

4 MR. WAGNER: PRESENT THE JUROR.

5 THE CLERK: WHAT SAYETH THE DEFENSE?

6 MR. DAY: SWEAR THE JUROR.

7 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT
8 IN THE JURY-BOX.

9 NUMBER 121, MICHAEL WATKINS (WHITE MALE).

10 WHAT SAYETH THE STATE?

11 MR. WAGNER: PLEASE EXCUSE THE JUROR ON THIS CASE.

12 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
13 CASE, YOU MAY BE SEATED.

14 NUMBER 26, BARBARA ELLENBURG (WHITE FEMALE).

15 WHAT SAYETH THE STATE?

16 MR. WAGNER: PRESENT THE JUROR.

17 THE CLERK: WHAT SAY THE DEFENSE?

18 MR. DAY: PLEASE SWEAR THE JUROR.

19 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT
20 IN THE JURY-BOX.

21 NUMBER 38, THOMAS GARZILLI (WHITE MALE).

22 WHAT SAYETH THE STATE?

23 MR. WAGNER: PRESENT THE JUROR.

24 THE CLERK: WHAT SAYETH THE DEFENSE?

25 MR. DAY: PLEASE SWEAR THE JUROR, PLEASE.

1 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
2 THE JURY-BOX.

3 NUMBER 100, CAROL SHOOK (WHITE FEMALE).

4 WHAT SAYETH THE STATE?

5 MR. WAGNER: PLEASE EXCUSE THE JUROR ON THIS CASE.

6 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED FROM THIS
7 CASE, YOU MAY BE SEATED.

8 NUMBER 102, JESSE SMITH (WHITE MALE).

9 WHAT SAYETH THE STATE?

10 MR. WAGNER: PRESENT THE JUROR.

11 THE CLERK: WHAT SAYETH THE DEFENSE?

12 MR. DAY: EXCUSE MR. SMITH IN THIS CASE.

13 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
14 CASE, YOU MAY BE SEATED.

15 NUMBER 45, LANE HEATON (WHITE MALE).

16 WHAT SAYETH THE STATE?

17 MR. WAGNER: PRESENT THE JUROR.

18 THE CLERK: WHAT SAYETH THE DEFENSE?

19 MR. DAY: PLEASE SWEAR THE JUROR, PLEASE.

20 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
21 THE JURY-BOX.

22 NUMBER 61, LAICIE LANGSTON (WHITE FEMALE).

23 WHAT SAYETH THE STATE?

24 MR. WAGNER: PRESENT THE JUROR.

25 THE CLERK: WHAT SAY THE DEFENSE?

1 MR. DAY: PLEASE SWEAR MS. LANGSTON.

2 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT
3 IN THE JURY-BOX.

4 NUMBER 3, ROBERT BATEMAN (WHITE MALE).

5 WHAT SAYETH THE STATE?

6 MR. WAGNER: PRESENT THE JUROR.

7 THE CLERK: WHAT SAYETH THE DEFENSE?

8 MR. DAY: EXCUSE MR. BATEMAN IN THIS CASE, PLEASE.

9 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
10 CASE, YOU MAY BE SEATED.

11 NUMBER 104, JOHN SMITH (WHITE MALE).

12 WHAT SAYETH THE STATE?

13 MR. WAGNER: PRESENT THE JUROR.

14 THE CLERK: WHAT SAYETH THE DEFENSE?

15 MR. DAY: PLEASE SWEAR MR. SMITH.

16 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
17 THE JURY-BOX.

18 NUMBER 66, BETENA LOLLIS (WHITE FEMALE).

19 WHAT SAYETH THE STATE?

20 MR. WAGNER: PRESENT THE JUROR.

21 THE CLERK: WHAT SAYETH THE DEFENSE?

22 MR. DAY: EXCUSE MS. LOLLIS IN THIS CASE.

23 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED IN THIS
24 CASE, YOU MAY BE SEATED.

25 NUMBER 57, GWENDOLYN KHORRAMI (WHITE FEMALE).

1 WHAT SAYETH THE STATE?

2 MR. WAGNER: PRESENT THE JUROR.

3 THE CLERK: WHAT SAY THE DEFENSE?

4 MR. DAY: SWEAR MS. KHORRAMI.

5 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT
6 IN THE JURY-BOX.

7 NUMBER 114, WANDA TERRY (WHITE FEMALE).

8 WHAT SAYETH THE STATE?

9 MR. WAGNER: PRESENT THE JUROR.

10 THE CLERK: WHAT SAY THE DEFENSE?

11 MR. DAY: EXCUSE MS. TERRY IN THIS CASE, PLEASE.

12 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED FROM THIS
13 CASE, YOU MAY BE SEATED.

14 NUMBER 52, JEREMY JEFFERSON (WHITE MALE).

15 WHAT SAYETH THE STATE?

16 MR. WAGNER: PRESENT THE JUROR.

17 THE CLERK: WHAT SAYETH THE DEFENSE?

18 MR. DAY: PLEASE SWEAR MR. JEFFERSON.

19 THE CLERK: SIR, IF YOU WOULD, PLEASE TAKE A SEAT IN
20 THE JURY-BOX.

21 NUMBER 113, ROBIN TERRY (WHITE FEMALE).

22 WHAT SAYETH THE STATE?

23 MR. WAGNER: PRESENT THE JUROR.

24 THE CLERK: WHAT SAYETH THE DEFENSE?

25 MR. DAY: EXCUSE MS. TERRY IN THIS CASE, PLEASE.

1 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED FROM THIS
2 CASE, YOU MAY BE SEATED.

3 NUMBER 5, JERRY BLACK (WHITE MALE).

4 WHAT SAYETH THE STATE?

5 MR. WAGNER: PRESENT THE JUROR.

6 THE CLERK: WHAT SAY THE DEFENSE?

7 MR. DAY: PLEASE SWEAR MR. BLACK.

8 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
9 THE JURY-BOX.

10 NUMBER 6, JODI BLAKE (WHITE FEMALE).

11 WHAT SAYETH THE STATE?

12 MR. WAGNER: PRESENT THE JUROR.

13 THE CLERK: WHAT SAYETH THE DEFENSE?

14 MR. DAY: EXCUSE MS. BLAKE IN THIS CASE.

15 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED FROM THE
16 THIS CASE, YOU MAY BE SEATED.

17 NUMBER 91, JEFFREY RUNZ (WHITE MALE).

18 WHAT SAYETH THE STATE?

19 MR. WAGNER: PRESENT THE JUROR.

20 THE CLERK: WHAT SAY THE DEFENSE?

21 MR. DAY: PLEASE SWEAR MR. RUNZ.

22 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
23 THE JURY-BOX.

24 AND THIS WILL BE FOR THE ALTERNATE. NUMBER 85,

25 DONALD NICHOLSON (WHITE MALE).

1 THE COURT: ONE AND TWO FOR THE ALTERNATE.

2 MR. WAGNER: YES, SIR.

3 MR. DAY: YES, SIR.

4 THE CLERK: WHAT SAYETH THE STATE?

5 MR. WAGNER: PRESENT THE JUROR.

6 THE CLERK: WHAT SAYETH THE DEFENSE?

7 MR. DAY: EXCUSE MR. NICHOLSON IN THIS CASE.

8 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
9 CASE, YOU MAY BE SEATED.

10 NUMBER 69, HEATHER MACCULLOCH (WHITE FEMALE).

11 WHAT SAYETH THE STATE?

12 MR. WAGNER: PRESENT THE JUROR.

13 THE CLERK: WHAT SAYETH DEFENSE?

14 MR. DAY: PLEASE SWEAR MS. MACCULLOCH.

15 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT
16 IN THE JURY-BOX.

17 THE COURT: IS THERE ANY REASON THIS JURY CANNOT BE
18 SWORN FOR THE TRIAL OF THIS CASE FROM THE STATE?

19 MR. WAGNER: NO, SIR.

20 THE COURT: FROM THE DEFENSE?

21 MR. DAY: NONE, YOUR HONOR.

22 THE COURT: VERY GOOD. MR. GARZILLI, I'M GOING TO
23 ASK YOU TO SERVE AS FOREPERSON OF THIS JURY. SO WHEN YOU
24 COME BACK, IF YOU WOULD SIT IN THIS FIRST SEAT -- OR YOU
25 WOULD SWAP SEATS -- WELL, ACTUALLY YOU DON'T HAVE TO SWAP

1 SEATS BECAUSE THE ONLY TWO RESERVED SEATS ARE FOR THE
2 ALTERNATE WHERE YOU ARE SITTING NOW AND THEN THE
3 FOREPERSON'S SEAT, WHICH WOULD BE THE FIRST SEAT ON THE
4 FRONT ROW. EVERYONE ELSE MAY SIT ANYPLACE IN THE
5 JURY-BOX THAT THEY WOULD LIKE.

6 NOW I'M GONNA ASK YOU TO GO WITH THE BAILIFF AND HE
7 WILL SHOW YOU THE JURY ROOM THAT YOU WILL BE USING DURING
8 THE TRIAL OF THE CASE. I NEED TO TAKE UP SOME MATTERS
9 WITH THE BALANCE OF THE PANEL AND WITH THE ATTORNEYS, AND
10 THIS WOULD TAKE JUST A FEW MINUTES, BUT I DO NEED YOU TO
11 RETIRE FROM THE COURTROOM.

12 AND MY INSTRUCTIONS THROUGHOUT THE TRIAL OF THIS
13 CASE ARE GONNA BE THE SAME; THAT IS, NOT TO UNDERTAKE
14 DISCUSSION OF THIS CASE AMONG YOURSELVES OR PERMIT ANYONE
15 TO DISCUSS IT WITH YOU THROUGHOUT THE TRIAL, BECAUSE YOU
16 MUST MAKE YOUR DECISION BASED ON TESTIMONY FROM THE
17 WITNESS STAND AND THE EXHIBITS AND OTHER EVIDENCE
18 INTRODUCED IN THE COURTROOM.

19 YOU NEVER KNOW WHAT'S GONNA BE THE MOST IMPORTANT
20 PART OF THE TRIAL: THE OPENING STATEMENTS BY THE
21 ATTORNEYS, THE FIRST WITNESS OR THE LAST WITNESS, OR ONE
22 EXHIBIT OR SOMETHING ELSE OF EVIDENCE, OR WHAT, OR THE
23 CLOSING ARGUMENTS OR THE CHARGE ON THE LAW WHICH COMES AT
24 THE CLOSE. SO, THEREFORE, YOU NEED TO HAVE AN OPEN MIND
25 THROUGHOUT THE TRIAL OF THE CASE AS JURORS. SO

1 THEREFORE, PLEASE DO NOT UNDERTAKE DISCUSSION OF THE
2 CASE, EVEN PERSONALITIES, UNTIL IT'S FINALLY GIVEN TO YOU
3 FOR YOUR DECISION.

4 WITH THAT I'M GOING TO ASK YOU TO RETIRE TO THE JURY
5 ROOM WITH THE BAILIFF. IT WILL ONLY TAKE A FEW MINUTES.

6 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
7 APPROXIMATELY 12:30 P.M.)

8 THE COURT: COULD COUNSEL APPROACH, PLEASE?

9 (DISCUSSION AT SIDEBAR.)

10 THE COURT: LADIES AND GENTLEMEN OF THE JURY PANEL
11 THAT WERE NOT DRAWN ON THE TRIAL OF THIS CASE. I'M GOING
12 TO EXCUSE YOU, AND I THINK THAT'S GONNA BE IT FOR THE
13 WEEK. IN OTHER WORDS, THE OTHER MATTERS ARE GONNA BE
14 ABLE TO BE TAKEN CARE OF WITHOUT A JURY.

15 I MIGHT NOTE, THOUGH, THAT THE MERE FACT THAT YOU
16 WERE NOT DRAWN ON A JURY FOR A TRIAL DOESN'T MEAN THAT
17 YOU HAVEN'T PERFORMED A VERY VALUABLE SERVICE TO OCONEE
18 COUNTY AND OUR SYSTEM OF JUSTICE. THE REASON FOR THAT
19 IS, OF COURSE, IF YOU WERE NOT HERE AND READY TO SIT AS
20 JURORS IF YOU WERE CALLED, THEN WE WOULD NOT HAVE
21 RESOLVED THE CASES WE HAVE.

22 AND I MIGHT NOTE ALREADY WE HAVE DISPOSED OF ABOUT
23 12 CASES JUST BY REASON OF YOU BEING HERE YESTERDAY, AND
24 WE WILL BE ABLE TO DISPOSE OF MORE BECAUSE YOU WERE
25 AVAILABLE BEFORE THE WEEK IS OVER. BUT THERE AGAIN,

1 THAT'S WHY I SAY THAT YOU HAVE PERFORMED A VERY VALUABLE
2 SERVICE.

3 I MIGHT NOTE THAT OUR JURY SYSTEM AND SYSTEM OF
4 JUSTICE WOULD NOT FUNCTION IF IT DID NOT HAVE CITIZEN
5 PARTICIPATION, AND I THANK YOU FOR BEING WILLING TO SERVE
6 AS JURORS.

7 I WISH THERE WAS SOMETHING ELSE I COULD DO FOR YOU
8 TO EXPRESS MY APPRECIATION. BUT AS YOU REMEMBER A FEW
9 MINUTES AGO, I ASKED IF ANYBODY HAD SERVED IN THE LAST
10 THREE YEARS, SO AT LEAST YOU WON'T HAVE TO SERVE FOR
11 ANOTHER THREE YEARS. BUT I HOPE YOUR EXPERIENCE HAS NOT
12 BEEN WITHOUT SOME BENEFIT, AND I THANK YOU FOR IT.

13 WITH THAT, MADAM CLERK, DO YOU HAVE ANYTHING FOR THE
14 JURY?

15 THE CLERK: YOU WILL RECEIVE YOUR JURY PAY WITHIN
16 PROBABLY TWO WEEKS.

17 THE COURT: THE CHECK'S IN THE MAIL (LAUGHTER).

18 ALL RIGHT. VERY GOOD. I THANK YOU SO MUCH AND YOU
19 WILL BE EXCUSED FOR THE BALANCE OF THE WEEK.

20 (WHEREUPON, THE JURY PANEL WAS EXCUSED FOR
21 THE WEEK.)

22 THE COURT: I THINK WE'VE DISCUSSED IT BEFORE. WHAT
23 WE WILL DO IS EXCUSE THE JURY UNTIL 2:00 AND ASK THEM TO
24 RETURN TO THE JURY ROOM. AT THAT TIME, ONCE THEY ARE ALL
25 PRESENT IN THE JURY ROOM, SEQUESTERED, THEN WE WILL TAKE

1 UP THE JACKSON V. DENNO MOTIONS.

2 IS THAT CORRECT, MR. SOLICITOR?

3 MR. WAGNER: YES, SIR.

4 THE COURT: MR. DAY?

5 MR. DAY: YES, SIR.

6 THE COURT: SO I'LL BRING THE JURY OUT AND EXCUSE
7 THEM UNTIL 2:00. I WON'T SWEAR THE JURY UNTIL WE KNOW
8 THAT WE'RE GOING FORWARD.

9 VERY GOOD. ASK THE JURY TO JOIN US, PLEASE.

10 (THE JURY ENTERED THE COURTROOM AT

11 APPROXIMATELY 12:35 P.M.)

12 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
13 JURY, THERE ARE SOME MATTERS I DO NEED TO TAKE UP WITH
14 THE ATTORNEYS BEFORE WE START THE TRIAL OF THIS CASE, AND
15 I'M GOING TO ASK YOU TO GO TO LUNCH AT THIS TIME. IT'S
16 GONNA BE A RATHER LONG LUNCH IF IT'S ALL RIGHT. I'M
17 GONNA ASK YOU TO COME BACK AT 2:00 TO THE JURY ROOM THAT
18 YOU ARE IN NOW AND THEN WE'LL START THE TRIAL AFTER THAT.

19 NOW YOU AS JURORS MUST DECIDE THIS CASE BASED SOLELY
20 ON THE EVIDENCE PRESENTED HERE WITHIN THE FOUR WALLS OF
21 THIS COURTROOM. THIS MEANS THAT DURING THE TRIAL YOU
22 MUST NOT CONDUCT ANY INDEPENDENT RESEARCH ABOUT THE CASE,
23 MATTERS IN THE CASE AND INDIVIDUALS OR CORPORATIONS
24 INVOLVED IN THE CASE. IN OTHER WORDS, YOU SHOULD NOT
25 CONSULT DICTIONARIES OR REFERENCE MATERIALS OR SEARCH THE

1 INTERNET WEBSITES, BLOGS, OR USE ANY OTHER ELECTRONIC
2 TOOLS TO OBTAIN INFORMATION ABOUT THE CASE OR TO HELP YOU
3 DECIDE THE CASE. PLEASE DO NOT TRY TO FIND OUT
4 INFORMATION FROM ANY SOURCE OUTSIDE THE CONFINES OF THIS
5 COURTROOM.

6 UNTIL YOU RETIRE TO DELIBERATE YOU MAY NOT DISCUSS
7 THIS CASE WITH ANYONE OR EVEN YOUR FELLOW JURORS. AFTER
8 YOU RETIRE TO DELIBERATE, YOU MAY BEGIN DISCUSSING THE
9 CASE WITH YOUR FELLOW JURORS. BUT YOU CANNOT DISCUSS THE
10 CASE WITH ANYONE ELSE UNTIL YOU HAVE RETURNED A VERDICT
11 AND THE CASE IS AT AN END. I HOPE THAT ALL OF YOU --
12 THIS CASE IS INTERESTING AND NOTEWORTHY.

13 I NOTE THAT MANY OF YOU USE CELL PHONES, THE
14 INTERNET, AND BLACKBERRIES AND OTHER TOOLS OF TECHNOLOGY.
15 YOU WILL ALSO NOT TALK TO ANYONE ABOUT THIS CASE OR USE
16 THESE THINGS TO COMMUNICATE ELECTRONICALLY WITH ANYONE
17 ABOUT THE CASE. THIS INCLUDES YOUR FAMILY AND YOUR
18 FRIENDS. YOU MAY NOT COMMUNICATE WITH ANYONE ABOUT THE
19 CASE WITH ANYONE THROUGH CELL PHONE, THROUGH E-MAIL,
20 BLACKBERRY, I-PHONE, TEXT MESSAGING OR TWITTER, ANY BLOG
21 OR WEBSITE, THROUGH AN INTERNET CHAT ROOM, OR BY WAY OF
22 ANY OTHER SOCIAL NETWORKING WEB PAGES, INCLUDING
23 FACEBOOK, MY SPACE, LINKED-IN AND YOU TUBE.

24 YOU WILL HAVE TO FORGIVE ME. I'M NOT THAT FAMILIAR
25 WITH SOME OF THESE TECHNOLOGIES. HOWEVER, I AM FAMILIAR

1 WITH RADIO AND NEWSPAPERS AND T.V.

2 I NOTICE THAT WE'VE HAD SOME ATTENTION FROM THE
3 MEDIA IN THIS CASE, SO, THEREFORE, I'M GOING TO INSTRUCT
4 YOU AND DIRECT YOU THAT YOU ARE NOT TO READ ANY NEWSPAPER
5 ARTICLE OR ANY ACCOUNT OF ANYTHING THAT MIGHT HAVE TO DO
6 WITH THIS CASE OR LISTEN TO THE RADIO ABOUT ANY NEWS THAT
7 MIGHT AFFECT THIS CASE OR BE INVOLVED IN THIS CASE,
8 OBVIOUSLY ANY T.V.

9 NOW, WHAT YOU WILL HAVE TO DO DURING THE TRIAL OF
10 THE CASE IS IF YOU SEE ANYTHING OR THINK ANYTHING IS
11 ABOUT TO COME UP, JUST WALK OUT OF THE ROOM OR GO TO SOME
12 OTHER PLACE OR CHANGE THE STATION OR CHANNEL. AS I SAY,
13 YOU NEED TO BE SURE THAT THIS CASE IS DECIDED IN A PROPER
14 FASHION AND THAT'S BASED SOLELY ON THE TESTIMONY AND
15 EVIDENCE AND OTHER EVIDENCE HERE IN THIS COURTROOM.

16 SO WITH THAT I'M GOING TO EXCUSE YOU AND ASK YOU TO
17 COME BACK TO THE JURY ROOM, AND THE BAILIFF WILL SHOW YOU
18 HOW TO GET BACK INTO IT, IN THIS AREA OF THE COURTHOUSE
19 AT 2:00 AND WE WILL START THE TRIAL THEREAFTER.

20 ALL RIGHT. VERY GOOD. EVERYONE ELSE REMAIN SEATED
21 WHILE THE JURY RETIRES FROM THE COURTROOM.

22 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
23 APPROXIMATELY 12:39 P.M.)

24 THE COURT: MS. FRASIER, I'M GOING TO EXCUSE YOU.
25 THIS IS GONNA BE THE ONLY CASE WE ARE TRYING THIS WEEK,

1 AND YOU HAVE REMAINED HERE UNTIL WE BEGAN IT, BUT I AM
2 GOING TO EXCUSE YOU SO YOU WON'T BE INCONVENIENCED, ALL
3 RIGHT? AND I UNDERSTAND YOU HAVE A SEVEN-YEAR-OLD CHILD?

4 PROSPECTIVE JUROR: THAT'S MY YOUNGEST. I HAVE
5 THREE.

6 THE COURT: YOU MAY GO HOME NOW.

7 PROSPECTIVE JUROR: THANK YOU.

8 THE COURT: THANK YOU FOR BEING HERE.

9 ANYTHING FROM THE STATE?

10 MR. WAGNER: NO, SIR.

11 THE COURT: LET'S GET BACK A LITTLE BEFORE 2:00 SO
12 WE CAN SPEND AS MUCH TIME AS WE NEED TO HOPEFULLY NOT TO
13 KEEP THE JURY OUT.

14 ANYTHING FROM DEFENSE?

15 MR. DAY: NONE, YOUR HONOR.

16 THE COURT: ALL RIGHT. I'LL SEE YOU BACK AT 2:00.

17 (A LUNCHEON RECESS OCCURRED, DURING WHICH

18 TIME THE COURT REPORTER MARKED FOR

19 IDENTIFICATION THE FOLLOWING EXHIBITS:)

20 (STATE'S EX. # 1, STATEMENT OF *MIRANDA*

21 RIGHTS, 3-12-10, WAS MARKED FOR

22 IDENTIFICATION.)

23 (STATE'S EX. # 2, STATEMENT OF *MIRANDA* RIGHTS

24 3-29-10, WAS MARKED FOR IDENTIFICATION.)

25 (STATE'S EX. # 3, VOLUNTARY STATEMENT, WAS

1 MARKED FOR IDENTIFICATION.)
2 (STATE'S EX. # 4, DVD NUMBER 1, 3-8-10, WAS
3 MARKED FOR IDENTIFICATION.)
4 (STATE'S EX. # 5, DVD NUMBER 2, WAS MARKED
5 FOR IDENTIFICATION.)
6 (STATE'S EX. # 6, BLOW-UP PHOTO, WAS MARKED
7 FOR IDENTIFICATION.)
8 (STATE'S EX. # 7, BLOW-UP PHOTO, WAS MARKED
9 FOR IDENTIFICATION.)
10 (STATE'S EX. # 8, BLOW-UP PHOTO, WAS MARKED
11 FOR IDENTIFICATION.)
12 (STATE'S EX. # 9, BLOW-UP PHOTO, WAS MARKED
13 FOR IDENTIFICATION.)
14 (STATE'S EX. # 10, PHOTO, WAS MARKED FOR
15 IDENTIFICATION.)
16 (STATE'S EX. # 11, PHOTO, WAS MARKED FOR
17 IDENTIFICATION.)
18 (STATE'S EX. # 12, PHOTO, WAS MARKED FOR
19 IDENTIFICATION.)
20 (STATE'S EX. # 13, PHOTO, WAS MARKED FOR
21 IDENTIFICATION.)
22 (STATE'S EX. # 14, PHOTO, WAS MARKED FOR
23 IDENTIFICATION.)
24 (STATE'S EX. # 15, PHOTO, WAS MARKED FOR
25 IDENTIFICATION.)

1 (STATE'S EX. # 16, PHOTO, WAS MARKED FOR
2 IDENTIFICATION.)
3 (STATE'S EX. # 17, PHOTO, WAS MARKED FOR
4 IDENTIFICATION.)
5 (STATE'S EX. # 18, PHOTO, WAS MARKED FOR
6 IDENTIFICATION.)
7 (STATE'S EX. # 19, PHOTO, WAS MARKED FOR
8 IDENTIFICATION.)
9 (STATE'S EX. # 20, PHOTO, WAS MARKED FOR
10 IDENTIFICATION.)
11 (STATE'S EX. # 21, PHOTO, WAS MARKED FOR
12 IDENTIFICATION.)

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1 AFTERNOON PROCEEDINGS

2 (APPROXIMATELY 2:25 P.M.)

3 THE COURT: IS THE STATE READY TO PROCEED?

4 MR. WAGNER: YES, SIR.

5 THE COURT: DEFENSE READY TO PROCEED?

6 MR. DAY: YES, SIR.

7 THE COURT: I UNDERSTAND THAT THE STATE WISHES TO
8 HAVE AN ALLEGED STATEMENT MADE BY THE DEFENDANT USED IN
9 YOUR CASE; IS THAT CORRECT?

10 MR. WAGNER: YES, SIR.

11 THE COURT: AND THE DEFENSE HAS CHALLENGED SUCH
12 STATEMENT?

13 MR. WAGNER: YES, SIR.

14 THE COURT: AND WE ARE TO HAVE A JACKSON V. DENNO
15 HEARING?

16 MR. WAGNER: YES, SIR.

17 THE COURT: VERY GOOD. ALL RIGHT. SOLICITOR --

18 WELL, LET'S SEE. IS THERE ANYTHING FROM THE DEFENSE
19 BEFORE WE PROCEED?

20 MR. DAY: NO, YOUR HONOR.

21 THE COURT: ALL RIGHT. YOU MAY CALL YOUR FIRST
22 WITNESS.

23 JACKSON V. DENNO HEARING:

24 MR. WAGNER: I CALL TIM WILLIAMSON.

25

1 WHEREUPON,

2 TIMOTHY WILLIAMSON,

3 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. WAGNER:

5 Q. MR. WILLIAMSON, CAN YOU GIVE US YOUR FULL NAME AND
6 SPELL YOUR LAST NAME FOR THE RECORD, PLEASE?

7 A. TIMOTHY HUGH WILLIAMSON, W-I-L-L-I-A-M-S-O-N.

8 Q. AND WHAT CURRENTLY IS YOUR OCCUPATION?

9 A. CURRENTLY I'M A MINISTER.

10 Q. OKAY. WERE YOU WORKING BACK IN MARCH OF THIS YEAR
11 WITH THE SENECA POLICE DEPARTMENT?

12 A. YES, I WAS. I WAS A CRIMINAL INVESTIGATOR.

13 Q. OKAY. AND HOW LONG DID YOU IN YOUR CAREER WORK
14 FOR THE SENECA POLICE DEPARTMENT?

15 A. I WORKED FOR SENECA POLICE DEPARTMENT OVER 15
16 YEARS.

17 Q. OKAY. DID YOU RETIRE FROM THAT JOB AS A RETIRED
18 LAW ENFORCEMENT OFFICER?

19 A. I RETIRED AS A LAW ENFORCEMENT OFFICER.

20 Q. OKAY. AND WHEN DID YOU RETIRE?

21 A. I RETIRED IN APRIL.

22 Q. OKAY. NOT LONG AFTER THIS CASE WAS MADE?

23 A. NOT LONG.

24 Q. OKAY. BUT BACK IN MARCH OF THIS YEAR, DID YOU
25 HAVE AN OPPORTUNITY TO INVESTIGATE A BURGLARY THAT

1 OCCURRED AT THE SENECA MIDDLE SCHOOL ON MARCH THE 9TH?

2 A. I DID.

3 Q. AND AS A RESULT DID YOU END UP CHARGING THE
4 DEFENDANT, ROBERT BANKS, WITH BURGLARY SECOND DEGREE FOR
5 BREAKING INTO THE SCHOOL THAT NIGHT?

6 A. YES, I DID.

7 Q. ON MARCH THE 12TH DID YOU FIND YOURSELF GOING TO
8 WHERE ROBERT BANKS, THE DEFENDANT, WAS LIVING OR STAYING
9 AT THE TIME, AND WHERE WAS THAT?

10 A. THAT WAS 209 SOUTH FAIRPLAY STREET.

11 Q. IS THAT IN THE CITY LIMITS OF SENECA?

12 A. IT'S IN THE CITY LIMITS OF SENECA.

13 Q. OKAY. AND WHAT LED YOU TO GO TALK TO ROBERT BANKS
14 ON THAT DAY?

15 A. THERE WAS THE GEORGIA LAW ENFORCEMENT, STEPHENS
16 COUNTY SHERIFF'S OFFICE, HAD SOME WARRANTS ON HIM. WE
17 WERE ADVISED THEREOF SO WE OBTAINED A WARRANT FOR
18 FUGITIVE OF JUSTICE AND WE WENT THERE TO THAT LOCATION TO
19 SERVE THAT WARRANT.

20 Q. OKAY. AND AT THAT POINT IN TIME WAS HE IN
21 CUSTODY -- WAS HE ARRESTED ON THAT FUGITIVE WARRANT AT
22 THAT LOCATION?

23 A. HE WAS, AND HE WAS TAKEN INTO CUSTODY AT THAT
24 LOCATION.

25 Q. OKAY. DID YOU MIRANDIZE HIM AND READ HIM HIS

1 CONSTITUTIONAL RIGHTS?

2 A. YES, I DID.

3 Q. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
4 NUMBER 1 FOR IDENTIFICATION AND ASK YOU IF YOU RECOGNIZE
5 THAT?

6 A. YES, SIR.

7 Q. WHAT IS THAT?

8 A. THAT'S THE STATEMENT OF *MIRANDA* RIGHTS WITH A
9 WAIVER.

10 Q. OKAY. IS THAT THE ONE THAT YOU ACTUALLY USED WITH
11 HIM THAT DAY?

12 A. THIS IS THE ONE.

13 Q. OKAY. AND WHEN YOU READ HIM HIS RIGHTS, WHAT
14 EXACTLY DID YOU SAY AND HOW DID YOU GO ABOUT -- DID YOU
15 USE THAT FORM TO ASSIST YOU?

16 A. I USED THIS FORM.

17 Q. COULD YOU GO, DEMONSTRATE FOR US WHAT YOU SAID TO
18 HIM THAT DAY?

19 A. YES, SIR. (READING): HE HAD THE RIGHT TO REMAIN
20 SILENT, ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU
21 IN A COURT OF LAW. YOU HAVE THE RIGHT TO TALK TO A
22 LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING
23 QUESTIONED. IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE
24 WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING
25 IF YOU WISH. YOU CAN DECIDE AT ANY TIME TO EXERCISE

1 THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY
2 STATEMENTS.

3 DO YOU UNDERSTAND YOUR RIGHTS AS THEY HAVE BEEN
4 EXPLAINED TO YOU?

5 AND HE RESPONDED HE DID.

6 AND THE WAIVER BEING (READING): I HAVE READ THE
7 ABOVE STATEMENTS OF MY RIGHTS AND I UNDERSTAND EACH OF
8 THOSE RIGHTS, AND HAVING THESE RIGHTS IN MIND, I WAIVE
9 THEM AND WILLINGLY MAKE A STATEMENT. NO PROMISES OR
10 THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION
11 OF ANY KIND HAS BEEN USED AGAINST ME.

12 AND HE INITIALED ALL AREAS OF THE OF THE MIRANDA
13 RIGHTS, PLUS HE SIGNED THE WAIVER.

14 Q. OKAY. AND DID HE AGREE TO TALK TO YOU AFTER THAT?

15 A. HE DID TALK WITH US.

16 Q. NOW, WHAT WAS HIS APPEARANCE LIKE, CAN YOU
17 DESCRIBE THAT FOR US?

18 A. HE LOOKED FINE. HE WAS COHERENT, EVERYTHING
19 SEEMED WELL WITH HIM.

20 Q. HAVE YOU HAD AN OPPORTUNITY IN THE 15 YEARS OR SO
21 THAT YOU WERE IN LAW ENFORCEMENT AT THE SENECA POLICE
22 DEPARTMENT, HAD YOU HAD AN OPPORTUNITY TO ENCOUNTER
23 PEOPLE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS OR VARIOUS
24 MIND-ALTERING SUBSTANCES?

25 A. YES, I HAVE, A NUMBER OF TIMES.

1 Q. OKAY. AND DO YOU HAVE AN OPINION AS TO WHETHER OR
2 NOT HE WAS UNDER THE INFLUENCE OF ANYTHING WHEN YOU
3 TALKED WITH HIM THAT DAY?

4 A. HE DID NOT APPEAR TO BE UNDER THE INFLUENCE OF
5 ANYTHING.

6 Q. OKAY. DID HE RESPOND TO YOUR QUESTIONS?

7 A. YES, HE DID.

8 Q. DID HE ANSWER THEM IN A MANNER CONSISTENT WITH
9 SOMEBODY THAT WOULD UNDERSTAND WHAT YOU WERE ASKING HIM?

10 A. YES, HE DID.

11 Q. DID YOU FIND OUT IF HE COULD READ OR WRITE?

12 A. I DON'T RECALL ASKING THAT QUESTION.

13 Q. OKAY. DID YOU ASK HIM WHAT HIS DEGREE OF
14 EDUCATION WAS?

15 A. I DID ASK HIM HIS EDUCATIONAL LEVEL, YES, I DID.

16 Q. OKAY. AND DID HE PUT THAT ON THE FORM?

17 A. HE HAD A G.E.D. EDUCATIONAL LEVEL.

18 Q. WHEN YOU WERE READING HIM THOSE RIGHTS FROM THAT
19 FORM AND HE INITIALED, DID IT SEEM TO YOU THAT HE
20 UNDERSTOOD THEM?

21 A. HE SEEMED TO UNDERSTAND.

22 Q. OKAY. AND WHEN YOU ASKED HIM TO INITIAL THEM, WAS
23 THAT TO CONFIRM THAT HE UNDERSTOOD WHAT YOU READ TO HIM
24 AND WHAT YOU WERE ASKING HIM TO DO?

25 A. HE SEEMED TO UNDERSTAND EVERYTHING.

1 Q. OKAY. DID YOU ASK HIM WHETHER HE WANTED AN
2 ATTORNEY?

3 A. YES. THAT WOULD BE ONE OF THE QUESTIONS IN THE
4 MIRANDA.

5 Q. OKAY. AND DID YOU TELL HIM BASICALLY AT ANY TIME
6 THAT IF HE WANTED TO QUIT ANSWERING ANY OF YOUR
7 QUESTIONS, THAT HE COULD STOP AT ANY TIME?

8 A. I FEEL CERTAIN -- I DO FOLLOW THAT PROCEDURE. I
9 FEEL CERTAIN I PROBABLY DID.

10 Q. IS THAT ON THE FORM THAT YOU READ?

11 A. THAT'S ON THE FORM IN THE MIRANDA RIGHTS.

12 Q. DID HE AT ANY TIME EVER WANT TO QUIT TALKING TO
13 YOU OR EVER WANT TO QUIT -- ON THIS PARTICULAR DAY, DID
14 HE AT ANY TIME WANT TO CEASE QUESTIONING, CEASE TALKING
15 TO YOU? DID HE EVER ASK FOR AN ATTORNEY?

16 A. NO, I DON'T RECALL THAT AT ALL.

17 Q. OKAY. DID YOU EVER PROMISE HIM ANYTHING IN ORDER
18 TO TALK TO YOU?

19 A. I DID NOT PROMISE HIM ANY LENIENCY OR ANYTHING
20 CONCERNING THE CASE THAT WE'RE WORKING ON, JUST THE FACT
21 THAT HE NEEDED TO GET IT OUT IN THE OPEN IF HE WANTED TO
22 DEAL WITH HIS PROBLEMS -- HE CLAIMED TO HAVE SOME
23 PROBLEMS -- AND IF SO, WE NEEDED TO GET THIS OUT ON THE
24 TABLE AND DEAL WITH IT.

25 Q. OKAY. DID YOU EVER THREATEN HIM?

1 A. NO, I DID NOT.

2 Q. DID YOU EVER USE ANY COERCION? EVER THREATEN HIS
3 FAMILY?

4 A. NO.

5 Q. DID YOU EVER TRY TO COERCE HIM IN ANY WAY TO TALK
6 TO YOU?

7 A. NO, I DID NOT.

8 Q. DID YOU EVER HOLD OUT ANY PROMISES OR HOPE FOR
9 REWARD FOR TALKING TO YOU?

10 A. NO.

11 Q. DID YOU EVER RAISE YOUR VOICE AT HIM?

12 A. NO.

13 Q. DID YOU EVER LAY PHYSICAL HANDS OR ANY KIND OF
14 PHYSICAL FORCE OR PRESSURE ON HIM?

15 A. NO, I WAS NOT AGGRESSIVE IN ANY WAY.

16 Q. OKAY. AND DID HE DECIDE TO TALK TO YOU?

17 A. HE DID.

18 Q. OKAY. BASICALLY, IN A NUTSHELL, BEFORE I GET TO
19 THE STATEMENT THAT HE GAVE YOU, WHAT DID HE TELL YOU?

20 A. WHAT DID HE TELL ME?

21 Q. RIGHT.

22 A. HE ADVISED THAT HE HAD DRUG PROBLEMS AND ALCOHOL
23 PROBLEMS AND HE HAD MADE A MESS OF HIS LIFE; AND HE
24 SEEMED TO BE CONCERNED ABOUT THAT MESS, ABOUT WHAT TO DO
25 ABOUT IT. OF COURSE, I ADVISED THAT HE NEEDED TO GO

1 AHEAD AND COME CLEAN ON THESE TYPE OF CASES, THESE TYPE
2 OF CRIMES, SO HE COULD MOVE FORWARD AND DEAL WITH HIS
3 PROBLEMS.

4 Q. OKAY. AND DID HE GO AHEAD AND GIVE YOU A
5 STATEMENT?

6 A. HE DID GIVE ME A STATEMENT.

7 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
8 EXHIBIT NUMBER 3 FOR IDENTIFICATION. DO YOU RECOGNIZE
9 THAT?

10 A. YES, I DO.

11 Q. AND WHAT IS THAT?

12 A. THIS IS A VOLUNTARY STATEMENT.

13 Q. OKAY. IS THAT THE ACTUAL STATEMENT THAT HE GAVE
14 YOU THAT DAY?

15 A. THIS IS THE ACTUAL STATEMENT HE GAVE THAT DAY.

16 Q. AND IS IT IN THE SAME CONDITION AS IT WAS WHEN YOU
17 TOOK IT THAT DAY?

18 A. YES, SIR.

19 Q. DID YOU WRITE IT FOR HIM OR DID HE WRITE IT?

20 A. I WROTE IT FOR HIM.

21 Q. OKAY. AND DID YOU WRITE IT BASED ON WHAT HE HAD
22 TOLD YOU IN YOUR CONVERSATION WITH HIM AFTER THE *MIRANDA*
23 RIGHTS WERE GIVEN TO HIM?

24 A. YES. I WROTE WHAT HE GIVE ME TO WRITE.

25 Q. OKAY. AND DID HE SIGN AND INITIAL THAT FORM?

1 A. YES, HE DID.

2 Q. TO THE BEST OF YOUR KNOWLEDGE, DID HE FREELY AND
3 VOLUNTARILY GIVE YOU THAT STATEMENT?

4 A. YES, SIR.

5 Q. AND AGAIN I ASK YOU, DID YOU USE ANY HOPE FOR
6 REWARD, COERCION, FORCE, THREATS TOWARDS HIM OR ANYBODY,
7 FRIENDS OR FAMILY OF HIS OR ANYTHING, TO TRY TO INDUCE
8 HIM TO GIVE YOU THAT STATEMENT?

9 A. NO, I DID NOT.

10 Q. AND TO THE BEST OF YOUR KNOWLEDGE HE FREELY AND
11 VOLUNTARILY GAVE YOU THAT STATEMENT THAT YOU HAVE THERE?

12 A. YES, SIR.

13 Q. AND WHAT EXACTLY DID HE SAY?

14 A. DO YOU WANT ME TO READ THE STATEMENT?

15 Q. PLEASE.

16 A. (READING): MY LIFE IS OUT OF CONTROL. I'M A DRUG
17 ADDICT. I NEED HELP. I'M READY TO FACE UP TO EVERYTHING
18 THAT I GOT TO DO. FOR THESE REASONS I BROKE INTO SENECA
19 MIDDLE SCHOOL AND I BROKE INTO STEPHENS COUNTY HIGH
20 SCHOOL. I'M TRULY SORRY FOR WHAT I DID. I REALLY WANT
21 TO GET SOME HELP. I NEED HELP. I WAS IN SENECA MIDDLE
22 SCHOOL AND I LEFT BECAUSE I WAS AFRAID AND I HAD SECOND
23 THOUGHTS. I'M TRULY SORRY. END OF STATEMENT.

24 Q. AND DID HE INITIAL THAT AND SIGN IT AS HIS
25 STATEMENT?

1 A. YES, HE DID. HE SIGNED THE BOTTOM PORTIONS
2 HERE -- OR INITIALED THE BOTTOM PORTIONS HERE AND SIGNED
3 HERE.

4 Q. OKAY. AT THAT POINT IN TIME DID YOUR QUESTIONING
5 WITH HIM CEASE?

6 A. BASICALLY IT WAS OVER WITH, YES.

7 Q. OKAY. LATER ON -- AND I BELIEVE -- WHAT DATE DID
8 ALL THIS OCCUR ON?

9 A. THE STATEMENT AND SO FORTH?

10 Q. YES.

11 A. THIS WAS ON MARCH 12TH.

12 Q. OKAY. SO THAT'S THREE DAYS AFTER THIS ACTUAL
13 BURGLARY CASE TOOK PLACE?

14 A. BASICALLY THREE DAYS.

15 Q. OKAY. DID HE LATER CALL YOU BACK DOWN TO THE
16 OCONEE COUNTY DETENTION CENTER AND WANT TO TALK TO YOU
17 AGAIN?

18 A. YES. I GOT A REQUEST FROM HIM TO COME BACK. HE
19 WANTED TO RECALL HIS STATEMENT.

20 Q. OKAY. AND THEN WHAT MAKES YOU THINK THAT'S WHAT
21 HE WANTED TO DO?

22 A. THAT WAS, THAT WAS ON THE REQUEST FORM. AS FAR AS
23 I REMEMBER, IT WAS ON THE REQUEST FORM THAT HE WANTED TO
24 RECALL.

25 Q. OKAY. BUT HE ASKED YOU TO COME BACK DOWN THERE?

1 A. HE ASKED FOR SOMEONE TO COME BACK, AND I GUESS I
2 WAS THE INVESTIGATOR WHO DID IT.

3 Q. DID YOU GO BACK DOWN THERE AT A LATER DATE?

4 A. I DID.

5 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
6 EXHIBIT NUMBER 2 FOR IDENTIFICATION. AND DO YOU
7 RECOGNIZE THAT?

8 A. THIS IS THE STATEMENT OF *MIRANDA* RIGHTS WITH THE
9 WAIVER OF RIGHTS WITH IT.

10 Q. OKAY. IS THAT THE ACTUAL FORM THAT YOU USED THAT
11 DAY?

12 A. THIS IS IT.

13 Q. AND IS IT IN SUBSTANTIALLY THE SAME CONDITION AS
14 IT WAS WHEN YOU GAVE -- HAS IT BEEN ALTERED OR AMENDED IN
15 ANY WAY?

16 A. NO. IT'S THE SAME.

17 Q. WHY DID YOU DO A SECOND RIGHTS WAIVER AND WHAT
18 DATE DID YOU DO THAT ON?

19 A. THIS WAS DONE ON MARCH 29TH.

20 Q. OKAY.

21 A. AND WHY DID I DO IT? BECAUSE HE HAD HIS RIGHTS.
22 HE HAD RIGHTS. I READ HIM HIS RIGHTS. HE WAS GETTING
23 READY TO GIVE A STATEMENT OF SOME TYPE IN REFERENCE TO
24 THE CRIME, SO I READ HIM HIS RIGHTS.

25 Q. OKAY. ALL RIGHT. AND COULD YOU TELL US, IS THAT

1 BASICALLY THE EXACT SAME FORM THAT YOU USED THE FIRST
2 TIME YOU TALKED TO HIM?

3 A. THIS IS THE SAME FORM I USED THE FIRST TIME.

4 Q. AS FAR AS EXACT -- A COPY OF THE SAME FORM?

5 A. A COPY OF THE SAME FORM. IT'S NOT THE SAME FORM,
6 IT'S THE SAME TYPE OF FORM.

7 Q. DID HE FILL OUT ANYTHING DIFFERENT AS FAR AS HIS
8 EDUCATION ON THAT FORM AS HE DID THE FIRST TIME?

9 A. YES. LIKE I STATED THE FIRST TIME, HE SAID HE HAD
10 A G.E.D. EDUCATIONAL LEVEL. ON THIS ONE HE SAID HE HAD
11 ABOUT 75 HOURS OF COLLEGE.

12 Q. OKAY. AND WAS HE IN CUSTODY AT THE OCONEE COUNTY
13 DETENTION CENTER?

14 A. HE WAS IN CUSTODY THERE, YES, HE WAS.

15 Q. WHAT DID HIS APPEARANCE TO BE -- APPEAR TO YOU TO
16 BE THAT DAY?

17 A. HE SEEMED TO BE FINE. EVERYTHING LOOKED GOOD.

18 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF ALCOHOL
19 OR DRUGS OR ANYTHING?

20 A. NO, HE DID NOT APPEAR TO BE UNDER THE INFLUENCE OF
21 ANYTHING.

22 Q. WAS HE COHERENT WHEN YOU TALKED TO HIM?

23 A. YES, HE WAS.

24 Q. AND DID HE RESPOND TO YOUR QUESTIONS AND DID HE
25 TALK TO YOU IN A NORMAL MANNER?

1 A. HE DID.

2 Q. OKAY. TELL US HOW YOU READ THE RIGHTS AGAIN TO
3 HIM THAT PARTICULAR DAY.

4 A. GO THROUGH THE SAME PROCEDURE?

5 Q. PLEASE.

6 A. WELL, JUST LIKE EVERY TIME I DID *MIRANDA*. I READ
7 (READING): YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING
8 YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF
9 LAW. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM
10 PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED. IF YOU
11 CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO
12 REPRESENT YOU BEFORE ANY QUESTIONING IF YOU WISH. YOU
13 CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT
14 ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS.

15 DO YOU UNDERSTAND YOUR RIGHTS AS THEY'VE BEEN
16 EXPLAINED TO YOU?

17 AND HE ACKNOWLEDGED YES.

18 AND THEN THE WAIVER BEING (READING): I HAVE READ
19 THE ABOVE STATEMENTS OF MY RIGHTS AND I UNDERSTAND EACH
20 OF THOSE RIGHTS. AND HAVING THESE RIGHTS IN MIND, I
21 WAIVE THEM AND WILLINGLY MAKE A STATEMENT. NO PROMISES
22 OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR
23 COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

24 OF COURSE, JUST AS BEFORE, ON THIS NEW *MIRANDA* HE
25 SIGNED HIS, OR HE INITIALED EACH PART OF THE *MIRANDA*

1 RIGHTS AND HE SIGNED THE WAIVER.

2 Q. OKAY. AND DID HE GIVE YOU A SECOND STATEMENT?

3 A. HE DID NOT.

4 Q. OKAY. SO AFTER YOU READ HIM THAT RIGHTS WAIVER,
5 WHAT EXACTLY DID HE SAY OR DIDN'T HE SAY?

6 A. HE DECIDED HE DID NOT WANT TO GIVE A STATEMENT OF
7 RECANTING WHAT HE DID. HE ASKED FOR HIS LAWYER.

8 Q. OKAY. AND AT THAT TIME DID YOU CEASE QUESTIONING?

9 A. I CEASED QUESTIONING.

10 Q. ALL RIGHT. AND DID YOU LEAVE?

11 A. I LEFT.

12 Q. OKAY. NOW, BACK WHEN YOU TOOK THE ORIGINAL
13 STATEMENT, STATE'S EXHIBIT NUMBER 3 FOR IDENTIFICATION,
14 WAS ANYBODY ELSE IN THE ROOM OR WERE THERE OTHER PEOPLE
15 KIND OF HANGING AROUND WHEN YOU WERE TALKING TO HIM?

16 A. YES. AT ONE POINT THERE WERE SEVERAL
17 INVESTIGATORS THERE AT ONE TIME. WE WAS IN A DINING ROOM
18 AREA OF THE RESIDENCE. SEVERAL OF US, SEVERAL DIFFERENT
19 ONES OF US SPOKE TO HIM. THEN PART OF THEM HAD LEFT AND
20 PROBABLY ONLY TWO OF OR THREE OF US MAY HAVE BEEN LEFT
21 THERE WHEN HE FINALLY AGREED TO -- WHEN HE FINALLY SAID
22 THAT HE WOULD GIVE US A STATEMENT AND SO --

23 Q. BUT YOU WERE BASICALLY THERE TALKING TO HIM BY
24 YOURSELF AT THAT POINT?

25 A. I WAS -- IT WAS BASICALLY BETWEEN ME AND HIM AT

1 THAT POINT, YES.

2 Q. OKAY. DID YOU EVER SEE ANYBODY ELSE USE ANY KIND
3 OF FORCE OR ANY KIND OF COERCION AGAINST HIM PRIOR TO
4 THIS OR ANYBODY ELSE?

5 A. NO. NO. NO ONE THERE USED ANY FORCE OR COERCION
6 OF ANY KIND.

7 Q. WERE YOU THERE THE ENTIRE TIME?

8 A. I WAS THERE THE WHOLE TIME.

9 Q. OKAY.

10 MR. WAGNER: THANK YOU. THAT'S ALL THE QUESTIONS I
11 HAVE.

12 THE COURT: CROSS-EXAMINE?

13 CROSS-EXAMINATION BY MR. DAY:

14 Q. ALL RIGHT. MR. WILLIAMSON, ON THAT NIGHT YOU SAID
15 THERE WERE OTHER OFFICERS THERE WITH YOU. WHEN Y'ALL
16 ARRIVED AT THE HOUSE, YOU HAD IN YOUR HAND, AS I
17 UNDERSTAND IT, A FUGITIVE WARRANT FOR MR. BANKS?

18 A. THERE WAS A FUGITIVE WARRANT, YES, SIR.

19 Q. WAS THAT SERVED ON HIM IMMEDIATELY?

20 A. THAT WAS SERVED AFTER WE MADE ENTRY INTO THE
21 HOUSE, THAT WARRANT WAS SERVED ON HIM.

22 Q. HE WAS IN THE HOUSE?

23 A. HE WAS IN THE HOUSE.

24 Q. HE LET YOU ALL IN?

25 A. NO, HE DID NOT.

1 Q. OKAY. THEN HOW DID YOU ALL GET IN?

2 A. WELL, WE HAD TO GET A SEARCH WARRANT TO GET INTO
3 THE HOUSE; AND THEN WHEN WE ENTERED THE HOUSE, HE WAS
4 INSIDE THE HOUSE.

5 Q. ALL RIGHT. NOW, HOW MANY OFFICERS WERE THERE WITH
6 YOU?

7 A. THERE WAS SEVERAL FROM OCONEE COUNTY SHERIFF'S
8 OFFICE, INVESTIGATORS; THERE WAS TWO OR THREE
9 INVESTIGATORS FROM STEPHENS COUNTY SHERIFF'S OFFICE; TWO
10 OF US INVESTIGATORS FROM THE SENECA POLICE DEPARTMENT
11 INITIALLY, AND THEN LATER ON THE CRIME SCENE MAN CAME ON
12 THE SCENE TO PROCESS THE SCENE.

13 Q. OKAY. I'M LOOKING AT YOUR CASE REPORT. LET'S SEE
14 IF WE CAN GO THROUGH THAT AND FIGURE OUT. THERE WAS YOU,
15 THERE WAS RORY JONES?

16 A. THAT'S CORRECT.

17 Q. AND I THINK MARK LYLE?

18 A. YES. HE CAME IN LATER.

19 Q. OKAY. BUT HE WAS THERE DURING THE TIME IN WHICH
20 YOU WERE INTERROGATING MR. BANKS?

21 A. HE WAS. YES, HE WAS.

22 Q. OKAY. AND HOW MANY UNIFORM OFFICERS WERE THERE?

23 A. UNIFORM OFFICERS -- THE OFFICER WHO TRANSPORTED
24 HIM LATER; I RECALL ONE, MAYBE TWO; MOST OF THEM WERE
25 INVESTIGATORS.

1 Q. OKAY. SO THERE WOULD HAVE BEEN APPROXIMATELY AT
2 LEAST FIVE OCONEE COUNTY PEOPLE, THAT WOULD HAVE BEEN YOU
3 AND RORY, MARK LYLE, AND TWO, AT LEAST TWO UNIFORM
4 OFFICERS?

5 A. AND THERE WOULD HAVE BEEN PROBABLY A COUPLE OTHER,
6 ONE OR TWO MORE INVESTIGATORS FROM THE COUNTY AND ALSO
7 ABOUT THREE INVESTIGATORS FROM STEPHENS COUNTY. TWO OR
8 THREE. I'M APPROXIMATING.

9 Q. TWO OTHER INVESTIGATORS FROM THE COUNTY AND THEN
10 AT LEAST TWO FROM STEPHENS COUNTY?

11 A. AT LEAST, I'D SAY.

12 Q. SO BY MY COUNT THAT WOULD MEAN THERE WOULD BE NINE
13 OFFICERS THERE?

14 A. THEREABOUT, APPROXIMATELY.

15 Q. OKAY. AND THE NINE OFFICERS THERE IN THE HOUSE,
16 YOU WERE IN WHAT ROOM?

17 A. THE DINING ROOM AREA.

18 Q. AND THAT'S WHERE MR. BANKS STAYED DURING THE TIME
19 WHEN ALL THIS WAS GOING ON?

20 A. WHILE WE WAS QUESTIONING HIM, HE WAS IN THERE.

21 Q. RIGHT. SO HE DIDN'T -- BEING IN CUSTODY, HE
22 WASN'T ALLOWED TO GET UP AND WALK AROUND OR LEAVE THE
23 ROOM ON HIS OWN OR ANYTHING OF THAT NATURE?

24 A. NO. ONE TIME HE NEEDED TO GO TO THE REST ROOM,
25 BUT OTHER THAN THAT HE STAYED THERE.

1 Q. OKAY. OTHER THAN THAT, HE WAS IN THE ROOM WITH
2 THE OFFICERS?

3 A. AND THEN THE OFFICERS WERE THE ONES THAT MOVED
4 AROUND, THEY DIDN'T ALL STAY THERE.

5 Q. OKAY. NOW, THE *MIRANDA* RIGHTS, YOU CAME INTO THE
6 HOUSE AND IN EFFECT TOOK HIM INTO CUSTODY?

7 A. YES, SIR.

8 Q. SAID "WE HAVE A WARRANT, WE'RE SERVING IT ON YOU."
9 DID YOU PUT HIM IN HANDCUFFS?

10 A. HE WAS INITIALLY PLACED IN HANDCUFFS, YES.

11 Q. ALL RIGHT. WHEN YOU SAY INITIALLY, HOW LONG WAS
12 HE IN HANDCUFFS?

13 A. WELL, HE -- AT SOME POINT IF I RECALL HE WAS TAKEN
14 OUT OF THE HANDCUFFS AT ONE POINT. HE DIDN'T STAY IN
15 THOSE HANDCUFFS I THINK THE WHOLE TIME THAT WE WERE
16 INTERROGATING HIM. BUT WHEN HE WAS FIRST ARRESTED, YES,
17 HE WAS HANDCUFFED.

18 Q. OKAY. ALL RIGHT, SIR. TO MAKE SURE I UNDERSTAND
19 IT, THE DOCUMENTS THAT YOU HAVE THERE THAT ARE MARKED --
20 LET ME SEE THAT, IF I MAY -- THE FIRST STATE'S EXHIBIT
21 NUMBER 1 IS THE STATEMENT OF *MIRANDA* RIGHTS WHICH YOU
22 PRESENTED HIM ON MARCH THE 12TH -- IS THAT CORRECT?
23 THAT'S WHAT YOU READ A MOMENT AGO.

24 A. THAT'S CORRECT.

25 Q. AND AT THE TOP OF THAT HAS A TIME. AND WHAT'S

1 THAT TIME?

2 A. 1405, WHICH IS 2:05.

3 Q. ALL RIGHT. SO AT 2:05 IN THE AFTERNOON HE WAS
4 GIVEN HIS *MIRANDA* RIGHTS?

5 A. YES, SIR.

6 Q. HOW LONG HAD YOU ALL BEEN THERE WHEN YOU REACHED
7 THAT POINT OF READING HIM HIS *MIRANDA* RIGHTS?

8 A. WELL, WE HAD TO -- WHAT HAPPENED, WE GOT THERE
9 EARLY, I DON'T RECALL THE EXACT TIME WE FIRST ARRIVED TO
10 TRY TO GET INTO THE HOUSE. I LEFT THE SCENE WITH THE
11 OTHER OFFICERS TO GO BACK TO MY OFFICE TO TYPE UP THE
12 SEARCH WARRANT. AND THEN IT WAS LATER BEFORE WE GOT BACK
13 AND UTILIZED THAT SEARCH WARRANT TO GET INTO THE HOUSE.

14 Q. OKAY. SO YOU GOT BACK SOMETIME BEFORE 2:00,
15 THOUGH?

16 A. OH, YES, IT WOULD HAVE BEEN BEFORE 2:00, YES.

17 Q. OKAY. AND LET'S LOOK AT AND USE AS A TIME LINE
18 ACTUALLY ENTERING INTO THE HOUSE, NOT WHAT WENT ON BEFORE
19 OR OUT IN THE STREET OR ANYTHING LIKE THAT. FROM THE
20 TIME YOU ACTUALLY WALKED INTO THE HOUSE, HOW LONG WAS IT
21 BEFORE THAT DOCUMENT, THE *MIRANDA* RIGHTS, WAS SIGNED BY
22 MR. BANKS?

23 A. AFTER WE GOT IN, I WOULD ESTIMATE -- I CAN ONLY
24 ESTIMATE AT THIS POINT IN TIME -- WE'D PROBABLY BEEN
25 THERE AN HOUR AND A HALF OR SO BEFORE HE FINALLY SIGNED

1 THE MIRANDA RIGHTS.

2 Q. OKAY. AND THAT'S IN THE HOUSE?

3 A. INSIDE OF THE HOUSE, YES, SIR.

4 Q. YES. OKAY. WHILE YOU WERE INSIDE THE HOUSE, I
5 TAKE IT Y'ALL WERE ASKING HIM QUESTIONS?

6 A. YES, SIR.

7 Q. AND THE FIRST PART OF THOSE, I'M SURE SOME OF THAT
8 WAS BY THE STEPHENS COUNTY OFFICERS TALKING ABOUT THEIR
9 FUGITIVE WARRANT AND WHAT THEY WERE LOOKING FOR HIM FROM
10 OVER IN TOCCOA?

11 A. THERE WAS A STEPHENS COUNTY INVESTIGATOR WHO DID
12 QUESTION HIM, YES.

13 Q. ABOUT HOW LONG DID THAT QUESTIONING GO ON THAT YOU
14 REMEMBER?

15 A. I DON'T REMEMBER THE EXACT TIME IT TOOK FOR HIM TO
16 QUESTION HIM. BUT HE WAS, HE WAS -- HE COME IN, HE LEFT.
17 HE DIDN'T STAY THE WHOLE TIME. HE QUESTIONED FOR, I
18 DON'T KNOW, 15, 20 MINUTES, BUT THAT'S JUST A GUESS.

19 Q. OKAY. DID HE GIVE A STATEMENT TO THE STEPHENS
20 COUNTY INVESTIGATORS?

21 A. NO, HE DID NOT GIVE A STATEMENT TO THEM.

22 Q. ALL RIGHT. SO THEY SPENT, AS YOU SAID,
23 APPROXIMATELY ABOUT 15 MINUTES?

24 A. THAT'S JUST ESTIMATING.

25 Q. OKAY.

1 A. IT COULD HAVE BEEN LONGER.

2 Q. AND THEN WHO WAS DOING THE QUESTIONING OTHER THAN
3 THE STEPHENS COUNTY PEOPLE BEFORE THAT?

4 A. SERGEANT RORY JONES, HE WAS QUESTIONING HIM ALSO
5 EARLY ON.

6 Q. OKAY.. SO RORY DID. AND THEN ANYONE ELSE BESIDES
7 YOU AND RORY?

8 A. OFFICER MARK LYLES ALSO SPOKE TO HIM. HE'S AN
9 OCONEE COUNTY INVESTIGATOR.

10 Q. OKAY. SO MARK SPOKE TO HIM, RORY SPOKE TO HIM,
11 ASKING HIM QUESTIONS, AND THEN YOU DID?

12 A. I DID.

13 Q. ALL RIGHT. WAS THAT ABOUT, AS YOU REMEMBER, THE
14 SEQUENCE OF THE ORDER?

15 A. WELL, THAT MAY NOT BE EXACT.

16 Q. DID YOU SWITCH BACK AND FORTH?

17 A. THAT'S BASICALLY THE SEQUENCE. MAYBE RORY, THE
18 STEPHENS COUNTY INVESTIGATOR. I QUESTIONED HIM OFF AND
19 ON. NOT JUST ONE-TWO, ONE, YOU DO IT, MY TURN, YOUR
20 TURN. IT WASN'T LIKE THAT. JUST DIFFERENT TIMES AS ONE
21 WOULD LEAVE. AND ACTUALLY OFFICER JONES WAS NOT EVEN IN
22 THERE WHEN MR. BANKS GIVE HIS STATEMENT, HE WAS ALREADY
23 OUT OF THE ROOM.

24 Q. OKAY. SO APPROXIMATELY, IF WE TAKE AN HOUR AND A
25 HALF BEFORE 2:05, AS BEST I CAN FIGURE, THAT'S ABOUT

1 12:30, I THINK, AN HOUR AND A HALF BEFORE 2:00,

2 APPROXIMATELY?

3 A. WE COULD SAY APPROXIMATELY. I DON'T REMEMBER

4 EXACTLY, NO, I DON'T.

5 Q. I UNDERSTAND. I'M NOT ASKING YOU TO GO MINUTE BY

6 MINUTE. I CAN'T REMEMBER THAT FROM THIS MORNING.

7 A. YES, SIR.

8 Q. SO APPROXIMATELY AROUND 12:30 IS WHEN Y'ALL

9 ENTERED INTO THE HOUSE AND THEN THIS ROUND ROBIN OF

10 INTERROGATION, QUESTIONING, ET CETERA, BEGAN UNTIL 14:05

11 WHEN AT THAT POINT MR. BANKS SIGNED THE WAIVER OF RIGHTS?

12 A. THE WAIVER OF RIGHTS.

13 Q. OKAY. AT THAT TIME DID HE MAKE A STATEMENT?

14 A. WHEN HE FIRST SIGNED IT? ACTUALLY, IT WAS

15 SOMETIME AFTER HE SIGNED IT AS FAR AS I RECOLLECT BEFORE

16 HE ACTUALLY GIVE THE WRITTEN STATEMENT, IF I RECALL

17 CORRECTLY.

18 Q. SO IT WOULD HAVE BEEN AFTER THE --

19 A. THIS WAS DONE FIRST.

20 Q. RIGHT.

21 A. THIS IS ALWAYS DONE FIRST.

22 Q. AND THEN SOMETIME AFTER THAT HE MADE THE STATEMENT

23 THAT YOU WROTE OUT?

24 A. HE MADE THAT STATEMENT.

25 Q. WHAT TIME DID HE MAKE THAT STATEMENT? HERE'S THE

1 STATEMENT IF YOU WANT TO LOOK AT IT.

2 A. LET ME LOOK AT THE TIME. THE TIME SHOULD BE ON
3 THERE. ACTUALLY, THE TIME WASN'T PLACED ON THERE.

4 Q. OKAY. WE ALL KNOW THAT SOMETIME AFTER THAT, THIS
5 STATEMENT ENDED UP BEING WRITTEN OUT AND SIGNED?

6 A. UH-HUH.

7 Q. HOW LONG AFTER THE STATEMENT WAS SIGNED DID YOU
8 ALL LEAVE OR PACK HIM UP AND TAKE HIM OUT OR WHATEVER?

9 A. AFTER THE STATEMENT WAS SIGNED? AFTER HE MADE HIS
10 CONFESSION, WE WEREN'T THERE LONG AT ALL. WE WOUND
11 THINGS UP AND GOT OUT OF THERE.

12 Q. WHAT I'M TRYING TO FIGURE OUT, AT 1405, 2:05, HE
13 SIGNS THE WAIVER. THEN SOMETIME AFTER THAT HE SIGNS
14 THIS, AND YOU SAY THAT PRETTY MUCH ENDED IT AND Y'ALL
15 WERE READY TO GO?

16 A. BASICALLY, YES.

17 Q. HE ARRIVED AT THE OCONEE COUNTY DETENTION CENTER
18 AT 4:17, TWO HOURS AND 15 MINUTES LATER. I MEAN, THAT'S
19 THE BOOKING CARD, SO I DON'T WANT YOU TO THINK I'M MAKING
20 THAT UP.

21 A. OKAY. IT TOOK SOME TIME.

22 Q. OKAY. SO AFTER THE 2:00 SIGNING OF THE WAIVER, IT
23 THEN WENT ON, YOU SAY IT TOOK SOME TIME BEFORE THAT
24 STATEMENT WAS EVER MADE?

25 A. BEFORE WE GOT THE STATEMENT.

1 Q. YES, SIR. THEN HE MADE IT TO THE JAIL AT, HE SAID
2 AT 4:17, OKAY? AND ALL DURING THIS TIME THERE WERE AT
3 LEAST, OR APPROXIMATELY NINE OFFICERS EITHER, MAYBE NOT
4 ALL STANDING AROUND ON TOP OF HIM BUT ALL AROUND?

5 A. THEY WERE IN THE HOUSE.

6 Q. RIGHT.

7 A. AND THEN SOME MAYBE EVEN LEFT THE HOUSE. I DON'T
8 KNOW. I STAYED BASICALLY RIGHT THERE. SOME MAY HAVE
9 LEFT THE HOUSE.

10 Q. ALL RIGHT. NOW, HE STATED IN THE STATEMENT THAT
11 YOU SAY, WHERE YOU SAY HE MADE THE STATEMENT, HE SAID IN
12 THERE (READING): MY LIFE IS OUT OF CONTROL. I'M A DRUG
13 ADDICT. I NEED HELP.

14 IS THAT CORRECT?

15 A. (NODDED HEAD.) YES, SIR.

16 Q. WHAT WAS HIS DEMEANOR LIKE? I MEAN, WAS HE COOL,
17 CALM, AND COLLECTED; OR WAS HE DISTRAUGHT, WAS HE UPSET,
18 WAS HE ARGUMENTATIVE? WHAT, HOW WOULD YOU DESCRIBE HIM?

19 A. HE WASN'T ARGUMENTATIVE. HE WAS JUST LIKE, I'VE
20 JUST MESSED UP MY LIFE, THAT KIND OF DEMEANOR. I JUST
21 MESSED UP MY LIFE. HERE I AM. A DISTRAUGHT TYPE OF
22 DEMEANOR, I SUPPOSE. JUST LIKE, I'VE MESSED UP. I MADE
23 A MESS OF THINGS. HERE I AM IN TROUBLE TYPE ATTITUDE.

24 Q. OKAY. NOW, SO HE WAS AT LEAST SOMEWHAT
25 DISTRAUGHT, SOMEWHAT UPSET, AT LEAST?

1 A. NOT, NOT VERY, NOT LOUDLY UPSET; JUST LIKE HE WAS
2 JUST UPSET WITH HIS LIFE, THE WAY HE'D ENDED UP IN LIFE
3 WITH HIS PROBLEMS.

4 Q. DID HE SAY HE NEEDED HELP?

5 A. YES, HE DID, HE WANTED HELP.

6 Q. WAS HE ASKING FOR HELP?

7 A. HE MAY HAVE EVEN ASKED FOR HELP. I DON'T RECALL
8 SPECIFICALLY THE QUESTION, I'M SORRY. I DON'T RECALL
9 SPECIFICALLY THE QUESTION, "WOULD YOU ALL GET ME SOME
10 HELP?" I DON'T RECALL RIGHT OFF THE BAT. BUT HE DID
11 SHOW THAT HE WANTED HELP, HE DID.

12 Q. DID YOU OFFER TO GET HIM HELP IF HE COOPERATED
13 WITH YOU?

14 A. AS FAR AS MY PART WAS CONCERNED WAS GETTING HIM
15 INTO THIS PROCESS, THEN HE COULD GET THE HELP.

16 Q. OKAY. BUT DID YOU PROMISE THAT YOU COULD HELP,
17 THAT MAKING THAT STATEMENT, YOU COULD HELP HIM GET SOME
18 HELP, SOMETHING?

19 A. I COULDN'T PROMISE HIM ANYTHING. IT'S UP TO HIM.
20 ALL I COULD, ALL I COULD ASSURE HIM, IF YOU START OFF, IF
21 YOU START IN THE RIGHT DIRECTION, IF YOU ADMIT WHERE YOU
22 HAVE FAILED, THEN YOU CAN START MOVING FORWARD AND
23 GETTING SOME HELP. BUT I COULDN'T PROMISE HIM ANYTHING.

24 Q. OKAY. YOU SAY YOU COULDN'T. BUT DID YOU SAY YOU
25 WERE GONNA HELP HIM?

1 A. I DON'T RECALL EVER ACTUALLY SAYING I WOULD HELP
2 HIM. JUST AS A PART OF THIS PROCESS, GETTING HIM TO MAKE
3 HIS CONFESSION, THAT'S HOW YOU START OFF GETTING HELP.

4 Q. OKAY. WERE THERE ANY RECORDINGS OF ANY OF THIS
5 GOING ON, TAPE RECORDING, VIDEO, ANYTHING WHILE THIS WAS
6 GOING ON?

7 A. I DID NOT HAVE ANY RECORDING GOING ON MYSELF AS
8 FAR AS --

9 Q. ANYBODY. ANYBODY THERE?

10 A. I DON'T KNOW OF ANYBODY WHO RECORDED IT.

11 Q. NOW, DID YOU MENTION WHILE YOU WERE THERE DURING
12 THIS PERIOD FROM APPROXIMATELY 12:30 TILL SOMEWHERE
13 CLOSER TO 4:00, SOMEWHERE AROUND IN THERE, WHICH IS, FROM
14 SENECA TO WALHALLA IS ABOUT 15 MINUTES, I ALWAYS FIGURE
15 THAT CONSIDERING TRAFFIC, IT COULD BE LESS, IT COULD BE A
16 LITTLE MORE, DID YOU EVER DISCUSS MS. DELORES PATTERSON,
17 THE LADY WHO OWNED THE HOUSE?

18 A. DID I EVER DISCUSS --

19 Q. DID YOU EVER MENTION HER?

20 A. I DON'T EVER RECALL MENTIONING HER.

21 Q. DID YOU ASK HIM ABOUT MS. PATTERSON, WHO OWNED THE
22 HOUSE, WHO WAS LIVING THERE?

23 A. YOU'RE TALKING ABOUT WHILE HE WAS QUESTIONING HIM?

24 Q. YES, SIR.

25 A. WE UNDERSTOOD THAT IT WAS HER HOUSE AND HE WAS

1 STAYING THERE. WE UNDERSTOOD THAT FROM THE BEGINNING.

2 Q. OKAY. AT ANY TIME DID YOU SUGGEST THAT
3 MS. PATTERSON COULD POSSIBLY HAVE SOME CRIMINAL
4 CULPABILITY BECAUSE HE WAS THERE AND BEING CHARGED WITH A
5 CRIME?

6 A. I NEVER DID.

7 Q. DID YOU HEAR ANYONE ELSE DO IT?

8 A. I DON'T RECALL HEARING ANYBODY SAY THAT.

9 Q. ALL RIGHT. DID ANYONE SUGGEST OR THREATEN THAT
10 MS. PATTERSON COULD HAVE SOME CRIMINAL CULPABILITY IF HER
11 VEHICLE WAS USED IN THE COMMISSION OF A CRIME?

12 A. I NEVER DID, OR NEITHER DO I REMEMBER HEARING
13 ANYBODY SAY THAT. AND I KNOW I DID NOT.

14 Q. OKAY. WHILE YOU WERE TALKING WITH HIM ABOUT THIS
15 HELP HE SAID HE NEEDED, DID YOU ASK HIM ABOUT ANY MEDICAL
16 CONDITIONS HE MAY HAVE?

17 A. I DON'T RECALL ASKING HIM ABOUT ANY MEDICAL
18 CONDITIONS. IT SEEMED LIKE HE MENTIONED HAVING SOME
19 MEDICAL PROBLEMS. BUT AS FAR AS ASKING QUESTIONS, I
20 DON'T RECALL ASKING ANYTHING ABOUT HIS MEDICAL CONDITION.

21 Q. HE DID MENTION SOME MEDICAL PROBLEMS?

22 A. IT SEEMED LIKE HE DID.

23 Q. DID HE TELL YOU ABOUT ANY MEDICATIONS HE WAS ON?

24 A. IT SEEMED LIKE HE DID MENTION IT. I CAN'T
25 REMEMBER FOR SURE.

1 Q. ALL RIGHT. YOU SAID HE MAY HAVE MENTIONED IT, BUT
2 YOU DIDN'T GO -- THIS WAS NOT A SUBJECT THAT YOU WENT
3 INTO WITH ANY DETAIL OR DEPTH?

4 A. I DON'T RECALL DOING ANYTHING IN DEPTH ABOUT IT.

5 Q. ANYONE ELSE?

6 A. I DON'T REMEMBER HEARING ANYBODY ASKING IN-DEPTH
7 QUESTIONS ABOUT HIS MEDICAL HISTORY.

8 Q. ALL RIGHT. THE STATEMENT ITSELF WAS WRITTEN BY
9 YOU; IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. WHY DIDN'T HE WRITE IT?

12 A. OKAY. I USED TO ALWAYS GET THE PEOPLE TO WRITE
13 THEIR STATEMENTS. I LEARNED LATER THAT OUR MAJOR IN
14 CHARGE DID NOT WANT -- OR ACTUALLY HE TOLD ME HIMSELF
15 THAT THE SOLICITOR'S OFFICE PREFERRED THAT WE WRITE IT
16 FOR THE PERSON, SO I BEGAN TO FOLLOW COMMAND AND WRITE
17 THEM MYSELF.

18 Q. OKAY. SO IT WAS THEN, AS YOU UNDERSTOOD IT, THE
19 POLICY OF SENECA POLICE DEPARTMENT THAT THE INVESTIGATOR
20 OR INTERROGATOR WOULD WRITE OUT THE STATEMENT ON BEHALF
21 OF THE PERSON MAKING THE STATEMENT?

22 A. NOT A POLICY. NO, IT WASN'T A POLICY. IT WAS
23 JUST THAT THE MAJOR SAID THAT IT WAS PREFERRED THAT WE
24 WRITE IT FOR THE PEOPLE WHO GAVE THEIR STATEMENTS, SO I
25 STARTED WRITING IT FOR THEM MYSELF IN MOST CASES.

1 Q. YOU SAID THAT'S WHAT THE SOLICITOR WANTED?

2 A. THAT'S WHAT THE MAJOR IN CHARGE SAID, THAT THE
3 SOLICITOR'S OFFICE WANTED THAT.

4 Q. OKAY. AND IN THIS CASE YOU WROTE THIS OUT, THAT'S
5 YOUR HANDWRITING THAT'S IN THERE? NO QUESTION ABOUT IT?

6 A. THAT'S MY HANDWRITING, I WROTE THAT STATEMENT.

7 Q. DID MR. BANKS SAY TO YOU THAT, WHILE MOST OF THAT
8 IS TRUE, THE THING ABOUT, THE STATEMENT ABOUT BREAKING
9 INTO SENECA MIDDLE SCHOOL WAS NOT HIS WORDS AND HE DID
10 NOT DO THAT?

11 A. THAT'S WHAT HE SAID.

12 Q. ALL RIGHT. DID HE SAY HE DIDN'T REALLY DO THAT?

13 A. HE SAID HE DID DO THAT.

14 Q. OKAY. AT ANY TIME PRIOR TO SIGNING THIS DID HE
15 TELL YOU THOSE WERE NOT HIS WORDS AND HE DID NOT WANT
16 THEM IN THERE?

17 A. NO, HE NEVER DID. THAT WAS HIS WORDS.

18 Q. AND THAT WAS APPROXIMATELY, YOU'RE NOT REALLY SURE
19 HOW LONG AFTER Y'ALL HAD ARRIVED THAT HE ACTUALLY MADE
20 THAT STATEMENT, WE DON'T KNOW THE TIME --

21 A. I DON'T KNOW THE EXACT TIME.

22 Q. -- THAT YOU WROTE IT OUT AND HE SIGNED IT?

23 A. I DON'T KNOW THE EXACT TIME.

24 Q. OKAY.

25 MR. DAY: ONE SECOND, YOUR HONOR, IF I MAY.

1 BY MR. DAY:

2 Q. OKAY. DID YOU SEE MS. PATTERSON WHEN SHE CAME IN?

3 A. I SAW HER AFTER SHE CAME IN. YOU ARE TALKING

4 ABOUT HIS GIRLFRIEND?

5 Q. THE LADY WHO OWNED THE HOUSE.

6 A. YES.

7 Q. AT ANY TIME DID YOU QUESTION HER?

8 A. NOT ABOUT THE CASE, NO. I MAY HAVE SPOKE TO HER,

9 BUT AS FAR AS QUESTIONING HER, I DON'T RECALL QUESTIONING

10 HER.

11 Q. DO YOU RECALL WHETHER ANYONE ELSE DID?

12 A. I DON'T KNOW OF ANYBODY THAT QUESTIONED HER. I

13 MEAN, PEOPLE -- SHE WAS THERE AND I'M SURE OTHERS SPOKE

14 TO HER AND SHE SPOKE TO THEM. BUT AS FAR AS ASKING

15 QUESTIONS, I DON'T RECALL ANYBODY ASKING QUESTIONS.

16 Q. OKAY.

17 (THE DEFENDANT CONFERRED WITH COUNSEL OFF THE
18 RECORD.)

19 MR. DAY: I BELIEVE THAT'S ALL THE QUESTIONS I HAVE.

20 THANK YOU.

21 THE COURT: RE-EXAM?

22 REDIRECT EXAMINATION BY MR. WAGNER:

23 Q. DO YOU REMEMBER THE STEPHENS COUNTY OFFICERS WHEN

24 THEY WERE THERE, DID THEY TALK TO THE DEFENDANT FIRST?

25 A. I DON'T REMEMBER IF THEY WERE THE FIRST ONES THAT

1 SPOKE TO HIM FIRST. BUT EARLY IN THE QUESTIONING HE WAS
2 QUESTIONED BY A STEPHENS COUNTY INVESTIGATOR, AT LEAST
3 ONE OF THEM.

4 Q. OKAY. DID THEY MIRANDIZE HIM BEFORE THEY TALKED
5 TO HIM?

6 A. I DON'T KNOW THAT THEY DID. I MAY HAVE ALREADY
7 READ THE RIGHTS MYSELF BY THAT POINT IN TIME. I MAY HAVE
8 ALREADY READ THEM MYSELF. THEY MAY HAVE BEEN ACTING ON
9 MY READING THEM. I DON'T RECALL. BUT I DO NOT REMEMBER
10 THEM READING HIM ANY RIGHTS THEMSELVES, NO.

11 Q. OKAY. DID ANY OF THESE OTHER OFFICERS, I MEAN,
12 WERE THEY QUESTIONING HIM AT LENGTH AS FAR AS LIKE IN
13 YOUR FACE, HOLLERING AT HIM, YOU KNOW, TRYING TO WEAR HIM
14 DOWN; WAS ANYBODY TRYING TO DO ANYTHING LIKE THAT?

15 A. I DON'T RECALL ANYBODY YELLING AT HIM, NO.
16 EVERYBODY HE WAS VERY COURTEOUS TOWARD HIM AS FAR AS I
17 CAN REMEMBER. I KNOW I WAS. AND TRYING TO BE HELPFUL TO
18 HIM, ACTUALLY.

19 Q. OKAY. AND BEFORE YOU ACTUALLY TOOK A STATEMENT
20 FROM HIM, HE HAD ALREADY REFUSED TO TALK TO THE REST OF
21 THEM? WAS THAT WHAT YOU WERE SAYING?

22 A. WELL, HE DIDN'T GIVE A STATEMENT UNTIL -- YOU
23 KNOW, HE GIVE THE STATEMENT TO ME, NOT TO THEM.

24 Q. OKAY. BUT WHEN YOU TOOK YOUR STATEMENT FROM HIM,
25 YOU HAD MIRANDIZED HIM OFF THAT SHEET, STATE'S EXHIBIT

1 NUMBER 1 FOR IDENTIFICATION. --

2 A. YES, HE WAS MIRANDIZED.

3 Q. -- AND YOU HAD GONE THROUGH THAT WITH HIM?

4 A. THAT'S RIGHT. HE GIVE, HE GIVE HIS, HE WAS
5 MIRANDIZED BEFORE HE GAVE THE STATEMENT. WE DIDN'T GET A
6 STATEMENT FROM HIM UNTIL HE WAS MIRANDIZED AND SIGNED THE
7 WAIVER.

8 Q. OKAY. AND YOUR TESTIMONY IS YOU DIDN'T PROMISE
9 HIM ANYTHING, YOU DIDN'T THREATEN HIM, YOU DIDN'T
10 THREATEN THE GIRLFRIEND, YOU DIDN'T HOLD HIM OUT ANY HOPE
11 FOR REWARD OR DO ANYTHING TO TRY TO INDUCE HIM TO GIVE
12 YOU A STATEMENT OR COERCE HIM TO GIVE YOU A STATEMENT?

13 A. NO, NO. JUST THE ONLY THING I COULD SAY WOULD BE
14 THAT IF HE WANTS TO GET HIS LIFE TOGETHER, HE NEEDS TO GO
15 AHEAD AND CONFESS HIS FAULTS TO MOVE FORWARD. YOU CANNOT
16 SIT ON TOP OF YOUR FAULTS AND YOUR SINS AND IMPROVE YOUR
17 LIFE. YOU GOT TO GET THAT OUT AND MOVE FORWARD. THAT'S
18 THE ONLY KIND OF HOPE I GIVE HIM. BUT NO PROMISE OF ANY
19 LENIENCY OR ANYTHING IN A COURT OF LAW OR WE'LL LET YOU
20 OFF THE HOOK. NOTHING LIKE THAT, NO.

21 Q. I MEAN, YOU'RE SAYING YOU JUST TOLD HIM TO TELL
22 THE TRUTH?

23 A. WE WANTED THE TRUTH, THAT'S RIGHT.

24 Q. OKAY. AND THE WHOLE TIME YOU WERE THERE, WERE YOU
25 PRETTY MUCH IN THE ROOM WITH HIM THE WHOLE TIME?

1 A. I WAS BASICALLY THERE THE BIGGEST PART OF THE
2 TIME, YES.

3 Q. OKAY. WHEN YOU SAY THE BIGGEST PART OF THE TIME,
4 HOW MUCH OF THE TIME?

5 A. I'D SAY, WELL, PROBABLY A HUNDRED PERCENT. I
6 PROBABLY DIDN'T LEAVE. I PROBABLY STAYED RIGHT THERE
7 WITH HIM. AND ONE TIME, LIKE I STATED A WHILE AGO, I DID
8 ESCORT HIM TO THE REST ROOM, HE NEEDED TO GO THE REST
9 ROOM, I ESCORTED HIM TO THE REST ROOM ONE TIME AND THEN
10 WE COME BACK.

11 Q. DID ANYBODY EVER ---

12 A. ACTUALLY, HE WAS STILL -- THE QUESTION ABOUT THE
13 CUFFS A WHILE AGO? HE WAS STILL IN THE CUFFS, I BELIEVE,
14 AT THAT TIME. I HAD TO REMOVE THE CUFFS SO HE COULD USE
15 THE REST ROOM.

16 Q. OKAY. AND WHILE YOU WERE THERE A HUNDRED PERCENT
17 OF THE TIME, DID ANYBODY EVER THREATEN HIM OR TRY TO
18 COERCE HIM INTO GIVING THEM A STATEMENT?

19 A. NO ONE DID.

20 MR. WAGNER: THANK YOU. THOSE ARE ALL THE QUESTIONS
21 I HAVE.

22 MR. DAY: BRIEFLY, YOUR HONOR, IF I MAY?
23 RECROSS-EXAMINATION BY MR. DAY:

24 Q. THE INFORMATION THAT WENT INTO THIS STATEMENT, WAS
25 THIS PROVIDED TO YOU BY THE DEFENDANT BEFORE YOU HAD HIM

1 SIGN THE *MIRANDA* SAYING THAT, "NOW I KNOW WHAT YOU WANT
2 TO SAY, I WANT YOU TO GO AHEAD AND WRITE IT OUT OR I'M
3 GONNA WRITE IT OUT"?

4 A. NO. THIS -- THE *MIRANDA* WAS FIRST, AND THAT COME
5 LATER, THE STATEMENT. I WROTE IT AS HE GIVE IT TO ME.
6 THE WORDS THAT I WROTE DOWN ARE THE WORDS HE SPOKE.

7 Q. DID ANY OF THIS INFORMATION HAPPEN IN THE ONE AND
8 A HALF HOURS YOU WERE THERE BEFORE YOU GAVE HIM THE
9 *MIRANDA* RIGHTS? ANY OF THAT INFORMATION. DID HE EVER
10 SAY ANY OF THOSE WORDS?

11 A. ANY OF THOSE WORDS? HE MAY HAVE JUST IN TALKING,
12 MAY HAVE KEPT SAYING, WELL, MY LIFE IS IN A MESS, BUT HE
13 WOULDN'T ADMIT TO THAT, AND THEN HE FINALLY DECIDED HE
14 WOULD ADMIT TO IT.

15 Q. OKAY. AND WHEN HE SAID HE WAS FINALLY GOING TO
16 ADMIT TO IT, IS THAT WHEN YOU SAID, "OKAY, IF YOU ARE
17 ADMITTING TO IT, I NEED FOR YOU TO SIGN THIS *MIRANDA*
18 RIGHT HERE. I NEED TO EXPLAIN THAT TO YOU"?

19 A. NO. ACTUALLY, THAT'S DONE EARLY ON.

20 THE COURT: BY THE WAY, WHICH EXHIBIT WERE YOU
21 REFERRING TO?

22 MR. DAY: OH, I'M SORRY. THAT WAS EXHIBIT NUMBER 3.

23 THE COURT: NUMBER 3?

24 MR. DAY: YES, SIR, WHICH IS THE ACTUAL STATEMENT
25 ITSELF. AND EXHIBIT NUMBER 1 IS THE ONE OF THE *MIRANDA*

1 RIGHTS.

2 THE COURT: VERY WELL.

3 THE WITNESS: BUT HE WAS MIRANDIZED -- I WANT TO
4 REEMPHASIZE THAT HE WAS MIRANDIZED BEFORE HE GAVE A
5 STATEMENT. HE HAD HIS *MIRANDA* RIGHTS READ TO HIM. HE
6 DIDN'T GIVE OUT ANY INFORMATION AS FAR AS THIS CRIME WAS
7 CONCERNED BEFORE HE WAS MIRANDIZED; NO, HE DID NOT.

8 MR. DAY: THAT'S ALL THE QUESTIONS I HAVE, YOUR
9 HONOR.

10 MR. WAGNER: NOTHING MORE.

11 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. THANK
12 YOU, SIR.

13 (THE WITNESS, OFFICER WILLIAMSON, LEFT THE
14 WITNESS STAND.)

15 MR. DAY: YOUR HONOR, MAY I HAVE ABOUT THREE
16 MINUTES? THE DEFENDANT HAS SAID THAT HE NEEDS TO USE THE
17 REST ROOM AND THEN WE'LL PUT HIM ON THE STAND.

18 (DEFENDANT LEAVES COURTROOM.)

19 THE COURT: ALL RIGHT. WE'LL STAND AT EASE.

20 (A RECESS WAS TAKEN.)

21 (WHEREUPON, THE DEFENDANT RETURNED TO THE
22 COURTROOM AND WAS SWORN.)

23

24

25

1 WHEREUPON,

2 ROBERT BANKS,

3 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. DAY:

5 THE COURT: GIVE US YOUR FULL NAME FOR THE RECORD.

6 THE WITNESS: ROBERT L. BANKS.

7 BY MR. DAY:

8 Q. MR. BANKS, YOU'LL WANT YOU TO PULL THAT MICROPHONE
9 UP. YOU HAVE A SOFT VOICE. SPEAK UP SO EVERYONE CAN
10 HEAR YOU. DO YOU UNDERSTAND WHAT I MEAN?

11 A. YES, SIR.

12 Q. MR. BANKS, WE'RE TALKING ABOUT THE EVENING OF
13 MARCH THE 12TH, 2010, HERE IN SENECA AT THE HOME OF
14 MS. PATTERSON HERE ALSO IN SENECA. DO YOU REMEMBER THAT
15 EVENING OR THAT DAY?

16 A. YES, SIR.

17 Q. EXCUSE ME?

18 A. YES, SIR, AFTERNOON.

19 Q. ON THAT DAY WHEN THE POLICE ARRIVED AT THAT HOUSE,
20 WERE YOU THERE?

21 A. YES, SIR.

22 Q. DID THEY COME IN OR DID THEY ALLOW YOU TO LET THEM
23 IN OR WHAT HAPPENED?

24 A. NOT IMMEDIATELY, NO, THEY DIDN'T.

25 Q. OKAY. WHAT HAPPENED THEN?

1 A. THE OFFICERS, THEY SURROUNDED THE PLACE. FIRST
2 THEY KNOCKED AND RANG THE BELL. THEN THERE WERE SO MANY
3 OF THEM. THEN I SAW THEM ALL, I SAW THEM ALL SURROUNDING
4 THE PLACE, ALL AROUND, ALL AROUND THE RESIDENCE.

5 Q. ALL RIGHT. WERE THE BLUE LIGHTS GOING, THAT SORT
6 OF THING?

7 A. NO, I DON'T THINK THERE WAS ANY LIGHTS FLASHING.

8 Q. OKAY. WHEN YOU SAID THEY WERE THERE, THEY KNOCKED
9 ON THE DOOR, RANG THE BELL, DID YOU LET THEM IN?

10 A. NO, SIR, I DIDN'T.

11 Q. ALL RIGHT. WHEN DID THEY COME INTO THE HOUSE?

12 A. WHEN DID THEY COME INTO THE HOUSE? ABOUT A
13 QUARTER TO TWO, LIKE TEN TO TWO. THAT'S WHEN THEY
14 ENTERED THE PREMISES.

15 Q. ALL RIGHT. WHEN THEY CAME IN, WHO DID YOU FIRST
16 SEE?

17 A. I DON'T KNOW WHICH OFFICER I SAW FIRST. THEY CAME
18 FROM SEVERAL DIRECTIONS THROUGH THE SAME DOOR. I WAS IN
19 THE MAIN HALLWAY ON THE PHONE AT THAT TIME TALKING TO
20 MS. PATTERSON, SO I DON'T KNOW WHO THE FIRST OFFICER I
21 SAW WAS, BUT I SEEN THE LASERS ON THE WEAPONS.

22 Q. ALL RIGHT. THEY HAD A WEAPON ON YOU?

23 A. THEY HAD THEM, THEY HAD THEM DRAWN, BEAMS ALL OVER
24 THE PLACE.

25 Q. DID YOU COOPERATE WITH THEM?

1 A. OH, YES. OH, YES, SIR. I LAID THE PHONE TO THE
2 FLOOR AND I GOT DOWN, GOT DOWN ON MY KNEES. I TURNED MY
3 BACK AND I GOT DOWN, GOT DOWN ON MY KNEES. THEY WAS
4 COMING DOWN THE HALLWAY TOWARD ME. I WAS SURRENDERING
5 PEACEFULLY.

6 Q. OKAY. DID THEY PLACE YOU IN HANDCUFFS?

7 A. I DON'T RECALL THE HANDCUFFS. I DON'T RECALL THE
8 HANDCUFFS.

9 Q. OKAY. WHEN DID YOU SEE, THE FIRST TIME YOU SAW
10 DETECTIVE WILLIAMSON?

11 A. IN THE KITCHEN OR IN THE FRONT ROOM. THAT'S WHERE
12 WE HAD OUR MEETING AT. THAT'S WHERE HE HELD THE
13 INTERROGATION.

14 Q. AND IS THERE A TABLE IN THAT ROOM?

15 A. YES, SIR.

16 Q. WERE YOU SITTING AT THE TABLE?

17 A. YES, SIR.

18 Q. WHO ALL DO YOU REMEMBER BEING IN THERE OR HOW MANY
19 PEOPLE DO YOU REMEMBER BEING IN THERE?

20 A. WE HAD, WE HAD TEN PEOPLE, TEN PEOPLE OR MORE
21 INSIDE AND THAT MANY OUTSIDE.

22 Q. ALL RIGHT. AND THEY WERE ALL INSIDE THE HOUSE.
23 DID SOME OF THEM HAVE UNIFORMS?

24 A. YES.

25 Q. UNIFORMED OFFICERS?

1 A. EVERYONE EXCEPT DETECTIVE WILLIAMSON HERE AND
2 DETECTIVE JONES, I THINK. I THINK HE WAS IN CIVICS.

3 Q. ALL RIGHT. NOW AT THE TIME THEY CAME IN, DID THEY
4 TELL YOU WHY THEY WERE THERE?

5 A. YES, SIR.

6 Q. WHAT DID THEY TELL YOU?

7 A. FUGITIVE FROM JUSTICE WARRANT FROM GEORGIA.

8 Q. ALL RIGHT. AND DID THEY TELL YOU YOU WERE UNDER
9 ARREST?

10 A. YES, SIR.

11 Q. AND AFTER THEY PLACED YOU UNDER ARREST, WHAT DID
12 THEY HAVE YOU DO?

13 A. WELL, MR. WILLIAMSON SAID HE WANTED TO SPEAK TO ME
14 ABOUT A CRIME, SOME CHARGES LOCALLY, HERE IN SENECA.

15 Q. ALL RIGHT. WERE YOU ALL SITTING AT THE TABLE AT
16 THAT TIME?

17 A. I THINK WE WERE STANDING, AND THEN WE SAT.

18 Q. AND THEN AFTER THAT YOU SAT. HOW MANY PEOPLE DO
19 YOU REMEMBER THAT ASKED YOU QUESTIONS WHILE YOU WERE
20 THERE IN THE HOUSE?

21 A. THE DETECTIVE HERE, HE WAS THE ONLY ONE.

22 Q. NONE OF THE OTHERS?

23 A. THERE WAS A COMMENT OR TWO, NOT QUESTIONS -- YES,
24 THERE WAS A QUESTION FROM DETECTIVE JONES, HE ASKED ME A
25 QUESTION, ALSO.

1 Q. ALL RIGHT. DID ANYONE ELSE ASK YOU QUESTIONS?

2 A. I DON'T RECALL.

3 Q. DID, WHILE YOU WERE THERE, THEY SAID YOU WERE
4 UNDER ARREST FOR THE FUGITIVE WARRANT. THEN DETECTIVE
5 WILLIAMSON SAID HE WANTED TO ASK YOU ABOUT ANOTHER CRIME;
6 IS THAT CORRECT?

7 A. YES.

8 Q. DID HE TELL YOU WHAT THAT CRIME WAS?

9 A. NO, NOT IMMEDIATELY. HE SAID -- FIRST HE PUT IT
10 TO ME AS MS. PATTERSON, MENTIONED ABOUT THE USE OF HER
11 CAR AT A CRIME SCENE, AT A CRIME, SOME CRIME, THE USE OF
12 HER CAR CONNECTED WITH A CRIME. AND I STATED CLEARLY
13 THAT SHE DIDN'T HAVE ANY KNOWLEDGE, NEITHER DID I USE HER
14 VEHICLE IN ANY PART, IN ANY CRIME. SHE HAD NO KNOWLEDGE
15 OF MY OTHER ACTIVITIES OR MY DRUG HABIT, SHE HAD NO
16 KNOWLEDGE OF THAT. AND I DID NOT USE HER CAR, NONE OF
17 HER VEHICLES, TO DOING ANY CRIME.

18 Q. DID HE SAY ANYTHING ELSE ABOUT MS. PATTERSON?

19 A. NO.

20 Q. DID HE SAY ANYTHING ABOUT ARRESTING MS. PATTERSON?

21 A. NO. I WAS HOPING -- WELL, IT WENT ON A COUPLE
22 TIMES. AND I WAS PERSUADING, DIDN'T WANT HER INVOLVED,
23 SHE HAD NO PART OF IT, AND I DIDN'T WANT HER TO GET
24 CONNECTED WITH THAT IN ANY KIND OF WAY. IT WASN'T JUST
25 ONE QUESTION, IT WAS SORT OF A LEAN-IN THING.

1 Q. ALL RIGHT, SIR. ON MARCH THE 12TH AT THAT TIME
2 WERE YOU ON ANY MEDICATIONS?

3 A. WAS I ON ANY MEDICATION? MARCH THE 12TH. I WAS
4 IN THE PROCESS OF RECOVERY, CLEANING MYSELF UP.

5 Q. RECOVERY FROM WHAT?

6 A. THE USE OF DRUGS, STREET DRUGS.

7 Q. WERE YOU TAKING ANY, TAKING ANY MEDICATION FOR
8 BLOOD PRESSURE?

9 A. YES, SIR, I DO.

10 Q. WOULD THAT BE THE LISINOPRIL?

11 A. YES, SIR, LISINOPRIL.

12 Q. AND WERE YOU TAKING ANYTHING AT THAT TIME FOR YOUR
13 HEART?

14 A. YES, SIR.

15 Q. YOU HAVE TO SPEAK UP.

16 A. YES, SIR, I WAS TAKING SOMETHING.

17 Q. ALL RIGHT. WERE YOU TAKING PAXIL?

18 A. YES, SIR, FOR EMOTIONAL, ANXIETY AND EMOTIONAL.

19 Q. YOU WERE TAKING SOME OTHER -- WHEN YOU GOT TO THE
20 JAIL, YOU TOLD HIM ABOUT THIS AND THEY ACTUALLY GOT YOU
21 YOUR MEDICATIONS FOR YOU AT THAT TIME, DID THEY?

22 A. I HAD IT DELIVERED, I HAD IT BROUGHT FROM HOME.
23 THEN THEY REPLENISHED IT. WHEN MINE RAN OUT, THEY
24 REORDERED MY BLOOD PRESSURE MEDICATION AND THE PAXIL.

25 Q. AT THE TIME IN WHICH YOU WERE AT THE HOUSE GOING

1 BACK TO THE DAY OF THE ARREST, WHEN THEY CAME IN THE
2 HOUSE, WERE YOU SCARED?

3 A. I WAS TERRIFIED. I WAS TERRIFIED. THE OFFICERS,
4 THEY WERE THERE SURROUNDING THE PLACE, I DON'T KNOW, 12,
5 12:30 OR SOMETHING LIKE THAT. I WOULDN'T ANSWER THE DOOR
6 AND I WOULDN'T LET THEM IN.

7 Q. OKAY. NOW, YOU SAID YOU WERE RECOVERING FROM THE
8 USE OF DRUGS; IS THAT CORRECT?

9 A. YES, SIR, CLEANING MYSELF UP.

10 Q. WHAT KIND OF DRUGS WERE YOU USING?

11 A. COCAINE.

12 Q. COCAINE?

13 A. COCAINE, YES, SIR.

14 Q. AND YOU WERE ATTEMPTING TO BREAK LOOSE FROM THAT?

15 A. YES, SIR. YES, SIR.

16 Q. WAS MS. PATTERSON HELPING YOU DO THAT?

17 A. SHE DIDN'T HAVE ANY KNOWLEDGE ACTUALLY OF THAT, OF
18 MY CHRONIC USE, MY DRUG HABIT. I SORT OF HAD HER IN THE
19 DARK ABOUT THAT.

20 Q. ALL RIGHT. AFTER THE OFFICERS SPOKE TO YOU, AT
21 SOME TIME YOU SIGNED WHAT IS MARKED AS I THINK AS STATE'S
22 NUMBER 1, WHICH WAS THE STATEMENT OF *MIRANDA* RIGHTS?

23 A. YES, SIR.

24 Q. YOU SIGNED THAT, DID YOU NOT?

25 A. YES, SIR.

1 Q. AND THOSE ARE YOUR INITIALS ON THERE?

2 A. YES, SIR.

3 Q. DID YOU UNDERSTAND WHAT IT WAS YOU WERE SIGNING
4 WHEN YOU PUT YOUR SIGNATURE TO THAT PAPER?

5 A. YES, SIR.

6 Q. OKAY. YOU UNDERSTOOD YOU HAD A RIGHT TO REMAIN
7 SILENT?

8 A. YES, SIR.

9 Q. WHAT WAS IT THEY WANTED YOU TO DO AFTER YOU SIGNED
10 EXHIBIT NUMBER 1, THE STATEMENT OF *MIRANDA* RIGHTS, WHAT
11 WAS IT THAT MR. WILLIAMSON WANTED YOU TO DO?

12 A. HE WANTED ME TO CONFESS TO THE BREAKING IN THE
13 SCHOOL OVER HERE IN SENECA.

14 Q. ALL RIGHT. DID YOU TELL HIM YOU HAD DONE THAT?

15 A. NO, SIR. I TOLD HIM I DID NOT DO ANY BREAKING IN
16 A SCHOOL OVER HERE, BREAKING IN THE SCHOOL OVER HERE.

17 Q. OKAY. HE WROTE OUT A STATEMENT WHICH IS MARKED AS
18 STATE'S NUMBER 3, WHICH HE SAYS IN THAT, THAT YOU TOLD
19 HIM AS IT STATES THERE (READING): MY LIFE IS OUT OF
20 CONTROL. I AM A DRUG ADDICT. I NEED HELP. I AM READY
21 TO FACE UP TO EVERYTHING I'VE GOT TO DO. FOR THESE
22 REASONS I BROKE INTO SENECA MIDDLE SCHOOL.

23 DID YOU EVER TELL HIM THAT?

24 A. NO, SIR, I DIDN'T. JUST THIS PART OF THE
25 STATEMENT.

1 Q. THE SENECA MIDDLE SCHOOL. DID YOU TELL HIM,
2 THOUGH, YOUR LIFE WAS OUT OF CONTROL?

3 A. YES.

4 Q. DID YOU TELL HIM THAT YOU WERE A DRUG ADDICT?

5 A. YES, SIR.

6 Q. DID YOU TELL HIM YOU NEEDED HELP?

7 A. I'M STILL LOOKING FOR HELP.

8 Q. OKAY. BUT DID YOU EVER TELL HIM, QUOTE, "I BROKE
9 INTO SENECA MIDDLE SCHOOL," UNQUOTE?

10 A. NO. THAT'S HIS STATEMENT.

11 Q. NOW, YOU ACKNOWLEDGE IN THE STATEMENT THAT YOU
12 BROKE INTO STEPHENS COUNTY HIGH SCHOOL; IS THAT CORRECT?

13 A. YES, SIR.

14 Q. YOU ADMITTED TO THAT?

15 A. YES, SIR.

16 Q. SO YOU ARE NOT DENYING THAT STATEMENT?

17 A. NO, SIR. THAT'S WHEN I'M RECOVERING FROM MY LAST
18 SPREE WHEN THAT INCIDENT HAPPENED, WHEN I DID THAT.

19 Q. OKAY. NOW, IT GOES ON TO SAY (READING): I'M TRULY
20 SORRY FOR WHAT I DID. I REALLY WANT TO GET SOME HELP. I
21 NEED HELP.

22 DID YOU TELL HIM THAT?

23 A. NOT REPEATEDLY LIKE THAT. SOME OF -- A LOT OF
24 THAT IN THAT IS HIS. BUT I DID MAKE THAT POINT; BUT
25 REPEATEDLY, NO.

1 Q. AND THEN IT SAYS (READING): I WAS IN SENECA MIDDLE
2 SCHOOL, AND I LEFT BECAUSE I WAS FEARFUL AND I HAD SECOND
3 THOUGHTS.

4 DID YOU TELL HIM THAT?

5 A. NO. I GATHERED THAT BY LOOKING AT THE TAPE THE
6 WAY HE WAS PUTTING THE PUZZLE TOGETHER. THAT'S WHY HE
7 LAID OUT THAT LINE OF QUESTIONING. THE VIDEOTAPE.
8 THAT'S WHAT I THINK YOU AND I TALKED ABOUT, I BROUGHT IT
9 TO YOUR ATTENTION BEFORE.

10 Q. ALL RIGHT. AND IT SAYS IN HERE (READING): I'M
11 TRULY SORRY.

12 DID YOU SAY THAT?

13 A. REPEATEDLY -- I MEAN, REPEATEDLY, I DIDN'T GO
14 THROUGH THAT THING LIKE THAT, NOT THE WAY HE GOT IT
15 WRITTEN DOWN.

16 Q. ALL RIGHT. TELL ME THIS: DID YOU ASK HIM TO BE
17 ALLOWED TO WRITE THIS YOURSELF?

18 A. I TOLD HIM I COULDN'T WRITE IT.

19 Q. WHY NOT?

20 A. BECAUSE OF MY CONDITION. I WAS NERVOUS, SHAKING,
21 I DIDN'T HAVE STEADY CONTROL.

22 Q. BECAUSE OF YOUR HANDS?

23 A. YES, SIR, SHAKES.

24 Q. WERE THEY SHAKING AT THAT TIME?

25 A. I COULDN'T WRITE.

1 Q. ALL RIGHT. NOW, THEY ASKED YOU TO SIGN THIS. DID
2 YOU TELL HIM BEFORE YOU SIGNED IT THAT YOU DIDN'T SAY
3 THAT ABOUT SENECA MIDDLE SCHOOL?

4 A. YES, SIR. I REPEATED THAT.

5 Q. ALL RIGHT. THEN THE QUESTION THEN IS, MR. BANKS,
6 YOU'VE GOT TO EXPLAIN, WHY DID YOU PUT YOUR SIGNATURE ON
7 THERE?

8 A. MR. DAY, DURING THE INTERROGATION, WHICH IS LIKE I
9 SAID IN THE STATEMENT, I NEED, I WANTED HELP. AND
10 MR. WILLIAMSON OFFERED, HE TOLD ME HE WAS A MINISTER, HE
11 COULD GET ME INTO REHAB, SOME SORT OF PROGRAM. IF I
12 COOPERATED, HE TOLD ME HE WOULD SPEAK TO THE SOLICITOR
13 AND ASK FOR LENIENCY, AND THE JUDGE ALSO, FOR MY
14 COOPERATION. ALSO HE SAID, SINCE THERE WASN'T ANY DAMAGE
15 OR ANYTHING TAKEN, HE WOULD GET THE CHARGES REDUCED TO
16 TRESPASSING.

17 I'M REACHING OUT FOR THE HELP FOR MY ADDICTION,
18 FOR MY DRUG PROBLEM.

19 Q. YOU ARE SAYING HE TOLD YOU HE COULD HAVE THIS
20 REDUCED TO TRESPASSING?

21 A. TRESPASSING, YES.

22 Q. ALL RIGHT. IS THAT WHEN YOU PUT YOUR NAME ON THE
23 LINE AND SIGNED IT?

24 A. NO. IT DIDN'T HAPPEN RIGHT AWAY.

25 Q. OKAY. HOW DID IT HAPPEN?

1 A. I JUST THOUGHT ABOUT IT, THINKING ABOUT IT AND THE
2 POSSIBILITY OF HELP. I HAD TO WEIGH THAT OUT, AND
3 FINALLY I DID.

4 Q. ALL RIGHT. AND SO AFTER YOU WROTE THIS --

5 A. ON HIS PROMISES.

6 Q. SO AFTER YOU ACTUALLY WROTE DOWN ON THE PAPER,
7 WROTE ON THE PAPER AND WROTE DOWN THESE WORDS, IT WAS
8 SOME TIME BEFORE YOU ACTUALLY SIGNED IT?

9 A. YES, SIR.

10 Q. APPROXIMATELY, AS BEST YOU CAN REMEMBER, HOW LONG?

11 A. I DON'T KNOW. I KNOW, I KNOW THAT IT WASN'T
12 IMMEDIATELY. IT DOES NOT SHOW IN THAT STATEMENT THERE.
13 I KNOW IT WASN'T IMMEDIATELY. HE DRILLED ME. HE JUST
14 DRILLED ME FOR A WHILE.

15 AND THERE'S THE ONE OTHER, THE OTHER OFFICER THAT
16 ASKED THE QUESTION, LIEUTENANT JONES, I THINK --
17 DETECTIVE JONES, EXCUSE ME. HE SAID, "THAT WAS VERY
18 INGENIOUS OF YOU. HOW DID YOU COME UP WITH THAT IDEA
19 ABOUT USING A GRINDER?" I SAID, "I DON'T KNOW WHAT
20 YOU'RE TALKING ABOUT." HE WAS TALKING ABOUT THE BREAK-IN
21 AT THE MIDDLE SCHOOL OVER HERE. THAT'S THE ONLY OTHER
22 QUESTION THAT HE MADE. BUT THROUGHOUT THE WHOLE
23 INTERROGATION JUST --

24 Q. IF HE HAD NOT PROMISED YOU HELP AND TALKED TO YOU
25 ABOUT A TRESPASSING CHARGE, WOULD YOU HAVE SIGNED THAT

1 PAPER?

2 A. NO.

3 MR. DAY: OKAY. ONE SECOND.

4 BY MR. DAY:

5 Q. MR. BANKS, BASED UPON YOUR MEDICAL CONDITION,
6 BASED UPON THE WAY THEY DESCRIBED YOU AS BEING DISTRAUGHT
7 AND UPSET, AND THE PROMISES MADE TO YOU, DID YOU MAKE
8 THIS STATEMENT CONCERNING THAT PORTION ABOUT SENECA
9 MIDDLE SCHOOL FREELY AND VOLUNTARILY?

10 A. I DIDN'T MAKE THAT STATEMENT AT ALL.

11 Q. ALL RIGHT. SO YOU SAY AT NO TIME DID YOU EVER
12 ADMIT TO BREAKING INTO SENECA MIDDLE SCHOOL?

13 A. YES.

14 Q. YOU DID NOT BREAK INTO THAT SCHOOL?

15 A. YES.

16 Q. AND THAT'S WHAT YOU TOLD HIM?

17 A. YES.

18 Q. HOW MANY TIMES DO YOU RECKON YOU TOLD HIM THAT?

19 A. WHEW.

20 Q. WAS IT MORE THAN SEVERAL?

21 A. YES. MOST OF THE TIME. WE HAD QUITE A PRETTY
22 GOOD BIT OF TIME DOING THAT INTERROGATING THAT AFTERNOON,
23 THE TIME HE WAS GETTING ME TO SIGN, FROM THE TIME I
24 SIGNED IT UNTIL THE TIME I LEFT BEFORE I SIGNED IT. IN
25 FACT, I HAD TEN OR 15 MINUTES -- TEN MINUTES WAS PASSING

1 BEFORE THEY TOOK ME IN TO THE DETENTION CENTER.

2 Q. THEY ALLOWED YOU TO TALK TO MS. PATTERSON?

3 A. YES. SHE WAS, SHE WRUNG ME OUT ABOUT SIGNING THE
4 THING HERSELF AND ABOUT MY PROBLEM.

5 MR. DAY: THAT'S ALL THE QUESTIONS I HAVE. PLEASE
6 ANSWER ANY QUESTIONS MR. WAGNER MAY HAVE.

7 CROSS-EXAMINATION BY MR. WAGNER:

8 Q. SO DETECTIVE WILLIAMSON, YOU SAID THEY GOT THERE
9 ABOUT A QUARTER TILL TWO THAT DAY?

10 A. YES, SIR.

11 Q. OKAY. BY THE TIME THEY CAME -- BY THE TIME THEY
12 GOT THERE OR THE TIME THEY ACTUALLY CAME IN THE HOUSE?

13 A. THAT'S THE TIME THEY ENTERED THE HOUSE.

14 Q. OKAY. SO ROUGHLY ABOUT 15 MINUTES LATER HE HAD
15 YOU SIGN THIS RIGHTS WAIVER?

16 A. YES.

17 Q. OKAY. BECAUSE THAT WAS AT 2:05. AND HE TOLD YOU
18 YOU HAD THE RIGHT TO REMAIN SILENT AND YOU INITIALED
19 THAT --

20 A. YES, SIR.

21 Q. -- IS THAT CORRECT?

22 HE TOLD YOU THAT ANYTHING YOU SAY WILL BE USED
23 AGAINST YOU IN A COURT OF LAW, AND YOU INITIALED THAT,
24 THAT YOU UNDERSTOOD THAT?

25 A. YES.

1 Q. YOU HAD A RIGHT TO TALK TO A LAWYER AND HAVE HIM
2 PRESENT WITH YOU WHILE YOU WERE BEING QUESTIONED AND YOU
3 INITIALED THAT?

4 A. YES, SIR.

5 Q. DID YOU UNDERSTAND THAT, TOO?

6 A. YES, SIR.

7 Q. AND IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE
8 WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING
9 IF YOU WISH?

10 A. YES, SIR.

11 Q. YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE
12 RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY
13 STATEMENTS.

14 AND YOU INITIALED ALL THOSE AND CHECKED THEM THAT
15 YOU UNDERSTOOD THEM.

16 IS IT YOUR TESTIMONY TODAY THAT YOU DID UNDERSTAND
17 THEM AND YOU DID WAIVE THOSE RIGHTS? (PAUSE.) I BELIEVE
18 THAT'S JUST WHAT YOU SAID.

19 A. YES, SIR.

20 Q. OKAY. AND YOU SIGNED AND DATED THAT. AND THAT'S
21 STATE'S EXHIBIT --

22 A. I SIGNED THIS. I DON'T THINK I DATED IT.

23 Q. WELL, SOMEBODY DATED IT. IT WAS ON THE 12TH,
24 RIGHT?

25 A. YEAH.

1 Q. OKAY. THAT'S STATE'S EXHIBIT NUMBER 1, JUST FOR
2 THE RECORD.

3 AND THEN DETECTIVE WILLIAMSON STARTED TALKING TO
4 YOU, OKAY? AND HE TALKED ABOUT YOU -- I MEAN, JUST FROM
5 WHAT YOU ARE SAYING TODAY IS THAT MOST OF THIS STATEMENT,
6 OR ALMOST ALL OF IT IS ACCURATE, THAT YOU DID SAY IT,
7 EXCEPT FOR JUST THE PART WHERE YOU BROKE INTO SENECA
8 MIDDLE SCHOOL?

9 A. YES.

10 Q. OKAY. SO HE WENT THROUGH YOUR RIGHTS WAIVER WITH
11 YOU AND YOU WAIVED ALL THOSE RIGHTS. AND HE STARTED
12 TALKING TO YOU ABOUT IT. AND YOU TOLD HIM THAT
13 (READING): MY LIFE IS OUT OF CONTROL. I'M A DRUG ADDICT.
14 I NEED HELP. I'M READY TO FACE UP TO EVERYTHING THAT
15 I'VE GOT TO DO.

16 AND ALL THAT'S TRUE -- OR ALL THAT WAS TRUE WHEN
17 YOU SAID IT, RIGHT?

18 A. I DIDN'T SAY ALL OF THOSE PHRASES. WHAT I'VE
19 ALREADY ADMITTED TO. IT ALL BEING THE SAME THING.

20 Q. IS THE CRUX OF THAT WHAT YOU WROTE, WHAT IS
21 WRITTEN IN THIS STATEMENT, IS THAT WHAT YOU SAID? WAS
22 THAT TRUE?

23 A. YES.

24 Q. OKAY. AND YOU SAY THE PART WHERE YOU TOLD
25 DETECTIVE WILLIAMSON, OR HE SAID THAT YOU (READING): I

1 BROKE INTO SENECA MIDDLE SCHOOL, THAT'S THE PART YOU SAY
2 HE'S, YOU NEVER SAID THAT. AS A MATTER OF FACT, YOU TOLD
3 HIM YOU DIDN'T BREAK INTO IT?

4 A. YEAH.

5 Q. OKAY. BUT YOU DID SAY YOU ADMIT YOU BROKE INTO
6 STEPHENS COUNTY HIGH SCHOOL?

7 A. I DON'T REMEMBER THE EXACT DATE.

8 Q. OKAY. SO YOU KNEW THEY HAD THOSE WARRANTS, OR YOU
9 PROBABLY COULD HAVE KNOWN THAT THOSE WARRANTS WERE OUT
10 FOR YOU FROM STEPHENS COUNTY, RIGHT?

11 A. YES.

12 Q. (RIGHT) BECAUSE YOU KNEW THE MAN WAS VIDEOING THAT
13 THING --

14 A. I'M NOT DENYING IT.

15 Q. YOU KNEW THEY HAD YOU ON THAT ONE?

16 A. I'M NOT DENYING THAT. THAT'S ONE OF THE REASONS
17 WHY I WAS HIDING OUT CLEANING MYSELF UP, TO GO TO
18 STEPHENS COUNTY, GEORGIA.

19 Q. OKAY. SO YOU KNEW THEY WERE COMING TO ARREST YOU
20 AND YOU KNEW WHAT THEY WERE COMING TO ARREST YOU FOR; YOU
21 JUST WEREN'T GOING TO ANSWER THE DOOR AND YOU WEREN'T
22 GONNA COOPERATE WITH THEM. RIGHT?

23 A. I WAS SCARED. I WAS TERRIFIED AND I WAS SCARED.

24 Q. AND YOU DIDN'T WANT TO GO TO JAIL.

25 A. I HAD TO FACE JAIL. I DIDN'T SAY I DIDN'T WANT TO

1 GO. I HAD TO FACE JAIL. I WAS TERRIFIED. I WAS SCARED.
2 I WAS PETRIFIED. I WAS HOPING THE OFFICER WOULD HAVE
3 LEFT THE HOUSE THAT DAY WHEN HE FIRST ARRIVED SO I COULD
4 LEAVE. BUT HE STAYED THERE. HE LEFT...

5 THE COURT REPORTER: I'M SORRY, SIR, I CAN'T HEAR
6 YOU.

7 THE WITNESS: DETECTIVE WILLIAMSON LEFT THE PLACE TO
8 GO GET INTO THE HOUSE. BUT THE PLACE WAS STILL, THE
9 RESIDENCE WAS STILL UNDER SIEGE, SO I COULDN'T --
10 BY MR. WAGNER:

11 Q. YOU WERE UNDER SIEGE, YOU MEAN HE HAD YOU
12 SURROUNDED?

13 A. YES, SIR. BUT I COULDN'T GO ANYWHERE. THAT'S WHY
14 I DIDN'T ANSWER THE DOOR.

15 Q. AND WHEN YOU SAID (READING): I'M TRULY SORRY FOR
16 WHAT I DID. I REALLY WANT TO GET SOME HELP. I NEED
17 HELP, THAT WAS, YOU SAID THAT WAS ACCURATE?

18 A. I SAID THAT, I SAID THAT.

19 Q. ALL RIGHT. BUT THEN AGAIN, I GUESS THIS OTHER
20 PART HERE, YOU ARE TELLING US TODAY THAT YOU DIDN'T SAY
21 THIS (READING): I WAS IN SENECA MIDDLE SCHOOL, AND I LEFT
22 BECAUSE I WAS FEARFUL AND I HAD SECOND THOUGHTS?

23 A. I DIDN'T SAY THAT, EITHER. I DIDN'T SAY THAT,
24 EITHER.

25 Q. OKAY. ALL RIGHT. BUT NOW HERE'S WHERE WE START

1 BACK WHERE YOU DID SAY IT, I THINK. (READING): I'M TRULY
2 SORRY. END OF STATEMENT.

3 SO YOU TOLD HIM, BASICALLY TOLD ME YOU SIGNED A
4 MIRANDA RIGHTS FORM, YOU TOLD ME YOU UNDERSTOOD
5 EVERYTHING. YOU TALKED TO HIM FOR QUITE A WHILE. AND
6 THEN HE WROTE OUT THIS STATEMENT BASED ON WHAT YOU SAID
7 AND WHAT I GUESS YOU ARE SAYING THAT HE MADE UP OR THAT
8 HE ADDED?

9 A. WHAT HE SAID THAT I SAID, WHAT HE SAYS.

10 Q. AND EVERYTHING IS ACCURATE EXCEPT FOR THE PART
11 THAT YOU ARE HERE ON TRIAL TODAY FOR, THE PART WHERE YOU
12 BROKE INTO SENECA MIDDLE SCHOOL?

13 A. YES. THAT AND THE LAST PART YOU SAID.

14 Q. THAT YOU'RE TRULY SORRY?

15 A. NO.

16 Q. NO. WHEN YOU SAID I WAS IN SENECA MIDDLE SCHOOL
17 AND I LEFT BECAUSE I WAS FEARFUL?

18 A. ALL THAT CONNECTED WITH ME, YES, SIR.

19 Q. RIGHT. BUT THE PART ABOUT BREAKING INTO STEPHENS
20 COUNTY HIGH SCHOOL, THAT'S ACCURATE?

21 A. YES, SIR.

22 Q. OKAY. BUT YOU ARE NOT ON TRIAL FOR THAT TODAY,
23 RIGHT?

24 A. YES, SIR.

25 Q. ANOTHER STATE, ANOTHER TIME?

1 A. ANOTHER STATE, ANOTHER TIME, YES, SIR.

2 Q. OKAY. AND EVEN WITH WHAT YOU ARE SAYING SERGEANT
3 WILLIAMSON PUTTING THAT STUFF IN THAT YOU DIDN'T SAY, THE
4 REASON YOU CHOSE TO SIGN THAT STATEMENT AND SAY IT WAS
5 TRUE AND THAT YOU WERE SORRY WAS THAT HE PROMISED YOU HE
6 WOULD GET IT KNOCKED DOWN TO JUST TRESPASSING?

7 A. THE REASON I SIGNED THAT STATEMENT WAS BECAUSE OF
8 HIS OFFER TO HELP ME; THAT'S THE ONLY REASON I FINALLY
9 SIGNED THAT STATEMENT, THE PROMISES OF HIS OFFICER TO
10 HELP.

11 Q. AND WHAT DID HE SAY HE WOULD DO TO HELP YOU?

12 A. DETAIL SPECIFIC, IT WASN'T MENTIONED. I'M JUST
13 LOOKING FOR HELP. LENIENCY, REHAB PROGRAMS. I'M LOOKING
14 FOR HELP. AND THEN HE MENTIONED HE WAS A MINISTER AND HE
15 COULD HELP ME OUT.

16 Q. AND HE TOLD YOU, THOUGH, THAT THE BEST WAY TO DO
17 IT WAS TO COME CLEAN, TELL THE TRUTH, AND PUT IT BEHIND
18 YOU?

19 A. WELL, THAT'S WHAT HE NEEDS TO DO, ALSO.

20 Q. IS THAT WHAT HE TOLD YOU?

21 A. THAT'S WHAT HE NEEDS TO DO, ALSO, IS TO TELL THE
22 TRUTH.

23 Q. IS THAT WHAT HE TOLD YOU, THAT YOU NEEDED TO COME
24 CLEAN AND TELL THE TRUTH AND GET IT BEHIND YOU?

25 A. I DON'T RECALL THAT. TRICKERY, BUT I DON'T RECALL

1 HIM SAYING THAT. BUT HE'S A MINISTER.

2 Q. OKAY. SO, I MEAN, SO HE TRICKED YOU?

3 A. I DON'T KNOW WHAT YOU CALL IT, SOLICITOR. I DON'T
4 KNOW HOW YOU WOULD CALL IT. I'M SORRY.

5 Q. OKAY. BUT LIKE I SAY, I GUESS EVERYTHING IS TRUE
6 EXCEPT THE PART THAT YOU BROKE IN TO SENECA MIDDLE
7 SCHOOL, WHICH IS WHAT YOU ARE ON TRIAL HERE FOR TODAY.
8 EVERYTHING ELSE IS TRUE. IS THAT WHAT YOU ARE SAYING?

9 A. YES, SIR.

10 Q. AND HE MADE IT UP -- AND WHEN I SAY "HE," TIM
11 WILLIAMSON MADE IT UP?

12 A. (NODDED HEAD.)

13 Q. DID YOU EVER KNOW TIM PRIOR TO THIS CASE?

14 A. NO, SIR, I DIDN'T. THAT WAS MY FIRST MEETING WITH
15 THE GENTLEMAN.

16 Q. YOU NEVER HAD MET HIM BEFORE. BUT YOU ARE SAYING
17 THAT YOU TOLD HIM THAT YOU DIDN'T DO THAT SEVERAL TIMES
18 AND HE PUT IT IN THE STATEMENT ANYWAY?

19 A. (NODDED HEAD.)

20 Q. OKAY. AND YOU DID SIGN IT AND SAID THAT WAS TRUE?

21 A. I SIGNED IT FOR THE HELP, THAT'S ALL.

22 Q. OKAY. SO BY SIGNING IT --

23 A. BUT THAT'S NOT TRUE. I MADE IT CLEAR TO HIM IT'S
24 NOT MY STATEMENT.

25 Q. BUT WHEN YOU SIGNED IT, YOU SAID IT WAS TRUE?

1 A. NO. I DIDN'T SIGN TELLING THAT WAS TRUE.

2 Q. YOU NOT ONLY SIGNED BUT YOU INITIALED IN THREE
3 PLACES, HERE AT THE BOTTOM, AND CROSSED THROUGH SO
4 NOTHING COULD BE ADDED TO IT.

5 A. YES, SIR.

6 Q. OKAY. AND JUST FOR THE RECORD, I'M TALKING ABOUT
7 STATE'S EXHIBIT NUMBER 3 FOR IDENTIFICATION.

8 NOW, YOU ASKED FOR HIM TO COME BACK DOWN, STATE'S
9 EXHIBIT NUMBER 2, ON THE 29TH?

10 A. I DON'T REMEMBER THE DATE.

11 Q. OKAY. BUT YOU SENT WORD TO HIM THAT YOU WANTED TO
12 RECALL THAT STATEMENT?

13 A. YES.

14 Q. OKAY. BUT THEN YOU DECIDED YOU DIDN'T WANT TO
15 GIVE UP YOUR RIGHTS ON THAT DAY AND RECALL IT?

16 A. WELL, MY ASSIGNED ATTORNEY HAD TOLD...

17 THE COURT REPORTER: I'M SORRY, I CANNOT HEAR HIM.

18 DAVID, IF YOU'D MOVE OVER A LITTLE, MAYBE YOU CAN
19 FACE ME?

20 MR. WAGNER: OKAY. I'M SORRY, ROBIN.

21 THE WITNESS: I TOLD HIM I COULD NOT MAKE ANY MORE
22 STATEMENTS. AND THAT'S WHY, YOU KNOW, THAT'S WHY I
23 CHANGED MY MIND THAT DAY. IT TOOK SOME TIME FOR HIM TO,
24 WHEN I SENT THE REQUEST, FOR HIM TO GET THERE AND I HAD
25 TALKED WITH HIM.

1 BY MR. WAGNER:

2 Q. OKAY. AND THAT'S YOUR RIGHT, I'M NOT QUESTIONING
3 THAT. BUT YOU DID ASK FOR HIM TO COME DOWN THERE?

4 A. I DID.

5 Q. BUT I'M ASKING YOU, YOU DIDN'T WANT TO RECALL OR
6 YOU DIDN'T WANT TO TALK ANY MORE?

7 A. NOT WITH HIM, NOT WITH THIS GUY.

8 Q. OKAY.

9 MR. WAGNER: THANK YOU. THAT'S ALL THE QUESTIONS I
10 HAVE.

11 THE WITNESS: OH. THAT DAY WHEN I TOLD HIM THAT
12 WHEN I DID, WHEN HE DID UNDERSTAND I WANTED TO RECALL, HE
13 THREATENED ME THAT DAY SAYING THAT THE DEAL WAS NO LONGER
14 ON THE TABLE, HE WOULDN'T HELP ME IN ANY WAY, AND NONE OF
15 THIS WAS GOING ANYWHERE. HE SAID THAT WHEN HE LEFT THE
16 DETENTION CENTER THAT DAY.

17 BY MR. WAGNER:

18 Q. AND WHAT DEAL WAS THAT?

19 A. HIS PROMISE TO HELP ME, THE LENIENCY TO THE
20 PROSECUTOR, TO THE JUDGE, AND AID ME IN GETTING INTO A
21 PROGRAM, HE TOOK THAT OFF THE TABLE. AND REDUCING THE
22 CHARGE.

23 MR. WAGNER: THANK YOU, MR. BANKS. THOSE ARE ALL
24 THE QUESTIONS I HAVE, THANK YOU.

25 MR. DAY: I DON'T BELIEVE I HAVE ANY MORE QUESTIONS,

1 YOUR HONOR.

2 THE COURT: YOU MAY STEP DOWN. THANK YOU, SIR.

3 (THE DEFENDANT LEFT THE WITNESS STAND AND
4 RETURNED TO DEFENSE TABLE.)

5 MR. DAY: I CALL DELORES PATTERSON.

6 WHEREUPON,

7 DELORES PATTERSON,

8 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY MR. DAY:

10 Q. MS. PATTERSON, GIVE US YOUR FULL NAME, PLEASE.

11 A. DELORES LYNN PATTERSON.

12 Q. AND WHERE DO YOU LIVE?

13 A. 209 SOUTH FAIRPLAY STREET, SENECA.

14 Q. HOW LONG HAVE YOU LIVED THERE?

15 A. ABOUT THREE YEARS.

16 Q. ALL RIGHT. AND THAT'S RIGHT NEXT TO THE FORMER
17 SENECA BAPTIST CHURCH, ISN'T IT?

18 A. CORRECT.

19 Q. SCARY TIMES.

20 A. UH-HUH.

21 Q. YOU KNOW MR. ROBERT BANKS?

22 A. YES.

23 Q. WHERE ARE YOU EMPLOYED, MA'AM?

24 A. DUKE POWER.

25 Q. HOW LONG HAVE YOU BEEN WITH THEM?

1 A. ABOUT EIGHT YEARS.

2 Q. DO YOU DO ANY OTHER WORK OTHER THAN DUKE POWER?

3 A. I TAKE CARE OF THE ELDERLY AT NIGHT.

4 Q. HOW LONG HAVE YOU BEEN DOING THAT?

5 A. ABOUT TEN.

6 Q. OKAY. AT YOUR HOUSE THERE ON FAIRPLAY STREET, WHO
7 ALL LIVES THERE?

8 A. JUST ME BY MYSELF.

9 Q. ON THIS, MARCH THE 12TH OF THIS YEAR WAS MR. BANKS
10 THERE?

11 A. YES, HE WAS.

12 Q. DO YOU AND MR. BANKS HAVE A RELATIONSHIP?

13 A. WE DID, WE WERE A COUPLE. BUT, YOU KNOW, HE WAS
14 JUST SO SICK AND ALL I COULD DO WAS HELP HIM. AND I'VE
15 BEEN HELPING HIM FOR A WHILE NOW.

16 Q. HELPING HIM FOR WHAT?

17 A. WELL, WITH HIS DRUG PROBLEM OR HIS ALCOHOL
18 PROBLEM, WHATEVER IT WAS. HE NEVER DIRECTLY TOLD ME, BUT
19 I ALWAYS OFFERED TO HELP IN ANY WAY I COULD.

20 Q. HE SAID SOMETHING ABOUT HE WAS TRYING TO
21 SELF-DETOX OR WHATEVER, WORKING THE STUFF OUT OF HIS
22 SYSTEM. IS THAT WHAT HE HAD TOLD YOU?

23 A. UH-HUH.

24 Q. NOW, ON THIS NIGHT OF MARCH THE 12TH, DID YOU
25 RECEIVE A CALL -- EXCUSE ME -- THE DAY OF MARCH THE 12TH,

1 DID YOU RECEIVE A CALL FROM MR. BANKS?

2 A. YES.

3 Q. ALL RIGHT. AS A RESULT OF THAT YOU CAME ON HOME?

4 A. YES.

5 Q. TELL ME WHAT YOU SAW WHEN YOU ARRIVED AT YOUR
6 HOME.

7 A. JUST A BUNCH OF POLICE OFFICERS EVERYWHERE.

8 Q. ALL RIGHT. WERE YOU ALLOWED TO ENTER THE HOUSE?

9 A. YES.

10 Q. WHEN YOU GOT IN THE HOUSE, COMING IN THROUGH THE
11 FRONT DOOR, AS I REMEMBER, THE ROOM WITH, THE FRONT ROOM
12 WITH THE TABLE IN IT IS RIGHT THERE AT THAT DOOR; IS THAT
13 CORRECT?

14 A. CORRECT.

15 Q. DID YOU SEE MR. BANKS?

16 A. WELL, AT THE BEGINNING I HAD TO GO INTO THE
17 DINING, THE LIVING ROOM DOOR, THE OTHER FRONT DOOR, I HAD
18 TO GO IN THAT WAY AT THE BEGINNING. AND THEN LATER ON I
19 DID SEE MR. BANKS.

20 Q. OKAY. DID YOU GO IN THE ROOM WITH HIM?

21 A. NOT IMMEDIATELY, NO.

22 Q. OKAY. BUT AFTER YOU GOT, AFTER SOME TIME, MINUTES
23 OR SO, YOU ACTUALLY GOT TO GO IN AND SEE HIM?

24 A. YES.

25 Q. SINCE YOU KNOW HIM, DESCRIBE HIS DEMEANOR. WHAT

1 DID HE LOOK LIKE? HOW WAS HE ACTING?

2 A. HE WAS VERY UPSET, I COULD TELL.

3 Q. NOT HIMSELF?

4 A. NO.

5 Q. ALL RIGHT. DID HE SEEM SCARED?

6 A. YES.

7 Q. NERVOUS?

8 A. YEAH.

9 Q. I THINK ONE OF THE WORDS THAT DETECTIVE WILLIAMSON
10 USED WAS "DISTRAUGHT"?

11 A. YES.

12 Q. WOULD THAT BE AN APT DESCRIPTION OF HIM?

13 A. YES.

14 Q. WERE YOU THERE OR DID YOU HEAR THEM, SEE ANYTHING
15 ABOUT SIGNING A STATEMENT WHILE YOU WERE THERE?

16 A. I WAS, I WAS MAINLY OFF, I WAS MAINLY BACK THERE
17 TRYING TO KEEP THE DOGS UNDER CONTROL, SO NO, I DON'T
18 REALLY REMEMBER NONE OF THAT.

19 Q. ALL RIGHT. DID YOU GET A CHANCE TO SPEND SOME
20 TIME WITH HIM OR SPEAK TO HIM --

21 A. YES.

22 Q. -- BEFORE HE LEFT WITH THE POLICE?

23 A. YES.

24 Q. ABOUT HOW LONG DID THAT LAST?

25 A. ABOUT FIVE, TEN MINUTES, IF THAT.

1 Q. AND AFTER THAT, HOW LONG AFTER THAT DID THEY TAKE
2 HIM OUT OF THE HOUSE AND PUT HIM IN THE POLICE CAR AND
3 LEAVE?

4 A. IMMEDIATELY AFTER THAT.

5 Q. ALL RIGHT. DID ANY OF THE OFFICERS QUESTION YOU,
6 ASK YOU QUESTIONS ABOUT ANY OF THIS GOING ON?

7 A. UM, I KNEW MR. LYLES, AND I THINK HE MAYBE ASKED
8 ME A QUESTION ABOUT, I THINK MAYBE IT WAS ABOUT MAYBE HOW
9 LONG I'VE KNOWN ROBERT OR SOMETHING TO THAT EFFECT, I
10 BELIEVE. I DON'T REMEMBER EXACTLY.

11 Q. NOW, YOU'VE KNOWN HIM FOR SOME TIME. YOU HAVE
12 SEEN HIM WHEN HE WAS ON GOOD BEHAVIOR, WHATEVER, AND YOU
13 HAD ALSO SEEN HIM WHEN HE WAS AT HIS WORST; IS THAT
14 CORRECT?

15 A. CORRECT.

16 Q. HOW WOULD YOU DESCRIBE HIM THIS DAY?

17 A. RIGHT NOW?

18 Q. WHEN YOU SAW HIM THAT DAY.

19 A. OH, THAT DAY? OH. HE WAS WORSE.

20 Q. DID HE SEEM TO KNOW, DID HE SEEM TO LOOK LIKE HE
21 KNEW WHAT HE WAS DOING?

22 A. NO, NOT REALLY.

23 Q. THE ATMOSPHERE IN THAT ROOM WITH THE OFFICERS IN
24 YOUR FRONT ROOM WITH THE TABLE THERE, DID IT APPEAR THAT
25 HE WAS AT EASE WITH WHAT HE WAS DOING?

1 A. NO, HE DIDN'T SEEM AT EASE.

2 Q. ANY TIME WHILE YOU WERE THERE, WHEN YOU SAW HIM,
3 THE TIME THAT YOU WERE THERE AT THE HOUSE, HAD RETURNED
4 HOME, DID HE EVER ACT AS YOU WOULD HAVE EXPECTED HIM TO
5 ACT NORMALLY?

6 A. REPEAT THAT AGAIN, NOW?

7 Q. WHILE YOU WERE THERE AT THE HOUSE, DID YOU EVER
8 SEE HIM ACT AS YOU NORMALLY EXPECTED HIM TO ACT?

9 A. NO.

10 Q. DO YOU REMEMBER WHETHER HE HAD HANDCUFFS ON WHEN
11 YOU SAW HIM?

12 A. I DON'T REMEMBER. I DON'T KNOW.

13 Q. OKAY. WHEN YOU SAW HIM BEFORE HE LEFT, DID HE
14 TELL YOU WHAT IT IS THEY HAD ACCUSED HIM OF?

15 A. NO, I DON'T THINK HE DID, NO.

16 Q. SO HE NEVER DISCUSSED SENECA MIDDLE SCHOOL?

17 A. NO.

18 Q. THAT WASN'T MENTIONED?

19 A. NO.

20 Q. OKAY.

21 MR. DAY: THANK YOU, MA'AM. PLEASE ANSWER ANY
22 QUESTIONS MR. WAGNER MAY HAVE.

23 CROSS-EXAMINATION BY MR. WAGNER:

24 Q. MS. PATTERSON, WOULD YOU HAVE EXPECTED HIM TO ACT
25 NORMAL IF YOU KNEW THAT HE HAD BROKEN INTO AT LEAST ONE

1 SCHOOL OVER IN GEORGIA AND THAT THEY WERE THERE TO ARREST
2 HIM FOR IT?

3 A. UM, WHEN YOU SAY ACT NORMAL? NO.

4 Q. I MEAN, YOU JUST SAID THAT HE WASN'T ACTING LIKE
5 HIMSELF.

6 A. RIGHT.

7 Q. I GUESS MY POINT IS, AND MY QUESTION WOULD BE THAT
8 HE WOULDN'T ACT THAT NORMAL IF HE'S FIXING TO GET
9 ARRESTED FOR --

10 A. RIGHT.

11 Q. -- FELONY BURGLARY, FOR LACK OF A BETTER TERM TO
12 CALL IT. I DON'T KNOW WHAT THEY CALL IT IN GEORGIA BY
13 THE POLICE. AND BY HIS OWN ADMISSION HE DID THAT ONE
14 TODAY.

15 SO I GUESS WHEN THE POLICE SHOW UP AT YOUR HOUSE
16 AND YOU KNOW YOU DID SOMETHING WRONG, YOU'RE NOT GONNA BE
17 ACTING NORMAL, RIGHT?

18 A. CORRECT, CORRECT.

19 Q. DID YOU EVER HEAR OFFICER WILLIAMSON OR ANY OTHER
20 OFFICERS IN THERE PROMISING HIM ANYTHING OR THREATENING
21 HIM OR HOLLERING AT HIM OR ANYTHING LIKE THAT?

22 A. NO. 'CAUSE, YOU KNOW, I WAS TOO BUSY TRYING TO
23 OCCUPY, TRYING TO CONTROL MY OTHER DOGS, SO I COULDN'T
24 HARDLY, I COULDN'T HEAR THE CONVERSATION.

25 Q. YES, MA'AM, OKAY. I MEAN, DID YOU EVER HEAR

1 ANYBODY EVEN RAISING THEIR VOICES OR ANYTHING?

2 A. NO.

3 Q. OKAY. BUT THEY WERE IN THERE TALKING TO HIM?

4 A. YES.

5 Q. WHEN YOU ACTUALLY SAW HIM, WAS IT OFFICER
6 WILLIAMSON THAT WAS TALKING TO HIM?

7 A. YES.

8 Q. OKAY. AND HAVE YOU EVER HAD ANY DEALINGS WITH
9 OFFICER WILLIAMSON BEFORE FOR ANY REASON?

10 A. NO.

11 MR. WAGNER: THANK YOU. THOSE ARE ALL THE QUESTIONS
12 I HAVE.

13 THE COURT: REDIRECT?

14 MR. DAY: I BELIEVE THAT'S ALL THE QUESTIONS I HAVE.
15 THANK YOU, MA'AM.

16 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. THANK
17 YOU, MA'AM.

18 (THE WITNESS, MS. PATTERSON, WAS EXCUSED.)

19 MR. DAY: THAT'S ALL THE WITNESSES I HAVE, YOUR
20 HONOR.

21 THE COURT: REBUTTAL?

22 MR. WAGNER: NO, SIR.

23 THE COURT: ALL RIGHT. CALL YOUR --

24 MR. WAGNER: YOUR HONOR, AT THIS TIME WE'D MOVE TO
25 MOVE INTO EVIDENCE STATE'S EXHIBIT NUMBER 1, 2 AND 3.

1 YOUR HONOR, NUMBER 1 BEING THE FIRST RIGHTS WAIVER,
2 NUMBER 2 BEING THE SECOND RIGHTS WAIVER TWO AND A HALF
3 WEEKS OR SO LATER ON THE 29TH, AND NUMBER 3 BEING THE
4 ACTUAL STATEMENT ITSELF.

5 YOUR HONOR, I BELIEVE THE STATE HAS, THROUGH THE
6 TESTIMONY OF OFFICER WILLIAMSON, HAS ESTABLISHED THAT THE
7 DEFENDANT WAS IN CUSTODY, THAT HE WAS READ HIS RIGHTS
8 WAIVER. AND BY HIS OWN ADMISSION HE UNDERSTOOD WHAT WAS
9 BEING ASKED OF HIM AND HE WAIVED HIS RIGHTS AND GAVE THE
10 STATEMENT ADMITTING TO IT.

11 AND THE FACT THAT HE'S HERE ON TRIAL I WOULD SUBMIT
12 TO THE COURT THAT HE'S DENYING THAT ACTUAL PART OF THAT
13 STATEMENT NOW, BUT I WOULD ALSO SUBMIT TO THE COURT THAT
14 EVERYTHING ELSE HE SAYS IN THERE BASICALLY IS TRUE, IT'S
15 JUST THE ONE TIDBIT THAT HURTS HIM FOR TODAY'S TRIAL.

16 OFFICER WILLIAMSON DID TESTIFY THAT HE NEVER
17 PROMISED HIM ANYTHING. HE DID TELL HIM, YOU KNOW, COME
18 CLEAN, TELL THE TRUTH IF YOU WANT TO GET IT BEHIND YOU,
19 BASICALLY. BUT HE NEVER, HE TESTIFIED THAT HE NEVER DID
20 PROMISE HIM THAT HE WOULD HAVE CHARGES REDUCED OR
21 ANYTHING OF THAT NATURE AND NEVER THREATENED HIM.

22 YOUR HONOR, AND I BELIEVE NOTHING HAS BEEN SHOWN
23 TODAY FROM EITHER SIDE SHOWING THAT ANY KIND OF COERCIVE
24 NATURE, ANY KIND OF INDUCEMENT AT ALL, ANY KIND OF
25 PRESSURE WAS USED IN ORDER FOR HIM TO GIVE THAT

1 STATEMENT. I BELIEVE THAT STATEMENT WAS FREELY AND
2 VOLUNTARILY GIVEN. AND WE WOULD SUBMIT THAT TO THE COURT
3 AND ASK FOR YOU TO ADMIT IT.

4 THE COURT: ALL RIGHT. MR. DAY?

5 MR. DAY: THANK YOU, YOUR HONOR. YOUR HONOR, WE
6 WOULD SUBMIT THAT THE STATEMENT SHOULD BE SUPPRESSED IN
7 THAT DURING THE, WHEN THEY ARRIVED AT THE HOUSE, THERE
8 WAS A TIME PERIOD BEFORE THEY GOT IN THERE, BUT BY THE
9 OFFICER'S OWN TESTIMONY THEY WERE THERE WITH HIM FOR
10 APPROXIMATELY AN HOUR AND A HALF BEFORE HE ACTUALLY HAD
11 HIM SIGN AWAY HIS *MIRANDA* RIGHTS AND AT THAT POINT TO
12 WRITE A STATEMENT.

13 HE SAYS THAT HE WAS INTERROGATED BY THE OFFICERS
14 FROM STEPHENS COUNTY, THERE WERE QUESTIONS FROM OTHERS,
15 INCLUDING HIMSELF AND DETECTIVE WILLIAMSON. FORMER
16 DETECTIVE WILLIAMSON SAID FROM THAT POINT ON HE BEGAN TO
17 QUESTION HIM AT LENGTH AND IN DEPTH AND STRAIGHT ON AND
18 THEY NEVER LEFT THAT ROOM. AT THAT POINT HE WAS --

19 THE COURT: NOT EVEN TO GO TO THE BATHROOM?

20 MR. DAY: EXCEPT TO GO TO THE BATHROOM, YES, SIR.
21 THEY DID DO THAT. HE TESTIFIED TO THAT, BOTH OF THEM
22 DID.

23 BUT THAT HE WAS SURROUNDED AT THAT POINT BY OFFICERS
24 INCLUDING UNIFORMED OFFICERS. THEY HAD COME INTO THE
25 HOUSE WITH GUNS DRAWN. HE WAS THEN PLACED, AS

1 MR. WILLIAMSON SAID, WAS PLACED IN HANDCUFFS, AND THEN HE
2 WAS THEN PLACED AT THE TABLE AND THEY BEGAN TO IN EFFECT
3 INTERROGATE HIM.

4 THIS WENT ON FOR SOME TIME AND THEN HE ASKED HIM TO
5 DO THE RIGHTS WAIVER, AND THEN SOMETIME AFTER THAT HE
6 SAYS HE THEN MADE A STATEMENT. IF, IN FACT, THEY WERE
7 INTERROGATING HIM AND DISCUSSING WITH HIM ALL THIS TIME,
8 I WOULD SUGGEST TO THE COURT THAT AT THAT POINT,
9 SOMEWHERE IN THERE, THERE SHOULD HAVE BEEN A *MIRANDA*
10 WARNING OR IMMEDIATELY FROM THE TIME HE WAS ARRESTED
11 SINCE THEY WERE GOING TO ARREST HIM. THEY KNEW HE WAS IN
12 CUSTODY, THERE WAS NO QUESTION ABOUT THAT.

13 BUT THEY DIDN'T READ HIM HIS *MIRANDA* RIGHTS UNTIL
14 THEY GOT WELL INTO IT, AND THEN THEY SAID, WELL, NOW HE
15 SAID SOMETHING THAT LOOKS LIKE WE WANT TO PUT DOWN AS A
16 STATEMENT SO I WANT YOU TO SIGN THIS *MIRANDA* RIGHT. SO
17 HE'S PUTTING THE CART BEFORE THE HORSE IN THAT RATHER
18 THAN GIVING HIM HIS RIGHTS BEFORE THEY STARTED
19 QUESTIONING HIM, THEY WAITED UNTIL AFTER THEY HAD
20 QUESTIONED HIM, AND THEN THEY GAVE HIM HIS RIGHTS AND
21 SAID, "NOW, THESE THINGS THAT YOU SAID WE NEED TO PUT
22 INTO THIS STATEMENT."

23 I WOULD SUBMIT, YOUR HONOR, THAT BASED ON THE
24 TESTIMONY BOTH THE DEFENDANT AND MS. PATTERSON HE WAS
25 SOMEWHAT DISTRAUGHT, HE WAS ON MEDICATION, HE ADMITS

1 HAVING A DRUG PROBLEM WHICH WAS AFFECTING HIM. AS A
2 RESULT OF THAT THEY WERE ABLE TO OVERBEAR HIS WILL AND
3 BRING TO HIM A STATEMENT, NOT WRITTEN BY HIM BUT BY
4 SOMEONE ELSE --

5 THE COURT: THAT'S NOT HIS SIGNATURE?

6 MR. DAY: YES, SIR.

7 THE COURT: THAT'S NOT HIS INITIALS?

8 MR. DAY: HE DOES ACKNOWLEDGE THAT IS HIS SIGNATURE,
9 YOUR HONOR.

10 THE COURT: WAS IT AFTER THE STATEMENT WAS MADE OR
11 WRITTEN?

12 MR. DAY: THAT IS AS I UNDERSTAND THE TESTIMONY.

13 AND WE SUBMIT, YOUR HONOR, THAT AS A RESULT, IN
14 LOOKING AT THE TOTALITY OF THE CIRCUMSTANCES, THAT, IN
15 FACT, THIS STATEMENT SHOULD BE SUPPRESSED AND NOT USED
16 AGAINST THE DEFENDANT.

17 EVEN IN LOOKING AT SOME OF THE CASES LIKE *SEIBERT*
18 AND *NAVY* AND TALKING ABOUT THE MID INTERROGATION, WHERE
19 YOU READ THE *MIRANDA* RIGHTS AND THEN CONTINUE TO
20 INTERROGATE AND THEN READ THEM AGAIN AND INTERROGATE
21 AGAIN, WHILE THIS IS NOT FALLING PRECISELY INTO THAT, IT
22 DOES GET CLOSE IN THAT THEY DID INTERROGATE HIM AND THEN
23 READ HIM HIS RIGHTS AND THEN SAID HE MADE A STATEMENT.

24 WE WOULD SUBMIT, YOUR HONOR, THAT IS ENOUGH, WITH
25 THE TOTALITY OF THE CIRCUMSTANCES, THAT IT SHOULD BE

1 SUPPRESSED.

2 THE COURT: ANYTHING ELSE?

3 MR. WAGNER: YES, YOUR HONOR. I THINK OFFICER
4 WILLIAMSON SPECIFICALLY SAID THEY DIDN'T DO IT THAT WAY,
5 THAT HE MIRANDIZED HIM. AND BY THE DEFENDANT'S OWN
6 TESTIMONY, HE SAID THEY CAME IN, ACTUALLY CAME IN TO THE
7 HOUSE ON A SEARCH WARRANT ABOUT A QUARTER TO TWO. THE
8 RIGHTS WAIVER WAS READ TO HIM AT 2:05 AND THEN SIGNED BY
9 HIM. SO YOU'VE GOT 15 OR 20 MINUTES THERE. IN THE
10 PROCESS THEY ARE CLEARING THE HOUSE, I WON'T SAY TAKING
11 HIM DOWN, BUT THEY HANDCUFFED AND ACTUALLY ARRESTED HIM
12 AND ALL THAT'S GOING ON.

13 AND THEN OFFICER WILLIAMSON TESTIFIED THAT THEY DID
14 THE RIGHTS WAIVER BEFORE THEY STARTED QUESTIONING HIM
15 ABOUT ANY OF THAT STUFF. I BELIEVE HE WAS SPECIFIC ON
16 THAT POINT.

17 THE COURT: AS THE ATTORNEYS HAVE BEEN VERY CAREFUL
18 TO REMIND THE COURT, I MUST LOOK AT THE TOTALITY OF THE
19 CIRCUMSTANCES. AND I THINK ONE OF THE MOST COMPELLING
20 QUESTIONS -- OR NOT QUESTIONS -- BUT CIRCUMSTANCES WE
21 HAVE IS APPARENTLY APPROXIMATELY 1:30, 1:45 THEY
22 RETURNED -- EXCUSE ME -- 1:30 OR SO THEY RETURNED.

23 THE WAIVER WAS SIGNED AT 1405, WHICH AS I UNDERSTAND
24 FROM MILITARY TIME IT'S 2:05. AND HE DIDN'T ARRIVE AT
25 THE OCONEE COUNTY DETENTION CENTER UNTIL 1617 WHICH IS

1 SOME TWO HOURS LATER. SO APPARENTLY SOMETHING WAS BEING
2 DONE. IF THEY HAD ALREADY GOTTEN HIS STATEMENT AND
3 EVERYTHING ELSE, THEN THERE WAS NO REASON TO WASTE ALL
4 THAT TIME BETWEEN THE WAIVER OF THE RIGHTS AND THE TIME
5 TO GET TO THE OCONEE COUNTY DETENTION CENTER FROM SOUTH
6 FAIRPLAY STREET IN SENECA.

7 BUT MORE IMPORTANTLY, IN LOOKING AT THE ALLEGED
8 STATEMENT, OR PURPORTED STATEMENT, THIS ACKNOWLEDGED THAT
9 HE SIGNED IT AND INITIALED IT, BUT HE SAYS THE REASON HE
10 SIGNED THE STATEMENT WAS BECAUSE OF HIS OFFER TO HELP.
11 AND, OF COURSE, ONE OF THE OFFERS WAS THAT HE WAS GONNA
12 REDUCE THE CHARGE. AND AGAIN, THIS IS FROM THE
13 DEFENDANT'S OWN TESTIMONY. AND THEN HE SAYS IT WAS
14 TRICKERY.

15 WELL, TRICKERY ADMITS MAKING THE STATEMENT. IT'S
16 HOW THAT TRICKERY OR HOW THAT STATEMENT CAME TRICKED OUT
17 OF IT. SO OBVIOUSLY HE'S NOT DENYING THAT HE DID MAKE
18 THE STATEMENT, HE WAS JUST SAYING THAT IT WAS THE RESULT
19 OF TRICKERY. HE SAID, I SIGNED IT FOR HELP AND...

20 AS FAR AS AT THE TIME OF THE SECOND STATEMENT OF
21 MIRANDA RIGHTS ADVISEMENT, HE SAID, "I DECIDED NOT TO
22 MAKE ANY MORE STATEMENTS." MAYBE THAT CONCEDES HE MADE
23 ONE. AND THEN HE SAYS FURTHER, "I WAS THREATENED IF I
24 RECENT, I WILL NO LONGER GET THE DEAL," WHICH WAS TO
25 REDUCE THE CHARGE.

1 AGAIN, IT'S GOING TO BE FOR THE JURY TO DECIDE
2 WHETHER OR NOT THE STATEMENT WAS ACTUALLY MADE, AND I
3 WILL SO CHARGE THE JURY. BUT AS FAR AS THE COURT IS
4 CONCERNED, I'VE CAREFULLY CONSIDERED ALL OF THE EVIDENCE
5 OFFERED BY THE STATE AND THE DEFENDANT, AND I AM
6 CONVINCED BY A PREPONDERANCE OF THE EVIDENCE THAT BEFORE
7 THE STATEMENT OR CONFESSION WAS OBTAINED, THE DEFENDANT
8 WAS FULLY ADVISED OF HIS RIGHTS UNDER THE FIFTH AND SIXTH
9 AMENDMENTS AND THAT THE DEFENDANT WAS ADVISED OF THE
10 CONSTITUTIONAL SAFEGUARD REQUIRED BY *MIRANDA V. ARIZONA*.

11 THOSE RIGHTS ARE: THE RIGHT TO REMAIN SILENT,
12 ADVISE THAT THE STATEMENT CAN AND WILL BE USED AGAINST
13 HIM IN A COURT OF LAW, THE RIGHT TO AN ATTORNEY, THE
14 COURT TO APPOINT OR PROVIDE AN ATTORNEY IF HE COULD NOT
15 AFFORD ONE, THE RIGHT TO CONSULT WITH HIS ATTORNEY, THE
16 RIGHT TO INTERRUPT OR TO TERMINATE THE INTERROGATION, THE
17 INTERROGATION WOULD CEASE UNTIL GIVEN AN OPPORTUNITY TO
18 CONSULT WITH HIS ATTORNEY PRIOR TO FURTHER INTERROGATION.

19 NOW, ALL OF THOSE SPECIFICS WERE INITIALED, AS I
20 UNDERSTAND IT, ON STATE'S EXHIBIT 1.

21 IS THAT CORRECT, MR. WAGNER?

22 MR. WAGNER: YES.

23 THE COURT: IS THAT CORRECT, MR. DAY?

24 MR. DAY: THAT'S CORRECT, YOUR HONOR.

25 THE COURT: THE DEFENDANT KNOWINGLY -- THE COURT

1 FURTHER FINDS THE DEFENDANT KNOWINGLY AND INTELLIGENTLY
2 WAIVED HIS RIGHTS UNDER THE 5TH AND 6TH AMENDMENTS,
3 *MIRANDA V. ARIZONA*. MOREOVER, THE ALLEGED STATEMENT AND
4 CONFESSION WAS FREELY AND VOLUNTARILY GIVEN WITHOUT
5 DURESS, WITHOUT COERCION, WITHOUT UNDUE INFLUENCE,
6 WITHOUT PROMISE OF LENIENCY, WITHOUT THREAT OF INJURY OR
7 WITHOUT INDUCEMENT OF ANY KIND AND THAT SUCH ALLEGED
8 INCRIMINATING STATEMENT WAS THE VOLUNTARY PRODUCT OF THE
9 FREE AND UNCONSTRAINED WILL OF THE DEFENDANT.

10 NOW, ONCE THE STATEMENT IS SUBMITTED TO THE JURY,
11 THEY MUST FIND -- FIRST OF ALL, THEY MUST FIND AS A
12 MATTER OF FACT THAT THE STATEMENT WAS, IN FACT, MADE.
13 BUT THEN THEY MUST FIND VOLUNTARINESS BEYOND A REASONABLE
14 DOUBT.

15 THE TEST OF ADMISSIBILITY OF A STATEMENT IS
16 VOLUNTARINESS. IF THE DEFENDANT WAS ADVISED OF HIS
17 *MIRANDA* RIGHTS AND CHOSE TO MAKE A STATEMENT ANYWAY, FOR
18 WHATEVER REASON, BE IT TRICKERY, BE IT THE FACT THAT HE
19 FELT THAT HE COULD IMPROVE HIS POSITION OR SOMETHING,
20 WITHOUT THE PROMISE OF IT, BUT CHOSE TO MAKE A STATEMENT,
21 THAT BURDEN IS ON THE STATE TO PROVE BY THE PREPONDERANCE
22 OF THE EVIDENCE, AND I DO FIND THE RIGHTS WERE
23 VOLUNTARILY WAIVED.

24 THE STATE FURTHER BEARS THE BURDEN EVEN WHEN
25 DEFENDANT HAS SIGNED THE WAIVER OF HIS RIGHTS FORM, AND

1 THE TRIAL JUDGE'S DETERMINATION OF VOLUNTARINESS OF THE
2 STATEMENT MUST BE MADE ON THE BASIS OF THE TOTALITY OF
3 CIRCUMSTANCES, AND IN THIS CASE I FIND THAT THE STATE HAS
4 SATISFIED ITS BURDEN AND WILL ADMIT THE STATEMENT FOR
5 CONSIDERATION BY THE JURY. OF COURSE, THEIR DECISION
6 MUST BE BEYOND A REASONABLE DOUBT.

7 (STATE'S EX. # 1 WAS RECEIVED IN EVIDENCE.)

8 (STATE'S EX. # 2 WAS RECEIVED IN EVIDENCE.)

9 (STATE'S EX. # 3 WAS RECEIVED IN EVIDENCE.)

10 THE COURT: ALL RIGHT. IT IS NOW 4:00. THAT JURY
11 HAS BEEN IN THAT JURY ROOM FOR TWO HOURS. WHAT DOES THE
12 STATE PROPOSE?

13 MR. WAGNER: YOUR HONOR, WE'RE READY TO GO FORWARD
14 IF WE'RE GONNA DO OPENING STATEMENTS OR WE COULD START IN
15 THE MORNING.

16 THE COURT: WHAT DO YOU SAY, MR. DAY?

17 MR. DAY: YOUR HONOR, I ALSO APOLOGIZE.

18 THE COURT: NO PROBLEM. I JUST, I THINK THAT I
19 SHOULD HAVE BEEN BETTER ADVISED OR WHATEVER AND THEN JUST
20 LET THE JURY GO UNTIL TOMORROW FOR US TO TAKE UP THESE
21 MATTERS, BECAUSE WHEN I WAS THINKING THAT WHEN I SAID A
22 HALF AN HOUR WOULD BE ENOUGH, NO ONE SUGGESTED IT
23 WOULDN'T BE.

24 MR. DAY: YOUR HONOR, I HAVE NO PROBLEM WITH LETTING
25 THE JURY GO AND LETTING THEM STRETCH THEIR LEGS AND START

1 EARLY IN THE MORNING RATHER THAN, AFTER HAVING SAT IN
2 THERE ALL THIS TIME, TO HAVE TO COME AND SIT BACK IN
3 HERE, AND I HATE TO DO THAT TO THEM, AND I DON'T MIND
4 STARTING IN THE MORNING AT ALL.

5 I THINK WE CAN FINISH THIS CASE TOMORROW VERY
6 EASILY, GET MOST OF IT DONE IN THE MORNING, AND I'M SURE
7 IT WILL GO TO THE JURY PROBABLY RIGHT AT LUNCH.

8 THE COURT: WELL, LET'S NOT WORRY ABOUT IT. BUT THE
9 THING IS I JUST, I FEEL THAT I HAVE NOT BEEN FAIR TO THE
10 JURY IN THIS REGARD, THAT I SHOULD HAVE LET THEM GO HAD I
11 REALIZED THE SIGNIFICANCE OF THE MATTER THE COURT WAS
12 GONNA CONSIDER WOULD HAVE TAKEN MORE THAN A HALF AN HOUR.

13 ALL RIGHT. SO WHAT I'LL DO IS I'LL BRING THEM BACK
14 AND EXCUSE THEM. NOW, I DO HAVE SOME OTHER MATTERS I
15 NEED TO TAKE UP WITH THE ATTORNEYS, I'LL JUST TELL THEM
16 THAT BEFORE WE GO TO THE JURY.

17 NOW, I AM GONNA ASK THEM WHAT TIME THEY WOULD LIKE
18 TO START, AND I'LL GIVE THEM THE 9:00, 9:30, 10:00
19 CHOICES, AND WHATEVER THEY SAY, WE'LL START AT THAT TIME.

20 ANY PROBLEM WITH THAT, MR. WAGNER?

21 MR. WAGNER: NO, JUDGE.

22 THE COURT: MR. DAY?

23 MR. DAY: NO, SIR.

24 THE COURT: VERY GOOD. ASK THE JURY TO JOIN US,
25 PLEASE.

1 (THE JURY ENTERED THE COURTROOM AT
2 APPROXIMATELY 3:57 P.M.)

3 THE COURT: LET THE RECORD REFLECT THE JURY AND
4 ALTERNATE ARE IN THE JURY-BOX.

5 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, I
6 WANT TO APOLOGIZE. I DID NOT REALIZE THAT THE MATTERS I
7 NEEDED TO TAKE UP WITH THE ATTORNEYS BEFORE WE BEGAN
8 WOULD TAKE AS LONG AS THEY HAVE, AND, IN FACT, I STILL
9 HAVE OTHER MATTERS TO TAKE UP THAT I WAS INVOLVED IN, SO
10 I COULDN'T TAKE A BREAK AT THAT TIME.

11 BUT IT'S GETTING TO THE TIME THAT IT WOULD BE NOT
12 REASONABLE TO EVEN START THE TRIAL OF THE CASE TODAY. SO
13 I'M GOING TO SUGGEST AND REQUEST THAT YOU RETIRE FOR THE
14 EVENING AND THEN COME BACK IN THE MORNING AND WE'LL START
15 THE TRIAL AT THE TIME -- AND I'LL GIVE YOU THE CHOICE AS
16 TO WHEN YOU WANT TO START -- AND WE'LL START THE TRIAL AT
17 THAT TIME AND GO THROUGH IT. SO I'M GONNA TRY TO WORK
18 OUT ALL THE PROBLEMS I HAVE THIS AFTERNOON OR THIS
19 EVENING IF NECESSARY. BUT THE FACT IS, I JUST APOLOGIZE
20 FOR YOUR INCONVENIENCE, AND I APPRECIATE YOUR PATIENCE
21 WITH THE COURT.

22 NOW, MR. FOREMAN, THIS IS GONNA BE YOUR FIRST DUTY.
23 I WANT YOU TO CHECK WITH THE JURY AND FIND OUT WHAT TIME
24 THEY WOULD LIKE TO START IN THE MORNING. I WOULD SUGGEST
25 EITHER 9:00 OR 9:30 OR 10:00. YOU ALL KNOW WHAT YOU'VE

1 GOT TO DO BEFORE YOU GET HERE, WHERE YOU ARE COMING FROM
2 AND THINGS OF THAT NATURE. SO JUST CHECK WITH THE JURY
3 WHILE YOU'RE SITTING IN THE BOX THERE. AND, BY THE WAY,
4 THIS IS NOT A UNANIMOUS VERDICT, IT'S A CONSENSUS. ALL
5 RIGHT. WHAT TIME? 9:00, 9:30 OR 10:00?

6 (JURY CONFERS IN JURY-BOX.)

7 THE FOREMAN: 9:30.

8 THE COURT: 9:30? VERY GOOD. AS I SAY, IT'S A
9 CONSENSUS JUST TRYING TO BRING THE MATTER TO A RESOLUTION
10 HERE SO WE CAN BEGIN. ALL RIGHT. SO AT 9:30 REPORT BACK
11 TO THE JURY ROOM AND WE'LL START AT THAT TIME.

12 NOW, I TELL JURIES THAT THIS IS PERHAPS THE MOST
13 DIFFICULT TIME OF THIS WHOLE CASE. AS I MENTIONED
14 EARLIER TO YOU, THAT YOU ARE NOT TO READ ANYTHING IN THE
15 NEWSPAPER OR LISTEN TO ANYTHING OR DO ANY RESEARCH OR DO
16 ANYTHING OF THAT NATURE, AND SO YOU ARE NOT TO DISCUSS IT
17 WITH ANYBODY OR TO SEEK ANY OTHER INFORMATION OUTSIDE OF
18 WHAT YOU RECEIVE IN THE COURTROOM.

19 NOW, AS I SAY, THIS IS THE MOST DIFFICULT TIME
20 BECAUSE YOU ARE GOING HOME, AND SOMEBODY IS GONNA ASK YOU
21 WHAT YOU ARE DOING.

22 AND YOU'LL SAY, WELL, I'VE BEEN DRAWN ON A JURY.

23 AND THEN THEY'RE GONNA SAY, WELL, WHAT'S IT ABOUT?

24 AND YOU'RE GONNA HAVE TO TELL THEM, I CAN'T TALK TO
25 YOU ABOUT WHAT THE CASE IS ABOUT.

1 AND THEY'RE GONNA SAY, WHY NOT?

2 AND YOU'LL PROBABLY TELL THEM, BECAUSE THE JUDGE
3 SAID SO.

4 AND THEY'LL PROBABLY SAY, WELL, THAT'S RIDICULOUS.

5 WELL, I THINK THAT YOU UNDERSTAND FROM WHAT WE'VE
6 HAD TO DO IN THIS CASE, THIS IS A MOST IMPORTANT CASE TO
7 EVERYBODY INVOLVED AND IT NEEDS TO BE RESOLVED IN THE
8 PROPER FASHION, AND NO ONE WHO HAS NOT SAT IN THAT
9 JURY-BOX OR WILL BE IN THAT JURY ROOM WITH YOU WHEN YOU
10 MAKE YOUR DECISION WILL BE ABLE TO HELP YOU. THEY
11 HAVEN'T HEARD THE FIRST BIT OF TESTIMONY FROM THIS
12 WITNESS STAND THAT YOU WILL HEAR OR SEE ANY OF THE
13 EXHIBITS OR OTHER EVIDENCE THAT'S INTRODUCED IN THIS
14 COURTROOM. THE ONLY THING THEY CAN DO IS INTERFERE WITH
15 THE PROPER RESOLUTION OF THE CASE.

16 SO I'M ASKING, TELLING YOU AND CHARGING YOU THAT YOU
17 ARE NOT TO HAVE ANY DISCUSSION WITH ANYONE. NOW, IF
18 SOMEBODY INSISTS ON TALKING TO YOU, I'LL BE HERE AT 8:30
19 IN THE MORNING AND I'LL BE GLAD TO EXPLAIN IT TO THEM.
20 BUT I THINK YOU UNDERSTAND THE IMPORTANCE OF THE CASE AND
21 I THANK YOU FOR IT.

22 AGAIN, I APOLOGIZE TO YOU AND I LOOK FORWARD TO
23 WORKING WITH YOU ON THIS CASE, AND I'LL SEE YOU IN THE
24 MORNING AT 9:30.

25 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES

1 FROM THE COURTROOM.

2 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
3 APPROXIMATELY 4:03 P.M.)

4 THE COURT: LET'S GO BACK ON THE RECORD IN THE STATE
5 VERSUS BANKS. THE BAILIFF NOW ADVISES ME THAT THERE IS A
6 JUROR WHO RECOGNIZES AND KNOWS PERHAPS SOME OF THE
7 POTENTIAL WITNESSES IN THIS CASE. UNFORTUNATELY, HE
8 DIDN'T BECOME AWARE OF THAT UNTIL AFTER I ASKED THE
9 ENORMOUS JURY PANEL IF THEY WERE FAMILIAR WITH ANY OF THE
10 POTENTIAL WITNESSES.

11 I AM GOING TO SUGGEST THAT WE BRING THE JUROR OUT,
12 ASK HIM WHO HE FEELS THAT HE'S AWARE OF, AND THEN, OF
13 COURSE, ASK HIM IF THAT WOULD INTERFERE WITH HIS ABILITY
14 TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND
15 IMPARTIAL TRIAL. BASED ON HIS ANSWER, I WILL EITHER
16 EXCUSE HIM OR LET HIM CONTINUE TO SIT.

17 ALL RIGHT. AND THE THING IS, I HAVE TO GIVE HIM
18 CREDIT. IF HE BRINGS IT TO THE COURT'S ATTENTION, THEN
19 HE'S NOT INTENDING TO KEEP ANYTHING FROM THE COURT. IT'S
20 JUST THAT HIS TIMING, THIS IS SOMEWHAT NOT COMFORTABLE
21 FOR THE COURT, NOT FOR HIM. BECAUSE HE ACTED AS SOON AS
22 HE THOUGHT IT WAS NECESSARY OR HE BECAME AWARE OF IT.

23 ALL RIGHT. ANYTHING FROM THE STATE?

24 MR. WAGNER: NO, SIR.

25 THE COURT: ANYTHING FROM THE DEFENSE?

1 MR. DAY: NO, SIR.

2 THE COURT: ALL RIGHT. ASK THE JUROR TO COME IN.

3 (WHEREUPON, THE FOREMAN OF THE JURY,

4 MR. GARZILLI, ENTERED THE COURTROOM.)

5 THE COURT: OH, MY GOODNESS. ALL RIGHT. I

6 UNDERSTAND THAT YOU HAVE A MATTER YOU WANT TO BRING TO

7 THE COURT'S ATTENTION?

8 THE FOREMAN: WELL, WHEN YOU WERE GOING THROUGH THE

9 QUESTIONS FOR THE JURY ABOUT POTENTIAL WITNESSES AND

10 PEOPLE THAT WE KNEW, YOU MENTIONED THE NAME OF ONE OF THE

11 WITNESSES THAT WAS FAMILIAR. BUT THEN WHEN YOU EXCUSED

12 THE COUNTY ADMINISTRATOR AND YOU EXPLAINED IT, YOU

13 EXPLAINED THAT THE WITNESSES WERE LAW ENFORCEMENT, SO I

14 THOUGHT IT MUST BE SOMEONE ELSE. BUT AS IT TURNS OUT, IT

15 IS SOMEONE WHO I KNOW.

16 THE COURT: ALL RIGHT. NOW, WHICH POTENTIAL

17 WITNESS?

18 THE FOREMAN: MR. LEROY, WHO IS THE MIDDLE SCHOOL

19 PRINCIPAL AND SOMEONE WHO I KNOW. AND THAT'S NOT AN

20 ISSUE FOR ME, BUT IT'S JUST --

21 THE COURT: WELL, THAT'S JUST IT. ONE, I WANTED TO

22 THANK YOU FOR BRINGING IT TO THE COURT'S ATTENTION. I

23 REALIZE NOW THAT --

24 THE FOREMAN: I APOLOGIZE.

25 THE COURT: NO, IT'S NOT YOUR APOLOGY THAT IS

1 NECESSARY BECAUSE IT WAS MINE. I IDENTIFIED SOME OF THE
2 INDIVIDUALS AS BEING LAW ENFORCEMENT. I DIDN'T IDENTIFY
3 THE OTHERS AS NOT BEING LAW ENFORCEMENT.

4 ALL RIGHT. NOW, THE QUESTION IS GONNA BE THE SAME
5 AS I WOULD HAVE ASKED THE OTHERS IF ANYBODY ELSE HAD SOME
6 KNOWLEDGE OF A WITNESS. WOULD THAT IN ANY WAY INTERFERE
7 WITH YOUR ABILITY TO GIVE BOTH THE STATE AND THE
8 DEFENDANT A FAIR AND IMPARTIAL TRIAL, THE FACT THAT YOU
9 KNOW WHO MR. LEROY IS?

10 THE FOREMAN: I DON'T BELIEVE SO.

11 THE COURT: WELL, LET ME ASK YOU. I WANT TO BE SURE
12 THAT YOU ARE COMFORTABLE IN DOING WHATEVER YOU FIND IS
13 THE RIGHT THING TO DO UNDER THE FACTS AND CIRCUMSTANCES
14 AND THE LAW OF THIS CASE.

15 THE FOREMAN: I WOULDN'T HAVE A -- I MEAN, IT
16 WOULDN'T INFLUENCE ME.

17 THE COURT: WELL, THAT'S WHAT I WANTED TO KNOW. ALL
18 RIGHT. I'M GOING TO LET YOU CONTINUE TO SERVE ON THE
19 JURY. BUT I WANT TO THANK YOU FOR BRINGING IT TO THE
20 COURT'S ATTENTION. VERY GOOD. THANK YOU, SIR. AND I'LL
21 SEE YOU IN THE MORNING AT 9:30. THANK YOU, SIR.

22 (WHEREUPON, THE FOREMAN LEFT THE COURTROOM.)

23 THE COURT: ALL RIGHT. ANYTHING FROM THE STATE?

24 MR. WAGNER: NO, YOUR HONOR.

25 THE COURT: ANYTHING FROM THE DEFENDANT?

1 THE DEFENDANT: YES.

2 MR. DAY: YES, YOUR HONOR, IF I MAY. LET THE RECORD
3 REFLECT WE WOULD OBJECT TO THE JUROR REMAINING MAINLY
4 BECAUSE HE SAID IT, AND "I DON'T BELIEVE SO" WAS HIS
5 FIRST RESPONSE, AUTOMATIC RESPONSE TO YOUR FIRST QUESTION
6 IS, HOW WOULD THIS AFFECT YOU, THE FACT THAT YOU KNOW
7 MR. --

8 THE COURT: NO. I SAID, "WOULD IT AFFECT YOU?" I
9 SAID, "WOULD IT AFFECT YOUR ABILITY TO GIVE BOTH THE
10 STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?"

11 AND HE SAID "I WOULD NOT THINK SO."

12 AND I FOLLOWED THAT UP TO BE SURE THAT HE WAS
13 SATISFIED IT WOULD NOT, OR IT WOULD, EITHER WAY.

14 MR. DAY: YES, SIR. FOR THE RECORD.

15 THE COURT: I UNDERSTAND. THE MOTION TO EXCUSE THE
16 JUROR IS DENIED.

17 NOW, I MIGHT SAY THIS. I WOULD THINK THAT A JUROR
18 WHO IS SO CONSCIENTIOUS THAT HE WOULD WANT TO BRING ANY
19 MATTER TO THE COURT'S ATTENTION HE THOUGHT THAT MIGHT
20 HAVE SOME EFFECT OR WHATEVER ON THE PROGRESS OF THE TRIAL
21 OR THE FAIRNESS OF A TRIAL, EVEN THOUGH IT WAS NOT
22 ANYTHING OF SUBSTANCE, AS THIS COURT HAS DETERMINED, I
23 THINK THAT HE WOULD PROBABLY MAKE A GOOD JUROR OR ONE
24 THAT IS CONSCIENTIOUS AND VERY MUCH CONCERNED ABOUT
25 SEEING THAT THE PROCESS IS PROPERLY CARRIED OUT.

1 SO EVEN THOUGH JUDGES ARE NOT SUPPOSED TO HAVE
2 OPINIONS, THAT'S JUST AN OBSERVATION. ALL RIGHT. LET'S
3 DO WAIT UNTIL THE LAST JUROR LEAVES THE COURTROOM -- OR
4 THE COURTHOUSE, EXCUSE ME.

5 WE'LL STAND AT EASE.

6 DO YOU NEED TO TALK TO YOUR CLIENT ANY MORE? THE
7 REASON I ASKED, I WANTED TO FIND OUT IF THERE'S ANYTHING
8 ELSE THAT NEEDS TO BE BROUGHT UP THIS AFTERNOON BEFORE WE
9 START IN THE MORNING, WHICH INCLUDES ANY FURTHER EVIDENCE
10 THAT NEEDS TO BE IDENTIFIED OR ANY OTHER MATTERS SO THAT
11 WE CAN GO TO THE JURY AT 9:30 IN THE MORNING.

12 MR. DAY: BASED UPON WHAT WE JUST WENT THROUGH, THE
13 JACKSON V. DENNO AS TO THE STATEMENT COMING IN, IN THAT
14 STATEMENT THAT THEY HAVE THAT REFERS TO THE LINE "AND I
15 BROKE INTO STEPHENS COUNTY HIGH SCHOOL."

16 THE COURT: WHAT DO YOU SAY ABOUT THAT, MR. WAGNER?

17 MR. WAGNER: YOUR HONOR, I FIGURED THAT PROBABLY
18 WOULDN'T BE ADMISSIBLE IN AND OF ITSELF, AND I'VE
19 PREPARED A REDACTED VERSION WHERE I TOOK THAT OUT.

20 MR. DAY: HE HAS, YOUR HONOR, AND I HAVE DISCUSSED
21 THAT WITH MY CLIENT. BUT I HAVE NOT -- HE HAS NOT
22 REACHED A DECISION YET ABOUT WHETHER HE WANTS TO ACTUALLY
23 HAVE IT REDACTED OR NOT. THAT'S THE ONLY REASON I'M
24 BRINGING THAT TO YOUR ATTENTION NOW. IF I CAN SPEAK TO
25 HIM NOW, HE CAN COME TO A DECISION NOW AND NOT 9:25 IN

1 THE MORNING.

2 THE COURT: 9:25 AT LEAST. ALL RIGHT. SO WE'LL
3 STAND AT EASE AND LET YOU CONSULT WITH YOUR CLIENT.

4 (A RECESS WAS TAKEN.)

5 THE COURT: LET'S COME TO ORDER, PLEASE. ALL RIGHT.
6 WE'RE BACK ON THE RECORD IN *STATE VERSUS BANKS*. DOES THE
7 STATE HAVE ANYTHING FOR THE COURT BEFORE WE RECEDE FOR
8 THE EVENING?

9 MR. WAGNER: YOUR HONOR, I THINK EVERYTHING THAT WE
10 HAVE PUT INTO EVIDENCE IS UP HERE RIGHT NOW. WE'VE GOT A
11 COUPLE OF VIDEOS FROM THE SCHOOL THAT I'LL NEED TO GET
12 HOOKED UP WITH THE T.V. HERE IN THE MORNING SO WE'LL BE
13 ABLE TO SHOW THEM.

14 THE COURT: WELL, NOW, HAVE THEY BEEN SEEN?

15 MR. WAGNER: YES, SIR.

16 MR. DAY: YES, SIR.

17 THE COURT: ALL RIGHT. SO WE DON'T NEED TO GO
18 THROUGH A SUPPRESSION HEARING OR ANYTHING ON THAT
19 EVIDENCE?

20 MR. WAGNER: DO YOU WANT TO LOOK AND SEE IF YOU HAVE
21 ANY OBJECTIONS TO ANYTHING ELSE THAT'S UP HERE?

22 MR. DAY: WELL, I'LL PROBABLY HAVE OBJECTIONS, BUT
23 NOT SUPPRESSION OBJECTIONS.

24 THE COURT: IN OTHER WORDS, IS THERE GONNA BE A
25 HEARING REQUIRED, AN EVIDENTIARY HEARING ON ANYTHING?

1 MR. WAGNER: FROM MY STANDPOINT I DON'T BELIEVE SO,
2 JUDGE.

3 THE COURT: BEFORE WE PROCEED. BECAUSE WE'LL STAY
4 HERE. IT'S ONLY 4:30.

5 MR. DAY: WELL, YOUR HONOR, YES, WE WILL BE
6 OBJECTING TO ANYTHING THEY'VE GOT ON THERE THAT SAYS
7 MARCH 9TH.

8 THE COURT: MARCH THE 9TH, WHAT DO YOU MEAN?

9 MR. DAY: HE'S INDICTED UNDER THE INDICTMENT STATING
10 THAT ON MARCH THE 8TH HE BROKE INTO THIS SCHOOL, WHILE
11 ALL OF THEIR EVIDENCE STATES, SHOWS THAT WHATEVER THEY'RE
12 SHOWING SHOWS MARCH THE 9TH.

13 MR. WAGNER: ON OR ABOUT MARCH THE 8TH. IT STARTED
14 AT ABOUT 10:30, 11:00 ON MARCH THE 8TH, AND THEN IT
15 ROLLED INTO MARCH THE 9TH, EARLY MORNING HOURS, BUT THE
16 INDICTMENT SAYS ON OR ABOUT MARCH THE 8TH.

17 THE COURT: ALL RIGHT. I'LL BE PREPARED ON THAT IN
18 THE MORNING.

19 MR. DAY: ALL RIGHT, SIR.

20 THE COURT: AND WHAT YOU'RE TALKING ABOUT IS
21 SUFFICIENCY OF THE INDICTMENT TO SUPPORT THE CHARGE?

22 MR. DAY: YES, SIR.

23 THE COURT: ALL RIGHT. ANYTHING ELSE?

24 MR. DAY: WE SPOKE ABOUT THE REDACTED STATEMENT.

25 MR. BANKS WANTS TO THINK ABOUT IT OVER THE EVENING, SO BY

1 9:25 IN THE MORNING WE'LL KNOW WHAT HE WANTS.

2 THE COURT: NO, 9:00. THAT MEANS YOU GET HERE
3 EARLY.

4 MR. DAY: I DON'T MIND THAT.

5 THE COURT: NO, I'M SERIOUS. LISTEN. WE MIGHT NOT
6 BE CONCERNED ABOUT THAT JURY. BUT THAT JURY, NONE OF
7 THEM ASKED TO BE HERE.

8 MR. DAY: I UNDERSTAND.

9 THE COURT: ALL OF US ASKED TO BE HERE IN ONE
10 FASHION OR ANOTHER, EITHER BY OUR OWN ACTS OR SOMETHING
11 ELSE, PASSING THE BAR IF YOU WOULD. BUT THE FACT IS THAT
12 THEY DIDN'T, AND I'M NOT GOING TO INCONVENIENCE THEM ANY
13 MORE THAN IS ABSOLUTELY NECESSARY. SO DISCUSS IT UP, BUT
14 AT 9:25 I WANT AN ANSWER.

15 MR. DAY: OH, I UNDERSTAND, SIR.

16 THE COURT: ALL RIGHT. VERY GOOD.
17 ANYTHING ELSE?

18 MR. WAGNER: NO, SIR.

19 THE COURT: VERY GOOD. THANK YOU VERY MUCH. AND
20 I'LL SEE YOU AT 9:25 TOMORROW MORNING. OR SOONER IF
21 THERE'S SOMETHING ELSE THAT COMES UP. IF ONE OF THE
22 COUNSEL HAS SOME QUESTION OR SOMETHING, YOU CONTACT THE
23 OTHER COUNSEL AND MAKE ARRANGEMENTS TO MEET ME WHENEVER
24 YOU NEED TO.

25 MR. WAGNER: WILL DO.

1 MR. DAY: YES, SIR.

2 THE COURT: THANK YOU. ALL RIGHT. HAVE A GOOD
3 EVENING.

4 (WHEREUPON, THE TRIAL IN THE MATTER OF THE
5 STATE OF SOUTH CAROLINA V. ROBERT LEE BANKS
6 ADJOURNED AT 4:45 P.M. ON OCTOBER 26, 2011,
7 TO RESUME ON OCTOBER 27, 2011.)

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1 (WHEREUPON, THE TRIAL OF THE STATE OF SOUTH CAROLINA V.
2 ROBERT LEE BANKS RESUMED ON OCTOBER 27, 2010, WITH ALL
3 PARTIES BEING PRESENT, AT APPROXIMATELY 9:50 A.M.)

4 THE COURT: YOU MAY CALL YOUR NEXT CASE. OH, THIS
5 IS THE STATE VERSUS BANKS.

6 MR. WAGNER: YES, SIR.

7 THE COURT: WE ARE BACK ON THE RECORD IN THE CASE OF
8 THE STATE VERSUS ROBERT LEE BANKS.

9 MR. WAGNER: I WAS GONNA PASS UP A SENTENCE SHEET.
10 I BELIEVE HE HAS CHANGED HIS MIND AND IS WANTING TO ENTER
11 A GUILTY PLEA, I BELIEVE.

12 THE COURT: IS THAT CORRECT, MR. DAY?

13 MR. DAY: THAT'S CORRECT, YOUR HONOR. MR. BANKS
14 WISHES TO ENTER A PLEA UNDER ALFORD VERSUS NORTH CAROLINA
15 IN THAT HE'S GONNA PRESENT HIMSELF TO THE UNDER THE
16 AUSPICES OF THAT CASE.

17 THE COURT: ALL RIGHT. IF YOU WOULD PLEASE,
18 MR. BANKS, RAISE YOUR RIGHT HAND.

19 (WHEREUPON, THE DEFENDANT WAS SWORN BY THE
20 COURT.)

21 THE COURT: THANK YOU, SIR. AND YOU ARE ROBERT LEE
22 BANKS?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: NOW, MR. DAY --

25 OR, LET'S SEE. WHAT IS THE MAXIMUM SENTENCE,

1 SOLICITOR, ON BURGLARY, SECOND DEGREE, VIOLENT?

2 MR. WAGNER: YOUR HONOR, IT'S 15 YEARS.

3 THE COURT: MR. DAY, YOU DO REPRESENT THE DEFENDANT?

4 MR. DAY: YES, SIR.

5 THE COURT: HAVE YOU EXPLAINED TO THE DEFENDANT THE
6 CHARGES CONTAINED IN THE INDICTMENT, THE POSSIBLE
7 PUNISHMENTS, AND HIS CONSTITUTIONAL RIGHTS TO INCLUDE A
8 RIGHT TO A JURY TRIAL?

9 MR. DAY: YES, SIR.

10 THE COURT: IN YOUR OPINION DOES THE DEFENDANT
11 UNDERSTAND THE CHARGE, THE PUNISHMENTS, AND HIS RIGHTS?

12 MR. DAY: YES, SIR, I DO.

13 THE COURT: FROM YOUR INVESTIGATION OF THE FACTS AND
14 CIRCUMSTANCES OF THIS CASE, DO YOU FEEL THE STATE COULD
15 PRODUCE SUFFICIENT EVIDENCE TO CONVINCE A JURY OF THE
16 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT, AND IF HE
17 STOOD TRIAL, HE WOULD MOST PROBABLY BE FOUND GUILTY?

18 MR. DAY: YES, SIR.

19 THE COURT: HAVE YOU EXPLAINED TO THE DEFENDANT THAT
20 ALTHOUGH HE STILL CLAIMS AT LEAST SOME INNOCENCE, THAT
21 THE COURT WILL TREAT HIS PLEA LIKE ANY OTHER GUILTY PLEA,
22 AND THAT IN THE EYES OF THE COURT IT IS JUST AS IF HE WAS
23 ADMITTING HIS GUILT?

24 MR. DAY: I HAVE, YOUR HONOR.

25 THE COURT: ARE YOU AWARE OF ANY PHYSICAL, MENTAL OR

1 EMOTIONAL CONDITION THAT MIGHT AFFECT THE DEFENDANT
2 UNDERSTANDING WHAT HE'S DOING TODAY?

3 MR. DAY: YOUR HONOR, EVEN THOUGH HE DOES TAKE
4 MEDICATION, I BELIEVE HE UNDERSTANDS WHAT WE ARE DOING.
5 I REVIEWED IT SEVERAL TIMES, HE HAS RESPONDED
6 APPROPRIATELY AND ASKED QUITE A FEW QUESTIONS THAT
7 INDICATED HE WANTED CLARIFICATION OF THE ITEMS, WHICH
8 LEADS ME TO BELIEVE THAT HE UNDERSTANDS WHAT HE'S DOING.

9 THE COURT: ALL RIGHT. BASED ON THE REPRESENTATION
10 OF COUNSEL AND MY PERSONAL OBSERVATION OF THE DEFENDANT,
11 I FIND THAT THE DEFENDANT TO BE KNOWLEDGEABLE, PERCEPTIVE
12 AND WELL IN CONTROL OF HIS FACULTIES AND THEREFORE
13 COMPETENT TO STAND TRIAL AND TO ENTER THIS PLEA.

14 NOW, MR. BANKS, BEFORE I CAN ACCEPT YOUR PLEA, I
15 NEED TO MAKE CERTAIN THAT THAT PLEA IS MADE FREELY,
16 VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY, WITH A FULL
17 UNDERSTANDING OF THE NATURE OF THE OFFENSE TO WHICH YOU
18 ARE PLEADING AND THE CONSEQUENCES OF A PLEA.

19 THEREFORE, I WILL BE ASKING YOU CERTAIN QUESTIONS.
20 IF YOU DO NOT UNDERSTAND THE QUESTIONS I ASK OR THE WORDS
21 I USE, PLEASE ADVISE ME AND I'LL EXPLAIN THEM TO YOU.

22 ALSO, IF AT ANY TIME DURING QUESTIONING YOU NEED TO
23 CONSULT WITH YOUR ATTORNEY, YOU WILL BE PERMITTED TO DO
24 THAT AS WELL. DO YOU UNDERSTAND THIS?

25 THE DEFENDANT: YES.

1 THE COURT: HOW OLD ARE YOU, SIR?

2 THE DEFENDANT: FIFTY-EIGHT.

3 THE COURT: HOW FAR HAVE YOU GONE IN SCHOOL? (NO
4 RESPONSE.) HOW FAR DID YOU GO IN SCHOOL?

5 THE DEFENDANT: G.E.D. I DROPPED OUT IN 12TH GRADE,
6 G.E.D., TRADE SCHOOL, WATCH REPAIR AND ELECTRICAL
7 CONSTRUCTION, THREE YEARS AND A HALF AT DEKALB COMMUNITY
8 COLLEGE. I'M LACKING A SEMESTER AND A HALF FINISHING UP
9 A DEGREE, YOUR HONOR. THAT WAS 30 YEARS AGO NOW.

10 THE COURT: NOW, WHAT SORT OF WORK HAVE YOU DONE?

11 THE DEFENDANT: IN THE CITY I'VE DONE THE MAJORITY
12 OF MY TIME, MAJORITY OF MY LIFE HAVE BEEN WATCH REPAIR
13 AND JEWELRY REPAIR.

14 THE COURT: ARE YOU MARRIED?

15 THE DEFENDANT: NO, SIR.

16 THE COURT: DO YOU HAVE ANY CHILDREN UNDER EIGHTEEN?

17 THE DEFENDANT: NO, SIR.

18 THE COURT: HAVE YOU EVER BEEN TREATED FOR ABUSE OF
19 ALCOHOL OR DRUGS OR MENTAL ILLNESS?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: AND WHEN WAS THAT?

22 THE DEFENDANT: I DON'T RECALL THE YEARS, THE TIME,
23 BUT THEY HAVE IT ON RECORD AT THE V.A. HOSPITAL. I'VE
24 BEEN SEEKING TREATMENT THERE AND HELP THERE, AND MEDICAL
25 TREATMENT, ALSO.

1 THE COURT: ARE YOU STILL UNDERGOING TREATMENT?

2 THE DEFENDANT: BEFORE I WAS IN THE --

3 THE COURT: INCARCERATED?

4 THE DEFENDANT: YES.

5 THE COURT: ALL RIGHT. HAVE YOU HAD ANY MEDICATION,
6 DRUGS, OR ALCOHOL WITHIN THE LAST 24 HOURS?

7 THE DEFENDANT: NO, SIR.

8 THE COURT: OTHER THAN -- YOU ARE TAKING SOME
9 MEDICATION, I UNDERSTAND?

10 THE DEFENDANT: YES.

11 THE COURT: ALL RIGHT. DOES THAT MEDICATION IN ANY
12 WAY INTERFERE WITH YOUR UNDERSTANDING OR APPRECIATION OF
13 WHAT YOU ARE DOING TODAY?

14 THE DEFENDANT: NO, SIR.

15 THE COURT: ARE YOU AWARE OF ANY PHYSICAL,
16 EMOTIONAL, OR MENTAL PROBLEM THAT MIGHT KEEP YOU FROM
17 UNDERSTANDING WHAT YOU ARE DOING TODAY?

18 THE DEFENDANT: NO, SIR.

19 THE COURT: NOW, YOU HAVE HEARD YOUR ATTORNEY TELL
20 ME THAT HE'S EXPLAINED TO YOU THE CHARGES AGAINST YOU,
21 THE POSSIBLE PUNISHMENTS, AND YOUR CONSTITUTIONAL RIGHTS
22 AND THAT YOU UNDERSTAND THESE THINGS; IS THAT CORRECT?

23 THE DEFENDANT: CORRECT.

24 THE COURT: YOUR ATTORNEY ALSO TELLS ME THAT YOU
25 WISH TO MAINTAIN YOUR INNOCENCE, BUT BECAUSE OF THE

1 STATE'S EVIDENCE AGAINST YOU, YOU WISH TO PLEAD GUILTY;
2 IS THAT RIGHT?

3 THE DEFENDANT: YES. TO AN ALFORD PLEA, YES, SIR.

4 THE COURT: DID YOUR ATTORNEY EXPLAIN TO YOU THAT
5 WHETHER YOU BELIEVE YOU ARE INNOCENT OR NOT, IN THE EYES
6 OF THE STATE YOU WILL BE CONSIDERED GUILTY? IN OTHER
7 WORDS, YOU ARE ACCEPTING THE GUILT FOR THIS CRIME AND YOU
8 WILL BE PUNISHED FOR COMMITTING THE CRIME?

9 THE DEFENDANT: YES.

10 THE COURT: YOU ARE PLEADING TO BURGLARY, SECOND
11 DEGREE, VIOLENT, WHERE THE MAXIMUM SENTENCE IS 15 YEARS.
12 DO YOU UNDERSTAND THAT?

13 THE DEFENDANT: YES.

14 THE COURT: ALSO, THIS IS A VIOLENT OFFENSE, WHICH
15 MEANS THAT IT CAN BE USED FOR ENHANCEMENT IF YOU ARE
16 CONVICTED OF ANOTHER SIMILAR CRIME?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: AND DO YOU UNDERSTAND WHAT ENHANCEMENT
19 MEANS? THAT MEANS YOU COULD BE LOOKING AT LIFE WITHOUT
20 PAROLE FOR CONVICTION OF ANOTHER CRIME?

21 THE DEFENDANT: YES.

22 THE COURT: ARE YOU ON PROBATION OR PAROLE?

23 THE DEFENDANT: NO, SIR.

24 THE COURT: ALL RIGHT. AND DO YOU FULLY UNDERSTAND,
25 THEN, THE NATURE OF THE CHARGE AGAINST YOU AND THE RANGE

1 OF POSSIBLE PUNISHMENTS?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: NOW, MR. BANKS, YOU UNDERSTAND WHEN YOU
4 PLEAD GUILTY OR PLEAD GUILTY UNDER *ALFORD* YOU GIVE UP
5 CERTAIN IMPORTANT CONSTITUTIONAL RIGHTS. FIRST YOU GIVE
6 UP YOUR RIGHT -- LET'S SEE. THIS HAS BEEN PRESENTED TO
7 THE GRAND JURY? HAS A TRUE-BILL BEEN RETURNED?

8 MR. WAGNER: YES, SIR.

9 THE COURT: FIRST, YOU GIVE UP YOUR RIGHT TO REMAIN
10 SILENT, THAT IS YOUR RIGHT TO SAY NOTHING AT ALL. YOU
11 CANNOT BE COMPELLED TO TESTIFY AGAINST YOURSELF OR OFFER
12 EVIDENCE AGAINST YOURSELF. DO YOU UNDERSTAND THIS?

13 THE DEFENDANT: REPEAT THAT, PLEASE?

14 THE COURT: ALL RIGHT. FIRST, YOU GIVE UP YOUR
15 RIGHT TO REMAIN SILENT. IT'S CALLED THE RIGHT AGAINST
16 SELF-INCRIMINATION. YOU CANNOT BE COMPELLED TO TESTIFY
17 OR OFFER EVIDENCE AGAINST YOURSELF. DO YOU UNDERSTAND
18 THAT?

19 THE DEFENDANT: YES, SIR.

20 THE COURT: YOU GIVE UP THAT RIGHT.

21 SECONDLY, YOU GIVE UP YOUR RIGHT TO A JURY TRIAL.
22 IN A JURY TRIAL YOU WOULD BE PRESUMED TO BE INNOCENT AND
23 ALL 12 MEMBERS OF THE JURY WOULD HAVE TO BE CONVINCED OF
24 YOUR GUILT BEYOND A REASONABLE DOUBT. AND THEY WOULD
25 HAVE TO AGREE TO YOUR GUILT BEYOND A REASONABLE DOUBT.

1 DO YOU UNDERSTAND THAT?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: AT A TRIAL YOU WOULD CONTINUE TO HAVE
4 THE RIGHT TO REMAIN SILENT. IF YOU DID NOT TESTIFY, I
5 WOULD INSTRUCT THE JURY THAT THEY COULD NOT HOLD THAT
6 FACT AGAINST YOU.

7 YOU WOULD HAVE THE RIGHT TO PRESENT ANY DEFENSES YOU
8 MAY HAVE TO THE CHARGES AGAINST YOU. IF YOU MADE AN
9 INCRIMINATING STATEMENT ABOUT THE CHARGES, YOU WOULD HAVE
10 THE RIGHT TO CHALLENGE WHETHER THOSE STATEMENTS MADE WERE
11 GIVEN IN ACCORDANCE WITH YOUR CONSTITUTIONAL RIGHTS. DO
12 YOU UNDERSTAND ALL THESE THINGS?

13 THE DEFENDANT: YES.

14 THE COURT: IN OTHER WORDS, IN A PLEA YOU GIVE UP
15 YOUR RIGHT TO A TRIAL, AND IN A TRIAL YOU WOULD BE
16 PRESUMED TO BE INNOCENT, AND ALSO THAT YOU WOULD BE, YOU
17 WOULD NOT BE REQUIRED TO TESTIFY, IN OTHER WORDS, REMAIN
18 SILENT, AND I WOULD INSTRUCT THE JURY THAT THE FACT THAT
19 YOU DID WOULD NOT BE HELD AGAINST YOU.

20 ALSO, WHEN YOU PLEAD GUILTY OR PLEAD TO ALFORD, YOU
21 GIVE UP ANY DEFENSES YOU MAY HAVE AS WELL AS ANY
22 CHALLENGE AS WELL AS ANY INCRIMINATING STATEMENTS THAT
23 WERE MADE IN ACCORDANCE WITH YOUR CONSTITUTIONAL RIGHTS
24 FREELY AND VOLUNTARILY. DO YOU UNDERSTAND ALL THIS?

25 THE DEFENDANT: YES.

1 THE COURT: THIRD, YOU GIVE UP YOUR RIGHT TO
2 CONFRONT, THAT IS THE RIGHT TO SEE, HEAR, AND
3 CROSS-EXAMINE ANY WITNESSES CALLED AGAINST YOU AS WELL AS
4 THE RIGHT TO CALL AND PRESENT WITNESSES ON YOUR OWN
5 BEHALF. DO YOU UNDERSTAND THIS?

6 THE DEFENDANT: YES.

7 THE COURT: DO YOU UNDERSTAND YOU WILL NOT GET A
8 JURY TRIAL?

9 THE DEFENDANT: YES.

10 THE COURT: DO YOU UNDERSTAND A JURY HAS BEEN DRAWN
11 IN THIS CASE ALREADY BUT THEY HAVE NOT BEEN SWORN?

12 THE DEFENDANT: YES.

13 THE COURT: DO YOU UNDERSTAND THAT YOU DO GIVE UP
14 ANY DEFENSES YOU MAY HAVE AND ADMIT THE TRUTH OF THE
15 CHARGES MADE AGAINST YOU?

16 THE DEFENDANT: YES.

17 THE COURT: SOLICITOR, HAS THE DEFENDANT BEEN
18 ALLOWED ACCESS TO ALL THE BRADY AND THE OTHER DISCOVERY
19 MATERIALS?

20 MR. WAGNER: YES, SIR.

21 THE COURT: UNDERSTANDING, THEN, THE NATURE OF THE
22 OFFENSE AND THE CONSEQUENCES OF A GUILTY PLEA, HOW DO YOU
23 WISH TO PLEAD TO EACH CHARGE?

24 THE DEFENDANT: ALFORD. GUILTY UNDER ALFORD.

25 THE COURT: GUILTY UNDER ALFORD VERSUS NORTH

1 CAROLINA; IS THAT CORRECT?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: HAS ANYONE SUGGESTED TO YOU OR
4 REPRESENTED TO YOU ANY SENTENCE OR CONDITION OF SENTENCE
5 OR OTHER MATTER AFFECTING YOUR PLEA AND THE SENTENCE OF
6 THE COURT TODAY?

7 THE DEFENDANT: NO, SIR.

8 THE COURT: HAVE YOU FULLY DISCUSSED ALL ASPECTS OF
9 YOUR CASE WITH YOUR LAWYER?

10 THE DEFENDANT: I THINK I, WE'VE COVERED IT PRETTY
11 MUCH, SIR.

12 THE COURT: DO YOU NEED ANY MORE TIME TO TALK TO
13 YOUR LAWYER?

14 THE DEFENDANT: I DON'T THINK SO.

15 THE COURT: ARE YOU SATISFIED WITH MR. DAY'S
16 SERVICES AS YOUR ATTORNEY?

17 THE DEFENDANT: WHAT I'VE DONE TODAY, YES.

18 THE COURT: HAS ANYONE PROMISED YOU ANYTHING OR HELD
19 OUT ANY HOPE OF REWARD TO GET YOU TO PLEAD?

20 THE DEFENDANT: NO.

21 THE COURT: HAS ANYONE THREATENED YOU OR USED FORCE
22 TO CAUSE YOU TO PLEAD?

23 THE DEFENDANT: NO.

24 THE COURT: HAS ANYONE MISTREATED YOU IN ANY WAY?

25 THE DEFENDANT: NO.

1 THE COURT: HAVE YOU UNDERSTOOD MY QUESTIONS?

2 THE DEFENDANT: YES.

3 THE COURT: HAVE YOU HAD ENOUGH TIME TO MAKE UP YOUR
4 MIND AS TO WHETHER OR NOT YOU WANT TO PLEAD? HAVE YOU
5 HAD ENOUGH TIME TO MAKE UP YOUR MIND AS TO WHETHER OR NOT
6 YOU WANT TO PLEAD?

7 THE DEFENDANT: I THOUGHT I'D ALREADY DONE THAT,
8 SIR.

9 THE COURT: WELL, I JUST WANT TO MAKE SURE THAT YOU
10 HAD ENOUGH TIME TO --

11 THE DEFENDANT: OH, I HAD THE TIME REQUIRED I
12 NEEDED, YES, SIR.

13 THE COURT: IS THERE ANYTHING YOU WOULD LIKE TO ASK
14 ME ABOUT WHAT WE HAVE BEEN OVER SO FAR?

15 THE DEFENDANT: SO FAR, NO.

16 THE COURT: YOU MAY HAVE DISCUSSED PAROLE OR PAROLE
17 ELIGIBILITY WITH OTHER PEOPLE OR WITH YOUR ATTORNEY. NO
18 ONE CAN TELL YOU WHEN, IF EVER, OR UNDER WHAT CONDITIONS
19 YOU WILL BE ELIGIBLE FOR PAROLE. YOU SHOULD ASSUME THAT
20 YOU WILL SERVE THE ENTIRE TIME IN JAIL THAT I SENTENCE
21 YOU TO.

22 DO YOU UNDERSTAND THIS?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: DO YOU UNDERSTAND THAT YOU HAVE THE
25 RIGHT TO APPEAL YOUR GUILTY PLEA AND THE SENTENCE OF THE

1 COURT, BUT YOU MUST DO SO WITHIN TEN DAYS?

2 THE DEFENDANT: YES.

3 THE COURT: ALL RIGHT, MR. SOLICITOR, WHAT ARE THE
4 FACTS AS YOU HAVE THEM AND ANY PRIOR RECORD OF THE
5 DEFENDANT?

6 STATEMENT OF FACTS BY SOLICITOR:

7 MR. WAGNER: YOUR HONOR, THE LATE NIGHT OF MARCH THE
8 8TH, EARLY MORNING OF MARCH THE 9TH, THE DEFENDANT PRIED
9 HIS WAY INTO THE SENECA MIDDLE SCHOOL AND USING
10 APPARENTLY A MATTOCKS-TYPE OF INSTRUMENT. HE SET THE
11 ALARM OFF. HE WAS ON VIDEO COMING DOWN THE HALL WITH THE
12 MATTOCKS IN HIS HAND. HE WAS ON VIDEO.
13 A PERSON THAT LOOKED EXTREMELY SIMILAR TO HIM -- BUT
14 THE VIDEO IS SOMEWHAT GRAINY AND YOU CAN'T EXACTLY SEE
15 EVERYTHING ON THE PERSON. BUT IT IS A PERSON THAT VERY
16 SIMILARLY MATCHES HIS DESCRIPTION AND IT LOOKS AN AWFUL
17 LOT LIKE HIM.

18 THE ALARM WENT OFF WITHIN PROBABLY 25 OR 30 SECONDS,
19 AND YOU CAN SEE HIM RUNNING BACK OUT OF THE BUILDING,
20 ESSENTIALLY, AND HE DISAPPEARED. BY THE TIME THE POLICE
21 GOT THERE, WHICH WAS VERY QUICKLY, HE WAS NOT IN THE
22 VICINITY, HE WAS NOT THERE, SO HE WAS NOT CAUGHT THERE
23 LATER.

24 APPARENTLY HE HAD DONE THE SAME THING IN STEPHENS
25 COUNTY, WHICH HE ADMITTED TO ON THE STAND YESTERDAY THAT

1 HE HAD BURGLARIZED THE SCHOOL OVER THERE. STEPHENS
2 COUNTY HAD WARRANTS ON HIM. THEY CAME TO THE CITY POLICE
3 HERE OR THE SHERIFF'S OFFICE AND WANTED TO GET A FUGITIVE
4 FROM JUSTICE WARRANT BECAUSE HE WAS LIVING OVER HERE.

5 THEY ENDED UP GOING TO HIS HOUSE TO SERVE THOSE
6 WARRANTS ON HIM OR TO SERVE THAT WARRANT ON HIM. OFFICER
7 WILLIAMSON FROM THE CITY POLICE DEPARTMENT TALKED TO HIM.
8 HE ENDED UP MAKING A STATEMENT ADMITTING TO GOING INTO
9 THE SCHOOL. AND HE SAID HE HAD A DRUG PROBLEM WAS GOING
10 IN WITH THE INTENT TO COMMIT A CRIME IN THE BUILDING AND
11 SAID HE CHANGED HIS MIND. BUT HE CHANGED HIS MIND ABOUT
12 THE TIME THE ALARM WENT OFF.

13 THE COURT: NOW, MR. BANKS, LISTEN VERY CAREFULLY TO
14 MY QUESTION. DO YOU BELIEVE THAT THE STATE COULD PRODUCE
15 SUFFICIENT EVIDENCE TO ESTABLISH THE FACTS STATED BY THE
16 SOLICITOR AND PROVE YOUR GUILT TO THE CHARGE BEYOND A
17 REASONABLE DOUBT, AND THAT IF YOU WENT TO TRIAL, A JURY
18 WOULD MOST PROBABLY FIND YOU GUILTY?

19 THE DEFENDANT: SIR, I'M IN GREAT FEAR OF THAT; YES,
20 I DO BELIEVE THAT.

21 THE COURT: BUT YOU DO FEEL THAT THEY COULD
22 ESTABLISH THE FACTS THAT THE SOLICITOR JUST STATED, AND
23 IF THEY DID SO, YOU WOULD MOST PROBABLY BE FOUND GUILTY?

24 THE DEFENDANT: YES, SIR, I FEEL THAT, AND I FEAR
25 THAT, AND I JUST WANT TO APOLOGIZE.

1 THE COURT: ALL RIGHT. AND A PRIOR RECORD?

2 MR. WAGNER: YOUR HONOR, THERE'S NOTHING OF ANY
3 SUBSTANCE. HE HAD BEEN ARRESTED BEFORE ON SOME OTHER
4 CHARGES; BUT AS FAR AS CONVICTION-WISE, IT WOULD HAVE
5 BEEN MINOR TRAFFIC OR SOMETHING OF THAT NATURE.

6 THE COURT: ALL RIGHT. IS THAT CORRECT, MR. BANKS?

7 THE DEFENDANT: YES. YES, SIR.

8 THE COURT: AND FINALLY, HAS EACH AND EVERY ANSWER
9 YOU HAVE GIVEN THE COURT TODAY BEEN ABSOLUTELY TRUTHFUL?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: ALL RIGHT. EVEN THOUGH THE DEFENDANT IS
12 UNWILLING OR UNABLE TO ADMIT THE PARTICIPATION IN THE
13 ACTS CONSTITUTING THE OFFENSE TO WHICH THE DEFENDANT IS
14 PLEADING, THE COURT FINDS THAT THERE IS STRONG EVIDENCE
15 OF THE DEFENDANT'S ACTUAL GUILT AND A SUBSTANTIAL FACTUAL
16 BASIS FOR THIS PLEA.

17 THE COURT FURTHER FINDS THAT THE DEFENDANT'S
18 DECISION TO PLEAD GUILTY AND CONSENT TO THE IMPOSITION OF
19 SENTENCE IS FREELY, VOLUNTARILY, KNOWINGLY AND
20 INTELLIGENTLY MADE WITH THE ADVICE AND COUNSEL OF AN
21 ATTORNEY WITH WHOM THE DEFENDANT SAYS HE IS SATISFIED.
22 THE DEFENDANT'S PLEA IS ACCEPTED.

23 COMES NOW THE DEFENDANT, ROBERT LEE BANKS, WHO IN
24 OPEN COURT IN HIS OWN PROPER PERSON, PLEADS GUILTY UNDER
25 ALFORD VERSUS NORTH CAROLINA AND SUBMITS TO SENTENCE OF

1 THE COURT.

2 ALL RIGHT. ANYTHING FURTHER FROM THE STATE?

3 MR. WAGNER: NO, SIR.

4 THE COURT: ALL RIGHT. ANYTHING ON BEHALF OF
5 MR. BANKS YOU WOULD LIKE TO SAY, MR. DAY?

6 MR. DAY: YES, YOUR HONOR, IF I MAY. MR. BANKS IS
7 FIFTY-EIGHT YEARS OLD, YOUR HONOR. IN LOOKING AT HIS
8 RECORD, HIS ONLY CONVICTION IS DRIVING WITHOUT A LICENSE
9 A COUPLE, THREE YEARS AGO. IN THIS REGARD, YOUR HONOR,
10 HE HAS ACKNOWLEDGED THAT HE VIOLATED THE LAW IN STEPHENS
11 COUNTY. HE KNOWS HE HAS TO FACE THAT ONCE THIS IS ALL
12 OVER. HE LOOKS FORWARD TO DOING THAT SO HE CAN GET THAT
13 BEHIND HIM.

14 YOUR HONOR, AT THIS STAGE OF HIS LIFE WHEN ALL OF
15 THIS WAS GOING ON, THE STEPHENS COUNTY AND THESE CHARGES
16 HERE IN OCONEE COUNTY, HE ACKNOWLEDGES THAT HE HAD FALLEN
17 INTO USING DRUGS. HE WAS ATTEMPTING TO OVERCOME THAT.
18 AND AS A RESULT, HE WAS HERE IN OCONEE COUNTY.

19 AND MS. PATTERSON, MS. DELORES PATTERSON, IS
20 STANDING HERE WITH HIM, YOUR HONOR, AND SHE WAS
21 ATTEMPTING TO HELP HIM DO THAT AS WELL, WITHOUT HAVING TO
22 GO THROUGH EXPENSIVE REHAB OR OTHER TREATMENT, WAS
23 ATTEMPTING, TRYING TO HELP HIM GET BEYOND THAT.

24 HE DOES HAVE SOME OTHER MEDICAL PROBLEMS. HE HAS
25 SOME HEART PROBLEMS AND BLOOD PRESSURE PROBLEMS FOR WHICH

1 HE TAKES MEDICATION.

2 BUT DURING THIS PERIOD OF HIS LIFE, YOUR HONOR, AS
3 HE STATED ON THE STAND, AND AS DETECTIVE WILLIAMSON SET
4 FORTH, HE WAS GOING THROUGH A TERRIBLE TIME. HE KNEW HE
5 HAD PROBLEMS, HIS LIFE WAS IN A MESS. HE WAS TRYING TO
6 PULL HIMSELF OUT OF THAT AND MS. PATTERSON WAS HELPING
7 HIM WITH THAT. AND SHE STANDS HERE WITH HIM HERE TODAY,
8 YOUR HONOR. SHE STILL BELIEVES IN HIM, AND HE
9 UNDERSTANDS THAT HE MADE A MISTAKE, HE UNDERSTANDS THAT
10 HE HAS TO FACE THOSE, BUT SHE STILL STANDS WITH HIM. SHE
11 CAME HERE VOLUNTARILY TO DO SO.

12 YOUR HONOR, WE WOULD ASK THE COURT TO CONSIDER THE
13 SENTENCE WHICH THE COURT HAS TO SET FORTH UNDER THE
14 FOLLOWING. ONE, NOTHING WAS STOLEN, THERE'S NO CHARGE OF
15 LARCENY OR ANYTHING, HE'S NOT ACCUSED OF THAT. WHILE
16 THERE IS SOME DAMAGE IN THE EVIDENCE THAT WOULD SHOW IN
17 OPENING THE DOOR, THERE IS NO REQUEST FOR RESTITUTION SO
18 THEY ARE NOT ASKING THAT HE PAY ANY MONEY.

19 THAT HE STANDS BEFORE THE COURT KNOWING THAT THERE
20 IS EVIDENCE TO BE PRESENTED AGAINST HIM. HE UNDERSTANDS
21 THAT, AND THAT'S WHY HE HAS PLACED HIS GUILTY PLEA UPON
22 ALFORD VERSUS NORTH CAROLINA, AND THEREFORE HE ASKS THE
23 COURT TO TAKE ALL THAT INTO CONSIDERATION.

24 YOUR HONOR, HE HAS SPENT 229 DAYS IN JAIL. HE HAS
25 BEEN THERE SINCE HIS ARREST. HE CONTINUES TO BE UNDER

1 TREATMENT. WE WOULD ASK THE COURT, HAVING DONE ALL THIS,
2 TO ACCEPT THE POSSIBILITY OF A SENTENCE THAT WOULD BE
3 REFLECTIVE OF WHAT OCCURRED.

4 YOUR HONOR, HE IS A VETERAN OF THE UNITED STATES
5 ARMY, HE WAS HONORABLY DISCHARGED, HE HAS SERVED HIS
6 COUNTRY AND HE HAS WORKED IN SEVERAL DIFFERENT JOBS THAT
7 HE TOLD ME ABOUT OVER THE TIME. I THINK, YOUR HONOR,
8 THAT HE WOULD BE A GOOD CANDIDATE FOR A SENTENCE THAT
9 WOULD NOT INCLUDE ANY FURTHER INCARCERATION, AND THAT WE
10 WOULD ASK THE COURT THAT ANY SENTENCE BE SUCH THAT HE
11 WOULD BE ALLOWED TO GO AHEAD AND GET BACK TO STEPHENS
12 COUNTY.

13 HE ADVISES ME THAT HE DOES NOT WANT TO FIGHT
14 EXTRADITION BACK TO STEPHENS COUNTY. HE LOOKS FORWARD TO
15 GOING BACK THERE AND GETTING THAT BEHIND HIM. HE
16 ACKNOWLEDGES THAT CHARGE, AND HE WISHES TO DO THAT AS
17 QUICKLY AS HE POSSIBLY CAN, AND WE WOULD ASK THE COURT TO
18 CONSIDER THAT.

19 THE COURT: SOLICITOR, HAVE YOU CHECKED TO SEE IF
20 THERE IS A HOLD ON MR. BANKS?

21 MR. WAGNER: YOUR HONOR, YES, SIR, THERE IS A HOLD
22 ON HIM FROM STEPHENS COUNTY.

23 THE COURT: ALL RIGHT, MR. BANKS --

24 OR WOULD ANYBODY ELSE LIKE TO SAY SOMETHING ON
25 BEHALF OF MR. BANKS? IF YOU WOULD PLEASE GIVE US YOUR

1 NAME FOR THE RECORD:

2 MS. PATTERSON: DELORES PATTERSON.

3 THE COURT: YES, MA'AM.

4 MS. PATTERSON: YES. I'VE KNOWN MR. BANKS FOR OVER
5 20 YEARS, AND I KNOW THAT MYSELF THAT HE IS A GOOD
6 PERSON, BUT, YOU KNOW, HE'S JUST BEEN HEADING DOWN THE
7 WRONG ROAD. AND I FULLY BELIEVE THAT HE DOES NEED HELP
8 TO GO BACK INTO A DRUG REHAB FACILITY THAT WOULD HELP
9 HIM.

10 BECAUSE MY THEORY OF IT IS, YOU KNOW, I KNOW THAT HE
11 COMMITTED A CRIME BUT NOT ALWAYS IS THAT, YOU KNOW, A
12 PERSON DOING THE TIME, THAT'S NOT GONNA MAKE THEM BETTER.
13 THEY NEED TO GO AND GET HELP. HE NEEDS TO GET SOME KIND
14 OF TREATMENT FOR THIS, FOR HIS DRUG PROBLEM AND ALCOHOL
15 PROBLEM.

16 THE COURT: THANK YOU VERY MUCH, MA'AM.

17 MR. BANKS, ANYTHING YOU WOULD LIKE TO SAY?

18 THE DEFENDANT: I CAN'T THINK OF ANYTHING, JUDGE.
19 I'M AT YOUR DISCRETION.

20 THE COURT: ALL RIGHT. ANYTHING ELSE, MR. DAY?

21 MR. DAY: NOTHING, YOUR HONOR.

22 THE COURT: MR. BANKS, ANYTHING ELSE?

23 THE DEFENDANT: NO, SIR.

24 SENTENCE OF THE COURT:

25 THE COURT: INDICTMENT NUMBER 2010-GS-37-920, THE

1 SENTENCE OF THE COURT IS THAT THE DEFENDANT, MR. ROBERT
2 LEE BANKS, BE COMMITTED TO THE STATE DEPARTMENT OF
3 CORRECTIONS FOR A TERM OF TEN YEARS; PROVIDED UPON THE
4 SERVICE OF 229 DAYS' TIME SERVED AND PAYMENT OF COSTS AND
5 ASSESSMENTS AS APPLICABLE, THE BALANCE SUSPENDED WITH
6 PROBATION FOR FIVE YEARS.

7 SPECIAL CONDITION OF PROBATION IS THAT HE BE GIVEN
8 CREDIT FOR 229 DAYS' TIME SERVED, UNDERGO DRUG AND
9 ALCOHOL TESTING AND TREATMENT, SUBSTANCE ABUSE COUNSELING
10 AS DIRECTED. DEFENDANT BE HELD FOR DISCHARGE TO THE
11 GEORGIA AUTHORITIES, BE HELD IN THE OCONEE COUNTY
12 DETENTION CENTER.

13 ALL RIGHT. GOOD LUCK TO YOU, SIR.

14 THE DEFENDANT: THANK YOU.

15 MR. WAGNER: THANK YOU, JUDGE.

16 MS. PATTERSON: THANK YOU, SIR.

17 MR. DAY: THANK YOU, YOUR HONOR.

18 (DISCUSSION OFF THE RECORD.)

19 THE COURT: ASK THE JURY TO JOIN US, PLEASE.

20 I THINK MR. BIBB IS BRINGING THEM.

21 (DISCUSSION OFF THE RECORD.)

22 (THE JURY ENTERED THE COURTROOM AT

23 APPROXIMATELY 10:16 A.M.)

24 THE COURT: ALL RIGHT. LET THE RECORD REFLECT THAT
25 THE JURY AND ALTERNATE ARE IN THE JURY-BOX.

1 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, I
2 HOPE YOU DON'T FEEL LIKE YOU HAVE BEEN ENTIRELY IGNORED
3 AND THAT OUR COURT HAS NOT BEEN ATTENTIVE TO YOU.
4 ACTUALLY, I HAVE BEEN WORKING AND -- THIS IS EITHER GOOD
5 NEWS OR BAD NEWS -- IT HAS RESULTED IN A PLEA BY THE
6 DEFENDANT, SO YOU WILL NOT HAVE TO SIT IN JUDGMENT IN
7 THIS CASE.

8 SOMETIMES WE DON'T UNDERSTAND OR WE DON'T APPRECIATE
9 THE FACT THAT THE MERE FACT BY YOUR BEING HERE AND BEING
10 READY TO SERVE ON A JURY HAS ACTUALLY ACCOMPLISHED THE
11 ENDS OF JUSTICE. THE REASON FOR THAT, OF COURSE, IS THAT
12 HUMAN NATURE IS SUCH THAT IF WE DON'T HAVE TO MAKE A
13 DECISION, THEN WE'LL PUT IT OFF HOPING THAT SOMETHING
14 ELSE WOULD OCCUR.

15 HOWEVER, WHEN THE TIME COMES FOR A CASE TO BE
16 DISPOSED OF, AND YOU HAVE A JURY IN THE JURY-BOX READY TO
17 DO THEIR DUTY AS JURORS, THEN SOMETIMES THE PARTIES COME
18 TOGETHER AND ARE ABLE TO RESOLVE THE CASE.

19 I'LL TELL YOU A LITTLE MORE ABOUT THIS CASE INASMUCH
20 AS THIS WILL BE THE ONLY CASE THAT WE'RE GONNA TRY THIS
21 WEEK AND SO YOU WILL BE EXCUSED. NORMALLY I DON'T TALK
22 ABOUT A PLEA.

23 HOWEVER, IN THIS CASE THE GENTLEMAN HAD CHARGES
24 PENDING IN GEORGIA FOR A SIMILAR OFFENSE, AND HE'S
25 SERVED, BEEN IN OUR JAIL FOR 229 DAYS. SO WHAT I DID WAS

1 SENTENCE HIM TO A SENTENCE OF TEN YEARS SUSPENDED UPON
2 THE TIME SERVED TO BE DISCHARGED TO GEORGIA. I THINK
3 THAT'S A FAIR -- THERE'S TESTIMONY -- I THINK THE
4 SOLICITOR WILL AGREE TO THIS -- AS THE TESTIMONY
5 DEVELOPED, IT TURNS OUT THAT HE BROKE INTO THE SCHOOL BUT
6 THE ALARM WENT OFF AND HE IMMEDIATELY LEFT SO IT WAS NOT
7 AS IF HE HAD DONE MORE THAN VIOLATE THE LAW ITSELF WHICH
8 IS TO BREAK INTO A BUILDING DURING THE NIGHTTIME, WHICH
9 THAT COULD HAVE BEEN ESTABLISHED.

10 THE FACT IS, AS I SAY, IN GEORGIA HE HAS CHARGES
11 PENDING WHERE HE BROKE INTO A SCHOOL AND THERE WHERE HE
12 ACTUALLY DID DAMAGE --

13 IS THAT WHAT YOU UNDERSTAND?

14 MR. WAGNER: YES, SIR.

15 THE COURT: -- TO IT AND BROKE INTO DRINK MACHINES
16 AND THINGS LIKE THAT. SO THE CHARGES ARE MORE SERIOUS IN
17 GEORGIA, SO WE FEEL LIKE IT'S A GOOD RESOLUTION.

18 IF YOU HAD NOT EVEN BEEN HERE -- YOU SAW HOW LONG IT
19 TOOK TO EVEN GET US TO THIS POINT -- WE STILL WOULD BE
20 DEALING WITH IT. SO I DO THANK YOU.

21 ALSO, I MIGHT NOTE THAT WE'LL BE TAKING PLEAS THE
22 REST OF THE DAY AS WELL AS THE REST OF THIS WEEK, I
23 THINK, SO WE'VE GOT MORE THAN ENOUGH TO DO. THE FACT IS
24 THAT YOU HAVE BEEN AVAILABLE AND BROUGHT A LOT OF THAT
25 BUSINESS AROUND. IF WE HAD TO TRY EVERY CASE, NOT ONLY

1 WOULD IT BE INCONVENIENT AND AN IMPOSITION ON OUR
2 CITIZENS, BUT IT ALSO WOULD BE AN EXPENSIVE PROCESS. SO
3 IF WE CAN RESOLVE CASES OR MATTERS ARE RESOLVED WITHOUT
4 FURTHER EXPENSE OR INCONVENIENCE, THEN SOMETIMES IT'S THE
5 BETTER COURSE.

6 HOWEVER, SOME CASES DO HAVE TO BE TRIED AND THAT'S
7 WHY WE HAVE JURIES AND THAT'S WHY WE HAVE OUR SYSTEM OF
8 JUSTICE. SAYING THAT, I HAVE TO TELL YOU THAT NOT ONLY
9 IS OCONEE COUNTY IN YOUR DEBT, BUT OUR JUSTICE SYSTEM IN
10 SOUTH CAROLINA. BECAUSE IF WE COULD NOT HAVE CITIZEN
11 PARTICIPATION, WE WOULD NOT HAVE THE SYSTEM THAT WE HAVE,
12 WHICH IS ADMIRERD THROUGHOUT THE WORLD.

13 I MIGHT NOTE THAT WINSTON CHURCHILL, THE PRIME
14 MINISTER DURING THE SECOND WORLD WAR, OF GREAT BRITAIN
15 DURING THE SECOND WORLD WAR, ONCE NOTED THAT NO GREATER
16 SERVICE CAN A CITIZEN PERFORM IN PEACETIME THAN THAT AS A
17 JUROR, BECAUSE YOU ARE THE BACKBONE OF OUR VERY
18 CIVILIZATION, AND I THANK YOU.

19 NOW, I WISH I COULD DO SOMETHING ELSE FOR YOU, BUT
20 AS I SAY, THIS WILL BE OUR ONLY CASE TO TRY THIS WEEK
21 BECAUSE IT WAS GONNA TAKE SOME TIME. THE OTHERS HAVE
22 SETTLED OR BEEN RESOLVED. SO THIS COMPLETES YOUR
23 SERVICE. I WISH I COULD DO SOMETHING FOR YOU.

24 HOWEVER, IF YOU REMEMBER YESTERDAY THAT I QUALIFIED
25 THE JURY PANEL, I ASKED IF ANY MEMBERS OF THE JURY PANEL

1 HAD SERVED ON A JURY IN THE LAST THREE YEARS. AT LEAST
2 YOU WON'T HAVE TO SERVE FOR ANOTHER THREE YEARS. BUT I
3 DO APPRECIATE AND HOPE THE SERVICE HAS NOT BEEN WITHOUT
4 SOME BENEFIT TO YOU AND EXPOSED YOU AS TO HOW THE SYSTEM
5 MUST WORK AND HAS WORKED AND DOES WORK, AND I THANK YOU
6 FOR IT.

7 MADAM CLERK, IS THERE ANYTHING THAT YOU HAVE FOR THE
8 JURY?

9 THE CLERK: YOU WILL RECEIVE YOUR CHECK FOR YOUR
10 JURY SERVICE WITHIN THE NEXT TWO WEEKS, HOPEFULLY BY NEXT
11 FRIDAY.

12 THE COURT: AS THEY SAY, THE CHECK IS IN THE MAIL.
13 (LAUGHTER.)

14 ALL RIGHT. AGAIN, I DO WANT TO THANK YOU AND
15 BECAUSE, AS I SAY, YOU HAVE DONE YOUR JOB VERY WELL AND I
16 THANK YOU VERY MUCH.

17 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
18 FROM THE COURTROOM.

19 (COURT'S EX. # 1, DEFENDANT'S REQUESTS FOR
20 CHARGE NUMBERS 1, 2, 3 AND 4, WAS MARKED FOR
21 IDENTIFICATION AND RECEIVED IN COURT'S
22 EVIDENCE.)

23 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
24 10:22 A.M. AND THE TRIAL WAS CONCLUDED.)

25 ** END OF REQUESTED CERTIFIED TRANSCRIPT OF RECORD **

CERTIFICATE OF COURT REPORTER

I, THE UNDERSIGNED, ROBIN SUE HILD, FCRR, RPR,
OFFICIAL COURT REPORTER FOR THE TENTH 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 THE EVIDENCE INTRODUCED
IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL,
IN THE COURT OF GENERAL SESSIONS FOR OCONEE COUNTY, SOUTH
CAROLINA, ON THE 26TH DAY AND 27TH DAY OF OCTOBER, 2010.

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

JULY 8, 2011


ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of General Sessions
Alexander S. Macaulay, Circuit Court Judge

Case No. 2010-GS-37-920

The State of South Carolina,.....Respondent.

v.

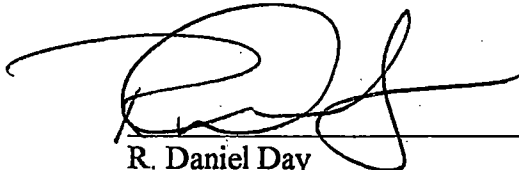
Robert Lee Banks,.....Appellant.

RULE 203(B) EXPLANATION

Pursuant to Rule 203(B)(iv), the issues to be raised on appeal may include the Court's refusal to allow Appellant to dismiss his counsel and have other counsel appointed for him prior to his plea pursuant to *North Carolina v. Alford*, 400 U.S. 25(1970).

The undersigned does not have a good faith basis to believe that the Court abused its discretion. Nevertheless, the Appellant requested that the undersigned file an appeal of his case and the undersigned has filed the appeal because the Sixth Amendment requires counsel to follow the Appellant's request. See *Frazer v. South Carolina*, 403 F.3rd 696, 706 (4th Cir.2005)("A defendant has a right to pursue a direct appeal, even if frivolous, which counsel must assist as 'an active advocate in behalf of his client.'")(quoting *Anders v. California*, 386 U.S. 738, 744(1967)).

November 2, 2010



R. Daniel Day
Tenth Judicial Circuit Public Defender's Office
Oconee County Public Defender's Office
415 South Pine Street
Walhalla, South Carolina 29691
864-638-3132
Attorney for Appellant

649

WITNESSES

WILLIAMSON, Seneca Police Dept. *[Signature]*

The State of South Carolina

County of Oconee

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 JUL 12 A 11:55

COURT OF GENERAL SESSIONS

JUL 12 2010

Term

ARREST WARRANT NUMBER

J453065

THE STATE

vs.

Robert Lee Banks

ACTION OF GRAND JURY

True Bill

DRW

Indictment for

Burglary (Non - Violent)- 2nd Degree

SC Code: 16-11-0312

CDR Code: 0080

VERDICT

[Signature]

[Signature]
Foreperson of Grand Jury
Date: JUL 21 2010

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

INDICTMENT

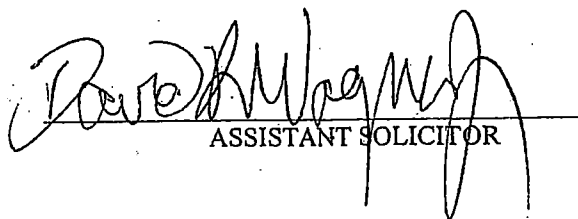
At a Court of General Sessions, convened on JUL 12 2010, the Grand Jurors of Oconee County present upon their oath:

Burglary (Non - Violent)- 2nd Degree

That **Robert Lee Banks** did in Oconee County, on or about **March 8, 2010**, willfully and unlawfully enter a building located at 810 W.S. 4th Street, Seneca, South Carolina, without consent and with intent to commit a crime therein. This is in violation of 16-11-312 of the South Carolina Code of Laws (1976) as amended

Nighttime

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

WILLIAMSON, Seneca Police Dept.

DOCKET NO. 2010GS37 00920

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

OCT 04 2010

Term

FILED IN OCONEE, SC
CLERK OF COURT
2010 OCT -4 P. 2:59

ARREST WARRANT NUMBER

Direct Re: J453065

THE STATE

vs.

Robert Lee Banks

ACTION OF GRAND JURY

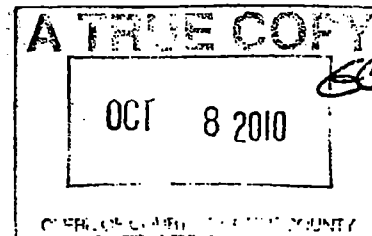
True Bill

DRW

Indictment for

Burglary (Violent) (After 06/20/85) - Second
DegreeSC Code: 16-11-0312(B)
CDR Code: 0086

VERDICT

Foreperson of Grand Jury
Date: OCT - 4 2010Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF Oconee)

INDICTMENT

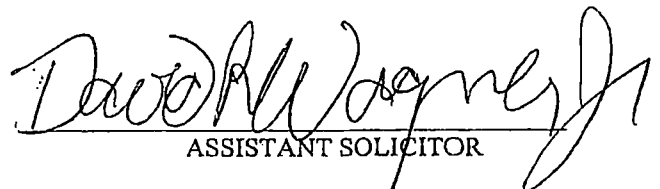
At a Court of General Sessions, convened on OCT 04 2010, the Grand Jurors of Oconee County present upon their oath:

Burglary (Violent) (After 06/20/85) - Second Degree

That **Robert Lee Banks** did in Oconee County, on or about **March 8, 2010**, willfully and unlawfully enter a building belonging to Seneca Middle School located at 810 W.S. 4th Street, Seneca, South Carolina, without consent and with the intent to commit a crime therein and aggravating circumstances were present, to wit: defendant did enter and/or remain in the building during the nighttime hours. This is in violation of 16-11-312(B) of the South Carolina Code of Laws (1976) as amended.

received
10-8-10

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

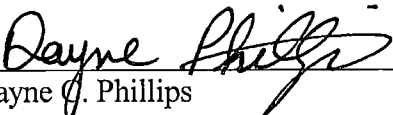

ASSISTANT SOLICITOR

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 5th, 2012


Dayne G. Phillips
Assistant Appellate Defender

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

ATTORNEY FOR APPELLANT

1989 4

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Edgefield County

Alexander S. Macaulay, Circuit Court Judge

THE STATE,

V.

ROBERT LEE BANKS,

RESPONDENT,

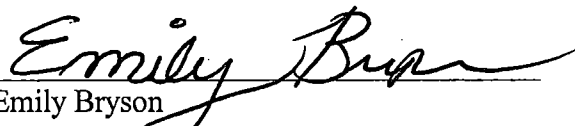
MAR 05 2012

SC Court of Appeals

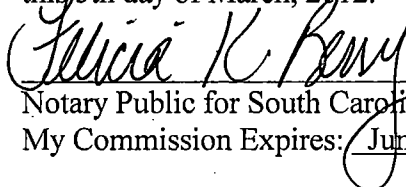
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; this 5th day of March, 2012.


Emily Bryson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 5th day of March, 2012.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: June 21, 2020

ANDERS

ORIGINAL

No Respondent's Brief Filed

NO DEFENDANT'S BRIEF

RECEIVED