

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Marlboro County
Thomas Russo, Circuit Court Judge

S.C. SUPREME COURT

ALFONSO STATON,

PETITIONER,

V.

THE STATE,

RESPONDENT.

Appellate Case No. 2015-000460

Appendix Volume 1

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IN THE SUPREME COURT

Appeal from Marlboro County

John M. Milling, Circuit Court Judge

ALFONSO STATON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

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STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM MARLBORO COUNTY

Edward B. Cottingham, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LEROY STATON,

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15TH CIRCUIT

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FOR THE DEFENDANT: JACK W. LAWSON, JR., ESQUIRE
ROBERT GRAHAM

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(WHEREUPON, THE FOLLOWING
PROCEEDINGS WERE COMMENCED AND
TOOK PLACE IN COURT'S CHAMBERS.)

THE COURT: OKAY. CALL THE CASE AND LET'S
GET ON THE RECORD, PLEASE. YOU MAY BE SEATED.

MR. WILSON: YOUR HONOR, THIS IS
96-GS-34-0986, STATE VERSUS ROBERT LEE WHITFIELD,
INDICTMENT FOR KIDNAPPING, CRIMINAL SEXUAL CONDUCT
FIRST DEGREE AND CRIMINAL CONSPIRACY. THIS IS A
CONTINUATION OF A COMPETENCY HEARING. THIS DEFENDANT
WAS -- WELL, THE EVIDENCE WAS HEARD ABOUT HIS
COMPETENCY AND THIS IS A CONTINUATION OF THAT HEARING
FROM FEBRUARY 18TH OF 1997 WHERE I THINK A DOCTOR --
WHAT WAS HIS NAME?

MR. KILGO: STU SMITH AND HAROLD MORGAN.

MR. WILSON: RIGHT. DR. MORGAN AND STU
SMITH TESTIFIED FOR THE DEFENSE. THE DEFENDANT WAS
THEN SENT TO THE STATE HOSPITAL PURSUANT TO A COURT
ORDER FOR EVALUATION AND THIS IS THE RESULTS OF THAT
EVALUATION.

THE COURT: ALL RIGHT. FIRST, LET THE
RECORD THEN REFLECT THAT THE DEFENDANT IS PRESENT IN
COURT ACCOMPANIED BY HIS ATTORNEY, MR. KILGO AND THE
GUARDIAN AD LITEM, MR. BRAD BAKER. THE TESTIMONY
PREVIOUSLY TAKEN AT THE HEARING IS INCORPORATED AS A

PART OF THIS RECORD, THIS BEING A CONTINUATION OF THAT HEARING. ALL RIGHT, SIR. YOU MAY PROCEED.

MR. WILSON: YOUR HONOR, THE STATE WOULD CALL DR. FRIERSON.

THE COURT: ALL RIGHT, SIR. DOCTOR, YOU MAY --

MR. WILSON: I'LL LET HIM HAVE A SEAT HERE.

THE COURT: ALL RIGHT. THAT WILL PROBABLY BE BETTER. DOCTOR, GOOD MORNING.

JURY VENIRE MEMBER: GOOD MORNING.

MR. WILSON: DOCTOR, IF YOU WOULD -- WELL YOU NEED TO SWEAR HIM FIRST, I GUESS.

DR. RICHARD FRIERSON,
HAVING BEEN FIRST DULY SWORN BY THE COURT,
TESTIFIED AS FOLLOWS:

THE COURT: THANK YOU, DOCTOR.

E X A M I N A T I O N

BY MR. WILSON:

Q. DOCTOR, IF YOU WOULD, STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FOR THE COURT REPORTER.

JURY VENIRE MEMBER: FRIERSON. RICHARD LEVANE FRIERSON, F-R-I-E-R-S-O-N.

Q. WHERE ARE YOU EMPLOYED?

A. WILLIAM S. HALL PSYCHIATRIC INSTITUTE.

1 Q. IN WHAT CAPACITY ARE YOU EMPLOYED THERE?

2 A. CURRENTLY CHIEF OF OUTPATIENT SERVICES.

3 Q. AND HOW LONG HAVE YOU BEEN WITH THAT
4 AGENCY?

5 A. I'VE BEEN WITH HALL INSTITUTE SINCE 1988.

6 Q. AND DOCTOR, WOULD YOU GIVE US THE BENEFIT
7 OF YOUR BACKGROUND EDUCATION AND EXPERIENCE?

8 A. I RECEIVED A MEDICAL DOCTORATE FROM THE
9 UNIVERSITY OF SOUTH CAROLINA SCHOOL OF MEDICINE IN
10 1988. I THEN RECEIVED -- COMPLETED FOUR YEARS OF
11 RESIDENCY TRAINING IN PSYCHIATRY AT HALL INSTITUTE
12 1992. COMPLETED A ONE YEAR ADDITIONAL TRAINING IN
13 FORENSIC PSYCHIATRY IN 1993. AND I'M CURRENTLY BOARD
14 CERTIFIED IN BOTH GENERAL AND FORENSIC PSYCHIATRY BY
15 THE AMERICAN BOARD OF PSYCHIATRY AND NEUROLOGY.

16 Q. AND DOCTOR, DURING THE TIME THAT YOU'VE
17 BEEN THERE SINCE '88, AT HALL INSTITUTE, HOW MANY
18 EVALUATIONS OF THIS TYPE WOULD YOU THINK THAT YOU'VE
19 CONDUCTED OR BEEN INVOLVED IN?

20 A. APPROXIMATELY 700.

21 Q. AND HAVE YOU TESTIFIED IN COURTS OF THIS
22 STATE?

23 A. YES.

24 Q. ALL RIGHT. AND APPROXIMATELY HOW MANY
25 OCCASIONS, IF YOU KNOW?

A. APPROXIMATELY 150.

Q. ALL RIGHT. AND HAVE YOU BEEN QUALIFIED AS AN EXPERT IN THE FIELD OF FORENSIC PSYCHIATRY DURING THOSE TIMES THAT YOU'VE TESTIFIED?

A. YES.

MR. WILSON: YOUR HONOR, AT THIS TIME, THE STATE WOULD OFFER THIS WITNESS AS AN EXPERT IN THE FIELD OF FORENSIC PSYCHIATRY.

MR. KILGO: NO OBJECTION.

THE COURT: WITHOUT OBJECTION, HE'S QUALIFIED. GO AHEAD.

BY MR. WILSON:

Q. DOCTOR, IF YOU WOULD, LET ME ASK YOU IF PURSUANT TO A COURT ORDER IF YOU EXAMINED AND/OR EVALUATED A DEFENDANT OR INDIVIDUAL BY THE NAME OF WHITFIELD?

A. YES.

Q. ALL RIGHT. AND WHEN DID YOU CONDUCT THIS EXAMINATION?

A. I SAW MR. WHITFIELD ON FRIDAY, FEBRUARY 28TH OF THIS YEAR.

Q. ALL RIGHT. AND WHAT WERE YOU EXAMINING HIM FOR?

A. I WAS EXAMINING MR. WHITFIELD TO RENDER AN OPINION REGARDING HIS COMPETENCY TO STAND TRIAL.

1 Q. ALL RIGHT. AND AFTER EXAMINING
2 MR. WHITFIELD, DID YOU REACH A CONCLUSION AS TO HIS
3 COMPETENCY TO STAND TRIAL?

4 A. YES.

5 Q. ALL RIGHT. AND WHAT WAS YOUR CONCLUSION,
6 DOCTOR?

7 A. IT WAS MY CONCLUSION THAT MR. WHITFIELD IS
8 CURRENTLY COMPETENT TO STAND TRIAL.

9 Q. ALL RIGHT. WOULD YOU GIVE US THE BASIS
10 FOR THAT CONCLUSION?

11 A. CERTAINLY. LET ME SAY THAT FIRST OF ALL
12 BEFORE EVALUATING MR. WHITFIELD, WE EVALUATE SEVERAL
13 DOCUMENTS THAT WERE PROVIDED TO US. WE REVIEWED A
14 COPY OF DR. STU SMITH'S REPORT FROM THE DEPARTMENT OF
15 DISABILITY AND SPECIAL NEEDS. I RECEIVED A LETTER
16 FROM DR. HAROLD MORGAN, A PRIVATE PSYCHOLOGIST IN
17 COLUMBIA WHO HAS ALSO EVALUATED THIS DEFENDANT. WE
18 REVIEWED INVESTIGATIVE REPORTS, INCIDENT REPORTS
19 RELATED TO THE ALLEGED OFFENSES. WE MADE AN ATTEMPT
20 TO CONTACT A FAMILY MEMBER TO GET A SOCIAL HISTORY.
21 THAT CONTACT WENT UNRETURNED. SO I REVIEWED ALL OF
22 THOSE DOCUMENTS AND THEN I SAW MR. WHITFIELD ON
23 FEBRUARY 28TH.

24 AT THAT TIME, WE PROCEEDED TO DO A FORMAL MENTAL
25 STATUS EXAMINATION AND COMPETENCY ASSESSMENT. ON THE

COMPETENCY ASSESSMENT, HE READ HIS MIRANDA WARNING WITH THE EXCEPTION OF THE WORDS "CONDUCT" AND "EXAMINATION". HE COULD READ THE REST OF THEM. HE HAD SOME DIFFICULTY UNDERSTANDING HIS FIRST MIRANDA WARNING, BUT HE DID UNDERSTAND THAT HE DIDN'T HAVE TO ANSWER OUR QUESTIONS IF HE DIDN'T WANT TO. HE WAS ABLE TO ANSWER WORDS REGARDING THE LEGAL SYSTEM SPONTANEOUSLY. HE USED THE WORDS APPOINT IN REFERENCE TO BEING APPOINTED A LAWYER. I ASKED HIM TO DEFINE THAT WORD AND HE STATED THAT THAT MEANS THAT I WAS GIVEN A LAWYER BECAUSE I CANNOT AFFORD ONE. CERTAINLY SOMEONE WITH AN I.Q. OF 58 WHICH HAD BEEN REPORTED BY THE DEPARTMENT OF DISABILITY AND SPECIAL NEEDS WOULD NORMALLY NOT BE ABLE TO DEFINE A WORD LIKE APPOINT. HE ELECTED TO CONTACT HIS LAWYER PRIOR TO PARTICIPATING IN THAT EVALUATION. HIS LAWYER WAS NOT AVAILABLE, BUT HE DID SPEAK WITH HIS GUARDIAN, MR. BRAD BAKER.

HE TOLD US THAT THE MURDER CHARGE AGAINST HIM HAD BEEN DROPPED, LISTED THE OTHER CHARGES AS KIDNAPPING, RAPE AND ACCESSORY AFTER THE FACT. HE DID NOT INITIALLY LIST THE CHARGE OF CRIMINAL CONSPIRACY. WHEN WE ASKED HIM, HE WAS NOT ABLE TO DEFINE WHAT CONSPIRACY MEANT, BUT HE WAS CERTAINLY EDUCABLE OF WHAT THAT MEANT DURING OUR EVALUATION AND

1 WAS ABLE TO UNDERSTAND. HE APPRECIATES THE
2 SERIOUSNESS OF HIS CHARGES. HE ESTIMATED HE COULD
3 GET 30 OR 40 YEARS OF A SENTENCE FOR THESE CHARGES,
4 WAS NOT SURE. WHEN I ASKED, WELL, IF YOU WANTED TO
5 KNOW FOR SURE, WHO WOULD YOU ASK, HE IDENTIFIED HIS
6 LAWYER AS THE PERSON HE COULD ASK FOR THAT
7 INFORMATION. HE STATED THAT THE ROLE OF HIS LAWYER
8 WAS TO DEFEND ME AND TRY TO HELP ME NOT TO GET ANY
9 TIME OR TO GET LESSER TIME. HE STATED THAT HE COULD
10 TELL HIS ATTORNEY EVERYTHING THAT HE KNOWS ABOUT
11 THESE CHARGES. HE UNDERSTOOD THE ADVERSARIAL NATURE
12 OF THE SOLICITOR, STATED THAT THE SOLICITOR WAS ON
13 THE VICTIM'S SIDE AND WANTED TO SEE YOU FOUND GUILTY
14 AND TO GET TIME IF HE HAS ENOUGH EVIDENCE. HE
15 UNDERSTOOD THE DECISION MAKING ROLE OF THE JUDGE,
16 STATES THAT A JURY IS 12 PEOPLE WHO SIT AND LISTEN TO
17 SEE WHAT THE CRIME IS AND WHAT THEY THINK, WHETHER
18 YOU'RE GUILTY OR NOT GUILTY. HE WAS ABLE TO STATE
19 THE PLEAS AVAILABLE TO HIM. HE STATES THAT -- I
20 ASKED WHAT HAPPENED IF YOU PLED NOT GUILTY? HE SAID,
21 WELL, THEY WOULD HAVE A JURY TRIAL. I SAID, WELL,
22 WHAT WOULD HAPPEN IF YOU PLED GUILTY? HE SAID, WELL,
23 THEY WILL HAVE A 20-MINUTE TRIAL AND SEND YOU DOWN
24 THE ROAD. HE UNDERSTANDS THE CONSENT INVOLVED IN
25 PLEA BARGAINING. WHEN I ASKED ABOUT PLEA BARGAINING,

HE SAID THEY CUT YOUR TIME AND GAVE AN EXAMPLE OF YOU MIGHT GET 30 YEARS BROKEN DOWN TO TEN, BUT IN ORDER TO GET THIS, YOU WOULD HAVE TO PLEAD GUILTY.

HE ALSO SPONTANEOUSLY ADDED THAT THAT WOULD ALSO DEPEND ON, YOU KNOW, IF YOU HAD ANY PRIOR RECORD, WHICH CERTAINLY INDICATED THAT HE UNDERSTOOD THE ROLE OF PRIOR CONVICTIONS AND NEGOTIATIONS AND THE EFFECTS THAT PRIOR CONVICTIONS WOULD HAVE ON SENTENCING. HE WAS ABLE TO SOLVE A HYPOTHETICAL PROBLEM INVOLVING THE COURTROOM. WE SAY WHAT WOULD YOU DO IF SOMEONE GOT UP ON THE WITNESS STAND AND WAS LYING ABOUT YOU OR SAYING SOMETHING ABOUT YOU THAT WAS NOT TRUE? HE STATED THAT I WOULD TELL MY LAWYER. WHEN ASKED ABOUT THE EVIDENCE IN THIS CASE, HE STATED THAT I DON'T KNOW IF THEY HAVE ENOUGH EVIDENCE, BUT IT COULD BE THINGS LIKE -- AND THEN HE LISTED FINGERPRINTS, SHOE PRINTS, HAIR, SALIVA, SPERM, CLOTHING OR SKIN. HE SAID THAT THEY TOOK A BLOOD AND SALIVA SAMPLE FROM HIM AT THE HOSPITAL -- AND TO QUOTE HIM -- "AS EVIDENCE TO BE USED IN COURT TO SEE IF IT MATCHES UP WITH BLOOD ON THE DEAD WOMAN'S CLOTHES."

HE UNDERSTANDS THE PURPOSE OF APPROPRIATE COURTROOM BEHAVIOR. HE WAS ABLE TO STATE WHAT PLEA OFFERS HE WOULD BE WILLING TO CONSIDER IN THIS CASE, SPECIFICALLY THE AMOUNT OF TIME THAT HE WOULD

1 CONSIDER PLEADING GUILTY TO. HE SAID HE HAS BEEN
2 SERVING TWO YEARS, THAT HE WOULD TAKE FIVE YEARS, TEN
3 YEARS. WOULDN'T TAKE 30 YEARS. I ASKED HIM WHERE
4 WOULD YOU DRAW THE LINE? HE SAID TEN YEARS. SO THAT
5 WAS BASICALLY THE COMPETENCY ASSESSMENT.

6 I INITIALLY THOUGHT THAT THIS DAY -- THAT HE WAS
7 GOING TO TRIAL THE MONDAY AFTER I SAW HIM. I FOUND
8 OUT THAT IT HAD BEEN DELAYED A WEEK. AND GIVEN HOW
9 HE PERFORMED IN MY EXAM, I DID NOT THINK HIS I.Q. WAS
10 58. SO WHEN WE HAD AN ADDITIONAL WEEK BEFORE IT WENT
11 TO TRIAL, I HAD HIM BROUGHT BACK, HAD ONE OF OUR
12 PSYCHOLOGISTS RE-ADMINISTER THE INTELLIGENCE TESTS,
13 AN I.Q. TEST, AND ON THAT, HE SCORED A FULL SCALE OF
14 73 WHICH IS NOT IN THE RANGE OF MENTAL RETARDATION,
15 BUT IN THE RANGE OF BORDERLINE INTELLECTUAL
16 FUNCTIONING. VERBAL OF 75 AND PERFORMANCE OF 73 WITH
17 A FULL SCALE OF 73. OUR PSYCHOLOGIST ASKED HIM WHAT
18 HAPPENED THE FIRST TIME HE TOOK THIS TEST? HE TOLD
19 OUR PSYCHOLOGIST THAT HE DIDN'T FEEL LIKE TAKING THE
20 TEST THE FIRST TIME IT WAS GIVEN TO HIM, THE FIRST
21 TIME IT WAS GIVEN TO HIM, THAT HE DIDN'T TRY VERY
22 HARD.

23 Q. DOCTOR, IS IT YOUR OPINION THAT HE COULD
24 ASSIST HIS ATTORNEYS BY PROVIDING THEM WITH
25 INFORMATION ABOUT WHAT OCCURRED AND WHAT HE REMEMBERS

FROM THE EVENTS SURROUNDING THIS CASE IF HE HAD A MIND TO DO THAT?

A. YES.

Q. IS THERE ANY DOUBT THAT HE COULD THINK SEQUENTIALLY ENOUGH THAT HE COULD REMEMBER EVENTS IN SOME KIND OF ORDER SO THAT HE COULD PRESENT IT TO THEM IN ORDER?

A. YES.

Q. OKAY. DURING -- AND I DON'T KNOW WHETHER YOU EXAMINED HIM FOR THIS DURING THIS TIME -- DID YOU EXAMINE HIM TO DETERMINE IF HE KNOWS RIGHT FROM WRONG?

A. I DID NOT.

Q. ALL RIGHT. BUT BASED ON WHAT YOU HAVE OBSERVED OF HIM, BASED ON HIS ABILITY AND HIS I.Q., WOULD IT BE INCONSISTENT FOR HIM TO UNDERSTAND RIGHT FROM WRONG?

A. FIRST OF ALL, LET ME SAY I DIDN'T EXAMINE HIM FOR THAT. I DO THINK THAT IT WOULD BE CONSISTENT FOR HIM -- SOMEONE WITH AN I.Q. OF 73 WITH NO OTHER MENTAL ILLNESS TO UNDERSTAND THE WRONGFULNESS AS IT RELATES TO CERTAIN CHARGES LIKE KIDNAPPING, RAPE.

Q. ALL RIGHT.

A. CONSPIRACY CHARGE, I'M -- I DIDN'T EXAMINE HIM FOR THAT. THAT'S A LITTLE BIT MORE TECHNICAL.

1 IT'S MORE ABSTRACT AS TO WHAT CONSPIRACY MEANS AND SO
2 I DIDN'T EXAMINE HIM FOR THAT.

3 THE COURT: LET ME INTERRUPT. I THINK THE
4 ONLY ISSUE HERE IS HIS COMPETENCE TO ASSIST HIS
5 LAWYERS, ISN'T IT? THE OTHER ISSUES WERE RESOLVED.
6 ISN'T THAT --

7 MR. WILSON: THAT'S RIGHT.

8 THE COURT: HE KNEW RIGHT FROM WRONG AND
9 HE'S MET THE M'NAGHTON TEST. ISN'T THE ONLY ISSUE
10 WHETHER HE IS COMPETENT TO ASSIST HIS ATTORNEY IN
11 DEFENSE?

12 MR. WILSON: YES, SIR. NO OTHER
13 QUESTIONS.

14 E X A M I N A T I O N

15 BY MR. KILGO:

16 Q. YOU SAID YOU'VE TESTIFIED 150 TO 200
17 TIMES?

18 A. YES.

19 Q. HOW MANY TIMES DID YOU FIND THE DEFENDANT
20 COMPETENT OR ABLE TO STAND TRIAL?

21 A. THAT WOULD BE AN ESTIMATION.

22 Q. I UNDERSTAND THAT.

23 A. I'M MORE LIKELY TO BE CALLED TO TESTIFY
24 WHEN I GIVE AN OPINION THAT SOMEONE IS INCOMPETENT TO
25 STAND TRIAL.

Q. OKAY.

A. OKAY. I WOULD IMAGINE THAT I'VE TESTIFIED IN APPROXIMATELY 30 TO 40 CASES WHERE I GAVE AN OPINION THAT A DEFENDANT WAS INCOMPETENT TO STAND TRIAL, IF I CAN ANSWER IT THAT WAY.

Q. OKAY. THE OTHER REST OF THEM YOU HAVE FOUND THEM TO BE QUALIFIED?

A. YES.

Q. SO 30 TO 40 OUT OF 150 CORRECT?

A. THAT'S CORRECT.

Q. ALL RIGHT. NOW, DID YOU SEE MR. WHITFIELD THE SECOND TIME HE CAME UP THERE?

A. BRIEFLY, YES.

Q. OKAY. ALL RIGHT. AND ISN'T IT TRUE WHEN YOU GIVE THE WAIS TEST, THE W-A-I-S - R TEST, THAT YOU TEND TO DO BETTER THE SECOND TIME?

A. YOU'RE TALKING ABOUT A PERFORMANCE-ENHANCING EFFECT FROM BEING REPEATED, HAVING THIS TEST ADMINISTERED MANY TIMES. THE ONLY -- LET ME EXPLAIN. THE WAIS IS DIVIDED INTO TWO PARTS. YOU HAVE A VERBAL I.Q. YOU HAVE A PERFORMANCE I.Q. I ASKED THE SAME QUESTION, ANTICIPATING THIS QUESTION FROM THE PSYCHOLOGIST WHO TESTED HIM AND I WAS TOLD THAT THE VERBAL I.Q. IS RESISTANT TO A TEST EFFECT BECAUSE IT'S VOCABULARY

1 PRIMARILY AND IF YOU DON'T KNOW THE WORD THE FIRST
 2 TIME, UNLESS YOU WENT OUT AND LOOKED UP WORDS IN A
 3 DICTIONARY, YOU KNOW, KNOWING IT THE SECOND TIME IS
 4 MAINLY AN INDICATION THAT DOES NOT BE DUE TO
 5 REPEATING THE TEST. SOME OF THE PERFORMANCE ITEMS ON
 6 THE TEST COULD BE -- SHOW MILD IMPROVEMENT WITH
 7 REPEATED TESTING. I WOULD SAY THAT MR. WHITFIELD, TO
 8 MY KNOWLEDGE, HAS ONLY HAD THIS TEST ADMINISTERED
 9 TWICE. AND WE WOULD NOT EXPECT TO SEE SUCH A LARGE
 10 IMPROVEMENT IN THE PERFORMANCE I.Q. DUE TO A TEST
 11 EFFECT. YOU KNOW, ONE, TWO, THREE, FOUR, FIVE POINTS
 12 MAYBE, BUT I BELIEVE HE HAD AN IMPROVEMENT OF NINE
 13 POINTS ON THE PERFORMANCE PART. HE HAD AN
 14 IMPROVEMENT OF NINE POINTS ON THE VERBAL PART.

15 Q. OKAY. AND DID I UNDERSTAND --

16 A. I'M SORRY. NINETEEN POINTS ON THE VERBAL
 17 PART.

18 Q. OKAY. AND IN YOUR -- BUT YOU JUST
 19 TESTIFIED THAT VERBAL SHOULDN'T CHANGE?

20 A. THAT'S RIGHT.

21 Q. AND HE WOULD HAVE TO HAVE ACCESS TO SOME
 22 TYPE OF KNOWLEDGE FACTOR, BOOKS OR SOMETHING ELSE TO
 23 INCREASE THAT?

24 A. THAT'S CORRECT.

25 Q. OKAY. BASED ON -- ON -- ON WHAT YOU -- ON

YOUR EXAMINATION, DO YOU FEEL THAT HE NEEDS A
GUARDIAN AD LITEM?

A. I DO NOT.

Q. DO YOU FEEL IT WAS A CONTRADICTION IN THE
BEGINNING TO SAY THAT HE WAS COMPETENT, BUT NEEDED A
GUARDIAN AD LITEM?

A. LET ME ANSWER THAT BY SAYING IF I FELT
SOMEONE NEEDED A GUARDIAN, I WOULD NEVER HAVE GIVEN
AN OPINION THAT THEY ARE COMPETENT TO STAND TRIAL.

Q. AND JUST BECAUSE SOMEONE MAY BE COMPETENT
TODAY DOESN'T MEAN THAT COMPETENCY MAY NOT ERODE. AM
I CORRECT?

A. GIVEN CERTAIN -- IF THERE WAS A MENTAL
ILLNESS INVOLVED THAT HAD FLUCTUATION IN ITS
SYMPTOMATOLOGY, YES, A COMPETENCY CAN BE TRANSIENT IN
THAT CASE.

MR. KILGO: NOTHING FURTHER.

BY MR. WILSON:

Q. BUT DOCTOR, AS I UNDERSTAND YOUR
TESTIMONY, THIS DEFENDANT HAS NO MENTAL ILLNESS?

A. NONE OTHER THAN ALCOHOL DEPENDENCY. HE'S
BEEN OFF OF ALCOHOL SINCE HE'S BEEN INCARCERATED. I
WOULD NOT EXPECT THAT TO PLAY A FACTOR IN HIS
COMPETENCY.

MR. WILSON: THANK YOU.

1 THE COURT: OKAY. I THINK THE RECORD WILL
2 REFLECT THAT WE PREVIOUSLY HAD A FIRST HEARING ON
3 THIS INDIVIDUAL IN DARLINGTON -- WAS IT LAST
4 DECEMBER?

5 MR. KILGO: NO, WE HAD IT HERE IN AUGUST.
6 AT THAT TIME, DR. SMITH TESTIFIED, FOUND HIM TO BE
7 COMPETENT, BUT RECOMMENDED A GUARDIAN AD LITEM. THEN
8 WE HAD A SECOND COMPETENCY HEARING A COUPLE OF WEEKS
9 AGO HERE.

10 THE COURT: OKAY. IN AUGUST, I FOUND HIM
11 COMPETENT AND THEN A HEARING A COUPLE OF WEEKS AGO.
12 AND BASED ON THIS TESTIMONY, I FIND BEYOND A
13 REASONABLE DOUBT THAT THIS INDIVIDUAL IS COMPETENT TO
14 STAND TRIAL, COMPETENT TO ASSIST HIS LAWYERS IN HIS
15 DEFENSE. WE'VE ALREADY HERETOFORE RULED WITH REGARD
16 TO THE M'NAGHTON RULE AND I CONCLUDE THAT IT'S PROPER
17 THAT HE BE PUT TO TRIAL.

18 NOW, LET ME ASK YOU THIS, DOCTOR. DO YOU HAVE
19 ANY WRITTEN RECORD OF THAT REPORT THAT WE NEED TO
20 MAKE FOR THE RECORD --

21 MR. WILSON: YES, SIR.

22 THE COURT: LET THAT -- HAVE YOU BEEN
23 FURNISHED A COPY OF THAT, MR. KILGO?

24 MR. KILGO: OH, YES, SIR.

25 THE COURT: THAT WRITTEN REPORT BE MADE A

PART OF THE RECORD.

MR. BAKER: JUDGE, WHILE WE'RE HERE, WOULD IT BE ALL RIGHT THAT I BE RELIEVED AS GUARDIAN AD LITEM?

THE COURT: DO YOU HAVE ANY OBJECTION TO THAT?

MR. KILGO: THE DOCTOR SAID THAT HE NO LONGER NEEDED A GUARDIAN AT LITEM.

THE COURT: BASED ON THAT, I WILL RELEASE YOU. ANY OBJECTION TO THAT, MR. WILSON?

MR. WILSON: NO, SIR.

THE COURT: ALL RIGHT. AS I UNDERSTAND IT, THIS INDIVIDUAL WILL BE PUT TO TRIAL SOME TIME THIS WEEK. DOCTOR, THE COURT APPRECIATES YOUR ATTENDANCE IN COURT HERE THIS WEEK, THANK YOU SO MUCH. ALL RIGHT.

ALL RIGHT. MR. PADGETT OR MR. ROGERS GOT ANY MOTIONS?

MR. PADGET: JUDGE, WE FILED A MOTION EARLIER THAT SAID THAT WE WOULD JOIN IN ALL OTHER MOTIONS NOT ADVERSE TO OUR OWN POSITION.

THE COURT: YES, SIR. THAT'S CONSENTED TO. ALL RIGHT, SIR. ALFONZO STATON, MR. WILL ROGERS, ANY MOTIONS?

MR. WILL ROGERS: JUST THE SAME MOTIONS

1 MR. PADGETT HAS.

2 THE COURT: MR. MARTIN MCINTOSH,
3 MR. ERVIN?

4 MR. ERVIN: SAME THING.

5 MR. REDMOND: SAME THING.

6 THE COURT: ROBERT GRAHAM, MR. LAWSON?

7 MR. LAWSON: I THINK THERE'S A MOTION
8 PENDING ON CHANGE OF VENUE. I DON'T BELIEVE WE COULD
9 HEAR THAT UNTIL AFTER WE VOIR DIRED THE JURY.

10 MR. ERVIN: RIGHT.

11 THE COURT: YES, SIR. AFTER WE VOIR DIRE,
12 IF YOU THINK IT NECESSARY, YOU SHALL BE GIVEN AN
13 OPPORTUNITY TO MAKE THAT AGAIN. ALL RIGHT. LEROY
14 STATON, MILTON MOORE.

15 MR. MOORE: JUST WHAT THE OTHERS HAVE SAID
16 BEFORE, BUT I DO WANT TO ASK YOU ABOUT SCHEDULING IN
17 REGARD TO NOTIFYING OUR WITNESSES. IS THE STATE
18 GOING TO BE -- ALL OF THE STATE'S WITNESSES AND THE
19 JURY -- IN OTHER WORDS, CAN WE TELL OUR PEOPLE TO
20 COME IN THE MORNING?

21 MR. WILSON: I THINK THAT'S SAFE, YOUR
22 HONOR. I WILL NOT FINISH TODAY.

23 THE COURT: YEAH. DOES THAT ANSWER YOUR
24 QUESTION?

25 MR. WILSON: BUT I DON'T KNOW WHAT TIME

TOMORROW I'LL FINISH.

THE COURT: OKAY. THANK YOU. BETTER HAVE THEM TOMORROW AT 9:30, BUT I WILL NOT REQUIRE ANY DEFENSE COUNSEL TO HAVE THEIR WITNESSES HERE EXCEPT AS YOU MAY NEED THEM FOR CROSS-EXAMINATION PURPOSES. DOES THAT ANSWER THAT QUESTION?

MR. ERVIN: HOW LATE ARE YOU PLANNING ON WORKING WITH --

THE COURT: I'M WORKING ON HIS PROGRAM. HE'S STARRING IN A PLAY THIS WEEK. CAN WE WORK UNTIL 6:00?

MR. WILSON: YES, SIR.

THE COURT: I HAD NOT WANTED TO WORK THE JURY BEYOND THAT. YOU'RE GOING BACK AND FORTH, ARE YOU NOT.

MR. WILSON: YES, SIR.

THE COURT: DOES THAT SUIT YOUR --

MR. WILSON: 6:00 IS SUITABLE.

THE COURT: ALL RIGHT. WHAT ELSE?

MR. ERVIN: HOW ABOUT COURTROOM ACCOMMODATIONS? HOW ARE WE GOING TO SIT EVERYBODY IN THERE? WE'VE GOT A LAWYER THAT WILL SIT -- WE HAVE TWO LAWYERS.

THE COURT: GET MY CLERK OF COURT IN HERE. GO GET MY CLERK.

NOT BROUGHT THEM OUT YET.

MR. ERVIN: NO, SIR.

THE COURT: LET'S BRING ALL OF THE DEFENDANTS OUT, PLEASE. THANK YOU FOR CALLING THAT TO MY ATTENTION, MR. ERVIN.

MR. ERVIN: YES, SIR.

THE COURT: ALL RIGHT. GENTLEMEN, ARE THE SIX DEFENDANTS NOW IN THE COURTROOM?

MR. ERVIN: YES, SIR.

THE COURT: COUNSEL NOW READY?

MR. ERVIN: YES, SIR.

THE COURT: ALL RIGHT. LET THE RECORD NOW REFLECT THAT ALL DEFENDANTS AND COUNSEL ARE IN THE COURTROOM AS IS THE SOLICITOR'S OFFICE OF THE 15TH CIRCUIT, SOLICITOR WILSON.

LADIES AND GENTLEMEN OF THE JURY, YOU HAVE BEEN ASSEMBLED AND SUMMONED HERE TODAY AS JURORS IN THE CASE TO BE TRIED COMMENCING VERY SHORTLY. WE UNDERSTAND THAT YOU ARE HERE AT CONSIDERABLE INCONVENIENCE TO YOUR EVERYDAY PURSUITS, BUT IT IS NECESSARY THAT WE HAVE 12 JURORS WHO WILL DETERMINE THE ISSUES IN THE TRIAL, THE ISSUES THAT ARISE FROM THIS CASE.

NOW, FROM YOUR NUMBER THIS MORNING, WE WILL SELECT FOR THE FIRST TRIAL 12 JURORS AND 2 ALTERNATES

1 FOR A TOTAL OF 14. THE REST OF YOU WILL BE RELEASED
 2 AT THE CONCLUSION OF THAT SELECTION PROCESS AND I
 3 WILL ASK THAT -- WE'LL GIVE YOU PHONE NUMBERS TO CALL
 4 BACK SO THAT YOU WILL KNOW WHEN WE'LL NEED YOU BACK
 5 FOR THE SELECTION OF THE SECOND JURY LATER ON IN THE
 6 WEEK. WE HOPE TO MINIMIZE THE INCONVENIENCE THAT WE
 7 ARE CAUSING YOU HERE TODAY BY YOUR PRESENCE AND YOUR
 8 POTENTIAL SERVICE.

9 THE CONSTITUTION OF THIS STATE MANDATES THAT I
 10 AS YOUR PRESIDING JUDGE POSSESS CERTAIN
 11 QUALIFICATIONS IN ORDER TO SERVE AS A JUDGE. THAT
 12 CONSTITUTION ALSO MANDATES THAT YOU TOO MUST POSSESS
 13 CERTAIN QUALIFICATION. AND IN THAT REGARD, I'M GOING
 14 TO ASK OF YOU CERTAIN QUESTIONS. IF ANY OF THESE
 15 QUESTIONS PERTAIN TO YOU, PLEASE STAND, AND DON'T
 16 RAISE YOUR HAND. PLEASE STAND. SOMETIMES WITH THE
 17 NUMBERS PRESENT, I CAN'T SEE YOU. PLEASE STAND, GIVE
 18 ME YOUR NAME AND YOUR JURY NUMBER IF KNOWN. AND IN
 19 THIS QUESTIONING PROCESS, IF AT ANY TIME ANY OF YOU
 20 DO NOT UNDERSTAND THE QUESTION THAT I ASK, PLEASE
 21 STAND AND TELL ME OF IT. IT IS ABSOLUTELY REQUIRED
 22 AND NECESSARY THAT ALL JURORS BE QUALIFIED. AND IF
 23 WE SELECT A JUROR WHO IS NOT QUALIFIED, THAT ENTIRE
 24 JURY PROCESS HAS TO BE SET ASIDE. AND SO WE WANT TO
 25 MAKE SURE THAT EVERYBODY IS QUALIFIED TO SERVE.

(JURY PANEL VOIR DIRE IS CONDUCTED.)

THE COURT: ANYONE ELSE? ALL RIGHT.

LADIES AND GENTLEMEN, I FIND THAT ALL OF YOU WHO HAVE NOT BEEN EXCUSED OR TRANSFERRED ARE DULY QUALIFIED TO SERVE IN THIS A GENERAL SESSIONS TERM OF COURT. WE WILL PROCEED IN THE FOLLOWING MANNER. THE CLERK OF COURT WILL PROCEED TO CALL THE ROLL TO ASCERTAIN THAT EVERYBODY IS HERE. MR. CLERK, UPON CONCLUSION OF THE CALLING OF THE ROLL, TAKE A 15-MINUTE BREAK SO THAT EVERYBODY CAN GO OUTSIDE AND TAKE A QUICK BREAK AND THEN HAVE THEM BROUGHT BACK IN AND THEN WE'LL START THE VOIR DIRE FOR THE SELECTION OF THE JURY. YOU MAY PROCEED TO CALL THE ROLL.

(WHEREUPON, ROLL WAS CALLED.)

THE COURT: NOW, THERE ARE SIX INDIVIDUALS WHO ARE BEING TRIED JOINTLY TODAY REPRESENTED BY VARIOUS ATTORNEYS. AND I WOULD LIKE TO INTRODUCE THEM AT THIS TIME. REPRESENTING CHARLES M. STUCKEY IS MAHLON PADGETT AND JAMES ROGERS. WOULD YOU GENTLEMEN PLEASE STAND. AND I THANK YOU.

REPRESENTING ALFONZO STATON IS WILLIAM ROGERS. MR. ROGERS, WOULD YOU PLEASE STAND.

REPRESENTING JEFFREY WALLS IS MR. KERNARD R. REDMOND. MR. REDMOND, WOULD YOU PLEASE STAND.

REPRESENTING MARTIN MCINTOSH IS MR. JOHN ERVIN.

1 WOULD YOU PLEASE STAND.

2 REPRESENTING ROBERT GRAHAM IS MR. JACK LAWSON OF
3 THE FLORENCE BAR.

4 AND REPRESENTING LEROY STATON IS MR. MILTON
5 MOORE.

6 THANK YOU, GENTLEMEN. NOW, THIS IS A CRIMINAL
7 JURISDICTION CASE OR WEEK HERE, AND OBVIOUSLY, THE
8 SHERIFF WILL BE INVOLVED IN OUR PARTICIPATION HERE.
9 THE SHERIFF, MR. SIMONS, MOST OF YOU WOULD KNOW
10 SHERIFF SIMONS. THE GENTLEMAN THAT YOU HAVE BEEN
11 WORKING WITH RECENTLY IS BILL FUNDERBURK, THE CLERK
12 OF COURT. MR. FUNDERBURK. THIS GENTLEMAN TO MY
13 RIGHT IS MARK HAGOOD. HE IS THE COURT REPORTER. HIS
14 JOB IS TO TAKE DOWN AND TRANSCRIBE EVERYTHING THAT'S
15 SAID HERE, EVERYTHING THAT'S DONE SO THAT WE WILL
16 ALWAYS HAVE A PERMANENT RECORD OF WHAT WAS
17 ACCOMPLISHED. AROUND THE VARIOUS PORTALS, YOU WILL
18 SEE THE BAILIFFS. IF ANY PROBLEMS ARISE OR ANYTHING
19 YOU NEED TO CALL MY ATTENTION, PLEASE LET THEM KNOW.
20 THEY ARE HERE TO HELP US KEEP ORDER AND TO ASSIST
21 YOU. THAT WILL BE -- GENTLEMEN, PLEASE RAISE YOUR
22 HAND AS YOUR NAME IS CALLED. MR. JAMES PETERKIN WHO
23 IS THE HEAD BAILIFF. JOHN BROWN. JOHN WILLIAMS,
24 STEVE LOCKLEAR AND LARRY SPEARS.
25 MR. MARK HEATH HERE IS THE PROBATION OFFICER.

AND THIS YOUNG MAN BEHIND ME IS MR. BILL NIXON, WHO IS MY LAW CLERK, A RECENT GRADUATE OF THE UNIVERSITY OF SOUTH CAROLINA LAW SCHOOL.

NOW, IN JUST A FEW MOMENTS, WE ARE GOING TO ENTER INTO A PROCESS KNOWN AS VOIR DIRE WHEREIN I'LL BE ASKING OF YOU CERTAIN QUESTIONS. AND I TELL YOU AS I ASK OF YOU THESE QUESTIONS THERE ARE NO WRONG ANSWERS FOR YOU TO GIVE. WE ARE SIMPLY TRYING TO DETERMINE WHETHER YOU HAVE KNOWLEDGE CONCERNING THE FACTS AND CIRCUMSTANCES OF THIS CASE OR IF YOU HAVE FORMED OR EXPRESSED AN OPINION CONCERNING THE FACTS AND CIRCUMSTANCES OF THIS CASE.

I TELL YOU NOW FROM THE OUTSET THAT THERE IS NOTHING WRONG WITH YOU HAVING VIEWED, LISTENED TO OR READ ANYTHING CONCERNING THE CASE. NOR IS THERE ANYTHING WRONG WITH YOU HAVING DISCUSSED THE CASE. WE ARE SIMPLY TRYING TO DETERMINE WHAT EACH OF YOU HAVE BEEN EXPOSED TO AND THE RESULT THAT IT HAS HAD ON YOU. IT IS THE DESIRE OF THE STATE AND THE DESIRE OF THE DEFENSE TO SECURE FROM YOUR NUMBER A JUROR WITH NO FRIENDS TO REWARD, NO ENEMIES TO PUNISH, A JUROR WHO SAYS, JUDGE, IF I AM SELECTED AS ONE OF THE 12 JURORS AND TWO OF THE ALTERNATES, I CAN PROMISE YOU UPON MY OATH THAT I HAVE NO BIAS OR PREJUDICE FOR THE STATE OR AGAINST THE STATE, THAT I HAVE NO BIAS

1 OR PREJUDICE FOR OR AGAINST ANY OF THESE DEFENDANTS,
2 A JUROR WHO SAYS I HAVE NO PRECONCEIVED OPINION AS TO
3 THE GUILT OR INNOCENCE OF ANY PARTY, A JUROR WHO CAN
4 PROMISE ME UPON THEIR OATH IF I AM SELECTED, MY
5 VERDICT IN THIS CASE WILL BE BASED ON THE LAW AND THE
6 EVIDENCE IN THIS CASE AND FROM NO OTHER SOURCE.

7 AND IN THAT CONNECTION, TO ENSURE THAT WE
8 RECEIVE THAT TYPE OF JUROR, I WILL BE ASKING OF YOU
9 CERTAIN QUESTIONS IN JUST A FEW MOMENTS. RECOGNIZING
10 THAT YOU'VE ALL BEEN HERE SINCE CERTAINLY 10:00 THIS
11 MORNING, IF YOU CARE TO, I -- YOU MAY LEAVE AND GO
12 OUTSIDE TO STRETCH A FEW MOMENTS. PLEASE BE BACK
13 WITHIN 15 MINUTES. NOW, I WANT THE JURY TO LEAVE
14 FIRST. EVERYBODY ELSE REMAIN SEATED UNTIL THOSE IN
15 THE JURY WHO DESIRE TO STEP OUT DO SO.

16 (WHEREUPON, A BREAK WAS TAKEN
17 FROM THE PROCEEDINGS.)

18 THE COURT: ALL RIGHT. SOLICITOR WILSON,
19 THE JURY HAS BEEN QUALIFIED. WE'RE READY FOR THE
20 FIRST CASE. YOU MAY CALL YOUR CASE.

21 MR. WILSON: THANK YOU VERY MUCH, YOUR
22 HONOR. YOUR HONOR STATE WOULD NOW CALL FOR TRIAL
23 DOCKET NUMBER 96-GS-34-0978, THE STATE VERSUS ROBERT
24 GRAHAM, INDICTMENT FOR COUNT ONE, KIDNAPPING, COUNT
25 TWO CRIMINAL SEXUAL CONDUCT FIRST DEGREE, COUNT THREE

CRIMINAL CONSPIRACY. ALSO DOCKET NUMBER
 96-GS-34-0984, STATE VERSUS ALFONZO STATON,
 INDICTMENT FOR KIDNAPPING, COUNT ONE, COUNT TWO
 MURDER, COUNT THREE CRIMINAL SEXUAL CONDUCT, FIRST
 DEGREE, COUNT FOUR CRIMINAL CONSPIRACY. DOCKET
 NUMBER 96-GS-34-98*, STATE VERSUS LEROY STATON,
 INDICTMENTS FOR COUNT ONE KIDNAPPING, COUNT TWO
 MURDER, COUNT THREE CRIMINAL SEXUAL CONDUCT FIRST
 DEGREE, AND COUNT FOUR CRIMINAL CONSPIRACY.
 INDICTMENT DOCKET NUMBER 96-GS-34-098*, STATE VERSUS
 MARTIN MCINTOSH, INDICTMENT FOR COUNT ONE KIDNAPPING,
 COUNT TWO MURDER, COUNT THREE CRIMINAL SEXUAL CONDUCT
 FIRST DEGREE, COUNT FOUR CRIMINAL CONSPIRACY. DOCKET
 NUMBER 96-GS-34-979, STATE VERSUS CHARLES M. RICKY
 STUCKEY, JUNIOR, INDICTMENT FOR COUNT ONE KIDNAPPING,
 COUNT TWO MURDER, COUNT THREE CRIMINAL SEXUAL CONDUCT
 FIRST DEGREE, AND COUNT FOUR CRIMINAL CONSPIRACY.
 ALSO DOCKET NUMBER 96-GS-34-0446, STATE VERSUS
 JEFFREY WALLS, INDICTMENTS FOR KIDNAPPING; DOCKET
 NUMBER 95-GS-34-0447, STATE VERSUS JEFFREY WALLS,
 INDICTMENT FOR CRIMINAL SEXUAL CONDUCT FIRST DEGREE.
 95-GS-34-044, STATE VERSUS JEFFREY WALLS, INDICTMENT
 FOR CRIMINAL CONSPIRACY. AND 95-GS-34-0448, STATE
 VERSUS JEFFREY WALLS, INDICTMENT FOR MURDER.

JURY VENIRE MEMBER: DOES THE DEFENDANT

1 WAIVE FORMAL ARRAIGNMENT OR WOULD THE DEFENDANTS
2 PREFER TO BE ARRAIGNED?

3 MR. ERVIN: WE WAIVE FORMAL ARRAIGNMENT.

4 MR. LAWSON: WE WAIVE.

5 MR. PADGETT: WE WAIVE.

6 MR. MOORE: WE WAIVE.

7 MR. LAWSON: YOUR HONOR, I WOULD LIKE TO
8 STATE FOR THE RECORD MY CLIENT DOESN'T NEED TO BE
9 ARRAIGNED.

10 THE COURT: ALL RIGHT. LADIES AND
11 GENTLEMEN OF THE JURY, I AM NOW GOING TO POSE CERTAIN
12 QUESTIONS TO YOU AS I INDICATED JUST PRIOR TO THE
13 BREAK TO ENSURE THAT THE STATE OF SOUTH CAROLINA AND
14 THESE DEFENDANTS RECEIVE A JURY WHO CAN SAY TO ME AND
15 TO THEM, JUDGE, IF I AM SELECTED AS A JUROR, I
16 PROMISE YOU THAT MY VERDICT IN THE CASE, WHATEVER IT
17 IS, WILL BE BASED ON THE LAW AND THE EVIDENCE IN THIS
18 CASE, HEARD IN THIS COURTROOM, AND FROM NO OTHER
19 SOURCE. AS I INDICATED EARLIER, THERE ARE NO RIGHT
20 AND WRONG ANSWERS TO THE FOLLOWING INQUIRIES. IT'S
21 JUST TO ENSURE THAT WE RECEIVE THE TYPE OF JURY THAT
22 I HAVE REFERRED TO.

23 NOW, THE DEFENDANTS STAND INDICTED, AND TO WHICH
24 INDICTMENT EACH ONE OF THEM PLEADS NOT GUILTY, WHICH
25 PLACES THE BURDEN OF PROOF UPON THE STATE OF SOUTH

CAROLINA OF PROVING THEM GUILTY, IF THEY CAN, TO YOUR SATISFACTION BY EVIDENCE BEYOND A REASONABLE DOUBT. FOUR OF THE DEFENDANTS WHOSE NAMES HAVE PREVIOUSLY BEEN CALLED BY THE SOLICITOR ARE CHARGED WITH MURDER, KIDNAPPING, CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND CRIMINAL CONSPIRACY. JEFFREY WALLS IN ADDITION TO THOSE CHARGES IS CHARGED WITH STRONG ARMED ROBBERY. ROBERT GRAHAM IS NOT CHARGED WITH MURDER, BUT IS CHARGED WITH KIDNAPPING, CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND CRIMINAL CONSPIRACY.

THESE CHARGES RELATE TO AN ALLEGED INCIDENT INVOLVING THE KIDNAPPING, THE CRIMINAL -- THE CRIMINAL SEXUAL CONDUCT AND THE ALLEGED MURDER OF ONE DARLENE PATTERSON. NOW, MY FIRST INQUIRY IS THIS. ARE ANY OF YOU RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH THE FORMER DARLENE PATTERSON? PLEASE STAND.

(NO RESPONSE.)

THE COURT: DID ANY OF YOU HAVE ANY CLOSE PERSONAL RELATIONSHIPS WITH DARLENE PATTERSON?

(NO RESPONSE.)

THE COURT: ANY OF YOU CO-WORKERS WITH DARLENE PATTERSON?

(NO RESPONSE.)

1 THE COURT: WERE ANY OF YOU CHURCH MEMBERS
2 WITH DARLENE PATTERSON? COME FORWARD, PLEASE. ANY
3 OF YOU NEIGHBORS OF DARLENE PATTERSON?

4 (NO RESPONSE.)

5 THE COURT: HOW MANY OF YOU KNEW THE
6 DECEASED, DARLENE PATTERSON, IN ANY CAPACITY
7 WHATSOEVER? PLEASE STAND. ALL RIGHT. COME FORWARD.

8 NOW, LET ME SAY AGAIN TO ALL OF YOU, I TELL FROM
9 YOU THE OUT SET THAT THERE IS NOTHING WRONG WITH YOU
10 HAVING VIEWED, LISTENED TO OR READ ANYTHING ABOUT THE
11 CASE, NOR IS THERE ANYTHING WRONG WITH YOU HAVING
12 KNOWN THE ALLEGED VICTIM IN THE CASE. I AM SIMPLY
13 TRYING TO DETERMINE WHAT EACH OF YOU MAY HAVE BEEN
14 EXPOSED TO AND THE RESULT THAT IT POSSIBLY HAD ON
15 YOU.

16 NOW, YOU HAVE INDICATED THAT YOU WERE A CHURCH
17 MEMBER OF THE FORMER DARLENE PATTERSON?

18 JURY VENIRE MEMBER: YES.

19 THE COURT: MAY I ASK YOUR NAME, PLEASE?

20 JURY VENIRE MEMBER: ANNIE HAZEL MCDUFFIE.

21 THE COURT: DO YOU KNOW YOUR JURY NUMBER,
22 PLEASE.

23 JURY VENIRE MEMBER: 113.

24 THE COURT: 113. I THINK THE QUESTION
25 THAT I ASKED AT THAT TIME AND TO WHICH YOU RESPONDED

WERE THAT YOU WERE ALSO A CHURCH MEMBER OF DARLENE PATTERSON'S.

JURY VENIRE MEMBER: YES.

THE COURT: WOULD YOU TELL ME WHAT CHURCH THAT IS, PLEASE.

JURY VENIRE MEMBER: WHEN I LEFT THAT CHURCH -- SHE GREW UP IN THE SAME CHURCH, YOU KNOW, MOUNT TABOR BAPTIST CHURCH.

THE COURT: WERE YOU A MEMBER RECENTLY -- OR YOU LEFT THAT CHURCH.

JURY VENIRE MEMBER: I LEFT THAT CHURCH.

THE COURT: HOW LONG AGO DID YOU LEAVE.

JURY VENIRE MEMBER: FIFTEEN YEARS AGO.

THE COURT: SO YOU HAVEN'T CURRENTLY BEEN IN THE SAME CHURCH WITH THE FORMER MS. PATTERSON?

JURY VENIRE MEMBER: NO.

THE COURT: OKAY. WERE YOU FRIENDS OF MS. PATTERSON?

JURY VENIRE MEMBER: OF THE FAMILY.

THE COURT: OF THE FAMILY.

JURY VENIRE MEMBER: YES.

THE COURT: WERE YOU FRIENDS OF MS. PATTERSON HERSELF.

JURY VENIRE MEMBER: NOT REALLY, BUT JUST BY KNOWING HER BY THE FAMILY.

1 THE COURT: ALL RIGHT. AND WHILE YOU ARE
2 HERE, YOU KNEW HER BY THE FAMILY?

3 JURY VENIRE MEMBER: YES.

4 THE COURT: WE ARE HERE CONCERNED WITH
5 AN -- AND REMEMBER THIS, WHEN I USE THESE WORDS, IT'S
6 AN ALLEGATION ONLY UNTIL PROVEN BEYOND A REASONABLE
7 DOUBT. WE ARE HERE CONCERNED WITH THE ALLEGED
8 MURDER, KIDNAPPING, ROBBERY AND CRIMINAL SEXUAL
9 CONDUCT OF MRS. PATTERSON. YOU ARE A POTENTIAL JUROR
10 IN THIS CASE. KNOWING THE FAMILY AND HAVING KNOWN
11 MS. DARLENE PATTERSON, CAN YOU TELL ME THAT YOU CAN
12 SET THAT ASIDE AND VIEW THIS CASE ON THE LAW AND THE
13 EVIDENCE IN THE CASE?

14 JURY VENIRE MEMBER: YES, I CAN.

15 THE COURT: DOES THE FACT THAT -- DOES THE
16 FACT THAT YOU'VE -- KNEW MS. PATERSON AND NOW KNOW
17 THE FAMILY, WOULD THAT FACT INFLUENCE YOU IN THE
18 TRIAL OF THIS CASE OR CAN YOU BASE YOUR VERDICT ON
19 THE LAW AND THE EVIDENCE IN THIS CASE?

20 JURY VENIRE MEMBER: BY ME KNOWING THE
21 FAMILY, THE EFFECT?

22 THE COURT: YES.

23 JURY VENIRE MEMBER: NO, SIR.

24 THE COURT: YOU CAN GIVE THESE DEFENDANTS
25 A FAIR TRIAL BASED ON THE LAW AND THE EVIDENCE IN

THIS CASE?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: ALL RIGHT. THANK YOU. YOU MAY JUST BE SEATED. NOW, LET ME GET YOUR NAME, PLEASE, MA'AM.

JURY VENIRE MEMBER: CELISSA DONNELLY.

THE COURT: DO YOU KNOW YOUR JURY NUMBER, MS. DONLEY?

JURY VENIRE MEMBER: 54.

THE COURT: JUROR NUMBER 54. YOU'VE INDICATED THAT YOU KNEW MS. PATERSON.

JURY VENIRE MEMBER: YES.

THE COURT: CAN YOU TELL US HOW, PLEASE?

JURY VENIRE MEMBER: 1978 GRADUATE CLASSMATE.

THE COURT: 1978.

JURY VENIRE MEMBER: YES.

THE COURT: YOU WERE JUST A CLASSMATE OF HERS?

JURY VENIRE MEMBER: JUST A CLASSMATE.

THE COURT: HAVE YOU MAINTAINED A CLOSE PERSONAL RELATIONSHIP WITH HER SINCE THEN.

JURY VENIRE MEMBER: NO, SIR, I HAVEN'T.

THE COURT: WOULD THE FACT THAT SHE WAS YOUR CLASSMATE IN 1978 PREVENT YOU FROM BEING A FAIR

1 AND IMPARTIAL JUROR?

2 JURY VENIRE MEMBER: NO, BECAUSE IT WAS
3 ONLY A PARTIAL CLASSMATE.

4 THE COURT: PARTIAL CLASSMATE?

5 JURY VENIRE MEMBER: YES.

6 THE COURT: DO YOU FEEL LIKE THAT YOU
7 WOULD BE QUALIFIED TO SERVE AS A JUROR IN THIS CASE
8 IF SELECTED?

9 JURY VENIRE MEMBER: YES.

10 THE COURT: OKAY. THANK YOU. YOU MAY BE
11 SEATED. YOUR NAME, PLEASE.

12 JURY VENIRE MEMBER: ANNIE BELLE DEASE.

13 THE COURT: AND MS. ANNIE BELLE DEASE. DO
14 YOU KNOW YOUR JURY NUMBER?

15 JURY VENIRE MEMBER: 50.

16 THE COURT: JUROR 50. YOU'VE INDICATED
17 THAT YOU WOULD HAVE KNOWN MRS. PATTERSON IN THE PAST.

18 JURY VENIRE MEMBER: YES, SIR.

19 THE COURT: CAN YOU TELL US A LITTLE BIT
20 OF SOMETHING ABOUT THAT?

21 JURY VENIRE MEMBER: I'M A CARE GIVER OF
22 HER SISTER AT THE NURSING HOME THAT I WORK AT.

23 THE COURT: YES.

24 JURY VENIRE MEMBER: AND I JUST BARELY
25 KNOW HER, JUST BY SEEING HER.

THE COURT: IS THAT ALL?

JURY VENIRE MEMBER: THAT'S ALL.

THE COURT: YOU HAVE NO RELATIONSHIP WITH HER OTHER THAN JUST TO SEE HER?

JURY VENIRE MEMBER: JUST SEEING HER.

THE COURT: THAT RELATIONSHIP WOULDN'T PRECLUDE YOU FROM SITTING AS A JUROR, WOULD IT?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: ALL RIGHT. YOU MAY BE SEATED. THANK YOU. NEXT, PLEASE. YOUR NAME.

JURY VENIRE MEMBER: JAQUELINA ADAMS.

THE COURT: DO YOU KNOW YOUR JUROR NUMBER, MS. ADAMS?

JURY VENIRE MEMBER: 121.

THE COURT: THANK YOU. WHAT WAS YOUR RESPONSE, PLEASE?

JURY VENIRE MEMBER: SHE WAS AN AUNT TO MY NEW BABY BOY.

THE COURT: SHE WAS AN AUNT.

JURY VENIRE MEMBER: UH-HUH.

THE COURT: TO WHOM?

JURY VENIRE MEMBER: TO MY SON.

THE COURT: TO YOUR SON?

JURY VENIRE MEMBER: UH-HUH.

THE COURT: WERE YOU FRIENDLY WITH HER IN

1 ANY WAY?

2 JURY VENIRE MEMBER: SORT OF.

3 THE COURT: DO YOU THINK THAT THAT
4 FRIENDSHIP MIGHT PRECLUDE YOU FROM BEING A FAIR JUROR
5 HERE?

6 JURY VENIRE MEMBER: NO, SIR.

7 THE COURT: SHE WAS AN AUNT TO YOUR SON.
8 HOW DOES THIS RELATIONSHIP WORK? TELL ME THAT.

9 JURY VENIRE MEMBER: SIR?

10 THE COURT: SHE WAS AN AUNT TO YOUR SON?

11 JURY VENIRE MEMBER: YES. HER BROTHER WAS
12 MY SON'S DADDY.

13 THE COURT: HER BROTHER WAS YOUR -- HER
14 BROTHER WAS YOUR SON'S DADDY. I SEE.

15 MR. LAWSON: THAT'S HER SISTER-IN-LAW.
16 IT'S IN EFFECT A SISTER-IN-LAW.

17 THE COURT: NO, SHE'S NOT YOUR
18 SISTER-IN-LAW.

19 JURY VENIRE MEMBER: NO.

20 MR. LAWSON: SHE WOULD BE HAD SHE BEEN
21 MARRIED, YOUR HONOR.

22 THE COURT: NO, SHE SAYS HER BROTHER --

23 MR. LAWSON: CORRECT. MR. PATTERSON IS
24 THE FATHER OF HER SON.

25 THE COURT: THAT'S NOT TRUE, IS IT? SHE'S

1 NOT YOUR SISTER-IN-LAW, IS IT?

2 JURY VENIRE MEMBER: NO, WE DIDN'T GET
3 THAT FAR.

4 MR. LAWSON: JUDGE.

5 MR. ERVIN: JUDGE.

6 THE COURT: WAIT A MINUTE. I UNDERSTAND.
7 DO YOU CONCLUDE THAT THIS -- THAT THAT RELATIONSHIP
8 MIGHT PROHIBIT YOU FROM BEING A FAIR JUROR TO HER OR
9 TO THE DEFENDANTS?

0 JURY VENIRE MEMBER: NO, SIR.

1 THE COURT: CAN YOU TELL ME UPON YOUR OATH
2 AS A JUROR THAT WHATEVER YOUR VERDICT IS, IT'S BASED
3 ON THE LAW AND THE EVIDENCE IN THIS CASE?

4 JURY VENIRE MEMBER: YES, SIR.

5 THE COURT: I DO NOT CONCLUDE THAT THAT
6 RELATIONSHIP WOULD PROHIBIT YOU FROM PARTICIPATING IN
7 THIS CASE. YOU MAY HAVE A SEAT. NEXT ONE, PLEASE.

8 JURY VENIRE MEMBER: MY NAME IS PURNELL
9 WILLIAMS, JUROR 194.

0 THE COURT: YES, SIR, MR. WILLIAMS.

1 JURY VENIRE MEMBER: I JUST WENT TO SCHOOL
2 WITH A COUPLE OF FAMILY MEMBERS.

3 THE COURT: A COUPLE OF FAMILY MEMBERS.

4 JURY VENIRE MEMBER: YES.

5 THE COURT: YOU HAVE NO RELATIONSHIP WITH

1 MS. PATTERSON?

2 JURY VENIRE MEMBER: I MET HER
3 OCCASIONALLY, BUT NO.

4 THE COURT: THE FACT THAT YOU WENT TO
5 SCHOOL WITH A COUPLE OF HER FAMILY MEMBERS, WOULD
6 THAT PREVENT YOU FROM BEING A FAIR AND IMPARTIAL
7 JUROR?

8 JURY VENIRE MEMBER: NO, SIR.

9 THE COURT: YOU CAN GIVE BOTH THE STATE
10 AND THE DEFENDANT A FAIR TRIAL?

11 JURY VENIRE MEMBER: YES, SIR.

12 THE COURT: YOU CAN PUT ASIDE THE FACT
13 THAT YOU KNOW MEMBERS OF HER FAMILY?

14 JURY VENIRE MEMBER: YES, SIR.

15 THE COURT: ALL RIGHT. THANK YOU. YOU'RE
16 QUALIFIED ON THAT ISSUE. YES.

17 JURY VENIRE MEMBER: FLOYD DAVIS, NUMBER
18 47.

19 THE COURT: YOUR NUMBER, PLEASE?

20 JURY VENIRE MEMBER: 47.

21 THE COURT: WHAT WAS YOUR RESPONSE?

22 JURY VENIRE MEMBER: WENT TO THE SAME
23 SCHOOL.

24 THE COURT: SAME SCHOOL? HOW LONG AGO WAS
25 THAT?

JURY VENIRE MEMBER: WAY BACK IN THE
'70'S.

THE COURT: HAVE YOU HAD ANY CONTACT WITH
HER SINCE THEN?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: OKAY. YOU MAY --

MR. WILSON: WHAT WAS HIS NUMBER, YOUR
HONOR?

JURY VENIRE MEMBER: 47.

MR. ERVIN: 47.

THE COURT: ALL RIGHT, SIR. HAVE A SEAT.
YES, MA'AM, YOUR NAME.

JURY VENIRE MEMBER: JULIA SEWELL.

THE COURT: AND WHAT WAS YOUR RESPONSE,
PLEASE?

JURY VENIRE MEMBER: I'M KIN.

THE COURT: WHAT KIN ARE YOU?

JURY VENIRE MEMBER: ABOUT THIRD OR SECOND
COUSIN.

THE COURT: YOU JUST DON'T KNOW HOW MUCH
KIN YOU ARE?

JURY VENIRE MEMBER: NO. I KNOW HER
SISTER, VIOLA.

THE COURT: YOU KNOW THE SISTER VIOLA TOO?

JURY VENIRE MEMBER: HUH.

1 THE COURT: I THINK YOU ARE ASKING ME TO
2 BE EXCUSED FROM THIS CASE, AREN'T YOU?

3 JURY VENIRE MEMBER: YES.

4 THE COURT: I WILL EXCUSE THIS JUROR.

5 MR. WILSON: WHAT'S THE NUMBER?

6 THE CLERK: 156.

7 THE COURT: GOOD MORNING.

8 JURY VENIRE MEMBER: GOOD MORNING.

9 THE COURT: YOUR NAME, PLEASE.

10 JURY VENIRE MEMBER: MARY MCCOLL.

11 THE COURT: MARY, DO YOU KNOW YOUR NUMBER,

12 MS. MC --

13 JURY VENIRE MEMBER: 65.

14 THE COURT: MA'AM?

15 JURY VENIRE MEMBER: 65.

16 THE COURT: JUROR NUMBER 65. AND WHAT WAS
17 YOUR RESPONSE, PLEASE?

18 JURY VENIRE MEMBER: HER SON AND MY SON
19 PLAYED FOOTBALL TOGETHER, WAS ACQUAINTED ON THE
20 FOOTBALL FIELD, AN ALSO I'M VERY ACQUAINTED WITH HER
21 SISTER VIOLA.

22 THE COURT: YOU ARE ACQUAINTED WITH HER
23 SISTER VIOLA?

24 JURY VENIRE MEMBER: YES.

25 THE COURT: Y'ALL ARE GOOD FRIENDS? LET

1 ME ASK YOU THIS. YOUR SON HAD A RELATIONSHIP WITH
2 THE DECEASED'S SON; IS THAT RIGHT?

3 JURY VENIRE MEMBER: YES.

4 THE COURT: AND YOU'RE A FRIEND OF SOME OF
5 THE FAMILY HERE?

6 JURY VENIRE MEMBER: RIGHT.

7 THE COURT: DO YOU FEEL THAT THAT
8 PREJUDICE WOULD PREVENT YOU FROM BEING A FAIR AND
9 IMPARTIAL JUROR FOR THESE DEFENDANTS?

10 JURY VENIRE MEMBER: NO, SIR.

11 THE COURT: CAN YOU PUT ASIDE YOUR
12 FRIENDSHIP WITH MS. PATTERSON'S FAMILY AND BASE YOUR
13 VERDICT ON THE LAW AND THE EVIDENCE IN THIS CASE?

14 JURY VENIRE MEMBER: YES.

15 THE COURT: ANY QUESTION IN YOUR MIND
16 ABOUT IT?

17 JURY VENIRE MEMBER: NO.

18 THE COURT: YOU UNDERSTAND THAT I WANT TO
19 BE SURE THAT THE STATE OF SOUTH CAROLINA AND THE
20 ALLEGED VICTIMS RECEIVE A FAIR TRIAL.

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: EQUALLY IMPORTANT, I WANT TO
23 BE SURE THAT THESE DEFENDANTS RECEIVE A FAIR TRIAL
24 TOO. AND IN THAT CONNECTION, I TELL YOU AND
25 EVERYBODY ELSE HERE THE FACT THAT YOU MIGHT KNOW

1 MRS. PATTERSON, THE FACT THAT YOU MIGHT KNOW MEMBERS
2 OF THE FAMILY OR BE FRIENDS OF THE FAMILY IS NOT
3 CONTROLLING. WHAT'S CONTROLLING IS THE ABILITY OF AN
4 INDIVIDUAL TO BE A FAIR AND IMPARTIAL JUROR FOR THE
5 STATE AND THE DEFENSE.

6 JURY VENIRE MEMBER: YES.

7 THE COURT: AND YOU CAN TELL ME YOU CAN DO
8 THAT.

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: THANK YOU. YOU MAY BE SEATED.

11 THE CLERK: WHAT'S HER -- WHAT WAS HER
12 NAME, YOUR HONOR?

13 THE COURT: YOUR NAME, PLEASE?

14 JURY VENIRE MEMBER: NORMA ROLLERSON.

15 THE COURT: AND WHAT WAS YOUR JURY NUMBER?

16 JURY VENIRE MEMBER: 154.

17 THE COURT: AND WHAT WAS YOUR RESPONSE?

18 JURY VENIRE MEMBER: MY DAUGHTER AND
19 MS. PATTERSON WERE REAL GOOD FRIENDS AND I'M REAL
20 GOOD FRIENDS WITH THE FAMILY.

21 THE COURT: YOUR DAUGHTER AND
22 MRS. PATTERSON'S SONS ARE REAL GOOD FRIENDS?

23 JURY VENIRE MEMBER: YES.

24 THE COURT: AND YOU ARE REAL GOOD FRIENDS
25 WITH THE FAMILY.

JURY VENIRE MEMBER: YES.

THE COURT: I WILL ASK OF YOU THE SAME QUESTION THAT I ASKED OF THE OTHER JURORS. IS YOUR CONNECTION WITH THE FAMILY SO CLOSE THAT YOU MIGHT BE PREJUDICED FOR THEM AND AGAINST THE DEFENDANTS?

JURY VENIRE MEMBER: NO.

THE COURT: YOU ARE SAYING NO?

JURY VENIRE MEMBER: NO.

THE COURT: I WANT TO ASK YOU THIS. UNDERSTANDING, NOW, THAT YOU HAVE FRIENDS OF THE FAMILY, CAN YOU GIVE THESE DEFENDANTS A FAIR AND IMPARTIAL TRIAL?

JURY VENIRE MEMBER: YES.

THE COURT: CAN YOU PROMISE ME THAT REGARDLESS OF YOUR RELATIONSHIP WITH THE FAMILY, THAT YOUR VERDICT WILL BE BASED ON THE LAW AND THE EVIDENCE IN THIS COURTROOM THIS WEEK?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: AND FROM NO OTHER SOURCE?

JURY VENIRE MEMBER: YES.

THE COURT: I THINK THAT YOU CAN. THANK YOU.

JURY VENIRE MEMBER: NUMBER 89.

THE COURT: YOUR NAME.

JURY VENIRE MEMBER: CAROLYN JOHNSON.

1 THE COURT: YOU WILL HAVE TO TALK A LITTLE
2 LOUDER.

3 JURY VENIRE MEMBER: CAROLYN JOHNSON.

4 THE COURT: AND YOUR JUROR NUMBER.

5 JURY VENIRE MEMBER: 89.

6 THE COURT: CAN YOU TALK A LITTLE LOUDER?
7 ALL OF THESE GENTLEMEN HAVE TO HEAR YOU.

8 JURY VENIRE MEMBER: 89.

9 THE COURT: AND WHAT IS YOUR RESPONSE?

10 JURY VENIRE MEMBER: I'M FRIENDS WITH THE
11 BROTHER AND OF THE DECEASED.

12 THE COURT: MA'AM?

13 JURY VENIRE MEMBER: FRIENDS OF THE
14 BROTHER AND NEPHEW.

15 THE COURT: FRIENDS OF THE BROTHER OF --
16 BROTHER OF DARLENE PATTERSON?

17 JURY VENIRE MEMBER: YES. I KNOW HIM REAL
18 GOOD.

19 THE COURT: OF THE BROTHER?

20 JURY VENIRE MEMBER: YES.

21 THE COURT: DO YOU CONCLUDE THAT THAT
22 MIGHT PREJUDICE YOU IN THIS CASE?

23 JURY VENIRE MEMBER: IT MIGHT.

24 THE COURT: MA'AM?

25 JURY VENIRE MEMBER: IT MIGHT.

THE COURT: IT MIGHT? WELL, YOU KNOW, NOT ME. IF YOU ARE TELLING ME THAT YOU FEEL LIKE BECAUSE OF GOING WITH HER BROTHER THAT THAT MIGHT PREJUDICE YOU, I WILL EXCUSE YOU. IS THAT WHAT YOU WANT ME TO DO?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: I WILL -- I WILL DO THAT.

JURY VENIRE MEMBER: OKAY. THANK YOU.

THE COURT: ALL RIGHT. THANK YOU.

MR. MOORE: NUMBER AGAIN, YOUR HONOR.

MR. ERVIN: 89. 90 ON THE --

JURY VENIRE MEMBER: REGINA MCCULLOUGH.
MY JUROR NUMBER IS 110.

THE COURT: YES, MS. MCCULLOUGH. WHAT WAS YOUR RESPONSE?

JURY VENIRE MEMBER: I KNEW HER. SHE LIVED AROUND THE CORNER FROM ME. THAT'S ABOUT IT. I SEEN HER AROUND. I DIDN'T REALLY KNOW HER THAT WELL, THOUGH.

THE COURT: DOES THAT GIVE YOU ANY PROBLEMS IF YOU ARE SELECTED AS A JUROR?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: YOU CAN GIVE THE STATE AND THE DEFENDANT A FAIR TRIAL?

JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: I THINK YOU'RE TELLING ME SHE
2 JUST LIVED AROUND THE CORNER AND YOU DIDN'T EVEN KNOW
3 HER THAT WELL.

4 JURY VENIRE MEMBER: UH-HUH.

5 THE COURT: OKAY. THAT'S FINE. YOU MAY
6 HAVE A SEAT. YOUR NAME, PLEASE.

7 JURY VENIRE MEMBER: PAMELA MCKIVER.

8 THE COURT: AND WHAT WAS YOUR RESPONSE,
9 PLEASE?

10 JURY VENIRE MEMBER: SHE STAYED UP THE
11 STREET FROM ME.

12 THE COURT: MA'AM?

13 JURY VENIRE MEMBER: SHE USED TO LIVE UP
14 THE STREET FROM ME.

15 THE COURT: IS THAT ALL YOU KNOW ABOUT
16 HER?

17 JURY VENIRE MEMBER: YES.

18 THE COURT: YOU'RE NOT A CLOSE FRIEND OF
19 HERS. YOU JUST KNOW HER IN THAT CAPACITY?

20 JURY VENIRE MEMBER: YES.

21 THE COURT: DOES THAT BOTHER YOU IN ANY
22 WAY?

23 JURY VENIRE MEMBER: NO.

24 THE COURT: ALL RIGHT. THANK YOU. YOU'RE
25 QUALIFIED ON THAT ISSUE. 118. YES.

JURY VENIRE MEMBER: MY NAME IS JUANITA MOORE. ME AND DARLENE WORKED TOGETHER AT --

THE COURT: MA'AM?

JURY VENIRE MEMBER: WE AND -- ME AND DARLENE WORKED TOGETHER.

THE COURT: YOU'RE SAYING DARLENE SWEAT?

JURY VENIRE MEMBER: PATTERSON.

THE COURT: PATTERSON. Y'ALL WORKED TOGETHER?

JURY VENIRE MEMBER: UH-HUH.

THE COURT: WERE YOU CLOSE FRIENDS?

JURY VENIRE MEMBER: NO.

THE COURT: YOU WERE NOT?

JURY VENIRE MEMBER: NO.

THE COURT: DOES THAT RELATIONSHIP BOTHER YOU TO SIT ON THE JURY?

JURY VENIRE MEMBER: I WOULD LIKE TO BE DISMISSED BECAUSE I HAVE A COUSIN OUT THERE IN THE AUDIENCE AND HER HUSBAND IS UP HERE TOO, AND I WOULD LIKE TO BE DISMISSED.

THE COURT: HER HUSBAND WHAT?

JURY VENIRE MEMBER: I HAVE A COUSIN UP HERE IN THE AUDIENCE, AND HER HUSBAND IS UP HERE.

THE COURT: YOU HAVE A COUSIN.

JURY VENIRE MEMBER: YEAH.

1 THE COURT: AND HER HUSBAND IS ONE OF THE
2 DEFENDANTS?

3 JURY VENIRE MEMBER: YEAH. I THINK SO.

4 THE COURT: AND YOU ARE ASKING THAT YOU BE
5 EXCUSED BECAUSE OF THAT RELATIONSHIP WITH THE
6 DEFENDANT?

7 JURY VENIRE MEMBER: UH-HUH.

8 THE COURT: WHICH DEFENDANT IS THAT,
9 PLEASE?

10 JURY VENIRE MEMBER: I THINK IT'S JOE
11 STUCKEY.

12 THE COURT: WHO?

13 JURY VENIRE MEMBER: JOE STUCKEY.

14 THE COURT: WHICH ONE --

15 MR. WILSON: HE'S NOT BEING TRIED TODAY.

16 THE COURT: WE ARE NOT TRYING THAT --
17 WHAT'S THE NAME OF THE STUCKEY WE'RE TRYING TODAY?

18 MR. WILSON: CHARLES JUNIOR.

19 THE COURT: WHO IS YOUR COUSIN OUT THERE?
20 HAVE HER STAND. WHICH ONE OF THESE IS YOUR HUSBAND?

21 COUSIN: NEITHER ONE. MACK STUCKEY IS MY
22 BROTHER-IN-LAW.

23 MR. WILSON: HE'S NOT BEING TRIED, SHE
24 SAID. MACK STUCKEY IS HER BROTHER-IN-LAW.

25 THE COURT: MACK STUCKEY IS NOT BEING

1 TRIED TODAY. DOES THAT TAKE CARE OF YOUR CONCERN?

2 JURY VENIRE MEMBER: YEAH.

3 MR. WILSON: WAIT. YOUR HONOR, MACK
4 STUCKEY AND CHARLES STUCKEY ARE RELATED, SO THERE'S
5 PROBABLY STILL SOME RELATIONSHIP.

6 THE COURT: OKAY. YOU'RE KIN TO BOTH OF
7 THE STUCKEYS?

8 COUSIN: YES.

9 THE COURT: AND THIS IS YOUR FRIEND?

10 JURY VENIRE MEMBER: THAT'S MY COUSIN.

11 THE COURT: AND THIS IS BECAUSE YOU DON'T
12 WANT TO -- I'M GOING TO EXCUSE YOU. THIS JUROR ASKED
13 TO BE EXCUSED.

14 MR. WILSON: WHAT'S HER NUMBER, SIR?

15 THE COURT: SIR?

16 THE CLERK: 126.

17 MR. MOORE: WHAT WAS THAT NUMBER?

18 THE COURT: WHAT WAS THAT NUMBER?

19 THE CLERK: 126.

20 MR. WILSON: 126.

21 THE COURT: ALL RIGHT.

22 JURY VENIRE MEMBER: JUROR NUMBER 199.

23 THE COURT: YES, SIR.

24 JURY VENIRE MEMBER: I SIMPLY KNOW THE
25 FAMILY, SIR.

1 THE COURT: HOW CLOSE DO YOU KNOW THEM?

2 JURY VENIRE MEMBER: JUST BY LIVING IN THE
3 SAME TOWN.

4 THE COURT: JUST KNOW THEM CASUALLY?

5 JURY VENIRE MEMBER: YES.

6 THE COURT: WOULD THAT RELATIONSHIP IN
7 YOUR VIEW PREVENT YOU FROM BEING A FAIR AND IMPARTIAL
8 JUROR?

9 JURY VENIRE MEMBER: NO, SIR.

10 THE COURT: CAN YOU GIVE THE STATE A FAIR
11 TRIAL BASED ON YOUR RELATIONSHIP WITH THE FAMILY?

12 JURY VENIRE MEMBER: YES, I CAN.

13 THE COURT: EQUALLY IMPORTANT, CAN YOU
14 GIVE EACH ONE OF THESE DEFENDANTS A FAIR TRIAL?

15 JURY VENIRE MEMBER: I CAN.

16 THE COURT: CAN YOU PROMISE ME THAT
17 WHATEVER YOUR VERDICT IS, IT'S BASED ON THE LAW AND
18 THE EVIDENCE IN THIS COURTROOM?

19 JURY VENIRE MEMBER: YES, I CAN.

20 THE COURT: ALL RIGHT. FINE. THANK YOU
21 SO MUCH.

22 MR. WILSON: WHAT'S HIS NUMBER, YOUR
23 HONOR?

24 JURY VENIRE MEMBER: 199.

25 MR. WILSON: THANK YOU.

THE COURT: ALL RIGHT. DO YOU WANT --
COME FORWARD. YES, MA'AM.

JURY VENIRE MEMBER: I DIDN'T KNOW
MS. PATTERSON, BUT I KNOW MS. DAVIS BECAUSE WE WORK
UNDER THE SAME AGENCY, BUT UNDER DIFFERENT
COMPONENTS.

THE COURT: THAT'S FINE. DOES THAT BOTHER
YOU IN ANY WAY?

JURY VENIRE MEMBER: NO.

THE COURT: HAVE A SEAT, BUT I APPRECIATE
YOU CALLING IT TO MY ATTENTION.

I WOULD ASK THAT MR. PADGETT, THAT YOU AND YOUR
CLIENT, AND YOU TOO MR. ROGERS, MR. CHARLES STUCKEY,
STAND AT THIS TIME. CHARLES M. STUCKEY, WHO STANDS
DIRECTLY IN FRONT OF ME IS CHARGED WITH MURDER,
KIDNAPPING, CRIMINAL SEXUAL CONDUCT IN THE FIRST
DEGREE, CRIMINAL CONSPIRACY, TO WHICH CHARGES HE HAS
PLED NOT GUILTY. HE IS REPRESENTED IN THESE
PROCEEDINGS BY MR. MAHLON PADGETT AND MR. JAMES P.
ROGERS. ARE ANY OF YOU CONNECTED BY BLOOD OR RELATED
BY MARRIAGE TO CHARLES M. STUCKEY, JUNIOR, WHO STANDS
DIRECTLY IN FRONT OF ME? DO ANY OF YOU HAVE ANY
CLOSE PERSONAL RELATIONSHIP WITH MR. STUCKEY?
NEIGHBORS, CHURCH MEMBERS, FRIENDS? HOW MANY OF YOU
KNOW MR. STUCKEY IN ANY CAPACITY WHATSOEVER? PLEASE

1 STAND. COME FORWARD.

2 ALL RIGHT. GOOD MORNING. MR. JUROR, YOU WERE
3 JUST BEFORE ME, BUT I'LL HAVE TO ASK YOU FOR THIS
4 RECORD, AGAIN, YOUR NAME, PLEASE.

5 JURY VENIRE MEMBER: EZZARD YORK.

6 THE COURT: AND YOUR JURY NUMBER?

7 JURY VENIRE MEMBER: 199.

8 THE COURT: YOU HAD JUST BEEN BEFORE ME
9 INDICATING THAT YOU KNEW MRS. PATTERSON. NOW, HOW DO
10 YOU KNOW MR. STUCKEY.

11 JURY VENIRE MEMBER: I KNOW HIM AND I KNOW
12 HIS FAMILY.

13 THE COURT: ALL RIGHT. ARE YOU CLOSE
14 FRIENDS OR JUST KNOW THEM?

15 JURY VENIRE MEMBER: I KNOW THEM.

16 THE COURT: KNOW THEM?

17 JURY VENIRE MEMBER: YES, SIR.

18 THE COURT: CAN YOU TELL ME HOW YOU HAPPEN
19 TO KNOW THEM?

20 JURY VENIRE MEMBER: SINCE CHILDHOOD.

21 THE COURT: SINCE CHILDHOOD.

22 JURY VENIRE MEMBER: YES, SIR.

23 THE COURT: LET ME ASK YOU THIS. HE HAS
24 BEEN CHARGED WITH CERTAIN OFFENSES TO WHICH HE HAS
25 PLED NOT GUILTY. IF YOU ARE A JUROR -- SELECTED AS A

JUROR IN THIS CASE, EVEN HAVING KNOWN HIM, CAN YOU GIVE BOTH THE STATE AND THIS DEFENDANT A FAIR TRIAL?

JURY VENIRE MEMBER: YES, I CAN.

THE COURT: DOES THE FACT THAT YOU KNOW HIM IMPACT ON YOUR VERDICT IN ANY WAY?

JURY VENIRE MEMBER: NONE WHATSOEVER.

THE COURT: DOES THAT GIVE YOU ANY BIAS OR PREJUDICE EITHER FOR OR AGAINST HIM?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: CAN YOU GIVE BOTH THE STATE AND THIS DEFENDANT CHARLES STUCKEY A FAIR TRIAL BASED ON THE LAW AND THE EVIDENCE IN THIS CASE?

JURY VENIRE MEMBER: YES, I CAN, SIR.

THE COURT: ALL RIGHT, SIR. YOU MAY BE SEATED. THANK YOU.

YOUR NAME, SIR?

JURY VENIRE MEMBER: CHRISTOPHER ODOM.

THE COURT: WHO?

JURY VENIRE MEMBER: CHRISTOPHER ODOM.

THE COURT: MR. ODOM, DO YOU KNOW YOUR JUROR NUMBER?

JURY VENIRE MEMBER: I THINK IT'S 134.

THE COURT: ALL RIGHT. DO YOU KNOW MR. STUCKEY?

JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: HOW DO YOU KNOW HIM?

2 JURY VENIRE MEMBER: HE USED TO WORK --
3 PAINT CARS RIGHT ACROSS THE ROAD FROM MY FATHER'S
4 STORE OUT THERE ON 38.

5 THE COURT: WERE YOU CLOSE FRIENDS WITH
6 HIM IN ANY WAY?

7 JURY VENIRE MEMBER: NO, SIR.

8 THE COURT: WOULD THE FACT THAT YOU KNEW
9 HIM IN THIS MANNER IMPACT ON YOU IF YOU WERE A JUROR?

10 JURY VENIRE MEMBER: NO, SIR.

11 THE COURT: CAN YOU GIVE HIM AND THE STATE
12 A FAIR TRIAL?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: THANK YOU. YOU MAY BE SEATED.
15 YOUR NAME, SIR?

16 JURY VENIRE MEMBER: FLOYD DAVIS.

17 THE COURT: WHAT WAS YOUR RESPONSE?

18 JURY VENIRE MEMBER: WENT TO SCHOOL.

19 THE COURT: WENT TO SCHOOL TOGETHER? HOW
20 LONG AGO WAS THAT?

21 JURY VENIRE MEMBER: WAY BACK.

22 THE COURT: WAY BACK?

23 JURY VENIRE MEMBER: IN THE '70'S.

24 THE COURT: YOU HAVEN'T SEEN HIM OR KNOWN
25 HIM RECENTLY?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: YOU'RE NOT A CLOSE FRIEND OF HIS.

JURY VENIRE MEMBER: YES, SIR.

THE COURT: YES, SIR, YOU ARE OR ARE NOT?

JURY VENIRE MEMBER: I AM.

THE COURT: SIR?

JURY VENIRE MEMBER: I'M A CLOSE FRIEND.

THE COURT: WELL, YOU JUST FIRST SAID YOU JUST KNEW HIM FROM GOING TO SCHOOL WAY BACK, BUT IT GOES BEYOND THAT?

JURY VENIRE MEMBER: WELL, I KNOW HIM.

THE COURT: HOW ARE YOU A CLOSE FRIEND OF HIS?

JURY VENIRE MEMBER: SEE, I WENT TO SCHOOL AND I KNOW HIS FAMILY.

THE COURT: YOU WENT TO SCHOOL. HOW LONG AGO WAS THAT?

JURY VENIRE MEMBER: BACK IN THE '70'S.

THE COURT: BACK IN THE '70'S.

JURY VENIRE MEMBER: YEAH.

THE COURT: WHEN IS THE LAST TIME YOU'VE SEEN CHARLES STUCKEY? ARE YOU FRIENDS WITH HIM NOW? WHAT I'M TRYING TO GET AT IS YOU'VE INDICATED THAT YOU KNOW HIS FAMILY. YOU'VE INDICATED THAT YOU WENT

1 TO SCHOOL WITH HIM, BUT HAVE YOU BEEN FRIENDS SINCE
2 THEN?

3 JURY VENIRE MEMBER: YES, SIR. STILL IS.

4 THE COURT: SIR?

5 JURY VENIRE MEMBER: YES, SIR. I STILL
6 IS.

7 THE COURT: STILL ARE.

8 JURY VENIRE MEMBER: YES, SIR.

9 THE COURT: CLOSE FRIENDS.

10 JURY VENIRE MEMBER: YES, SIR.

11 THE COURT: I WILL ASK YOU IN THE SAME
12 MANNER THAT I'VE ASKED EVERYBODY ELSE NOW. KNOWING
13 THAT YOU ARE A CLOSE FRIEND, CAN YOU SIT ON THIS JURY
14 AND GIVE HIM AND THE STATE A FAIR TRIAL OR WILL YOU
15 BE INFLUENCED BY THE FACT THAT YOU ARE HIS FRIEND OR
16 KNOW HIM?

17 JURY VENIRE MEMBER: NO, SIR. I WOULD
18 LIKE TO BE EXCUSED, REALLY.

19 THE COURT: YOU WOULD LIKE TO BE EXCUSED?

20 JURY VENIRE MEMBER: YES, SIR.

21 THE COURT: BASED ON THE FACT OF THAT
22 CLOSE FRIENDSHIP.

23 JURY VENIRE MEMBER: YES, SIR.

24 THE COURT: YES, SIR. I WILL EXCUSE YOU.
25 YOU'VE ASKED ME TO AND I WILL DO THAT.

JURY VENIRE MEMBER: THANK YOU.

JURY VENIRE MEMBER: LEROY WRIGHT.

THE COURT: YOUR NAME?

JURY VENIRE MEMBER: LEROY WRIGHT.

THE COURT: GOOD MORNING, MR. WRIGHT.

JURY VENIRE MEMBER: GOOD AFTERNOON, YOUR HONOR.

THE COURT: WHAT IS YOUR JUROR NUMBER?

JURY VENIRE MEMBER: I REALLY DON'T KNOW.

THE CLERK: 199.

JURY VENIRE MEMBER: 199.

THE COURT: AND WHAT IS YOUR RESPONSE, MR. WRIGHT?

JURY VENIRE MEMBER: I'M A FRIEND OF THE FAMILY. ME AND MR. STUCKEY'S UNCLE, WE PLAYED AT A GROUP TOGETHER FOR SOME TIME AND I KNOW THE FAMILY PRETTY WELL. IN FACT, I KNOW BOTH SIDES, THE DEFENDANT AND THE DECEASED.

THE COURT: I SEE. WELL, YOU'VE HEARD ME SAY WHAT TYPE OF JUROR I WANT AND A JUROR WHO CAN SIT THERE AND LISTEN TO THE LAW AND EVIDENCE AGAINST ALL OF THESE DEFENDANTS AND RENDER A VERDICT BASED ON WHAT THEY HEAR IN THIS COURTROOM. DO YOU FEEL THAT YOU CAN DO THAT OR NOT?

JURY VENIRE MEMBER: WELL, I WOULD RATHER

1 NOT. YOU KNOW, THAT WAY, I FEEL LIKE I'VE DONE AN
2 HONEST DEED BY NOT SERVING BECAUSE OF THE FACT THAT I
3 KNOW BOTH SIDES WELL AS I DOES.

4 THE COURT: YOU FEEL LIKE THAT KNOWING
5 BOTH SIDES WOULD GIVE YOU SOME PROBLEMS.

6 JURY VENIRE MEMBER: WELL, YEAH, IN A
7 SENSE BECAUSE, YOU KNOW, IF HE'S INNOCENT, THE OTHER
8 SIDE WILL LOOK AT ME, YOU DIDN'T DO YOUR JOB OR
9 EITHER IF HE'S CONVICTED, THEN, YOU KNOW, THAT'S WHY
10 I WOULD RATHER NOT SERVE, IF I COULD BE DISMISSED,
11 WHICH I KNOW THEM ALL NAME BY NAME.

12 THE COURT: WHICH WHAT?

13 JURY VENIRE MEMBER: I KNOW THE STUCKEYS,
14 NAME BY NAME AND I KNOW PART OF THE DECEASED FAMILY
15 TOO.

16 THE COURT: WELL, I CAN UNDERSTAND THAT --
17 I'M GOING TO LEAVE THIS JUROR IN THE JURY POOL. I'LL
18 DISCUSS IN CHAMBERS WITH COUNSEL WHAT Y'ALL PROPOSE
19 TO -- I'LL GET YOUR VIEWS ON IT BEFORE I RULE ON THIS
20 JUROR. TAKE HIS NAME. WHAT YOU ARE TELLING ME IS
21 THAT YOU JUST DON'T WANT TO SERVE BECAUSE IT'S A
22 DIFFICULT DECISION. WELL, THE DECISION IS GOING TO
23 BE DIFFICULT FOR ANYBODY WHO SITS THERE. MY CONCERN
24 IS -- I DON'T HAVE A CONCERN, I JUST WANT TO MAKE
25 SURE THAT YOU CAN PUT ASIDE YOUR FRIENDSHIP WITH BOTH

FAMILIES AND SIMPLY DO WHAT'S RIGHT BASED ON THE LAW AND THE EVIDENCE IN THIS CASE. YOU CAN'T TELL ME THAT YOU COULD DO THAT?

JURY VENIRE MEMBER: WELL, YOUR HONOR, IT WOULD BE HARD.

THE COURT: WELL, IT'S GOING TO BE HARD FOR EVERYBODY. YOU HAVE A SEAT OUT THERE.

MR. LAWSON: YOUR HONOR, IT PUTS HIM IN A HORRIBLE SITUATION.

THE COURT: NO, SIR. YOU HAVE A SEAT. I'VE SAID, NOW, I'LL DEAL WITH THIS IN CHAMBERS. SOME OF THE OTHER ATTORNEYS MAY HAVE A CONTRARY POSITION AND I DON'T WANT TO DO ANYTHING TO PREJUDICE THIS JURY. BUT I'LL HEAR FROM ALL LAWYERS AND ON THAT ISSUE AND OTHER ISSUES IN CHAMBERS UPON THE RECORD.

ALL RIGHT, SIR. NOW, THE NEXT JUROR IS ALFONZO STATON WHO -- WHO IS REPRESENTED BY MR. ROGERS. MR. STATON, MR. ROGERS, YOU AND MR. STATON STAND AND FACE THE JURY.

ALL RIGHT. ARE ANY OF YOU RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH ALFONZO STATON WHO STANDS TO MY LEFT? IF SO, PLEASE SIGNIFY.

ANY OF YOU HAVE ANY CLOSE PERSONAL RELATIONSHIP WITH MR. STATON? HOW MANY OF YOU KNOW MR. STATON IN

1 ANY CAPACITY WHATSOEVER? PLEASE STAND. COME
2 FORWARD. MR. STATON, YOU MAY BE SEATED.

3 GOOD MORNING.

4 JURY VENIRE MEMBER: GOOD MORNING.

5 THE COURT: YOUR NAME, SIR.

6 JURY VENIRE MEMBER: ROCKY BOOTH.

7 THE COURT: AND WHAT IS YOUR JURY NUMBER?

8 JURY VENIRE MEMBER: I AIN'T -- I FORGOT
9 IT.

10 THE COURT: OKAY. YOU'VE INDICATED THAT
11 YOU KNEW THIS DEFENDANT. HOW DID YOU HAPPEN TO KNOW
12 HIM?

13 JURY VENIRE MEMBER: WENT TO SCHOOL WITH
14 HIM ABOUT ALL OF MY LIFE.

15 THE COURT: WENT TO SCHOOL WITH HIM. HOW
16 LONG AGO WAS THAT?

17 JURY VENIRE MEMBER: WELL, THE LAST TIME I
18 SEEN HIM I WAS A SENIOR IN HIGH SCHOOL. FIRST PART
19 OF THE YEAR WAS '94.

20 THE COURT: '94. SO YOU'VE HAD NO
21 RELATIONSHIP WITH HIM SINCE THEN?

22 JURY VENIRE MEMBER: NO.

23 THE COURT: CAN YOU BE A FAIR AND
24 IMPARTIAL JUROR IN THIS CASE?

25 JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: I THINK YOU CAN. YOU HAVEN'T
2 EVEN SEEN HIM SINCE '94. YES, SIR. YOU MAY BE
3 SEATED.

4 ALL RIGHT. THE NEXT DEFENDANT IS JEFFREY WALLS,
5 REPRESENTED BY MR. REDMOND. MR. REDMOND. THE
6 DEFENDANT WALLS STANDS TO MY LEFT WITH HIS ATTORNEY,
7 MR. REDMOND. ARE ANY OF YOU RELATED BY BLOOD OR
8 CONNECTED BY MARRIAGE WITH THE DEFENDANT JEFFREY
9 WALLS? PLEASE STAND. COME FORWARD. AND DO ANY OF
10 YOU HAVE ANY CLOSE PERSONAL RELATIONSHIP WITH
11 MR. WALLS? HOW MANY OF YOU KNOW JEFFREY WALLS IN ANY
12 CAPACITY WHATSOEVER? PLEASE STAND.

MR. WALLS, YOU MAY BE SEATED. COME AROUND,
PLEASE, SIR. MR. JUROR, GOOD MORNING -- AFTERNOON.

JURY VENIRE MEMBER: GOOD AFTERNOON.

THE COURT: YOU'VE INDICATED THAT YOU ARE
RELATED TO JEFFREY WALLS.

JURY VENIRE MEMBER: YES, SIR.

THE COURT: IN WHAT -- WHAT IS YOUR NAME?

JURY VENIRE MEMBER: WILBERT CAMPBELL.

THE COURT: WILBERT CAMPBELL.

JURY VENIRE MEMBER: CAMPBELL, YES, SIR.

THE COURT: HOW ARE YOU RELATED TO HIM?

JURY VENIRE MEMBER: ON MY MOTHER'S SIDE.

THE COURT: WELL; AS A COUSIN OR WHAT?

1 JURY VENIRE MEMBER: WE ARE COUSINS, YES.

2 THE COURT: ON YOUR MOTHER'S SIDE?

3 JURY VENIRE MEMBER: THAT'S RIGHT.

4 THE COURT: DO YOU KNOW WHAT IT IS, FIRST,
5 SECOND OR THIRD?

6 JURY VENIRE MEMBER: WELL, IT'S SECOND
7 COUSINS. ME AND HIS MOTHER IS FIRST COUSINS.

8 THE COURT: YOU AND HIS MOTHER ARE FIRST
9 COUSINS?

10 JURY VENIRE MEMBER: ME AND HIS MOTHER ARE
11 FIRST COUSINS.

12 THE COURT: I AM GOING TO EXCUSE YOU FROM
13 PARTICIPATION IN THIS CASE. THANK YOU.

14 JURY VENIRE MEMBER: ALL RIGHT. JUROR --
15 DEFENDANT MARTIN MCINTOSH IS REPRESENTED BY
16 MR. ERVIN. MR. ERVIN, WOULD YOU HAVE THE DEFENDANT
17 STAND.

18 ARE ANY OF YOU RELATED BY BLOOD OR CONNECTED BY
19 MARRIAGE WITH THE DEFENDANT MARTIN MACINTOSH? ANY OF
20 YOU HAVE ANY CLOSE PERSONAL RELATIONSHIPS WITH MARTIN
21 MCINTOSH? HOW MANY OF YOU KNOW MARTIN MCINTOSH IN
22 ANY CAPACITY WHATSOEVER? PLEASE STAND.

23 YOU MAY BE SEATED, MR. MCINTOSH. MR. ROBERT
24 GRAHAM IS REPRESENTED BY MR. JACK LAWSON.
25 MR. LAWSON, HAVE MR. GRAHAM STAND. ANY OF YOU

1 RELATED BY BLOOD OR CONNECTED BY MARRIAGE WITH ROBERT
2 GRAHAM? PLEASE STAND. HOW MANY OF YOU KNOW ROBERT
3 GRAHAM IN ANY CAPACITY WHATSOEVER? PLEASE STAND.

4 COME FORWARD, PLEASE, SIR. I MAY DECIDE JUST TO
5 LEAVE YOU UP HERE TO SAVE YOU SOME TRIPS.

6 JURY VENIRE MEMBER: IT'S NOT MY DAY.

7 THE COURT: THANK YOU. ALL RIGHT. LET'S
8 COME TO ORDER, PLEASE. THANK YOU FOR RESPONDING.

9 YOU'VE INDICATED THAT YOU KNOW ROBERT GRAHAM. CAN
10 YOU TELL ME HOW YOU HAPPEN TO KNOW HIM, PLEASE?

11 JURY VENIRE MEMBER: I'VE KNOWN HIM SINCE
12 CHILDHOOD. HE'S ALSO A FORMER CLASSMATE OF MINE.

13 THE COURT: ARE YOU A PARTICULAR FRIEND OF
14 HIS IN ANY WAY?

15 JURY VENIRE MEMBER: NO, SIR.

16 THE COURT: HE IS ONE OF THE DEFENDANTS TO
17 WHICH CHARGE HE HAS PLED NOT GUILTY. AGAIN, DOES THE
18 FACT THAT YOU KNOW HIM PREVENT YOU FROM GIVING HIM
19 AND THE STATE A FAIR TRIAL?

20 JURY VENIRE MEMBER: NO, IT DON'T.

21 THE COURT: YOU WILL BASE YOUR VERDICT, IF
22 SELECTED, BASED ON THE LAW AND THE EVIDENCE IN THIS
23 CASE?

24 JURY VENIRE MEMBER: YES, I WILL.

25 THE COURT: THANK YOU, SIR. LEROY STATON

1 IS REPRESENTED BY MILTON MOORE. MR. STATON, PLEASE
 2 STAND AND FACE THE JURY PANEL. ANY OF YOU RELATED BY
 3 BLOOD OR CONNECTED BY MARRIAGE WITH LEROY STATON?
 4 HOW MANY OF YOU KNOW MR. STATON IN ANY CAPACITY
 5 WHATSOEVER?

6 I TOLD YOU TO STAY UP HERE. AND WHO IS --
 7 WHAT'S YOUR RESPONSE IN CONNECTION WITH THIS
 8 DEFENDANT, PLEASE.

9 JURY VENIRE MEMBER: I KNOW HIM IN THE
 10 SAME CAPACITY.

11 THE COURT: SAME WAY?

12 JURY VENIRE MEMBER: YES, SIR.

13 THE COURT: DOES THAT IMPACT ON YOUR
 14 DECISION TO BE FAIR TO THE STATE AND THIS DEFENDANT?

15 JURY VENIRE MEMBER: NO, IT DON'T (STILL
 16 THE YORK MAN.

17 THE COURT: YOUR NAME, YOUNG MAN?

18 JURY VENIRE MEMBER: CHRISTOPHER ODOM.

19 THE COURT: YES, SIR. YOU WERE WITH US A
 20 FEW MINUTES AGO. HOW DO YOU KNOW THIS INDIVIDUAL?

21 JURY VENIRE MEMBER: HE LIVES ABOUT HALF A
 22 MILE DOWN THE ROAD FROM ME.

23 THE COURT: ARE YOU FRIENDS WITH HIM IN
 24 ANY WAY.

25 JURY VENIRE MEMBER: I USED TO WORK AT THE

1 STORE RIGHT DOWN FROM HIS HOUSE AND HE WOULD COME IN
2 THERE AND I WILL SPEAK TO HIM I SPOKE TO HIM PRETTY
3 OFTEN.

4 THE COURT: DID YOU CAN YOU BE FAIR TO HIM
5 AND THE STATE IF SELECT INDEED THIS JURY.

JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: THAT IS THE ONLY RELATION.

JURY VENIRE MEMBER: YES, SIR.

1 THE COURT: ALL RIGHT. THANK YOU,
2 MR. ODOM. YOU MAY BE SEATED. HAVE WE NOW -- DOES
3 THAT TAKE CARE OF ALL DEFENDANTS? ALL RIGHT, SIR.
4 LADIES AND GENTLEMEN OF THE JURY, HOW MANY OF YOU ARE
5 MEMBERS OF THE MOUNT TABOR CHURCH OF CLIO, SOUTH
6 CAROLINA?

ALL RIGHT. THIS EVENT CONCERNS THE ALLEGED
MURDER, KIDNAPPING, CRIMINAL SEXUAL CONDUCT AND ARMED
ROBBERY OF ONE DARLENE PATTERSON. HOW MANY ATTENDED
ANY TYPE OF MEMORIAL SERVICE OR FUNERAL FOR DARLENE
PATTERSON? PLEASE STAND.

(NO RESPONSE.)

THE COURT: ALL RIGHT. THERE -- MAY I
HOLD THE INDICTMENT, SOLICITOR? OKAY.

MR. SOLICITOR, I DO NOT SEE THE INDICTMENT INVOLVING
THE DEFENDANT CHARGED WITH ARMED ROBBERY.

MR. WILSON: THERE IS NO --

1 THE COURT: STRONG ARMED ROBBERY.

2 MR. WILSON: NO, SIR, THERE IS NO
3 INDICTMENT FOR THAT.

4 THE COURT: OKAY. THERE IS NO STRONG
5 ARMED ROBBERY. ALL RIGHT. FINE. OKAY. THERE WILL
6 NOT BE -- MR. SOLICITOR, I REFER YOU TO THE LIST HERE
7 GIVEN TO ME, BUT IF YOU SAY THAT'S NOT THERE, THAT'S
8 FINE.

9 ALL RIGHT. LADIES AND GENTLEMEN, AS YOU ARE
10 WELL AWARE, NOW, THESE VARIOUS INDICTMENTS AGAINST
11 THESE VARIOUS DEFENDANTS, THIS INCIDENT IS ALLEGED TO
12 HAVE OCCURRED BETWEEN NOVEMBER THE 12TH AND NOVEMBER
13 THE 24TH OF 1994. I NEED TO KNOW HOW MANY OF YOU MAY
14 HAVE READ, HEARD OR DISCUSSED ANY OF THESE ALLEGED
15 INCIDENTS INVOLVING THE MURDER -- ALLEGED MURDER,
16 ALLEGED KIDNAPPING, ALLEGED CRIMINAL SEXUAL CONDUCT
17 OR ALLEGED CONSPIRACY OF DARLENE PATTERSON. PLEASE
18 STAND IF YOU'VE READ ANYTHING ABOUT IT. PLEASE
19 STAND. OKAY. THAT'S FINE. THIS IS WHAT I WANT TO
20 KNOW. COME FORWARD, PLEASE. COME FORWARD. ANYBODY
21 WHO HAS READ ABOUT IT, HEARD ABOUT IT, HAD IT
22 DISCUSSED IN YOUR PRESENCE, COME FORWARD.

23 ALL RIGHT. LADIES AND GENTLEMEN OF THE JURY,
24 LET ME AGAIN STATE TO YOU, THERE ARE NO WRONG ANSWERS
25 FOR ANY OF YOU TO GIVE. WE ARE SIMPLY TRYING TO

DETERMINE WHETHER YOU HAVE KNOWLEDGE CONCERNING THE FACTS AND CIRCUMSTANCES OR -- IN THIS CASE OR IF YOU HAVE FORMED OR EXPRESSED AN OPINION CONCERNING THE FACTS AND CIRCUMSTANCES IN THIS CASE. I TELL ALL OF YOU NOW FROM THE OUTSET THAT THERE IS NOTHING WRONG WITH YOU HAVING VIEWED, LISTENED TO OR READ ANYTHING ABOUT THE CASE, NOR IS THERE ANYTHING WRONG WITH YOU HAVING DISCUSSED IT. I AM SIMPLY TRYING TO DETERMINE WHAT EACH OF YOU HAVE BEEN EXPOSED TO AND THE RESULT IT HAS ON YOU TO THE END THAT THE STATE OF SOUTH CAROLINA AND EACH AND EVERY ONE OF THESE DEFENDANTS CAN RECEIVE A FAIR AND IMPARTIAL JURY.

IF SOMEONE HAS ALREADY PREDETERMINED THE INNOCENCE OR GUILT OF THESE DEFENDANTS, OBVIOUSLY THEY CANNOT BE ON THIS JURY. IF, HOWEVER, SOMEONE HAS SIMPLY READ SOME ISSUE ABOUT THIS IN THE PAPER OR SEEN IT ON TELEVISION, BUT REGARDLESS OF THAT CAN PUT THAT ASIDE AND BASE A VERDICT ON THE LAW AND EVIDENCE IN THIS COURTROOM, THEY GENERALLY ARE QUALIFIED TO SERVE.

MY INQUIRIES, NOW, AS I INDICATED, THERE ARE NO RIGHT OR WRONG ANSWERS. I JUST WANT TO MAKE SURE THAT ALL OF YOU CAN TELL ME, JUDGE, REGARDLESS OF WHAT I MAY HAVE READ IN THE PAPER, I CAN PUT THAT ASIDE -- OR T.V. OR WHATEVER -- AND BASE MY VERDICT

1 ON THE LAW AND THE EVIDENCE IN THIS COURTROOM. AND
2 IF ANYBODY FEELS THAT THEY CANNOT DO THAT, ALL YOU
3 HAVE TO DO IS TELL ME AND I WILL EXCUSE YOU FROM THIS
4 CASE. NOW, I WILL HAVE TO GO ONE AT A TIME. AND
5 YOUR NAME, PLEASE?

6 JURY VENIRE MEMBER: SARAH NORRIS.

7 THE COURT: AND MS. NORRIS, DO YOU KNOW
8 YOUR JURY NUMBER?

9 JURY VENIRE MEMBER: 133. JUROR 133.

10 THE COURT: AND WHAT IS YOUR RESPONSE TO
11 MY INQUIRY?

12 JURY VENIRE MEMBER: I FEEL LIKE I'VE
13 ALREADY FORMED MY OPINION. I FEEL LIKE I --

14 MR. LAWSON: YOUR HONOR, MAY IT PLEASE THE
15 COURT. COULD I JUST RAISE AN ISSUE WITH THE COURT,
16 YOUR HONOR? WE HAVE A JURY PANEL SITTING OUT HERE --

17 THE COURT: I UNDERSTAND THAT. DON'T YOU
18 THINK I KNOW A JURY PANEL IS SITTING OUT THERE?

19 MR. LAWSON: YES, SIR. BUT I'M CONCERNED,
20 YOUR HONOR.

21 THE COURT: PLEASE BE SEATED. I
22 UNDERSTOOD YOUR CONCERNS BEFORE YOU GOT STARTED.

23 DON'T TELL ME WHAT YOUR OPINION IS AS TO THE
24 GUILT OR THE INNOCENCE. I'M NOT CONCERNED WITH THAT.
25 YOU FEEL LIKE THAT HAVING ALREADY FORMED AN OPINION

YOU WOULD NOT BE ABLE TO BASE A VERDICT ON THE LAW AND EVIDENCE IN THIS CASE? DON'T TELL ME WHAT YOUR EVIDENCE IS.

JURY VENIRE MEMBER: I FEEL THAT WAY.

THE COURT: I THANK YOU AND I APPRECIATE THAT. I WILL EXCUSE THIS JUROR. THANK YOU.

YES, MA'AM.

JURY VENIRE MEMBER: MY JUROR NUMBER IS 113.

THE COURT: AND WHAT WAS YOUR RESPONSE?

JURY VENIRE MEMBER: I ONLY READ IT IN THE PAPER.

THE COURT: YOU ONLY READ SOMETHING IN THE PAPER?

JURY VENIRE MEMBER: YES, BUT I --

THE COURT: BASED ON THAT, HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OR INNOCENCE OF ANYBODY?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: CAN YOU PUT WHAT YOU MAY HAVE READ IN THE PAPER ASIDE AND CONSIDER THE EVIDENCE ONLY THAT'S PRODUCED, IF ANY, IN THIS COURTROOM?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: YOU'RE QUALIFIED TO SERVE ON THAT ISSUE.

1 JURY VENIRE MEMBER: JANETTE WILLIAMS.

2 THE COURT: YES, MA'AM.

3 JURY VENIRE MEMBER: I'M 194. 193, BY
4 YOUR NUMBER. I CAN'T SAY WHAT I READ BECAUSE I
5 FORGOT WHAT I READ, BUT AS OF TWO DAYS AGO, WHAT I
6 WAS TOLD, I DON'T THINK I COULD BE IMPARTIAL.

7 THE COURT: ALL RIGHT. THAT'S FINE. WAIT
8 A MINUTE, NOW. PLEASE, IN EACH INSTANCE, I DON'T
9 WANT ANYBODY -- IF YOU'VE FORMED OR EXPRESSED AN
10 OPINION I WANT TO KNOW ABOUT IT. I DO NOT WANT TO
11 KNOW WHAT THAT OPINION IS, BE IT GUILTY OR NOT
12 GUILTY. DO YOU UNDERSTAND THAT?

13 JURY VENIRE MEMBER: UH-HUH.

14 THE COURT: YOU ARE TELLING ME THAT TWO
15 DAYS AGO, YOU DISCUSSED THIS CASE WITH SOMEONE?

16 JURY VENIRE MEMBER: NO, I DIDN'T DISCUSS
17 IT. I WAS SITTING IN A ROOM WHEN TALKING WAS GOING
18 ON. I HEARD IT.

19 THE COURT: IT WAS DISCUSSED IN YOUR
20 PRESENCE?

21 JURY VENIRE MEMBER: YEAH.

22 THE COURT: DID THEY AT THAT TIME KNOW
23 THAT YOU WERE A POTENTIAL JUROR IN THIS CASE?

24 JURY VENIRE MEMBER: YEAH.

25 THE COURT: AND THEY CONTINUED TO DISCUSS

IT WITH YOU ANYWAY?

JURY VENIRE MEMBER: UH-HUH.

THE COURT: KNOWING THAT YOU WERE A JUROR?

JURY VENIRE MEMBER: UH-HUH.

THE COURT: OKAY. AND WHAT IS YOUR NAME?

JURY VENIRE MEMBER: JANETTE WILLIAMS.

THE COURT: OKAY. HAVE THEY EXPRESSED TO YOU CERTAIN FACTS ABOUT THIS CASE?

JURY VENIRE MEMBER: UH-HUH.

THE COURT: DON'T TELL ME WHAT THEY ARE, PLEASE.

JURY VENIRE MEMBER: THEY WAS SUPPOSED TO HAVE BEEN A PARTICULAR JUROR LAST WEEK ON --

THE COURT: OKAY. THEY WERE SUPPOSED TO HAVE BEEN A JUROR LAST WEEK?

JURY VENIRE MEMBER: UH-HUH.

THE COURT: BASED ON WHAT THEY TELL YOU, YOU HAVE FORMED AN OPINION AS TO THE GUILT OR INNOCENCE OF SOMEBODY? DON'T TELL ME WHAT THE OPINION IS.

JURY VENIRE MEMBER: UH-HUH.

THE COURT: YOU FEEL LIKE THAT THAT'S SUCH AN OPINION THAT YOU WILL NOT BE ABLE TO CHANGE IT EVEN IN THE FACE OF OTHER EVIDENCE?

JURY VENIRE MEMBER: AS OF RIGHT NOW, NO.

1 THE COURT: YOU THINK THAT YOU ARE SET IN
2 YOUR OPINION?

3 JURY VENIRE MEMBER: YES.

4 THE COURT: I WILL EXCUSE THIS JUROR.
5 YOUR NAME, PLEASE.

6 JURY VENIRE MEMBER: MARGARET DOUDY,
7 NUMBER 55. I JUST READ IT IN THE PAPER. THAT'S ALL.

8 THE COURT: THAT'S ALL?

9 JURY VENIRE MEMBER: YES.

10 THE COURT: HOW LONG AGO WAS THAT?

11 JURY VENIRE MEMBER: A LONG TIME AGO.

12 THE COURT: HAVE YOU DISCUSSED IT WITH
13 ANYONE SINCE THEN OR FORMED OR EXPRESSED AN OPINION?

14 JURY VENIRE MEMBER: NO, SIR.

15 THE COURT: CAN YOU GIVE ALL PARTIES
16 CONCERNED A FAIR TRIAL?

17 JURY VENIRE MEMBER: YES, SIR.

18 THE COURT: I THINK YOU CAN. THANK YOU.

19 JURY VENIRE MEMBER: MY NAME IS BARBARA
20 DIXON, JUROR 53. I READ ABOUT IT AND MY MOTHER
21 WORKED WITH DARLENE PATTERSON.

22 THE COURT: YOUR MOTHER WORKED WITH
23 DARLENE PATTERSON?

24 JURY VENIRE MEMBER: RIGHT. I DON'T KNOW
25 HER AND WE HAVEN'T -- JUST...

THE COURT: OKAY. HAVE YOU FORMED OR EXPRESSED AN OPINION BASED ON WHAT YOU READ AS TO THE GUILT OR THE INNOCENCE OF ANYBODY?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: EVEN -- CAN YOU PUT ASIDE WHATEVER -- HOW LONG AGO DID YOU READ IT?

JURY VENIRE MEMBER: OH, IT'S BEEN AWHILE. AND THEN I READ AWHILE BACK THAT IT WAS -- IT WAS COMING UP -- GETTING READY TO COME TO COURT, BUT...

THE COURT: HAVE YOU FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OR INNOCENCE OF ANYBODY?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: ARE YOU WILLING TO BASE YOUR VERDICT ON THE LAW AND EVIDENCE OF THIS CASE AND NOT ON YOU WHAT HEARD?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: YOU'RE QUALIFIED. THANK YOU.

JURY VENIRE MEMBER: GOOD MORNING.

ASHBURN. NUMBER 6.

THE COURT: NUMBER WHAT?

JURY VENIRE MEMBER: SIX.

THE COURT: SIX. AND WHAT WAS YOUR RESPONSE, PLEASE?

JURY VENIRE MEMBER: I JUST READ IT IN THE PAPER AS THE ARREST WAS MADE AND THINGS LIKE THAT.

1 THE COURT: HAVE YOU FORMED OR EXPRESSED
2 AN OPINION?

3 JURY VENIRE MEMBER: NO.

4 THE COURT: CAN YOU GIVE A VERDICT BASED
5 ON THE EVIDENCE IN THIS CASE AND IN THIS COURTROOM?

6 JURY VENIRE MEMBER: YES, SIR.

7 THE COURT: THANK YOU. YOU'RE QUALIFIED.
8 YOUR NAME, PLEASE.

9 JURY VENIRE MEMBER: SHIRLEY MOORE. 129.
10 I READ IT IN THE PAPER.

11 THE COURT: HOW LONG AGO, PLEASE?

12 JURY VENIRE MEMBER: WAY BACK WHEN IT
13 FIRST HAPPENED.

14 THE COURT: WAY BACK. HAVE YOU RECENTLY
15 EVER FORMED OR EXPRESSED AN OPINION AS TO THE GUILT
16 OR INNOCENCE OF ANYBODY?

17 JURY VENIRE MEMBER: NO, SIR.

18 THE COURT: CAN YOU TELL ALL OF US HERE
19 ASSEMBLED THAT WHATEVER YOUR VERDICT IS WILL BE BASED
20 ON WHAT YOU HEAR IN THIS COURTROOM IN THIS TRIAL?

21 JURY VENIRE MEMBER: YES, SIR.

22 THE COURT: I THINK THAT YOU CAN. THANK
23 YOU.

24 JURY VENIRE MEMBER: JAQUELINA ADAMS, 121.

25 THE COURT: YES.

JURY VENIRE MEMBER: ONLY READ ABOUT IT IN THE PAPERS.

THE COURT: IS THAT ALL?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: HAVE YOU DISCUSSED IT WITH ANYONE SINCE THEN?

JURY VENIRE MEMBER: NO.

THE COURT: FORMED OR EXPRESSED AN OPINION?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: CAN YOU GIVE BOTH SIDES A FAIR AND IMPARTIAL TRIAL?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: I THINK YOU CAN. YOU'RE QUALIFIED.

MR. ODOM, I'M GOING TO PUT YOU WITH THE OTHER GENTLEMAN. OKAY.

MR. ERVIN: YES, SIR.

THE COURT: WHAT IS IT THAT YOU'RE NEEDING?

THE CLERK: WE'RE NOT GETTING NAMES AND NUMBERS VERY EFFICIENTLY, YOUR HONOR, BECAUSE THE LISTS ARE ONE OFF.

THE COURT: ARE YOU GETTING THE NAMES?

MR. PADGETT: WE CAN'T.

1 THE COURT: IF AT ANY TIME YOU GENTLEMEN
2 DON'T KNOW THE NUMBER, PLEASE CALL IT TO MY ATTENTION
3 BECAUSE IT'S IMPORTANT THAT YOU KNOW YOUR NAME.

4 JURY VENIRE MEMBER: CHRISTOPHER ODOM.

5 THE COURT: AND WHAT IS YOUR RESPONSE?

6 JURY VENIRE MEMBER: I HEARD ABOUT IT.

7 THE FELLOWS LIVE AROUND WHERE I LIVE AT.

8 THE COURT: DON'T TELL ME WHAT YOU HEARD.

9 JURY VENIRE MEMBER: NO, SIR. I AIN'T.

10 THE COURT: OKAY. DID YOU FORM OR EXPRESS
11 AN OPINION AS TO THE GUILT OR INNOCENCE OF ANYBODY?

12 JURY VENIRE MEMBER: NO, SIR.

13 THE COURT: CAN YOU BASED ON -- CAN YOU
14 PUT ASIDE WHAT YOU HEARD AND BASE YOUR VERDICT ON
15 WHAT YOU HEAR IN THIS COURTROOM?

16 JURY VENIRE MEMBER: YES, SIR.

17 THE COURT: ALL RIGHT, SIR. YOU ARE
18 QUALIFIED.

19 YOUR NAME, PLEASE?

20 JURY VENIRE MEMBER: CATHLEEN MOSBY,
21 NUMBER 191.

22 THE COURT: YES, MS. MOSBY.

23 JURY VENIRE MEMBER: I READ IT IN THE
24 PAPER AND I'VE HEARD ABOUT IT.

25 THE COURT: HOW LONG AGO WAS THAT?

JURY VENIRE MEMBER: WHEN IT FIRST CAME OUT.

THE COURT: YOU HAVEN'T HEARD IT DISCUSSED IN THE LAST TWO YEARS IN YOUR PRESENCE?

JURY VENIRE MEMBER: NO.

THE COURT: DID YOU FORM OR EXPRESS AN OPINION AS TO THE GUILT OR INNOCENCE OF ANYBODY?

JURY VENIRE MEMBER: NO.

THE COURT: CAN YOU GIVE ALL SIDES HERE A FAIR TRIAL?

JURY VENIRE MEMBER: YES.

THE COURT: PUT ASIDE WHAT YOU MAY HAVE READ OR HEARD?

JURY VENIRE MEMBER: YES.

THE COURT: THANK YOU. YOU'RE QUALIFIED. YES, SIR.

JURY VENIRE MEMBER: I ONLY KNOW WHAT I'VE READ IN THE PAPERS.

THE COURT: CAN YOU PUT THAT ASIDE?

JURY VENIRE MEMBER: YES, I CAN.

THE COURT: AND BASE YOUR VERDICT ON THE EVIDENCE IN THIS CASE AND IN THIS COURTROOM?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: ALL RIGHT.

JURY VENIRE MEMBER: TONY MARTIN.

1 THE COURT: THAT WAS JUROR YORK. I KNOW
2 Y'ALL KNOW JUROR YORK. YOUR NAME?

3 JURY VENIRE MEMBER: TONY MARTIN, JUROR
4 109.

5 THE COURT: 109.

6 JURY VENIRE MEMBER: I ONLY KNOW WHAT I
7 READ IN THE NEWSPAPERS.

8 THE COURT: DOES THAT IMPACT ON YOU IN ANY
9 WAY?

10 JURY VENIRE MEMBER: NO, SIR.

11 THE COURT: ALL RIGHT. THANK YOU.

12 YES, MA'AM.

13 JURY VENIRE MEMBER: MARY MCCOLL, 65.

14 THE COURT: JUROR 65 IS MARY MCCOLL. YES,
15 MS. MCCOLL.

16 JURY VENIRE MEMBER: READ IT IN THE PAPER.

17 THE COURT: WHEN IT FIRST HAPPENED OR
18 ALLEGED TO HAVE HAPPENED?

19 JURY VENIRE MEMBER: YES, SIR.

20 THE COURT: I ASK YOU, HAVE YOU DISCUSSED
21 IT IN THE LAST YEAR OR SO WITH ANYBODY?

22 JURY VENIRE MEMBER: NO.

23 THE COURT: FORMED OR EXPRESSED ANY KIND
24 OF OPINION?

25 JURY VENIRE MEMBER: NO.

THE COURT: CAN YOU BASE YOUR VERDICT ON THE LAW AND EVIDENCE IN THIS CASE?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: THANK YOU.

YOUR NAME, PLEASE.

JURY VENIRE MEMBER: NORMA ROLLERSON, 154 ROLLERSON.

THE COURT: WHAT JUROR NUMBER?

JURY VENIRE MEMBER: 154.

THE COURT: JUROR 154, GENTLEMEN. YES, MA'AM.

JURY VENIRE MEMBER: YES, I READ IT IN THE PAPER WHEN IT FIRST HAPPENED.

THE COURT: HAVE YOU DISCUSSED IT WITH ANYONE SINCE THEN?

JURY VENIRE MEMBER: NO.

THE COURT: DO YOU EVEN REMEMBER WHAT YOU READ IN THE PAPER?

JURY VENIRE MEMBER: NO.

THE COURT: AGAIN, THE SAME QUESTION, CAN YOU BASE YOUR VERDICT ON THE LAW AND EVIDENCE IN THIS COURTROOM?

JURY VENIRE MEMBER: YES.

JURY VENIRE MEMBER: WOODROW GRAHAM, JUROR NUMBER 67.

1 THE COURT: THANK YOU.

2 JURY VENIRE MEMBER: OR 68, SOMETHING LIKE
3 THAT. LET'S SEE. I GUESS THE EXTENT OF MY KNOWLEDGE
4 IS JUST WHAT I'VE READ IN THE PAPER.

5 THE COURT: AND THAT WAS SOME TIME AGO?

6 JURY VENIRE MEMBER: SOME TIME AGO. AND I
7 THINK THERE WAS A RECENT ARTICLE AS WELL.

8 THE COURT: HAVE YOU FORMED OR EXPRESSED
9 AN OPINION AS A RESULT OF THAT?

10 JURY VENIRE MEMBER: NO, YOUR HONOR.

11 THE COURT: CAN YOU BASE YOUR VERDICT ON
12 THE LAW AND EVIDENCE IN THIS COURTROOM IN THIS CASE?

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: AGAIN, WE DON'T WANT ANY
15 VERDICT BASED ON SOMEBODY'S TOLD YOU OR YOU HEARD ON
16 T.V. OR READ IN THE PAPER. WE WANT IT BASED ON THE
17 LAW AND EVIDENCE IN THIS COURTROOM. CAN YOU DO THAT
18 FOR ME?

19 JURY VENIRE MEMBER: YES, SIR.

20 THE COURT: THANK YOU SO MUCH. YOU MAY BE
21 SEATED.

22 JURY VENIRE MEMBER: ANNIE BELLE DEASE,
23 50.

24 THE COURT: ANNIE BELLE DEASE, GENTLEMEN.
25 NUMBER 50. WHAT WAS YOUR RESPONSE, PLEASE?

JURY VENIRE MEMBER: JUST READ IT IN THE PAPER.

THE COURT: DID YOU FORM OR EXPRESS AN OPINION AS TO THE GUILT OR INNOCENCE OF ANYBODY?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: CAN YOU SET THAT ASIDE AND BASE YOUR VERDICT ON WHAT YOU HEAR IN THIS COURTROOM?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: I THINK YOU CAN. THANK YOU. GOOD MORNING.

JURY VENIRE MEMBER: GOOD MORNING.

THE COURT: OR AFTERNOON. THANK YOU.

JURY VENIRE MEMBER: JUANITA MOORE, JUROR NUMBER 126.

THE COURT: AND WHAT WAS YOUR RESPONSE, PLEASE?

JURY VENIRE MEMBER: WELL, I READ IT IN THE PAPER AND TWO -- A COUPLE OF SUNDAYS AGO IN MY CHURCH. I DON'T KNOW THE WALLS BOY, BUT HIS MOTHER GOES TO MY CHURCH AND SHE WAS CRYING AND SAYING THAT HER SON WAS COMING UP FOR TRIAL. THAT'S ALL I KNOW.

THE COURT: YOU KNEW HER -- YOU KNEW HER MOTHER?

JURY VENIRE MEMBER: I KNEW MOTHER, BUT I DIDN'T --

1 THE COURT: OKAY. WOULD THAT INCIDENT AND
2 THAT KNOWLEDGE PRECLUDE YOU FROM BEING A FAIR JUROR
3 TO THE STATE AND TO HIM AND TO THESE OTHER
4 DEFENDANTS?

5 JURY VENIRE MEMBER: NO, SIR.

6 THE COURT: DO YOU FEEL LIKE, NOW --
7 YOU -- I UNDERSTAND THAT YOU'VE HAD THIS ENCOUNTER
8 WITH ONE OF THE DEFENDANT'S MOTHERS.

9 JURY VENIRE MEMBER: YES, SIR.

10 THE COURT: BUT I WANT TO MAKE SURE THAT
11 IF YOU ARE A JUROR YOU CAN BE FAIR TO THAT DEFENDANT
12 AND EQUALLY FAIR TO THE STATE OF SOUTH CAROLINA.

13 JURY VENIRE MEMBER: YES, SIR.

14 THE COURT: YOU CAN PROMISE ME THAT YOUR
15 VERDICT WILL BE BASED ON THE LAW AND THE EVIDENCE IN
16 THIS COURTROOM?

17 JURY VENIRE MEMBER: I CAN.

18 THE COURT: I THINK THAT YOU CAN TOO.

19 THANK YOU.

20 MR. WILSON: NUMBER, YOUR HONOR?

21 MR. ERVIN: NUMBER?

22 THE COURT: JUROR NUMBER 127.

23 JURY VENIRE MEMBER: 126.

24 THE COURT: 126? ALL RIGHT.

25 JURY VENIRE MEMBER: 27, LEGARE CALHOUN.

THE COURT: YES, SIR. MR. CALHOUN.

JURY VENIRE MEMBER: JUST IN THE NEWSPAPER AND T.V.

THE COURT: HAVE YOU FORMED OR EXPRESSED AN OPINION, MR. CALHOUN, IN ANY WAY?

JURY VENIRE MEMBER: NO, SIR.

THE COURT: CAN YOU SET ASIDE WHAT YOU MAY HAVE SEEN ON T.V. OR READ IN THE NEWSPAPER AND BASE YOUR VERDICT ON THE EVIDENCE IN THIS CASE IN THIS COURTROOM?

JURY VENIRE MEMBER: YES, SIR.

THE COURT: YES, SIR. I THINK YOU CAN. THANK YOU.

JURY VENIRE MEMBER: MICHAEL STROM, 172.

THE COURT: WHAT JUROR NUMBER?

JURY VENIRE MEMBER: 172.

THE COURT: YES, SIR.

JURY VENIRE MEMBER: JUDGE, I KNOW ONE OF THE DEFENDANTS IN THE CASE. HE'S NOT BEING TRIED, BUT WE'VE DISCUSSED IT. AND I DON'T THINK I CAN BE PARTIAL OR FAIR IN JUDGMENT.

THE COURT: WELL, IF YOU TELL ME THAT, I WILL EXCUSE YOU. YOU ARE SAYING THAT YOU HAVE SUFFICIENT KNOWLEDGE OF THE FACTS IN THE CASE THAT YOU FEEL LIKE -- DON'T TELL ME WHAT IT IS. I'M NOT

1 INTERESTED IN THAT. BUT YOU FEEL LIKE YOU MAY BE
2 PREDISPOSED ONE WAY OR THE OTHER. IS THAT WHAT
3 YOU'RE SAYING?

4 JURY VENIRE MEMBER: WE'VE DISCUSSED IT.

5 THE COURT: I WILL EXCUSE YOU. YES, SIR.

6 JURY VENIRE MEMBER: BENJAMIN MCLAIN,
7 JUROR, NUMBER 118. JUST WHAT I READ IN THE PAPER
8 WHEN IT FIRST HAPPENED.

9 THE COURT: OKAY. AGAIN, MR. MCLAIN, HAVE
10 YOU READ ANYTHING ABOUT IT LATELY OR HAD IT DISCUSSED
11 IN YOUR PRESENCE LATELY?

12 JURY VENIRE MEMBER: NO, SIR.

13 THE COURT: CAN YOU TELL ME THAT YOU CAN
14 SET ASIDE WHAT YOU MAY HAVE READ AND BASE YOUR
15 VERDICT ON WHAT YOU HEAR IN THIS COURTROOM IN THIS
16 TRIAL.

17 JURY VENIRE MEMBER: YES, SIR.

18 THE COURT: I THINK THAT YOU CAN. THANK
19 YOU. ALL RIGHT.

20 ALL RIGHT. YOU KNOW, WE ALL BEGIN TO GET
21 CERTAIN BIASES AND PREJUDICES AS WE GO ALONG IN LIFE
22 DEPENDING UPON OUR EXPERIENCES. AND WHILE IT HAS
23 NOTHING TO DO WITH THIS CASE, I REMEMBER ONE TIME I
24 WAS TRYING AN INDIVIDUAL FOR DRIVING UNDER THE
25 INFLUENCE FELONY. AND I ASKED THE JURORS WERE

THEY -- COULD ALL OF THEM GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL? AND THE LADY STOOD UP AND SAID, YOUR HONOR, I CAN'T BE FAIR TO THE DEFENDANT BECAUSE MY DAUGHTER WAS KILLED BY A DRUNK DRIVER. AND IN THAT SAME CASE, A FATHER STOOD UP AND SAID JUDGE, I CAN'T BE FAIR TO THE STATE OF SOUTH CAROLINA BECAUSE MY SON WAS UNJUSTLY ACCUSED OF THE SAME THING. AND SO IT WORKS BOTH WAYS.

NOW, I WANT TO KNOW FROM ALL OF YOU, DO ANY OF YOU HAVE SUCH BIASES OR PREJUDICES THAT YOU FEEL THAT YOU CAN'T GIVE BOTH THE STATE OF SOUTH CAROLINA AND THESE DEFENDANTS A FAIR AND IMPARTIAL TRIAL? IF ANY OF YOU FOR ANY REASON FEEL THAT YOU CANNOT BE FAIR BOTH TO THE STATE OF SOUTH CAROLINA AND TO ALL OF THESE DEFENDANTS, PLEASE STAND AND I WILL DISMISS YOU FROM THE TRIAL OF THIS CASE.

(NO RESPONSE.)

THE COURT: I'VE ALREADY EXCUSED YOU, I BELIEVE. OTHER THAN THOSE THAT I HAVE EXCUSED. THIS JUROR HAS ALL READY BEEN EXCUSED, HAS SHE NOT?

MR. WILSON: YES, SIR.

THE COURT: YES, SIR. ALL RIGHT. NOW, DO ANY OF YOU HAVE ANY REASON WHATSOEVER WHY YOU FEEL THAT YOU COULD NOT BE A FAIR AND IMPARTIAL JUROR IF SELECTED? PLEASE STAND.

1 (NO RESPONSE.)

2 THE COURT: ALL RIGHT. SOLICITOR WILSON,
3 IS THERE ANY OTHER INQUIRY ON BEHALF OF THE STATE?

4 MR. WILSON: YOUR HONOR, I JUST ASK THE
5 COURT TO INQUIRE TWO THINGS. ONE, WHETHER OR NOT ANY
6 OF THE VENIRE PERSONS HAVE BEEN REPRESENTED IN THE
7 RECENT PAST BY ANY OF THE LAWYERS INVOLVED IN THIS
8 CASE. AND SECONDLY, I WOULD ASK THE COURT TO INQUIRE
9 AS TO WHETHER OR NOT ANY MEMBERS OF THE VENIRE HAVE
10 BEEN CONTACTED BY ANY NON-JURY PERSON ABOUT THIS CASE
11 PRIOR TO COMING HERE TODAY.

12 THE COURT: FIRST, IT IS NOT LIKELY, BUT
13 SOMETIMES IT OCCURS, HAVE ANY MEMBERS OF THIS JURY
14 PANEL BEEN CONTACTED BY ANYBODY FOR THE STATE OR THE
15 DEFENSE OR ANY OF THEM ON ANY ISSUE THAT WE ARE
16 CONCERNED WITH THIS WEEK? IF SO, PLEASE STAND.

17 (NO RESPONSE.)

18 THE COURT: ALL RIGHT. IN ORDER, ONE OF
19 THE DEFENDANT -- LET'S GO BY -- WHERE IS IT? WHERE
20 IS THAT LIST? LET'S SEE. CHARLES M. STUCKEY IS
21 REPRESENTED BY MAHLON PADGETT OF THE BENNETTSVILLE
22 BAR. ARE ANY OF YOU CLIENTS OF MR. PADGETT OR HAVE
23 YOU BEEN IN THE IMMEDIATE PAST? PLEASE STAND.

24 YOUR NAME, SIR.

25 JURY VENIRE MEMBER: BILLY SHELLEY.

1 THE COURT: AND YOUR -- MR. PADGETT?

2 JURY VENIRE MEMBER: YES, SIR, IN FAMILY
3 COURT.

4 THE COURT: IN THE FAMILY COURT?

5 JURY VENIRE MEMBER: YES, SIR.

6 THE COURT: IS HE REPRESENTING YOU AT THIS
7 TIME?

8 JURY VENIRE MEMBER: HE HAS REPRESENTED ME
9 IN THE PAST.

10 THE COURT: HE DOES NOT REPRESENT YOU NOW?

11 JURY VENIRE MEMBER: NO, SIR.

12 THE COURT: HE REPRESENTS ONE OF THE
13 DEFENDANTS.

14 JURY VENIRE MEMBER: YES, SIR.

15 THE COURT: WOULD THAT IMPACT ON YOUR
16 DECISION OR CAN YOU PUT THAT ASIDE?

17 JURY VENIRE MEMBER: I CAN PUT IT ASIDE.

18 THE COURT: ALL RIGHT, SIR. I THINK YOU
19 CAN.

20 JURY VENIRE MEMBER: THANK YOU.

21 THE COURT: MR. JIMMY ROGERS OF THE
22 RICHLAND BAR ALSO REPRESENTS MR. STUCKEY. MR.
23 ROGERS, WOULD YOU PLEASE STAND. IT'S NOT LIKELY, BUT
24 ANY OF YOU CURRENTLY CLIENTS OF MR. ROGERS OR HAVE
25 YOU BEEN IN THE IMMEDIATE PAST?

1 (NO RESPONSE.)

2 THE COURT: MR. ALFONZO STATON IS
3 REPRESENTED BY WILL ROGERS. ARE ANY OF YOU CLIENTS
4 OF MR. ROGERS OR HAVE YOU BEEN IN THE IMMEDIATE PAST?
5 PLEASE STAND.

6 (NO RESPONSE.)

7 THE COURT: JEFFREY WALLS IS REPRESENTED
8 BY MR. KERNARD REDMOND. ARE ANY OF YOU CLIENTS OF
9 MR. REDMOND OR HAVE YOU BEEN IN THE IMMEDIATE PAST?

10 (NO RESPONSE.)

11 THE COURT: MARTIN MCINTOSH IS REPRESENTED
12 BY MR. ERVIN. ANY OF YOU CLIENTS OF MR. ERVIN OR
13 HAVE YOU BEEN IN THE IMMEDIATE PAST?

14 (NO RESPONSE.)

15 THE COURT: ROBERT GRAHAM IS REPRESENTED
16 BY MR. LAWSON OF THE FLORENCE BAR. ANY OF YOU BEEN
17 REPRESENTED BY HIM IN THE IMMEDIATE PAST?

18 (NO RESPONSE.)

19 THE COURT: ALL RIGHT, SIR.
20 MR. SOLICITOR, DOES THAT TAKE CARE OF YOUR INQUIRY?

21 MR. WILSON: IT DOES.

22 MR. MOORE: ONE MORE, YOUR HONOR. ME.

23 THE COURT: SIR?

24 MR. MOORE: MYSELF.

25 THE COURT: OH, I'M SORRY. MR. MILTON

MOORE. ARE YOU -- ANY OF YOU CLIENTS OF MR. MOORE OR
HAVE YOU BEEN IN THE IMMEDIATE PAST? THANK YOU,
MR. MOORE.

(NO RESPONSE.)

THE COURT: ALL RIGHT, SIR. NO OTHER
INQUIRY ON BEHALF OF THE STATE. IS THERE ANY
ADDITIONAL INQUIRY ON BEHALF OF THE DEFENSE?

MR. ERVIN: YES, SIR,, YOUR HONOR.

THE COURT: WE'RE GOING TO PROCEED. ALL
RIGHT. SO YOU WILL KNOW, GENTLEMEN, WE'RE GOING TO
CONCLUDE VOIR DIRE AND THEN GO TO LUNCH AND THEN COME
BACK AND PICK THE JURY. THAT WILL GIVE YOU TIME TO
CONFER.

MR. ERVIN: SEVERAL, YOUR HONOR. WHETHER
ANYONE HAS ANY CLOSE RELATIONSHIP WITH DARLENE
PATTERSON'S SISTER VIOLA, IF THEY KNOW HER. AND I
THINK THAT SEVERAL SAID THEY DID, BUT WE WOULD LIKE
THE QUESTION CLARIFIED.

THE COURT: HER SISTER -- I'VE MADE AN
INQUIRY AS TO FAMILY AND SO FORTH. I DECLINE TO GO
BACK THROUGH THAT AGAIN. WE'VE DONE ALL OF THAT. I
ASKED ALREADY DID ANYBODY KNOW OF MS. PATTERSON OR
HER FAMILY AND NUMEROUS PEOPLE RESPONDED. I WILL
ASSUME THAT THEY KNOW HER SISTER TOO. I WILL ASK IT
THIS WAY. OTHER THAN THOSE I PREVIOUSLY ASKED THE

1 QUESTION AS TO IF ANY OF YOU HAVE ANY CLOSE PERSONAL
2 RELATIONSHIP WITH DARLENE PATTERSON OR HER FAMILY, I
3 WOULD ASK THE QUESTION DO ANY OF YOU HAVE ANY SPECIAL
4 RELATIONSHIP WITH THE SISTER -- AND WHO WAS THE
5 SISTER?

6 MR. ERVIN: VIOLA PATTERSON.

7 THE COURT: VIOLA?

8 MR. WILSON: VIOLA DAVIS, YOUR HONOR.

9 THE COURT: VIOLA DAVIS. ANY OF YOU HAVE
10 ANY PARTICULARLY CLOSE RELATIONSHIP WITH VIOLA DAVIS?

11 JURY VENIRE MEMBER: SHE WORKS UNDER THE
12 SAME AGENCY AS I DO, BUT WE'RE IN DIFFERENT
13 DEPARTMENTS.

14 THE COURT: AND YOUR NAME, FOR THE RECORD,
15 IS --

16 JURY VENIRE MEMBER: MARGARET DOUDY.

17 THE COURT: WOULD THAT TAKE CARE OF YOUR
18 INQUIRY ON THAT ISSUE?

19 MR. ERVIN: ON THAT ISSUE, YOUR HONOR.

20 THE COURT: WHAT IS THE NEXT?

21 MR. ERVIN: THE NEXT QUESTION WOULD BE
22 WHETHER ANY MEMBER OF THE JURY PANEL IS RELATED BY
23 BLOOD OR MARRIAGE TO ANYONE IN LAW ENFORCEMENT OR ANY
24 OF THE AGENCIES INVOLVED.

25 THE COURT: ANY OF YOU CONNECTED BY BLOOD

OR MARRIAGE TO MARLBORO COUNTY SHERIFF'S DEPARTMENT,
CITY OF BENNETTSVILLE, ANY TYPE OF LAW ENFORCEMENT,
SLED, ANY TYPE LIKE THAT?

ALL RIGHT. YOUR NAME.

JURY VENIRE MEMBER: WILLIE PARNELL.

THE COURT: AND WHAT WAS YOUR RESPONSE?

JURY VENIRE MEMBER: DWAYNE MYERS IS MY
SON-IN-LAW.

THE COURT: WHO?

JURY VENIRE MEMBER: DWAYNE MYERS IS MY
SON-IN-LAW.

THE COURT: WHERE DOES HE WORK?

JURY VENIRE MEMBER: HE WORKS IN THE
SHERIFF'S OFFICE HERE.

THE COURT: THANK YOU. I KNEW THAT, BUT
WE'VE GOT TO PUT IT ON THE RECORD.

MR. ERVIN: WHAT WAS THE NAME AND NUMBER,
YOUR HONOR?

THE COURT: WHAT IS IN YOUR NAME? YOUR
JUROR NUMBER?

JURY VENIRE MEMBER: 141.

THE COURT: ALL RIGHT. I KNEW WE WERE
GOING TO HAVE TO HEAR FROM YOU.

JURY VENIRE MEMBER: SAME QUESTION, SIR.

THE COURT: YOUR NAME FOR THE RECORD,

1 PLEASE, SIR.

2 JURY VENIRE MEMBER: I DIDN'T UNDERSTAND
3 THE QUESTION, SIR.

4 THE COURT: I NEED TO KNOW IF ANY MEMBERS
5 OF THE JURORS HAVE ANY CLOSE RELATIVES EMPLOYED IN
6 LAW ENFORCEMENT SUCH AS MARLBORO COUNTY SHERIFF,
7 SLED, CITY OF BENNETTSVILLE. DO YOU HAVE ANY
8 RELATIVES EMPLOYED IN LAW ENFORCEMENT?

9 JURY VENIRE MEMBER: YES, I DO.

10 THE COURT: WHO ARE THEY?

11 JURY VENIRE MEMBER: CHIEF OF POLICE IN
12 MCCOLL, SOUTH CAROLINA, YOUR HONOR.

13 THE COURT: AND WHAT RELATION IS HE?

14 JURY VENIRE MEMBER: HE'S MY BROTHER.

15 THE COURT: THANK YOU. I ACCEPT THAT AS
16 INFORMATION. WHAT'S YOUR NEXT QUESTION?

17 MR. ERVIN: YOUR HONOR, WHETHER OR NOT ANY
18 MEMBERS OF THE JURY PANEL ARE -- OR ANY RELATIVES BY
19 BLOOD OR MARRIAGE HAVE BEEN VICTIMS OF A CRIME OF
20 VIOLENCE IN THE PAST.

21 THE COURT: ALL RIGHT, SIR. I WILL ACCEPT
22 THIS AS INFORMATION. HAVE ANY MEMBERS OF THIS PANEL
23 HAD A MEMBER OF THEIR IMMEDIATE FAMILY A VICTIM OF A
24 CRIME BY VIOLENCE SUCH AS MURDER, KIDNAPPING,
25 CARJACKING, ARMED ROBBERY, BURGLARY? PLEASE STAND.

ALL RIGHT. YOUR NAME, PLEASE?

JURY VENIRE MEMBER: ALICE SWEATT.

THE COURT: JURY NUMBER?

JURY VENIRE MEMBER: 175.

THE COURT: AND WHAT WAS YOUR RESPONSE?

JURY VENIRE MEMBER: WHEN MY SISTER WAS A KID, SHE GOT HIT BY A CAR. THE CAR DIDN'T STOP.

THE COURT: THANK YOU SO MUCH.

YES, SIR, YOUR NAME.

JURY VENIRE MEMBER: WOODROW GRAHAM, JUROR NUMBER 67.

THE COURT: AND WHAT IS YOUR RESPONSE?

JURY VENIRE MEMBER: I'VE BEEN THE VICTIM OF A BURGLARY OF MY HOME THREE TIMES.

THE COURT: ALL RIGHT, SIR. THANK YOU SO MUCH. ALL RIGHT, SIR. MR. ERVIN, WHAT IS YOUR NEXT NUMBER?

MR. ERVIN: WHETHER ANY MEMBER OF THE JURY PANEL IS A MEMBER OF AN ORGANIZATION OF MADD OR SADD OR ANY SIMILAR ORGANIZATION.

THE COURT: NO, SIR. I'M NOT ASKING THEM. I'VE ASKED THEM IF THEY CAN BE FAIR AND IMPARTIAL, FREE OF BIAS. THEY ARE ENTITLED TO BE MEMBERS OF THOSE ASSOCIATIONS.

MR. ERVIN: DID YOU ASK IF ANY MEMBER OF

1 THE JURY PANEL HAS POWER OF ARREST?

2 THE COURT: WELL, I ASKED THAT IN
3 QUALIFICATION.

4 MR. ERVIN: I UNDERSTAND, YOUR HONOR. I
5 JUST MADE A NOTE OF THAT. I MAY HAVE MISSED IT.

6 THE COURT: ANY FURTHER INQUIRY? DOES
7 THAT TAKE CARE OF ALL OF THE INQUIRIES? MR. LAWSON,
8 HAVE YOU GOT ANY?

9 MR. LAWSON: NOTHING FURTHER, YOUR HONOR.

10 THE COURT: ALL RIGHT. THEN LET THE
11 RECORD REFLECT THAT THAT WILL COMPLETE VOIR DIRE.

12 LADIES AND GENTLEMEN OF THE JURY, I APOLOGIZE
13 FOR KEEPING YOU AT THIS TIME, BUT WE'VE SAVED SOME
14 TIME. WHAT WILL HAPPEN IS THIS. THE LAWYERS FOR THE
15 STATE AND THE DEFENDANT NOW WILL BE STUDYING THE JURY
16 LIST BASED ON THE VOIR DIRE THAT I JUST HAD. WHEN
17 YOU RETURN AT 2:15, WE WILL SELECT -- AT 3:15, I'M
18 SORRY, WE WILL SELECT 12 OF YOU AND 2 ALTERNATES AND
19 THE REST OF YOU WILL BE GIVEN FURTHER INSTRUCTIONS TO
20 RETURN AT A LATER DATE. NOW, EVERYBODY ON MY LEFT
21 REMAIN SEATED.

22 WHAT, YOU GOT ANOTHER QUESTION?

23 MR. ERVIN: YOUR HONOR, ONE THING WE
24 NEGLECTED TO ASK IS WHETHER OR NOT ANY MEMBER OF THE
25 JURY PANEL HAS EVER BEEN REPRESENTED BY MR. WILSON OR

IS CLOSE PERSONAL FRIENDS OR A RELATIVE OF
MR. WILSON.

THE COURT: MR. WILSON IS IN CONWAY, SOUTH
CAROLINA. ANY OF YOU RELATED BY BLOOD OR CONNECTED
BY MARRIAGE WITH RALPH WILSON? ANY OF YOU EVER BEEN
REPRESENTED BY HIM?

(NO RESPONSE.)

THE COURT: ALL RIGHT, SIR. THE JURY IS
EXCUSED UNTIL 3:15. EVERYBODY ELSE REMAIN SEATED.
THANK YOU.

MR. LAWSON, WE'LL GET ON THE RECORD WITH
WHATEVER YOU ASKED ME. COME HERE A MINUTE.

(WHEREUPON, A BREAK WAS TAKEN
FROM THE PROCEEDINGS.)

(WHEREUPON, THE FOLLOWING
PROCEEDINGS COMMENCED IN THE
COURTROOM WITH NO JURY VENIRE
MEMBERS PRESENT.)

THE COURT: ALL RIGHT. PLEASE MAKE SURE
THAT ALL JURORS ARE OUT OF THE COURTROOM NOW AND
SECURE THE DOOR FOR ME. CLOSE THAT DOOR FOR ME,
PLEASE.

ALL RIGHT. LET THE RECORD REFLECT NOW THAT THE
COURTROOM IS SECURED. THERE ARE NO POTENTIAL JURORS
PRESENT. FIRST, MR. SOLICITOR, AND I DIRECT THIS TO

1 ALL ATTORNEYS, ONE JUROR, THE LADY INDICATED THAT SHE
2 WAS FRIENDS TO BOTH SIDES DID NOT DESIRE TO SERVE.
3 WHAT'S THE POSITION OF THE STATE ON THAT?

4 MR. WILSON: YOUR HONOR, I WOULD ASK THAT
5 SHE BE EXCUSED.

6 THE COURT: ANYBODY HAVE ANY CONTRARY
7 POSITION ON THAT WITH THE DEFENSE? THAT JUROR?
8 JUROR -- WAS AT -- NUMBER 199 --

9 MR. HUNTER: IT WAS 199. I THOUGHT HE WAS
10 EXCUSED.

11 THE COURT: OKAY. JUROR 199, THAT WAS A
12 MALE. YOU AGREE TO DISMISS HIM?

13 MR. WILSON: YES, SIR.

14 THE COURT: AND YOU GENTLEMEN DO TOO?

15 MR. PADGETT: WE WANT HIM ON THE JURY
16 PANEL, JUDGE.

17 THE COURT: I FIGURED HALF WOULD SAY ONE
18 WAY AND HALF THE OTHER. AND NO, SIR. I'M GOING --
19 I'M GOING TO EXCUSE HIM. AND HE SAYS HE CAN'T RENDER
20 AN OPINION EITHER WAY, AND BASED ON THAT, I EXCUSE
21 HIM. THANK YOU. ALL RIGHT.

22 MR. ERVIN: YOUR HONOR, AS TO THE JUROR --
23 AND I DON'T REMEMBER THE NUMBER RIGHT NOW -- BUT WHO
24 WAS THE VICTIM'S SISTER-IN-LAW, I THINK IF YOU'RE
25 GOING TO EXCUSE THE SECOND COUSIN OF ONE OF THE

DEFENDANTS, IT'S OBVIOUS, THEN, THIS JUROR SHOULD HAVE BEEN EXCUSED.

THE COURT: DID SHE SAY SHE WAS THE SISTER-IN-LAW?

MR. ERVIN: WELL, SHE SAID THAT --

THE COURT: IN AN ABUNDANCE OF PRECAUTION, I WILL EXCUSE THAT JUROR. YES. YOU'VE GOT THAT ONE? WHAT WAS HER NAME? I HAD SOME QUESTION ABOUT THAT. JAQUELINA ADAMS. OKAY. NOW, THAT WAS CLOSE. SHE SAID SHE WAS GOING TO BE -- THEY DIDN'T GO QUITE THAT FAR.

MR. LAWSON: THEY WENT FAR ENOUGH, YOUR HONOR.

MR. ERVIN: THEY PRODUCED.

THE COURT: ALL RIGHT. THAT TAKES CARE OF THAT ONE. ANY THERE ANY OTHER JUROR ISSUES THAT WE NEED TO DEAL WITH? ANY VOIR DIRE ISSUE? WE'LL DEAL WITH THE JURY ISSUES AFTER THE SELECTION.

MR. ERVIN: WELL, YOUR HONOR AT THIS TIME, I WOULD LIKE TO MAKE A GENERAL OBJECTION AS TO THE FORM OF THE QUESTIONING ON THE OBJECTION --

THE COURT: GENERAL OBJECTIONS DON'T MAKE IT DONE. BE MORE SPECIFIC. JEAN TOAL WOULD WANT TO KNOW EXACTLY YOUR POSITION AND I DO TOO.

MR. ERVIN: MY POSITION IS THE OBJECTION

1 AS TO THE FORM OF THE QUESTION. I DON'T THINK THE
 2 COURT INTENTIONALLY DID THIS AND I MAKE AN OBJECTION
 3 WITH ALL DUE RESPECT TO THE COURT, BUT THE FORM OF
 4 THE QUESTIONING WAS -- WAS STRUCTURED IN SUCH A WAY
 5 THAT IT LED THE JURORS TO CONCLUDE THAT THEY COULD BE
 6 FAIR WHEN IN ESSENCE THEY WEREN'T ASKED OPEN-ENDED
 7 QUESTIONS OF WHETHER THEY COULD REACH THAT CONCLUSION
 8 ON THEIR OWN. I THINK THE COURT INADVERTENTLY PUSHED
 9 THEM TO THAT DECISION.

10 THE COURT: OKAY. I'VE GOT YOU. THE
 11 RECORD SPEAKS FOR ITSELF. NEXT QUESTION.

12 MR. LAWSON: AS TO VOIR DIRE, YOUR HONOR.

13 THE COURT: YES, ONLY AS TO VOIR DIRE.

14 MR. PADGETT: WE OBJECT TO ANY JUROR WHO
 15 SAID THEY WERE FRIENDS OF THE FAMILY. OUR POSITION,
 16 IN A SMALL TOWN SMALL COMMUNITY, YOU CANNOT SIT -- BE
 17 A FRIEND OF THE FAMILY AND SIT IMPARTIALLY DESPITE
 18 WHAT YOU SAY.

19 THE COURT: THE RECORD REFLECTS THAT THEY
 20 CAN BE FAIR AND IMPARTIAL AND BASE THEIR VERDICT ON
 21 THE LAW AND THE EVIDENCE IN THIS CASE AND THIS
 22 COURTROOM AND I WOULD RESPECTFULLY DENY THAT MOTION.

23 MR. PADGETT: THEN I WOULD DOVETAIL
 24 THAT --

25 THE COURT: THAT'S ALSO DENIED.

MR. PADGETT: THAT THE COURT -- THERE WAS MORE INTENSIVE QUESTIONING DONE ON THESE POTENTIAL JURORS WHEN THE JURORS SAID THEY WERE FRIENDS WITH THE DEFENDANT.

THE COURT: THE RECORD WILL SPEAK FOR ITSELF.

MR. ERVIN: WE JOIN IN ON THAT MOTION.

MR. REDMOND: SO DO I.

MR. WILL ROGERS: FOR ALFONZO.

MR. LAWSON: I JOIN IN THAT MOTION. ALSO, YOUR HONOR, AS AN ADDITIONAL ARGUMENT TO THAT MOTION, ESPECIALLY IN REGARD TO THE ONE CONCERNING PEOPLE WHO ARE RELATED OR FRIENDS WITH THE VICTIM, NOT ONLY IS THIS A -- A SMALL COUNTY, BUT THIS HAS BEEN A HIGH PUBLICITY CASE, AS INDICATED BY THE NUMBER OF PEOPLE WHO CAME UP AND SAW IT. THE MAJORITY OF THE INFORMATION --

THE COURT: WHAT IS YOUR MOTION, MR. LAWSON?

MR. LAWSON: YOUR HONOR, TO EXCLUDE THESE JURORS ON THE BASIS THAT IN REALITY, WE HAVE TO LOOK AT THE ENTIRE TOTALITY OF THE SITUATION LIKE THE STATE LIKES TO DO IN A SEARCH WARRANT SITUATION. THESE PEOPLE GOT INFORMATION FROM ALL KINDS OF SOURCES.

1 THE COURT: HAPPENS ALL OF THE TIME IN
2 EVERY CASE, MR. LAWSON. OBVIOUSLY I CAN'T EXCLUDE
3 EVERYBODY WHO READS AND THAT WOULD BE THE IMPORT OF
4 YOUR MOTION. DENIED.

5 MR. LAWSON: I'M DEALING WITH SPECIFICALLY
6 WITH THOSE PEOPLE WHO ARE RELATED TO OR FRIENDS OF
7 THE VICTIM AND THEIR FAMILY.

8 THE COURT: NO, SIR. I'M COMFORTABLE WITH
9 THE FACT THAT EVEN THOSE WHO READ THE NEWSPAPER, MOST
10 READ IT TWO YEARS AGO, HAVE FORMED OR EXPRESSED NO
11 OPINION, CAN BE FAIR AND IMPARTIAL JURORS, AND I DENY
12 THAT MOTION.

13 ALL RIGHT, SIR. NOW, IS THERE ANY OTHER -- AT
14 2:15, DO YOU WANT TO GET RID OF YOUR MOTION NOW OR
15 TAKE A BREAK, SOLICITOR AND GENTLEMEN, OR HEAR THESE
16 PLEAS? NOW IS THE TIME.

17 MR. WILSON: I'LL HEAR ANY MOTION. I
18 DON'T HAVE ANY.

19 THE COURT: SIR?

20 MR. WILSON: I DON'T HAVE ANY MOTION.

21 THE COURT: OKAY. HAVE YOU GOT ANY
22 MOTIONS?

23 MR. ERVIN: YOU MEAN OTHER THAN AS TO JURY
24 SELECTION?

25 THE COURT: YES, SIR.

MR. ERVIN: YES, SIR, WE HAVE QUITE A FEW.

THE COURT: WELL, LET'S HEAR THEM.

MR. ERVIN: LET ME COORDINATE WITH MR. LAWSON. FIRST OF ALL, YOUR HONOR, THE FIRST MOTION I WOULD MAKE WOULD BE UNDER RULE 615 OF THE SOUTH CAROLINA RULES OF EVIDENCE FOR SEQUESTRATION OF ALL WITNESSES. I MAKE THAT MOTION NOTING THAT UNDER THE FEDERAL RULES, WHICH WE HAVE IN ESSENCE ADOPTED --

THE COURT: I GOT YOU. WHAT'S YOUR POSITION ON SEQUESTRATION?

MR. WILSON: NO OBJECTION.

THE COURT: SEEMS TO ME THAT'S APPROPRIATE. WE'LL DO IT. BOTH SIDES, YOU UNDERSTAND.

MR. ERVIN: YES, SIR.

THE COURT: YES, SIR. THAT'S GRANTED.

MR. LAWSON: YOUR HONOR, AS I UNDERSTAND IT, THE STATE WILL DESIGNATE A CASE AGENT THAT WILL BE ALLOWED TO STAND IN OR ARE THEY GOING TO REMOVE ALL OF THEIRS.

THE COURT: NO, SIR. THIS IS A CASE INVOLVING SIX DEFENDANTS. IF HE NEEDS MORE THAN ONE AGENT --

MR. WILSON: YES, SIR. I WILL NEED MORE

1 THAN ONE AGENT, YOUR HONOR. THERE ARE 13 DEFENDANTS
2 INVOLVED IN THIS WHOLE MESS.

3 THE COURT: YES, SIR.

4 MR. WILSON: AND THE SLED AGENTS ARE NOT
5 FROM THIS COUNTY. I WILL NEED MORE THAN ONE.

6 THE COURT: I WILL PERMIT THE SOLICITOR,
7 GIVEN THE NUMBER OF DEFENDANTS, TO LEAVE IN THE
8 COURTROOM SUCH INVESTIGATIVE PERSONNEL THAT HE
9 CONCLUDES HE NEEDS IN THE PROSECUTION OF HIS CASE.
10 THE INDEPENDENT FACT WITNESSES WILL BE SEQUESTERED.

11 MR. LAWSON: YOUR HONOR, THEN MAY THE
12 DEFENSE ALSO HAVE MY -- LIKE MY CLIENT'S MOTHER IS IN
13 THE COURTROOM. SHE IS A WITNESS LISTED BY THE STATE.

14 THE COURT: YOU'RE GETTING CLOSE TO
15 ARGUING WITH ME, NOW. I DECLINE THAT.

16 MR. LAWSON: WELL, YOUR HONOR --

17 THE COURT: NOW, NO, SIR, DON'T ARGUE WITH
18 ME, MR. LAWSON. YOU KNOW I'M NOT GOING TO DO THAT.
19 IF SHE'S A WITNESS, SHE'S NOT COMING IN THE
20 COURTROOM.

21 MR. LAWSON: YOUR HONOR, SHE'S LISTED BY
22 THE STATE. SHE'S LISTED BY THE STATE. BUT I WANT TO
23 STATE MY POSITION ON THE RECORD.

24 THE COURT: NO, SIR. HERE'S WHAT YOU DO
25 NOW REAL QUICK LIKE. IF YOU -- WE'VE GOT SIX

LAWYERS' POSITIONS. PUT IT ON THE RECORD. I'M NOT GOING TO ARGUE WITH YOU ON A SIMPLE MOTION OF SEQUESTRATION.

MR. LAWSON: YOUR HONOR, ALL RIGHT, SO I'M BEING REQUIRED TO PUT MY MOTION IN WRITING?

THE COURT: NO, SIR.

MR. LAWSON: YOUR HONOR, THIS THING IS GETTING OUT OF HAND. I HAVE A MOTION TO MAKE AND I WANT TO TAKE IT UP ON SEVERANCE.

THE COURT: LET ME TELL YOU THIS, NOW. I HAVE RULED ON SEQUESTRATION AND I'M THROUGH WITH THAT. NOW, MAKE YOUR NEXT MOTION AND I'LL DECIDE WHETHER I'M GOING TO LET YOU ARGUE IT MOTION BY MOTION. YOU'RE GOING TO BE HEARD COMPLETELY. BUT I'M NOT GOING TO LET YOU SIT HERE AND ARGUE WITH ME ON A SIMPLE SEQUESTRATION. I'VE SAID THIS. IF YOU DON'T UNDERSTAND IT, I'M GOING TO TELL YOU ONE MORE TIME. THE DEFENDANTS WILL BE PERMITTED TO REMAIN IN THE COURTROOM. THE INVESTIGATING OFFICERS ARE SUCH THAT THE SOLICITOR SAYS HE NEEDS WILL REMAIN IN THE COURTROOM.

MR. LAWSON: ALL OF THESE --

THE COURT: ALL OTHER WITNESSES ON BOTH SIDES ARE SEQUESTERED.

MR. LAWSON: ARE THESE?

1 THE COURT: IF YOU DON'T UNDERSTAND THAT,
2 I DON'T UNDERSTAND YOUR PROBLEM.

3 MR. LAWSON: ARE THESE TESTIFYING -- THE
4 LAW ENFORCEMENT OFFICERS?

5 THE COURT: I DO NOT KNOW. I'VE TOLD YOU
6 WHAT I'M DOING NOW AND THAT'S IT.

7 MR. LAWSON: I WOULD LIKE TO KNOW WHETHER
8 ALL OF THE INVESTIGATING OFFICERS THAT ARE GOING TO
9 TESTIFY IN THE CASE ARE NOT GOING TO BE SEQUESTERED.

10 THE COURT: DO YOU WANT TO ANSWER THAT,
11 SOLICITOR WILSON?

12 MR. WILSON: YES, SIR. THE ANSWER TO HIS
13 QUESTION IS NO. ALL OF THE INVESTIGATING OFFICERS
14 WILL NOT TESTIFY IN THE TRIAL OF THIS CASE. IF YOU
15 ASK ME WHICH ONE, I CAN'T TELL BECAUSE I DON'T KNOW.
16 IT DEPENDS ON WHAT YOU DO. I DON'T KNOW WHAT YOU'RE
17 GOING TO DO. I DON'T KNOW WHAT YOU'RE GOING TO PUT
18 UP. UNTIL I KNOW WHAT YOU'RE GOING TO PUT UP IN YOUR
19 DEFENSE, I HAVE NO IDEA WHETHER I'M GOING TO WANT --
20 I CAN'T ANSWER THAT FOR YOU. I DO NOT KNOW.

21 MR. REDMOND: I HATE TO GET IN THE MIDDLE
22 OF THIS, BUT AT THE SAME TIME I'VE GOT TO AGREE WITH
23 MR. LAWSON. THEY ARE GOING TO BE PUTTING UP THEIR
24 CASE FIRST AND IF THEY'VE GOT OFFICERS THAT CAN
25 POTENTIALLY TESTIFY IN HERE, WHEREAS I'M IN THE SAME

POSITION, I'VE GOT TWO PEOPLE ON MY SIDE --

THE COURT: NOW LISTEN, LET'S END THIS RIGHT NOW. THE STATE OF SOUTH CAROLINA IS ENTITLED TO A FAIR TRIAL AND THE DEFENDANTS ARE ENTITLED TO A FAIR TRIAL. THERE ARE SIX DEFENDANTS BEING TRIED TODAY ARISING OUT OF ISSUES THAT MAY AFFECT 13 PEOPLE. DIFFERENT ONES HAVE INVESTIGATED, OBVIOUSLY, DIFFERENT ISSUES. HE DOESN'T KNOW WHO HE'S GOING TO NEED HERE UNTIL HE DECIDES WHAT ISSUE IS HERE. I'M GOING TO LET HIM, GIVEN THE NUMBER OF DEFENDANTS IN THIS CASE, KEEP THESE INVESTIGATING OFFICERS IN THE COURTROOM. NOW, I'VE SAID IT ONCE AND I'M GOING TO SAY IT ONE MORE TIME AND THAT'S THE LAST TIME. NOW, LET'S GET ON TO THE NEXT ISSUE. WHAT'S YOUR NEXT MOTION?

MR. PADGETT: ON BEHALF OF RICKY STUCKEY, YOUR HONOR, WE MOVE FOR A CHANGE OF VENUE.

THE COURT: ON WHAT GROUNDS?

MR. PADGETT: THE GROUNDS OF THE RESPONSES AND Demeanor OF THESE PARTICULAR JURORS INDICATES THAT THERE IS DECEPTION, THEY ARE BIASED, THEY ARE NOT CAPABLE OF BEING IMPARTIAL. SOME OF THEM ARE FRIENDS WITH THE VICTIM'S FAMILY. WE CANNOT HAVE A FAIR TRIAL IN MARLBORO COUNTY.

THE COURT: I WOULD CONCLUDE RESPECTFULLY

1 THAT THE RECORD SPEAKS FOR ITSELF. I AM SATISFIED
2 FROM THE QUESTIONS THAT I GAVE AND THEIR RESPONSES
3 THAT A FREE AND IMPARTIAL JURY CAN BE, AND I WOULD
4 OVERRULE THAT MOTION.

5 MR. PADGETT: I ADD INTO THAT MOTION FOR
6 CHANGE OF VENUE THE FACT THAT SO MANY PEOPLE HAVE
7 HEARD AND READ ABOUT THIS CASE AS WELL. AT LEAST 40
8 PEOPLE CAME UP --

9 THE COURT: I THINK THE RECORD WILL
10 ADDRESS THAT ISSUE AND I STILL CONCLUDE THAT FROM
11 THEIR RESPONSE A FAIR TRIAL CAN BE HAD.

12 MR. PADGETT: IN RESPONSE, YOUR HONOR OUR
13 POSITION IS PEOPLE DON'T ALWAYS TELL THE TRUTH. THEY
14 COME UP HERE PRIMED TO GET ON A JURY, AND WE FEEL
15 THAT'S HAPPENING TODAY, AND HAVE THEIR OWN AGENDA.

16 MR. ERVIN: YOUR HONOR, I JOIN IN ON THAT
17 MOTION ON THE BASIS OF THE RESPONSES CONCERNING
18 PRETRIAL PUBLICITY.

19 THE COURT: I WILL ASSUME THAT EACH OF
20 YOU -- ANYBODY DON'T MOVE -- EVERYBODY AGREE TO THAT
21 MOTION AS TO EACH ONE OF YOU. AND IT'S DENIED.
22 THE RECORD WILL SPEAK FOR ITSELF AND I'M COMFORTABLE
23 BASED ON THEIR RESPONSES THAT WE CAN GET A JURY. ALL
24 RIGHT.

25 MR. ERVIN: YOUR HONOR, ALSO I WOULD RENEW

1 MOTIONS MADE UNDER BRADY AND RULE 5. THERE WAS AN
2 INDICATION LAST FRIDAY IN THE COURTROOM BY SOLICITOR
3 WILSON THAT HE INTENDED TO GO INTO OTHER EVIDENCE
4 REGARDING SOME THREATS MADE BY -- BY INDIVIDUALS
5 UNNAMED AT THAT TIME. OBVIOUSLY, THAT WOULD BE
6 DETRIMENTAL TO ANY DEFENSE THAT YOU WOULD HAVE IF HE
7 BROUGHT OUT THE FACT THAT A THREAT HAD BEEN MADE BY
8 ANY OF THESE DEFENDANTS. I DON'T KNOW WHAT THE
9 IMPLICATION WAS, BUT THERE SEEMED TO BE SOMETHING --
0 SOME INDICATION HE INTENDED TO USE THAT DURING THIS
1 TRIAL. ALSO, UNDER --

2 THE COURT: I'M NOT HEARING YOUR MOTION.

3 MR. ERVIN: THE MOTION IS FOR HIM TO TELL
4 ME WHAT HE'S TALKING ABOUT IF HE INTENDS TO USE IT
5 DURING THIS TRIAL. I MEAN, IT'S CERTAINLY MATERIAL
6 TO OUR CASE.

7 THE COURT: I'LL LET HIM RESPOND, IF HE
8 CARES TO. IT SEEMS TO ME --

9 MR. WILSON: IF HE'S TALKING ABOUT
0 WITNESSES, IF THAT'S THE QUESTION, ABOUT WITNESSES
1 WHO ARE GOING TO TESTIFY, WHETHER WITNESSES HAVE BEEN
2 THREATENED? IS -- IS THAT THE QUESTION?

3 MR. ERVIN: YES, WHETHER OR NOT A -- AND
4 OBVIOUSLY THAT WOULD BE SOMETHING THAT COULD POINT TO
5 THE GUILT OF THE ACCUSED AND IT'S INCULPATORY.

1 MR. WILSON: AS BEST I KNOW, THERE ARE
 2 TWO, THREE WITNESSES WHO HAVE RECEIVED DIFFERENT KIND
 3 OF THREATS. IF YOU'RE ASKING ME WHETHER OR NOT I IN
 4 DIRECT INTEND TO ASK THEM WHETHER OR NOT THEY HAVE
 5 BEEN THREATENED, THE ANSWER IS NO. IF YOU START TO
 6 CROSS-EXAMINE THEM, THAT WILL MOST LIKELY COME OUT
 7 BECAUSE IT HAD SOME EFFECT ON WHAT THEY DID AND WHAT
 8 THEY DID NOT DO. ONE OF THE THINGS IN THIS CASE IS
 9 WHEN MR. DAVIS AND MR. RANSOM, TO SOME DEGREE, YES,
 10 THERE WERE THREATS BEING MADE. NOW, THEY WERE TOLD
 11 IF YOU TELL, THIS IS WHAT'S GOING TO HAPPEN TO YOU.
 12 IF THAT'S WHAT YOU'RE TALKING ABOUT, THE ANSWER IS
 13 YES.

14 THERE'S ANOTHER WITNESS, MISTER. WHAT'S HIS
 15 NAME -- JEFFREY -- JEFFREY GRAHAM, WHO WAS ALSO
 16 THREATENED BY MR. STUCKEY. AND THAT WILL MOST LIKELY
 17 COME OUT IF HE TESTIFIES. YOU KNOW, THAT'S --

18 MR. ROGERS: WHO TESTIFIES?

19 MR. ERVIN: YOUR HONOR, I GUESS I SHOULD
 20 BE A LITTLE MORE SPECIFIC. IF THE STATE HAS IN ITS
 21 POSITION EVIDENCE WHICH TENDS TO POINT TO THE GUILT
 22 OF THE ACCUSED, NOT JUST ONE OF THESE, BUT ALL OF
 23 THEM, AND THEY ARE AWARE OF THAT, WHETHER THEY ARE
 24 INTENDING TO USE IT OR NOT --

25 MR. WILSON: YOU ARE ENTITLED IF IT'S

1 EXCULPATORY.

2 THE COURT: THAT'S NOT EXCULPATORY.

3 MR. WILSON: AND I HAVE GIVEN YOU EVERY
4 ITEM OF EXCULPATORY. IT MIGHT BE INCULPATORY, IF IT
5 HAPPENED.

6 MR. LAWSON: IT MAY BE INCULPATORY TO ONE
7 DEFENDANT AND EXCULPATORY TO THE OTHERS, YOUR HONOR.

8 MR. ERVIN: YOU GOT IN A SITUATION IN A
9 CO-DEFENDANT TRIAL WHERE THAT'S SO OFTEN THE CASE.

10 THE COURT: WHAT IS IT YOU WANT?

11 MR. ERVIN: I WANT TO KNOW WHAT HE'S
12 TALKING ABOUT, WHAT INFORMATION HE'S RECEIVED ABOUT
13 WHO HAS MADE THREATS, WHO THEY WERE DIRECTED TOWARDS
14 AND WHY THEY WERE MADE.

15 MR. WILSON: JUDGE, THEY HAVE THE
16 STATEMENTS OF MR. DAVIS AND OF MR. RANSOM. THEY WERE
17 PRESENT OR AT LEAST IF THEY WANTED TO BE PRESENT THEY
18 CERTAINLY COULD HAVE BEEN PRESENT WHEN MR. DAVIS AND
19 MR. RANSOM WAS BEFORE THIS COURT. AND AT THAT TIME,
20 MR. DAVIS AND MR. RANSOM EXPLAINED TO THE COURT THE
21 CIRCUMSTANCES UNDER WHICH THEY WERE OPERATING AT THE
22 TIME THAT THEY WERE IN THE VEHICLE WITH THESE OTHER
23 GENTLEMEN COMING BACK FROM THE DUMPING OF THE BODY IN
24 THE RIVER.

25 THE COURT: CAN YOU GIVE THEM -- I

1 UNDERSTAND THAT YOU DO NOT PROPOSE TO USE IT UNLESS
2 THEY BRING IT OUT ON CROSS-EXAMINATION.

3 MR. WILSON: I DO NOT.

4 THE COURT: ARE YOU PREPARED TO GIVE THEM
5 THE NAMES OF THE -- OF THE ALLEGED PEOPLE WHO
6 THREATENED --

7 MR. WILSON: YES, SIR. AND I JUST DID. I
8 TOLD THEM THAT MR. STUCKEY -- WHICH ONE OF THE
9 STUCKEY BOYS? JOE STUCKEY IS THE ONE WHO WENT TO
10 NORTH CAROLINA TO MR. JEFFREY GRAHAM'S HOUSE WHERE
11 HIS -- OR HIS TRAILER AND THREATENED HIM THERE,
12 WALKING BACK AND FORTH, PACING WITH A GUN IN HIS HAND
13 CLAIMING THAT WHAT HE WOULD DO OR THAT SOMEBODY WAS
14 GOING TO GET F'D UP WAS HIS EXACT WORDS IN THIS
15 THING.

16 ON A SECOND OCCASION, HE WAS MET IN A STORE BY
17 THIS SAME MR. STUCKEY AND TOLD AGAIN OR MUMBLING
18 ABOUT WHAT WAS GOING TO HAPPEN TO MR. STUCKEY -- I'M
19 SORRY, TO MR. GRAHAM IN THIS CASE. MR. DAVIS AND
20 MR. RANSOM, THEIR THREATS WERE RECEIVED BASED --
21 BASICALLY AS THEY WERE COMING BACK FROM THE DUMPING
22 OF THE BODY IN THE RIVER WITH THESE OTHER DEFENDANTS
23 WHO TOLD THEM THAT IF THEY TOLD, WHAT WAS GOING TO
24 HAPPEN TO THEM. AND THE OTHER THING IS I THINK THERE
25 WAS A SHOOTING. I DON'T HAVE ANY EVIDENCE THAT THIS

1 SHOOTING IS RELATED TO THIS MATTER. I HAVE NO
2 INTENTION OF BRINGING IT UP OUT OF ABUNDANCE OF
3 PRECAUTION. THERE WAS A SHOOTING AFTER THIS IN THE
4 HOME OF MR. DANNY DAVIS AND HIS GIRLFRIEND WHERE
5 SOMEBODY SHOT WITH A SHOTGUN, SHOT THREE TIMES
6 THROUGH THE WINDOW THERE AT HIS HOUSE. NOW, WHETHER
7 THAT SHOOTING WAS RELATED, WE DON'T KNOW OR AT LEAST
8 WE CAN'T PROVE THAT. WE CERTAINLY CAN BASED ON WHAT
9 MR. JEFFREY GRAHAM TELLS US AND THE FIRST TIME THAT I
0 HEARD THIS WAS IN MY CONVERSATIONS WITH HIM MAYBE TWO
1 WEEKS AGO WHEN HE CAME TO AN INTERVIEW HERE. HE TOLD
2 US ABOUT THE THREATS THAT HE HAD RECEIVED AT THAT
3 TIME. MY INCLINATION WAS TO GET A WARRANT FOR
4 MR. STUCKEY AT THAT TIME, BUT BECAUSE THE TRIAL WAS
5 COMING UP AND HE WAS ALREADY IN CUSTODY -- WELL, NOT
6 IN CUSTODY. HE WAS OUT ON BOND. BUT BECAUSE TRIAL
7 TIME WAS COMING UP SO SHORTLY, I DECIDED TO FOREGO
8 THAT AND WAIT.

9 THE COURT: WHICH STUCKEY ARE YOU
0 REFERRING TO? WHICH STUCKEY?

1 MR. WILSON: ARTHUR STUCKEY. NOT THIS
2 DEFENDANT. ARTHUR STUCKEY. AND I THINK THAT'S HIS
3 BROTHER OR SOMETHING.

4 THE COURT: ALL RIGHT, SIR. DOES THAT --

5 MR. ERVIN: AS TO THAT ISSUE, YOUR HONOR.

1 THE COURT: ALL RIGHT. WHAT ELSE HAVE YOU
2 GOT?

3 MR. ERVIN: HE'S FAIRLY RESPONDED TO THAT.
4 I WOULD ALSO POINT OUT, YOUR HONOR, THAT THE FAILURE
5 TO DISCLOSE IMPEACHMENT EVIDENCE IS WORSE THAN
6 FAILURE TO DISCLOSE EXCULPATORY EVIDENCE.

7 THE COURT: WHICH EVIDENCE ARE YOU TALKING
8 ABOUT HE --

9 MR. ERVIN: I'M JUST MAKING A POINT
10 BECAUSE YOU HAD DIRECTED -- MADE THE POINT TO ME THAT
11 IF IT WAS NOT EXCULPATORY THAT THEY DIDN'T HAVE TO
12 PROVIDE IT.

13 THE COURT: AND I TOLD HIM TO GO AHEAD AND
14 PROVIDE IT ANYWAY.

15 MR. ERVIN: NOW I'M GOING TO THE NEXT
16 POINT. THERE WERE A NUMBER OF STATEMENTS MADE BY
17 CO-DEFENDANTS. AND WHEN I SAY A NUMBER OF THEM, THEY
18 MADE SEVERAL STATEMENTS ON DIFFERENT DATES AND ALSO
19 INDICATED UNDER OATH THAT THEY HAD BEEN APPROACHED BY
20 LAW ENFORCEMENT 10 TO 15 TIMES BEFORE MAKING THEIR
21 STATEMENT, THE INDICATION THAT MR. RANSOM AND
22 DAVIS --

23 THE COURT: WHAT'S YOUR ANSWER?

24 MR. ERVIN: WE WOULD LIKE TO KNOW WHAT THE
25 SUBSTANCE OF THOSE STATEMENTS MADE TO THEM ON THOSE

10 TO 15 STATEMENTS PRIOR TO THEIR WRITTEN STATEMENTS -- WHAT THE SUBSTANCE OF THEIR STATEMENTS WERE ON THOSE OCCASIONS BECAUSE THAT MIGHT BE IMPEACHMENT EVIDENCE JUST -- WHICH WE ARE ENTITLED TO.

THE COURT: DO YOU CARE TO RESPOND TO THAT, SOLICITOR?

MR. WILSON: YES, SIR. AND I DON'T KNOW WHO HE'S TALKING ABOUT, AGAIN, IF HE'S TALKING ABOUT WITNESSES OR IF HE'S TALKING ABOUT DEFENDANTS.

MR. ERVIN: WELL, I'M SPECIFICALLY TALKING ABOUT RANSOM AND DAVIS.

MR. WILSON: THEY WILL TESTIFY. HE WILL HAVE A RIGHT TO ASK THEM HOW MANY TIMES THEY WERE APPROACHED AND WHO APPROACHED THEM AND WHAT THE TENOR OF THOSE CONVERSATIONS WERE.

THE COURT: HE WILL HAVE THAT RIGHT.

MR. ERVIN: YOUR HONOR, IF HE SAID SOMETHING, IF MR. DAVIS SAID SOMETHING ON A PRIOR OCCASION THAT THE POLICE -- THAT THEY ARE AWARE OF THAT IS INCONSISTENT WITH THEIR TESTIMONY HERE IN COURT HERE TODAY AND IT IS NOT DISCLOSED TO US, THEN WE'VE BEEN DENIED THE USE OF THAT IMPEACHMENT EVIDENCE, AND THAT'S WHAT I'M TALKING ABOUT. IF IT'S INCONSISTENT WE'RE ENTITLED TO IT.

1 MR. WILSON: I AM NOT AWARE OF ANY
2 INCONSISTENT STATEMENT. ALL OF THESE DEFENDANTS
3 REFUSED TO COOPERATE WHEN THEY WERE INITIALLY TALKED
4 TO AND AT SOME LATER TIME THEY DID GIVE A STATEMENT.
5 I DON'T KNOW WHAT THEY TOLD THEM THE FIRST TIME. I
6 CAN TELL YOU THAT THEY DIDN'T CONFESS AND THEY DIDN'T
7 TELL THEM THAT HE WAS INVOLVED.

8 THE COURT: YOU DON'T HAVE ANY
9 INCONSISTENT AND HE'S NOT GOING TO USE ANY.

10 MR. WILSON: YOUR HONOR, THEY HAVE EVERY
11 DOCUMENT THAT I HAVE, EVERY SINGLE DOCUMENT, EVERY
12 SINGLE STATEMENT. EVERY SINGLE INTERVIEW THAT I
13 HAVE, THEY HAVE.

14 MR. ERVIN: YOUR HONOR, AND AGAIN, I'M NOT
15 TRYING TO DRAW THIS THING OUT, BUT UNDER KYLES WHICH
16 IS A U.S. SUPREME COURT CASE, THE SOLICITOR IS JUST
17 AS RESPONSIBLE TO GET THIS INFORMATION.

18 THE COURT: HE SAID HE'S GIVEN YOU
19 EVERYTHING HE HAS.

20 MR. ERVIN: HE HAS. WELL, IF HE DOESN'T
21 HAVE IT, HE HAS A RESPONSIBILITY TO GET IT. AND BY
22 THAT, I MEAN THIS. NOW, I'LL BE TO THE POINT ON
23 THIS, YOUR HONOR. IF THEY WENT AND TALKED TO DAVIS
24 AND RANSOM 10 OR 15 TIMES AS THEY'VE INDICATED AND
25 THEY DENIED ANY INVOLVEMENT, THEN WE'RE ENTITLED TO

THAT. I MEAN, THERE REALLY HASN'T BEEN --

THE COURT: YOU CAN CERTAINLY ASK -- HE HAS CERTIFIED TO ME THAT THEY ARE GOING TO BE ON THE STAND. YOU CAN ASK THEM AT THAT TIME.

MR. ERVIN: WELL, I GUESS ANY NOTES THAT THEY HAVE CONCERNING THEIR PRIOR INTERVIEWS OF THESE PEOPLE.

THE COURT: HE HAS CERTIFIED TO ME THAT EVERYTHING THAT YOU ARE ENTITLED TO UNDER THE RULE AND UNDER BRADY HAS BEEN GIVEN TO YOU. IF HE ATTEMPTS TO INTRODUCE SOMETHING THAT WHEREIN HE HAS NOT COMPLIED WITH THAT RULE AND THAT CASE, I WILL DEAL WITH IT AT THAT TIME. BUT HE TELLS ME AS AN OFFICER OF THE COURT HE'S COMPLIED. AND IF YOU CONCLUDE THAT AT SOME INSTANCE HE HAS NOT, CALL IT TO MY ATTENTION AND WE'LL DEAL WITH IT.

MR. ERVIN: YES, SIR. YOUR HONOR, WE PREVIOUSLY MADE SEVERANCE MOTIONS ABOUT A MONTH AGO WHEN WE GATHERED HERE ON FRIDAY -- I DON'T REMEMBER THE EXACT DATE, AND THEY WERE JOINED IN BY ALL DEFENDANTS AT THAT TIME. I RENEW THE MOTION THAT I MADE ON THAT DAY AS TO MARTIN MCINTOSH IN THAT BY PRESENTING EVIDENCE AGAINST ALL OF THESE DEFENDANTS, IT JUST UNFAIRLY PREJUDICES MARTIN MCINTOSH BECAUSE THERE ARE A NUMBER OF CO-DEFENDANTS WHO HAVE

1 BASICALLY MORE EVIDENCE AGAINST THEM.

2 THE COURT: I UNDERSTAND. I ASSUME THAT
3 ALL ATTORNEYS FOR EACH CLIENTS ARE MAKING A MOTION
4 FOR SEVERANCE. IS THAT CORRECT?

5 MR. REDMOND: YES.

6 MR. MOORE: YES.

7 MR. ROGERS: YES, I AM.

8 MR. LAWSON: YES, SIR.

9 MR. WILL ROGERS: YES.

10 THE COURT: LET THE RECORD REFLECT THAT
11 ALL ATTORNEYS MAKE SUCH MOTION. WHAT IS YOUR
12 RESPONSE, SOLICITOR?

13 MR. WILSON: THE STATE'S RESPONSE IS THIS.
14 THE EVIDENCE IN THIS CASE COMES FROM THE SAME SOURCE.
15 THAT IS, PRIMARILY FROM TWO WITNESS. THAT WILL BE
16 MR. RANSOM AND MR. DAVIS, AND WHO WAS PRESENT WITH
17 ALL OF THESE DEFENDANTS AT GIVEN TIMES. SO YOU'RE
18 TALKING ABOUT ONE SOURCE OF INFORMATION PRETTY MUCH
19 FOR THIS ENTIRE TRIAL. AND TO SEVER THIS TRIAL
20 SIMPLY MEANS THAT ALL WE WOULD DO IS HAVE THE SAME
21 WITNESS TESTIFY SEVEN TIMES OR SIX TIMES AS OPPOSED
22 TO HAVING THEM TESTIFY ONE TIME.

23 THERE WAS ABSOLUTELY NO ADVANTAGE TO HAVING A
24 SEPARATE TRIAL AND THE COST WOULD BE JUST OUTRAGEOUS.
25 AND JUST IN THE NAME OF JUDICIAL ECONOMY IN TRYING TO

1 SAVE TIME AND MONEY AND DUPLICATION, IT WOULD DEMAND
 2 WHEN YOU HAVE A TRIAL LIKE THIS WHERE YOU HAVE THE
 3 SAME EVIDENCE THAT APPLIES TO ALL DEFENDANTS AND WHEN
 4 THEY ARE ALL CHARGED TOGETHER IN ONE CONSPIRACY AND
 5 THEY ARE ALL CHARGED TOGETHER AS BEING TOGETHER
 6 DURING THE OPERATIVE TIME, WHICH IS THE TIME THAT FOR
 7 THE MOST PART OF DUMPING THE BODY, I WOULD SUGGEST TO
 8 THE COURT THAT CERTAINLY THAT THE DEFENDANTS SHOULD
 9 BE TRIED TOGETHER.

10 THE COURT: DO YOU HAVE ANY COMMENT TO
 11 MAKE, MR. LAWSON?

12 MR. LAWSON: YES, YOUR HONOR. I
 13 UNDERSTAND JUDICIAL ECONOMY AND I UNDERSTAND THE
 14 STATE'S NEED IN THIS CASE THAT THEY FEEL TO TRY
 15 DEFENDANTS TOGETHER. MY MOTION IS AS TO ROBERT LEE
 16 GRAHAM AND HE ALONE. I DON'T CARE IF THEY TRY THE
 17 REST OF THESE PEOPLE TOGETHER. MY MAIN REASON FOR
 18 MOVING FOR SEVERANCE AT THIS TIME IS THAT PRIOR
 19 MOTION HEARINGS, IT WAS MY UNDERSTANDING THAT CAPITAL
 20 DEFENDANTS AND NON-CAPITAL DEFENDANTS WOULD BE TRIED
 21 TOGETHER. AT THE POINT THAT THERE WERE NO CAPITAL
 22 DEFENDANTS LEFT, IT WOULD BE MURDER DEFENDANTS AND
 23 NON-MURDER DEFENDANTS.

24 MY CLIENT IS THE ONLY DEFENDANT IN THIS CASE NOT
 25 CHARGED WITH MURDER. AND EVIDENCE THAT THEY WILL

1 PRODUCE IN RELATION TO THE MURDER OF THIS LADY IS NOT
2 RELEVANT AS TO MY CLIENT. HE'S NOT CHARGED WITH
3 THAT. AND IT WILL BE ALMOST IMPOSSIBLE IN A JOINT
4 TRIAL TO TAKE MY CLIENT AND TRY HIM FOR THE CHARGES
5 EXCLUDING MURDER AND FOR ME TO DEFEND THIS CASE WHEN
6 YOU HAVE EVERYONE ELSE IN THE CASE CHARGED WITH
7 MURDER.

8 THE COURT: THE JURY WILL BE AMPLY TOLD BY
9 ME THAT YOUR CLIENT IS NOT CHARGED WITH MURDER, NOR
10 WILL THE JURY VERDICT FORM REFLECT THAT. SO THE JURY
11 WILL UNDERSTAND THAT HE'S NOT CHARGED WITH MURDER AND
12 I'VE ALREADY TOLD THEM THAT HE WASN'T CHARGED WITH
13 MURDER.

14 MR. LAWSON: YOUR HONOR, I WAS UNDER THE
15 IMPRESSION FROM WHAT WAS SAID IN THIS COURT AT PRIOR
16 HEARINGS THAT THIS CASE WOULD BE TRIED WITH MURDER
17 DEFENDANTS TOGETHER AND NON-MURDER DEFENDANTS
18 TOGETHER.

19 THE COURT: I'VE GOT YOUR POSITION.

20 MR. LAWSON: AND THAT IS WHAT I CAME TO
21 COURT TODAY PREPARED TO DO. AND NOW I'M STUCK IN
22 WITH EVERYBODY IN THIS CASE CHARGED WITH MURDER,
23 EXCEPT MY CLIENT AND EVERYBODY ELSE LEFT OUT OF THE
24 CASE OTHER THAN RINGO, WHO IS LOOKING AT THE DEATH
25 PENALTY, WHICH I ASSUME WILL BE TRIED BY ITSELF, IS

NOT FACING THE MURDER CHARGE.

THE COURT: I'VE GOT YOUR POSITION. NO NEED IN GOING FURTHER ON IT.

MR. WILSON: YOUR HONOR, MR. LAWSON IS IN PART CORRECT. EARLY ON WHEN THIS CASE WAS STARTED, SEVERAL WEEKS BEFORE TRIAL I DID TELL THEM THAT. BUT I ALSO TOLD THEM WHEN WE CAME BACK IN HERE IN FEBRUARY -- I THINK IT WAS IN FEBRUARY WHEN WE WERE HERE AGAIN. BEFORE WE CANCELED THE FIRST WEEK, I SAID WHOEVER WAS LEFT WE WERE GOING TO TRY THEM. WHOEVER WAS LEFT, WE WERE GOING TO TRY THEM. THEY ALL UNDERSTAND THAT THE FIRST WEEK OF THE TRIAL THAT WE WERE GOING TO TRY MURDER DEFENDANTS, AND AFTER THAT WEEK, EVERYBODY ELSE. THAT HAS HAPPENED.

WELL, WHAT HAPPENED IS THE FIRST WEEK OF THIS TRIAL CANCELED AND EVERYBODY ELSE THAT I'M ABLE TO TRY IN ONE GROUP, YOU KNOW, TRYING IN ONE GROUP, THE FACT THAT IT DIDN'T HAPPEN LAST WEEK, YOU KNOW, HE WAS -- HE WAS ALWAYS AWARE THAT HIS MAN WAS GOING TO BE TRIED. WHAT HE'S COMPLAINING ABOUT IS THAT SIMPLY, WELL, I WANTED TO BE TRIED THE FIRST WEEK AND NOT THE SECOND WEEK. MAKES ABSOLUTELY NO DIFFERENCE WHICH WEEK HIS MAN IS TRIED. HE HAS ABSOLUTELY NO RIGHT TO A SPECIFIC WEEK OF TRIAL. HIS MAN IS GETTING A FAIR TRIAL WHICH IS THE ONLY THING THAT

1 HE'S ENTITLED TO. AND THE FACT THAT HE'S BEING TRIED
2 WITH HIS COHORTS WHO IS HIS CONSPIRATORS WITH HIM IS
3 OF HIS OWN SITUATION BECAUSE HE CHOSE THE SITUATION
4 TO BE IN. AND NOW HE'S COMPLAINING BECAUSE HE SAID
5 YOU WERE GOING TO TRY ME LAST WEEK AND I DIDN'T WANT
6 TO BE -- I WANTED TO BE TRIED LAST WEEK AND NOT THIS
7 WEEK, SO DON'T TRY ME THIS WEEK BECAUSE --

8 MR. LAWSON: DID I SAY THAT?

9 THE COURT: I DIDN'T -- LET ME END THAT
10 RIGHT QUICKLY. YOUR POSITION IS ON THE RECORD. NOW,
11 I UNDERSTAND IT AND THE RECORD WOULD REFLECT WHAT YOU
12 SAID.

13 MR. LAWSON: YOUR HONOR --

14 THE COURT: I AM NOT GOING TO SEVER THESE
15 TRIALS.

16 MR. LAWSON: LET ME EXPLAIN ONE POINT,
17 YOUR HONOR.

18 THE COURT: OKAY.

19 MR. LAWSON: I DIDN'T SAY ANY OF THAT. HE
20 ASKED FOR A CONTINUANCE LAST WEEK. I DIDN'T.

21 THE COURT: WAIT A MINUTE. LET ME TELL
22 YOU, PLEASE, NOW. YOU AND I ARE GOING TO HAVE SOME
23 DIFFICULTIES. WE'RE GOING TO HAVE CIVILITY IN THIS
24 COURTROOM, AND DON'T TALK TO HIM OR ME OR ANYBODY
25 ELSE IN THAT VOICE. NOW, IN A CALM, COLLECT VOICE,

PUT YOUR POSITION IN THE RECORD AND THEN SIT DOWN. I WANT YOU TO BE IN THE RECORD.

MR. LAWSON: YOUR HONOR, I WAS RESPONDING IN KIND TO THE SOLICITOR'S ARGUMENTS.

THE COURT: YOU'RE ARGUING WITH ME AGAIN.

MR. LAWSON: NO, SIR. I'M STATING FOR THE RECORD, YOUR HONOR, WHAT THE POSITION -- I'M NOT TAKING A POSITION THAT I DIDN'T GET TRIED LAST WEEK. IT WASN'T MY MOTION THAT WAS GRANTED. I MOVED FOR SEVERANCE EARLY. I DO NOT BELIEVE THAT IT'S FAIR TO TRY JOINT TRIALS IN AND OF THEMSELVES. I THINK THERE'S A DANGER IN JOINT TRIALS THAT MAKES IT EASIER TO CONVICT AND THAT'S WHY THE STATE DOES IT.

THE COURT: OKAY.

MR. LAWSON: BUT MY CLIENT IS NOT CHARGED WITH MURDER.

THE COURT: I UNDERSTAND THAT.

MR. LAWSON, I'M GOING TO TELL YOU, NOW, THAT I CONCLUDE IN THE INTEREST OF JUDICIAL ECONOMY AND FOR OTHER REASONS THAT ALL OF THESE DEFENDANTS CAN AND WILL BE TRIED JOINTLY TOGETHER. NOW, YOU HAVE MADE A MOTION FOR SEVERANCE. THE RECORD FULLY PROTECTS YOUR POSITION AND I'M DENYING IT. WE ARE GOING TO TRY THESE INDIVIDUALS TOGETHER AND WE'RE GOING TO START TODAY. NOW, LET THAT ISSUE BE ENDED.

1 NOW, WHAT'S YOUR NEXT MOTION?

2 MR. LAWSON: WELL, YOUR HONOR, I JUST WANT
3 YOUR HONOR TO KNOW AT THIS POINT I WILL RENEW THAT
4 MOTION FROM TIME TO TIME DURING THIS TRIAL.

5 THE COURT: NO, SIR.

6 MR. LAWSON: YES, SIR, I WILL.

7 THE COURT: YOU WILL? YOU KEEP -- YOU --
8 ON WHAT BASIS ARE YOU GOING TO RENEW THAT?

9 MR. LAWSON: BECAUSE THERE WILL BE TIMES
10 DURING THIS TRIAL WHEN THAT WILL BECOME AN ISSUE.

11 THE COURT: I WILL DO THAT AT THIS TIME.
12 DO NOT DO THAT IN THE PRESENCE OF THE JURY, THOUGH,
13 NOW. AND YOU BETTER HAVE A BASIS FOR RENEWING THE
14 MOTION BECAUSE TO CONTINUE TO DO THAT, TO MAKING THAT
15 MOTION, UNLESS IT'S ON SOME OTHER GROUNDS, WILL BE
16 CONSTRUED BY ME TO BE ARGUMENTATIVE AND THE RULE
17 DOESN'T PERMIT THAT AND I'M NOT GOING TO PERMIT IT.

18 NOW, WHAT'S YOUR NEXT MOTION?

19 MR. LAWSON: YOUR HONOR, I DON'T KNOW IF
20 THERE'S ANY LYLE EVIDENCE IN THIS EVIDENCE.

21 THE COURT: BEFORE WE GET STARTED, NOW, I
22 WANT THIS RECORD TO REFLECT THAT I'VE WARNED YOU
23 EARLIER THIS MORNING. I'M WARNING YOU AGAIN. AND IF
24 YOU PERSIST IN THE TYPE OF CONDUCT THAT I'VE
25 EVIDENCED UP TO NOW, I'M GOING TO HOLD YOU IN

CONTEMPT OF COURT. NOW, I REVIEW THIS WARNING AS THE SECOND ONE. NOW, YOU MAY PROCEED. DON'T ARGUE WITH ME. JUST GO AHEAD WITH YOUR NEXT MOTION. THE RECORD WILL REFLECT I'VE WARNED YOU TWICE.

MR. LAWSON: I UNDERSTAND, YOUR HONOR. AND IF YOU WOULD STATE FOR THE RECORD WHAT THE REASON FOR THAT WARNING WAS.

THE COURT: I WILL AT AN APPROPRIATE -- YOU GO AHEAD.

MR. LAWSON: YOUR HONOR, MAY IT PLEASE THE COURT.

THE COURT: ALL RIGHT.

MR. LAWSON: I DO NOT KNOW -- I HAVE NOT SEEN THAT WHAT I MIGHT CONSIDER OTHER THAN THE POSSIBILITY OF SOME TESTIMONY ABOUT THREATS THAT MAY BE BAD ACT TYPE EVIDENCE, BUT IF THERE IS LYLE EVIDENCE, WE WOULD REQUEST OR I WOULD REQUEST ON BEHALF OF ROBERT GRAHAM THAT WE HAVE IN CAMERA HEARINGS TO --

THE COURT: HAVE YOU GOT ANY LYLE ISSUES?

MR. WILSON: ABSOLUTELY NO LYLE EVIDENCE THAT I'M AWARE OF.

THE COURT: THAT ENDS THAT. NO LYLE EVIDENCE.

MR. LAWSON: YOUR HONOR, I WOULD LIKE TO

1 CONFER WITH THE OTHER ATTORNEYS OVER LUNCH TO SEE IF
2 THERE IS ANYTHING FURTHER THAT NEEDS TO BE --

3 THE COURT: I HAVE NO PROBLEMS WITH THAT
4 AND I WANT TO CONFER BECAUSE -- SO WE CAN GET THE
5 MOTION OUT OF THE WAY AND GO AHEAD AND SELECT THIS
6 JURY.

7 MR. ERVIN: DO YOU INTEND ON HEARING
8 OPENING STATEMENTS FROM EVERYONE?

9 THE COURT: IT DEPENDS ON THE PROGRESS
10 THAT WE ARE ON WHETHER WE HEAR FROM ANYONE. I WOULD
11 HOPE THAT WE COULD.

12 MR. WILSON: I WOULD LIKE TO FINISH
13 OPENING STATEMENTS BEFORE WE QUIT TODAY IF THAT'S
14 POSSIBLE.

15 THE COURT: I WOULD HOPE THAT WE GET THAT
16 FAR. I WOULD NOT ANTICIPATE THE JURY SELECTION
17 LASTING MUCH LONGER. WE'VE ALREADY CONCLUDED VOIR
18 DIRE.

19 MR. ERVIN: YES, SIR.

20 THE COURT: I WOULD THINK WE WOULD HAVE
21 THE JURY 30 MINUTES AFTER WE START BACK AT 3:15.

22 MR. ERVIN: WELL, I WOULD JUST ASK THE
23 COURT TO BE PATIENT WITH DEFENSE ATTORNEYS HERE
24 BECAUSE WE'RE GOING TO HAVE TO CONFER ON USING OUR
25 STRIKES. OBVIOUSLY, THAT'S GOING TO BE A LITTLE BIT

TIME CONSUMING.

THE COURT: WELL, YOU'VE GOT -- THE JURY IS NOT COMING BACK UNTIL 3:15. IT 20 MINUTES UNTIL 3:00. THAT GIVES YOU 45 MINUTES, PLUS I'LL GIVE YOU SOME TIME TO GO EAT SOME LUNCH AND COME BACK? IF AT THAT TIME YOU TELL ME YOU NEED SOME OTHER TIME, I'LL CERTAINLY ENTERTAIN THAT. I DON'T SEE ANYTHING THAT DIFFICULT BETWEEN SIX ESTEEMED ATTORNEYS HERE TAKING THAT LONG TO SELECT A JURY.

MR. ERVIN: I JUST SUGGEST BECAUSE OF THE NUMBERS --

THE COURT: WELL, IF YOU TELL ME -- WE'LL DEAL WITH IT IF YOU TELL ME IT'S NECESSARY.

MR. ERVIN: WE MAY NEED A LITTLE MORE TIME AND I WANTED TO LET YOU KNOW.

THE COURT: I'LL BE REASONABLE WITH THAT IN THAT REGARD.

MR. ERVIN: AND AS FAR AS OPENING STATEMENTS, ARE YOU GOING TO PUT A LIMITATION ON THE TIME? I KNOW YOU'VE DONE THAT IN OTHER CASES. I JUST WANTED TO BE AWARE SO I CAN PLAN.

THE COURT: WELL, THERE'S SIX OF YOU. I DON'T -- I DON'T THINK WE NEED EVERYBODY TO SPEAK AN HOUR IN THE THING. HOW LONG -- YOU GENTLEMEN GET TOGETHER AND TELL ME HOW LONG EACH ONE OF YOU THINK

1 YOU NEED. TELL ME AFTER LUNCH.

2 MR. LAWSON: YOUR HONOR, I DO HAVE A
3 MOTION IN RELATION TO OPENING STATEMENTS.

4 THE COURT: WHAT IS IT?

5 MR. LAWSON: I WOULD ASK THAT THE STATE BE
6 DIRECTED NOT TO ARGUE IN RELATION TO THE CONSPIRACY
7 ANY EVIDENCE AT THIS POINT IN RELATION TO THE
8 CONSPIRACY UNTIL THAT CONSPIRACY IS PROVEN IN THE
9 RECORD.

10 THE COURT: MR. WILSON, DO YOU HAVE A
11 POSITION ON THAT?

12 MR. WILSON: JUDGE, I WON'T GO INTO ANY
13 DETAIL ABOUT THE CONSPIRACY. WHAT I NORMALLY DO IS I
14 CERTAINLY WILL WANT TO EXPLAIN TO THE JURY WHAT
15 CONSPIRACY IS AS A PART OF MY OPENING AND I WILL
16 CERTAINLY READ THEM THE INDICTMENT AND THE INDICTMENT
17 DOES CONTAIN AN ALLEGATION CONCERNING THE CONSPIRACY.
18 I PROBABLY WON'T GO MUCH FURTHER THAN THAT IN TERMS
19 OF OPENING, GENERALLY BECAUSE MY POSITION HAS ALWAYS
20 BEEN AND STILL IS THAT THE OPENING IS NOT FOR
21 PRESENTATION AND DISCUSSION OF EVIDENCE, BUT SIMPLY
22 TO APPRISE THE JURY WHAT THE ISSUES ARE IN THE CASE
23 AND I WILL STICK TO THAT FORMAT.

24 THE COURT: DOES THAT ANSWER YOUR CONCERN?

25 MR. LAWSON: YES, SIR.

THE COURT: LET'S GO TO LUNCH. THE JURY WILL BE BACK AT 3:15. I WOULD LIKE TO START AS SOON AS POSSIBLE THEREAFTER.

(WHEREUPON, A BREAK WAS TAKEN FROM THE PROCEEDINGS.)

(WHEREUPON, THE JURY PANEL WAS PRESENT IN THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE COMMENCED IN OPEN COURT.)

THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, LET ME TELL YOU HOW WE WILL PROCEED. ALL OF YOUR NAMES ARE INN THIS CYLINDER AND THE CLERK OF COURT WILL PULL OUT YOUR NAMES AT RANDOM. WHEN YOUR NAME IS CALLED, PLEASE COME FORWARD, TURN AROUND, FACE THE JURY, FACE THE ATTORNEYS HERE. IN THIS PROCEEDING, THE STATE OF SOUTH CAROLINA HAS TEN STRIKES AND THE DEFENSE COLLECTIVELY HAS TEN STRIKES. SO FOR ANY REASON OR NO REASON.

MR. WILSON: TWENTY, YOUR HONOR.

THE COURT: I'M SORRY, TWENTY. THE STATE HAS TEN COLLECTIVELY. THE DEFENSE HAS 20. EITHER SIDE MAY STRIKE YOU FOR ANY REASON OR FOR NO REASON. SO DO NOT FEEL OFFENDED BY THE FACT THAT YOU MIGHT NOT BE SELECTED. NOW, IN THAT CONNECTION, THE STATE OF SOUTH CAROLINA HAS THE OPPORTUNITY OF CONFERRING

1 WITH THOSE THAT THEY CHOOSE AS TO WHO THEY SHOULD
 2 SELECT OR STRIKE. WITH EQUAL IMPORTANCE, THE SIX
 3 ATTORNEYS HAVE THE ABSOLUTE RIGHT TO CONSULT AMONG
 4 THEMSELVES WITH THEIR CLIENTS AND WITH ANYBODY ELSE
 5 AS TO WHO THEY THINK THEY INDIVIDUALLY OR
 6 COLLECTIVELY SHOULD ACCEPT AS JURORS.

7 NOW, I TELL YOU AND CHARGE YOU THAT THERE IS
 8 ABSOLUTELY NO ADVERSE INFERENCE TO BE DRAWN BY YOU
 9 THE JURY BY THE FACT THAT THE STATE OF SOUTH CAROLINA
 10 SEEKS ASSISTANCE FROM VARIOUS INDIVIDUALS IN THE
 11 SELECTION OF THE JURY AND THERE'S NO INFERENCE
 12 ABSOLUTELY TO BE DRAWN BY THE FACT THAT THESE SIX
 13 ATTORNEYS MAY OR MAY NOT AS THEY CHOOSE CONFER
 14 TOGETHER OR WITH PEOPLE OF THEIR CHOOSING IN
 15 CONSIDERATION OF WHO TO SELECT.

16 ALL RIGHT, SIR. MR. CLERK -- NOW, GENTLEMEN, WE
 17 WILL CIRCLE TEN STRIKES FOR THE STATE, TWENTY
 18 COLLECTIVELY FOR THE DEFENSE. WE WILL SELECT TWO
 19 ALTERNATES. THE STATE WILL HAVE ONE STRIKE. THE
 20 DEFENDANT TWO. YOU WILL NOT CARRY THEM AS CARRYOVER.
 21 YOU WILL FIRST SELECT THE FIRST ALTERNATE AND THEN
 22 THE SECOND ALTERNATE. ANY QUESTIONS? ALL RIGHT.
 23 GIVE US THE JURY.

24 THE CLERK: NUMBER 2, ROSE ANNA ADAMS.
 25 (JUROR NUMBER 2, A BLACK FEMALE WAS CALLED.)

1 THE CLERK: TURN AROUND AND PLEASE STATE
2 YOUR NAME.

3 JURY VENIRE MEMBER: MY NAME IS ROSA
4 ADAMS.

5 THE CLERK: WHAT SAYS THE STATE?

6 MR. WILSON: PRESENT MS. ADAMS.

7 THE CLERK: WHAT SAYS THE DEFENSE?

8 THE COURT: GENTLEMEN, I WOULD ASK THAT
9 YOU CLEAR THE JURY BOX FOR ME.

10 MR. ERVIN: SWEAR THIS JUROR, PLEASE.

11 THE COURT: HAVE A SEAT IN THE JURY BOX,
12 PLEASE. YOU MAY BE SEATED IN THE JURY BOX.

13 THE CLERK: NUMBER 45, FRANKLIN DAVIS.

14 (JUROR NUMBER 45, A BLACK MALE WAS CALLED.)

15 THE CLERK: WILL YOU PLEASE STATE YOUR
16 NAME.

17 JURY VENIRE MEMBER: FRANKLIN DAVIS.

18 THE CLERK: WHAT SAYS THE STATE?

19 MR. WILSON: STATE WOULD EXCUSE THE JUROR
20 FROM THE TRIAL OF THIS PARTICULAR CASE.

21 THE CLERK: NUMBER 85, BARBARA M. HOOD.

22 (JUROR NUMBER 85, A WHITE FEMALE WAS CALLED.)

23 THE CLERK: WILL YOU PLEASE STATE YOUR
24 NAME.

25 JURY VENIRE MEMBER: BARBARA M. HOOD.

1 THE CLERK: WHAT SAYS THE STATE?

2 MR. WILSON: PRESENT MS. HOOD.

3 THE CLERK: WHAT SAYS THE DEFENSE?

4 MR. ERVIN: EXCUSE THIS JUROR FROM THIS --

5 MR. PADGETT: EXCUSE THIS JUROR FOR THIS
6 CASE, PLEASE.

7 THE COURT: HAVE A SEAT, PLEASE.

8 THE CLERK: NUMBER 50, JOHN S. DAVIS.
9 (JUROR NUMBER 50, A BLACK MALE WAS CALLED.)

10 THE CLERK: WILL YOU STATE YOUR NAME WHEN
11 YOU TURN AROUND.

12 JURY VENIRE MEMBER: JOHN S. DAVIS.

13 THE CLERK: WHAT SAYS THE STATE?

14 MR. WILSON: COURT BEAR WITH ME JUST ONE
15 SECOND, YOUR HONOR. PRESENT THE JUROR.

16 THE CLERK: WHAT SAYS THE DEFENSE?

17 MR. PADGETT: PRESENT THE JUROR. SWEAR
18 THE JUROR. EXCUSE ME.

19 THE CLERK: YOU CAN HAVE A SEAT OVER HERE.
20 NUMBER 134, CHRISTOPHER ODOM.

21 (JUROR NUMBER 134, A WHITE MALE WAS CALLED.)

22 THE CLERK: WILL YOU STATE YOUR NAME.

23 JURY VENIRE MEMBER: CHRISTOPHER ODOM.

24 THE CLERK: WHAT SAYS THE STATE?

25 MR. WILSON: STATE WOULD EXCUSE MR. ODOM

FROM THE TRIAL OF THIS PARTICULAR CASE.

THE CLERK: NUMBER 39, MARK E. CLAY.

(JUROR NUMBER 39, A WHITE MALE WAS CALLED.)

THE CLERK: MARK CLAY.

JURY VENIRE MEMBER: MARK CLAY.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: STATE WOULD EXCUSE MR. CLAY

FROM THE TRIAL OF THIS PARTICULAR CASE.

THE CLERK: JUROR NUMBER 105, ROBIN LOWE.

(JUROR NUMBER 105, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: ROBIN LOWE.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. LOWE.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR FOR THIS
CASE.

THE CLERK: 129, SHIRLEY MOORE.

(JUROR NUMBER 129, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: SHIRLEY MOORE.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. MOORE.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR FOR THIS
CASE, PLEASE.

THE CLERK: NUMBER 46, SHERRY DAVID.

(JUROR NUMBER 46, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: SHERRY DAVID.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. DAVID.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. ERVIN: EXCUSE THIS JUROR FOR THIS CASE, PLEASE.

THE CLERK: NUMBER 63, RODNEY EYESTEAD.

(JUROR NUMBER 63, A WHITE MALE WAS CALLED.)

JURY VENIRE MEMBER: RODNEY EYESTEAD.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MR. EYESTEAD.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR FOR THIS CASE, PLEASE.

THE CLERK: 128, LESLIE MOORE.

(JUROR NUMBER 128, A WHITE MALE WAS CALLED.)

JURY VENIRE MEMBER: LESLIE MOORE.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MR. MOORE.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR FOR THIS CASE, PLEASE.

THE CLERK: 127, JUANITA MOORE.

(JUROR NUMBER 127, A BLACK FEMALE WAS CALLED.)

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: STATE WOULD EXCUSE MRS. MOORE
FROM THE TRIAL OF THIS PARTICULAR CASE.

JURY VENIRE MEMBER: 109, MAE MALACHI.

(JUROR NUMBER 109, A BLACK FEMALE WAS CALLED.)

THE CLERK: WHAT SAYS THE STATE?

JURY VENIRE MEMBER: WHAT NUMBER?

THE CLERK: 109.

MR. WILSON: PRESENT MS. MALACHI.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: PRESENT THE JUROR. SWEAR
THE JUROR, EXCUSE ME.

THE CLERK: CAN I MAKE AN ANNOUNCEMENT
JUST A MINUTE. DO WE HAVE A TERESA DALLAS IN HERE?
THERE'S A CAR THAT'S DOUBLE PARKED OUT HERE AND THE
LICENSE PLATES GOES BACK TO HER. OKAY.

165, JAMES H. SKIPPER.

(JUROR NUMBER 165, A WHITE MALE WAS CALLED.)

JURY VENIRE MEMBER: JAMES H. SKIPPER.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MR. SKIPPER.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE MR. SKIPPER, PLEASE.

THE CLERK: 155, NORMA ROLLERSON.

(JUROR NUMBER 155, A BLACK FEMALE WAS CALLED.)

1 JURY VENIRE MEMBER: MY NAME IS NORMA
2 ROLLERSON.

3 THE CLERK: WHAT SAYS THE STATE?

4 MR. WILSON: STATE WOULD EXCUSE
5 MS. ROLLERSON FROM THE TRIAL OF THIS PARTICULAR CASE.

6 THE CLERK: YOU CAN BE SEATED. JUROR 114,
7 ANNIE MCDUFFIE.

8 (JUROR NUMBER 114, A BLACK FEMALE WAS CALLED.)

9 JURY VENIRE MEMBER: ANNIE MCDUFFIE.

10 THE CLERK: WHAT SAYS THE STATE?

11 MR. WILSON: PRESENT MS. MCDUFFIE.

12 THE CLERK: WHAT SAYS THE DEFENSE?

13 MR. PADGETT: EXCUSE MS. MCDUFFIE.

14 THE CLERK: NUMBER 34, GRANTHAM CHAVIS.

15 (JUROR NUMBER 34, A WHITE MALE WAS CALLED.)

16 THE CLERK: WHAT SAYS THE STATE?

17 MR. WILSON: PRESENT MR. CHAVIS.

18 THE CLERK: WHAT SAYS THE DEFENSE?

19 MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

20 THE CLERK: 142, WILLIE PARNELL.

21 (JUROR NUMBER 142, A BLACK FEMALE WAS CALLED.)

22 JURY VENIRE MEMBER: IT'S 141.

23 THE CLERK: IT'S 142 ON OURS. WOULD YOU
24 STATE YOUR NAME.

25 JURY VENIRE MEMBER: WILLIE PARNELL.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: STATE WOULD EXCUSE

MS. PARNELL FROM THE TRIAL OF THIS PARTICULAR CASE.

THE CLERK: NUMBER 66, MARY F. GALLOWAY.

(JUROR NUMBER 66, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: MARY GALLOWAY.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. GALLOWAY.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

THE CLERK: GENTLEMEN, THE STATE HAS TAKEN

SIX. THE DEFENDANTS HAVE TAKEN TEN.

JUROR 110, TONY MARTIN.

(JUROR NUMBER 110, A WHITE MALE WAS CALLED.)

JURY VENIRE MEMBER: TONY MARTIN.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MR. MARTIN.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: SWEAR THIS JUROR, PLEASE.

THE CLERK: NUMBER 164, OSWALD SIMMONS.

(JUROR NUMBER 164, A BLACK MALE WAS CALLED.)

JURY VENIRE MEMBER: OSWALD SIMMONS.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MR. SIMMONS.

THE CLERK: WHAT SAYS THE DEFENSE?

1 MR. PADGETT: SWEAR THIS JUROR, PLEASE.

2 THE CLERK: NUMBER 119, BENJAMIN MCLAIN.

3 (JUROR NUMBER 119, A BLACK MALE WAS CALLED.)

4 JURY VENIRE MEMBER: BENJAMIN MCLAIN.

5 THE CLERK: WHAT SAYS THE STATE?

6 MR. WILSON: PRESENT MR. MCLAIN.

7 THE CLERK: WHAT SAYS THE DEFENSE?

8 MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

9 THE CLERK: 118, PAMELA MCKIVER.

10 (JUROR NUMBER 118, A BLACK FEMALE WAS CALLED.)

11 JURY VENIRE MEMBER: PAMELA MCKIVER.

12 THE COURT: PAMELA?

13 JURY VENIRE MEMBER: YES.

14 THE COURT: EXCUSE ME.

15 THE CLERK: WHAT SAYS THE STATE?

16 MR. WILSON: PRESENT MS. MCKIVER.

17 THE CLERK: WHAT SAYS THE DEFENSE?

18 THE COURT: MR. ROGERS, WAIT TO MAKE A

19 DECISION UNTIL YOUR CLIENT IS BACK IN THE COURTROOM.

20 YOU MAY CONTINUE CONFERRING, BUT I WANT TO MAKE SURE

21 HE'S IN THE COURTROOM. YOU MAY PROCEED.

22 MR. PADGETT: SWEAR THIS JUROR, PLEASE.

23 THE CLERK: 89, STEPHANIE JACOBS.

24 JURY VENIRE MEMBER: 88.

25 (JUROR NUMBER 89, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: STEPHANIE JACOBS.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. JACOBS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

THE CLERK: 98, ROSA LEVINER.

(JUROR NUMBER 98, A WHITE FEMALE WAS CALLED.)

JURY VENIRE MEMBER: ROSA LEVINER.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. LEVINER.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

THE CLERK: 192, CATHLEEN WESTON.

(JUROR NUMBER 192, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: IT'S CATHLEEN MOSBY.

THE CLERK: MOSBY.

JURY VENIRE MEMBER: UH-HUH.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. MOSBY.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

THE CLERK: NUMBER 14, BOYCE BOSTIC.

(JUROR NUMBER 14, A BLACK MALE WAS CALLED.)

JURY VENIRE MEMBER: BOYCE BOSTIC.

THE CLERK: WHAT SAYS THE STATE?

1 MR. WILSON: PRESENT MR. BOSTIC.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MR. PADGETT: PRESENT THIS JUROR, PLEASE.

4 SWEAR THERE JUROR.

5 THE CLERK: 107, SYLVIA LOWERY.

6 (JUROR NUMBER 107, A BLACK FEMALE WAS CALLED.)

7 JURY VENIRE MEMBER: SYLVIA LOWERY.

8 THE CLERK: WHAT SAYS THE STATE?

9 MR. WILSON: STATE WOULD EXCUSE MS. LOWERY
10 FROM THE TRIAL OF THIS PARTICULAR CASE.

11 THE CLERK: 53, LILLIAN DEESE.

12 (JUROR NUMBER 53, A WHITE FEMALE WAS CALLED.)

13 THE CLERK: WHAT SAYS THE STATE?

14 MR. WILSON: PRESENT MS. DEESE.

15 THE CLERK: WHAT IS HE THE DEFENSE?

16 MR. PADGETT: SWEAR MS. DEESE.

17 THE CLERK: 59, TIMOTHY DUPRE.

18 (JUROR NUMBER 59, A BLACK MALE WAS CALLED.)

19 JURY VENIRE MEMBER: TIMOTHY DUPRE.

20 THE CLERK: WHAT SAYS THE DEFENSE -- I

21 MEAN, THE STATE. I'M SORRY.

22 MR. WILSON: PRESENT MR. DUPRE.

23 THE CLERK: WHAT SAYS THE DEFENSE?

24 MR. PADGETT: SWEAR THE JUROR.

25 THE CLERK: NUMBER 200, EZZARD YORK.

(JUROR NUMBER 200, A BLACK MALE WAS CALLED.)

JURY VENIRE MEMBER: EZZARD YORK.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: STATE WOULD EXCUSE MR. EZZARD FROM THE TRIAL OF THIS CASE.

THE COURT: YOU WON'T HAVE TO COME BACK FOR A WHILE.

THE CLERK: 135, ANN O'NEAL.

(JUROR NUMBER 15, A WHITE FEMALE WAS CALLED.)

JURY VENIRE MEMBER: ANN O'NEAL.

MR. WILSON: PRESENT MS. O'NEAL.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LAWSON: WHAT NUMBER?

MR. PADGETT: 135.

EXCUSE MS. O'NEAL FROM THIS CASE.

THE CLERK: 102, KATIE LOCKLEAR.

(JUROR NUMBER 102, A WHITE FEMALE WAS CALLED.)

JURY VENIRE MEMBER: KATIE LOCKLEAR.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. LOCKLEAR.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

THE CLERK: 54, BARBARA DIXON.

(JUROR NUMBER 54, A WHITE FEMALE WAS CALLED.)

JURY VENIRE MEMBER: BARBARA DIXON.

1 THE CLERK: WHAT SAYS THE STATE?

2 MR. WILSON: PRESENT MS. DIXON.

3 THE CLERK: WHAT SAYS THE DEFENSE?

4 MR. ERVIN: EXCUSE THIS JUROR.

5 THE COURT: GENTLEMEN, WHERE ARE WE ON
6 STRIKES NOW?

7 THE CLERK: SEVENTEEN AND EIGHT.

8 THE COURT: EIGHT AND SEVENTEEN?

9 MR. ERVIN: YES.

10 MR. PADGETT: YES, SIR.

11 MR. REDMOND: YES, SIR.

12 MR. LAWSON: YES, SIR.

13 THE COURT: OKAY. CALL YOUR NEXT JUROR.

14 THE CLERK: 87, ROGER HUDGINS.

15 (JUROR NUMBER 87, A WHITE MALE WAS CALLED.)

16 JURY VENIRE MEMBER: ROGER HUDGINS.

17 THE CLERK: WHAT SAYS THE STATE?

18 MR. WILSON: PRESENT MR. HUDGINS --

19 HUDGINS.

20 THE CLERK: WHAT SAYS THE DEFENSE?

21 MR. PADGETT: SWEAR MR. HUDGINS.

22 THE CLERK: 55, CELISSA DONNELLY.

23 (JUROR NUMBER 55, A BLACK FEMALE WAS CALLED.)

24 JURY VENIRE MEMBER: CELISSA DONNELLY.

25 THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. DONALDSON.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

THE CLERK: NUMBER 1, PATRICIA ADAMS.

(JUROR NUMBER 1, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: PATRICIA ADAMS.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. ADAMS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: SWEAR THIS JUROR, PLEASE.

THE CLERK: WOODROW GRAHAM. 68.

(JUROR NUMBER 68, A WHITE MALE WAS CALLED.)

JURY VENIRE MEMBER: WOODROW W. GRAHAM,

JUNIOR.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MR. GRAHAM.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. ERVIN: EXCUSE THIS JUROR, PLEASE.

THE CLERK: 160, BILLY SHELLEY.

(JUROR NUMBER 160, A WHITE MALE WAS CALLED.)

JURY VENIRE MEMBER: BILLY SHELLEY.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MR. SHELLEY.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. ERVIN: SWEAR THE JUROR, PLEASE.

1 THE COURT: ALL RIGHT. THAT WILL
2 CONSTITUTE THE JURY. WE WILL NOW PROCEED TO ELECT
3 THE TWO ALTERNATES. MS. MALACHI, I AM GOING TO
4 DESIGNATE YOU AS FORELADY OF THIS JURY AND WHEN YOU
5 RETURN, YOU WILL ALWAYS OCCUPY THIS FRONT SEAT. THE
6 TWO ALTERNATES WILL ALWAYS OCCUPY THE BACK TWO SEATS.
7 THE REST OF YOU MAY SIT AS YOU CHOOSE, BUT I WILL
8 DESIGNATE YOU TO BE THE FORELADY OF THIS JURY. WE
9 MAY PLEASE NOW PROCEED FOR THE SELECTION OF THE
10 ALTERNATES.

11 THE CLERK: 56, MARGARET DOUDY.

12 (JUROR NUMBER 56, A WHITE FEMALE WAS CALLED.)

13 THE COURT: TWO.

14 MR. ERVIN: JUDGE, IS IT TWO AND ONE NOW?

15 THE COURT: TWO AND ONE. OR ONE AND TWO
16 NOW.

17 JURY VENIRE MEMBER: MARGARET DOUDY.

18 THE CLERK: WHAT SAYS THE STATE?

19 MR. WILSON: PRESENT MRS. DOUDY.

20 THE CLERK: WHAT SAYS THE DEFENSE?

21 MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

22 THE CLERK: 176, ALICE SWEATT.

23 (JUROR NUMBER 176, A WHITE FEMALE WAS CALLED.)

24 JURY VENIRE MEMBER: ALICE SWEATT.

25 THE COURT: WHAT SAYS THE STATE?

MR. WILSON: WHAT NUMBER? 170?

THE CLERK: 176.

MR. WILSON: 176. PRESENT MS. SWEATT.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: SWEAR THIS JUROR, PLEASE.

THE CLERK: 43, NICKOLE CRAWFORD.

(JUROR NUMBER 43, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: NICKOLE CRAWFORD.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: STATE WOULD EXCUSE

MS. CRAWFORD FROM THE TRIAL OF THIS PARTICULAR CASE.

THE CLERK: 24, DONNA BROWN.

(JUROR NUMBER 24, A BLACK FEMALE WAS CALLED.)

JURY VENIRE MEMBER: DONNA BROWN.

THE CLERK: WHAT SAYS THE STATE?

MR. WILSON: PRESENT MS. BROWN.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. PADGETT: EXCUSE THIS JUROR, PLEASE.

THE CLERK: 15, EDDIE BOSTIC.

(JUROR NUMBER 15, A BLACK MALE WAS CALLED.)

JURY VENIRE MEMBER: EDDIE BOSTIC.

THE CLERK: WHAT SAYS THE DEFENSE -- I

MEAN THE STATE?

MR. WILSON: PRESENT MR. BOSTIC.

THE CLERK: WHAT SAYS THE DEFENSE?

1 THE COURT: GENTLEMEN, AS TO THIS
2 SELECTION, NOW, THE STRIKES STAND ONE AND ONE.
3 YOU'RE ENTITLED TO ONE MORE.

4 MR. ERVIN: YES, SIR. WE UNDERSTAND.

5 MR. PADGETT: SWEAR THE JUROR.

6 THE COURT: ALL RIGHT. MR. JUROR, WHEN
7 YOU RETURN TO THE COURT ROOM FROM THE JURY ROOM, YOU
8 WILL SIT IN THAT CHAIR THERE. MR. FOREMAN, TAKE THEM
9 ALL TO THE JURY ROOM, PLEASE, AT THIS TIME. I'LL
10 CALL YOU RIGHT BACK.

11 (WHEREUPON, THE JURY WAS REMOVED
12 FROM THE COURTROOM AND THE
13 FOLLOWING PROCEEDINGS COMMENCED
14 IN OPEN COURT.)

15 THE COURT: ALL RIGHT, SIR. ANY BATSON
16 MOTION OF ANY KIND?

17 MR. WILSON: NONE FROM THE STATE, YOUR
18 HONOR.

19 MR. ERVIN: NONE FROM THE DEFENSE, YOUR
20 HONOR.

21 MR. PADGETT: NONE.

22 MR. REDMOND: NO, SIR.

23 MR. MOORE: NO, SIR.

24 MR. WILL ROGERS: NONE.

25 MR. LAWSON: NONE.

THE COURT: OKAY. THEN GENTLEMEN FOR THE STATE AND DEFENSE, AT THIS TIME I'M GETTING READY TO BRING THIS JURY BACK, LEAVE THEM UNSWORN. WE'LL START, GIVEN THE LATENESS OF THE HOUR -- DON'T YOU THINK WE OUGHT TO START OPENING STATEMENTS IN THE MORNING?

MR. WILSON: YES, SIR.

THE COURT: ALL RIGHT. WHAT IS YOUR WISHES AS TO WHEN THIS OTHER JURY PANEL SHOULD REPORT BACK? DO YOU WANT THEM TO CALL IN TOMORROW AFTERNOON OR WEDNESDAY?

MR. WILSON: I DON'T THINK THERE'S ANY NEED TO CALL, YOUR HONOR, UNTIL THURSDAY -- I'M SORRY, WEDNESDAY EVENING.

THE COURT: ALL RIGHT.

MR. WILSON: AFTER --

THE COURT: LADIES AND GENTLEMEN OF THE JURY PANEL, I THINK THE CLERK OF COURT HAS ALREADY GIVEN YOU THE CARDS AND NUMBERS WITH WHICH TO CALL. DOES ANYBODY HAVE ANY QUESTIONS ABOUT THAT? ALL RIGHT. WE HAVE SELECTED THE JURY IN THIS CASE. IN ORDER TO INCONVENIENCE YOU AS LITTLE AS POSSIBLE, RATHER THAN ASK THAT YOU REPORT BACK, I'M GOING TO REQUEST THAT YOU CALL AFTER 5:00 ON WEDNESDAY, DAY AFTER TOMORROW, FOR INSTRUCTIONS AS TO WHEN TO

1 REPORT. IF FOR SOME REASON YOU DON'T CALL OR DON'T
2 GET INSTRUCTIONS, YOU ARE TO BE HERE AT 9:30 THURSDAY
3 MORNING.

4 NOW I'M GIVING YOU THE OPPORTUNITY TO CALL IN
5 AFTER 5:00 ON WEDNESDAY. ANY FURTHER INSTRUCTIONS
6 WITH REGARD TO THAT, MR. FUNDERBURK?

7 THE CLERK: NO, SIR. ARE THERE ANY
8 QUESTIONS ABOUT IT?

9 THE COURT: ANYBODY GOT ANY QUESTIONS? IF
10 YOU DO, GO OUT AND ANSWER ANY QUESTIONS THAT THEY
11 HAVE. ALL RIGHT. BRING THIS JURY IN FOR MY.

12 (WHEREUPON, THE JURY WAS RETURNED
13 TO THE COURTROOM AND THE FOLLOWING
14 PROCEEDINGS WERE COMMENCED IN
15 OPEN COURT.)

16 THE COURT: ALL RIGHT. PLEASE BE SEATED.
17 EVERYBODY BE SEATED, NOW. MADAM FOREMAN, LADIES AND
18 GENTLEMEN, IT'S BEEN A LONG DAY FOR ALL OF YOU, AND I
19 APOLOGIZE, BUT YOU'VE BEEN VERY PATIENT AND I'M
20 DEEPLY APPRECIATIVE OF THAT. THE PROCESS HERE TAKES
21 TIME. YOU 12 AND YOU TWO ALTERNATES, NEED BE, HAVE
22 NOW BEEN SELECTED AS THE FINDERS OF THE FACTS IN THIS
23 CASE. AS THE TRIAL PROGRESSES AND AT THE END OF IT,
24 I WILL TELL YOU WHAT THE LAW IS AND IT WILL BE YOUR
25 DUTY TO TELL US WHAT THE FACTS ARE AS YOU DEVELOP

THOSE FACTS FROM THE TESTIMONY AND FROM SUCH OTHER MATTERS AS MAY BE INTRODUCED IN THE TRIAL OF THIS CASE. IN THE MORNING WHEN WE BEGIN, I WILL GIVE YOU SOME ADDITIONAL INSTRUCTIONS AND YOU WILL HAVE COMPLETE INSTRUCTIONS AT THE END OF THE TAKING OF THE TESTIMONY.

MADAM FOREMAN, YOUR JOB WILL BE TO PRESIDE OVER THE DELIBERATIONS AND DISCUSSIONS IN THE JURY ROOM AND TO BE THE JURY'S SPOKESMAN IN THE COURTROOM. AT AN APPROPRIATE TIME, I WILL PREPARE FOR YOU THE APPROPRIATE VERDICTS FOR YOU IN YOUR DECISION AS TO NOT GUILTY OR GUILTY AS TO EACH DEFENDANT. SO I WILL BE PRESENTING TO YOU VERDICTS THAT YOU MAY USE, WHATEVER YOUR VERDICT MAY BE, IN EACH INDIVIDUAL CASE.

NOW, IT IS IMPORTANT THAT YOU ADHERE VERY STRICTLY TO FOLLOWING THE INSTRUCTIONS. DO NOT PERMIT ANYBODY TO DISCUSS THIS CASE WITH YOU. PERMIT NO ONE UNDER ANY CIRCUMSTANCES TO DISCUSS ANY PART OF THIS CASE WITH YOU. WHEN YOU ARE IN THE COURTROOM AND THE SURROUNDING COURTHOUSE, WEAR YOUR JURY BUTTONS AT ALL TIMES. HAVE THEY BEEN PROVIDED TO THE JURY, MR. FUNDERBURK? SIR?

THE CLERK: YES, SIR, WE'LL GET THEM FOR THEM.

1 THE COURT: THE REASON FOR THAT IS PEOPLE
2 TEND TO GOSSIP SOMETIMES AROUND THE COURTHOUSE AND
3 NOT REALIZING THAT THEY ARE JURORS. AND SO AS LONG
4 AS YOU'VE GOT THAT JURY BUTTON ON, THEY WILL THEN
5 KNOW OR SHOULD KNOW THAT YOU ARE A JUROR AND THEY
6 SHOULD NEVER DISCUSS THIS CASE WITH YOU. IT IS NOT
7 LIKELY, BUT IF ANYONE WOULD ATTEMPT TO DISCUSS THIS
8 CASE IN YOUR PRESENCE OR ATTEMPT TO MAKE ANY CONTACT
9 WITH YOU AT ANY TIME, YOU FIND OUT WHO THEY ARE AND
10 IMMEDIATELY REPORT THAT FACT TO ME. IT IS NOT LIKELY
11 THAT THAT WOULD OCCUR. BUT IF IT WOULD, I WOULD NEED
12 TO KNOW ABOUT IT IMMEDIATELY. NOW, I URGE YOU AND I
13 CHARGE YOU AS A MATTER OF LAW TOO THAT YOU MUST NOT
14 DISCUSS THIS CASE EVEN AMONG YOURSELVES UNTIL YOU
15 HAVE HEARD ALL OF THE EVIDENCE FROM BOTH SIDES AND
16 UNTIL I HAVE GIVEN YOU THE INSTRUCTION IN THE LAW.

17 YOU MUST NOT DISCUSS THIS CASE EVEN IN THE JURY
18 ROOM UNTIL I HAVE SAID TO YOU, MADAM FOREMAN, YOU AND
19 YOUR JURY MAY NOW RETIRE TO BEGIN YOUR DELIBERATIONS.
20 THAT WILL COME AT THE END OF THE CASE. SO IT IS MOST
21 IMPORTANT THAT YOU DO NOT DISCUSS ANY ISSUE. AND THE
22 REASON IS RELATIVELY OBVIOUS. YOU WILL BE THE
23 ULTIMATE AND ONLY FINDERS OF THE FACTS IN THE CASE,
24 MEANING WHAT TRULY HAPPENED. AND YOU OF COURSE
25 SHOULD NOT BEGIN YOUR DELIBERATIVE PROCESS UNTIL

YOU'VE HEARD THE TESTIMONY AND EVIDENCE FROM EVERYBODY WHO DESIRES TO BE HEARD. SO REMEMBER THAT.

SOMETIMES JURORS WHEN THEY BREAK FOR LUNCH OR THE EVENING WANT TO HAVE A TENDENCY TO DISCUSS SOME ISSUE AT THE CAR ABOUT WHAT TRANSPIRED IN THE COURTROOM THAT DAY AND THAT'S IMPROPER FOR THE FOLLOWING REASON. ULTIMATELY, WHATEVER YOUR DECISION IS, IT MUST BE THE UNANIMOUS DECISION OF ALL 12 OF YOU. AND IF TWO OR THREE OF YOU ARE DISCUSSING SOME ASPECT OF THE CASE, YOU ARE DEPRIVING YOUR FELLOW JURORS OF YOUR THOUGHT PROCESSES. AND THEY ARE ENTITLED TO IT. AND SO IT IS YOU WOULD NEVER DISCUSS THIS CASE EXCEPT, MADAM FOREMAN, IN THE PRESENCE OF ALL 12 OF YOU AND AT THE END OF THE TRIAL WHEN INSTRUCTED TO DO SO.

NOW, FROM TIME TO TIME, ONE OR TWO OF YOU MAY NEED TO SMOKE A CIGARETTE. IF YOU DO, LET THE BAILIFF KNOW AND I WILL DIRECT HIM TO TAKE YOU TO AN APPROPRIATE PLACE TO SMOKE. BUT AT THAT TIME, MADAM FOREMAN, STOP DISCUSSION UNTIL THEY RETURN. SO I'M -- I APOLOGIZE FOR THIS LATE HOUR, BUT THE SYSTEM IS SUCH THAT IT JUST SIMPLY TOOK THIS LONG, AND THAT'S -- THAT'S AS IT SHOULD BE.

I'M NOW GOING TO EXCUSE YOU AND I WILL ASK THAT YOU BE -- NOT IN THE COURTROOM NOW, BUT IN THIS JURY

1 ROOM PROMPTLY AT 9:30. WE'LL START AT THAT TIME. BE
2 HERE ABOUT 9:15. MR. FUNDERBURK WILL HAVE SOME HOT
3 COFFEE AND HAM AND SAUSAGE BISCUITS WAITING ON YOU, I
4 HOPE. AND I THINK THAT HE WILL.

5 THE CLERK: YES, SIR. YES, SIR. YES,
6 SIR.

7 THE COURT: SO I'M GOING -- YOU MAY GO OUT
8 THIS DOOR NOW AND I'LL SEE YOU IN THE JURY ROOM AT
9 9:30 IN THE MORNING. DOES ANYBODY HAVE ANY
10 QUESTIONS? NOW, REMEMBER, IT IS ABSOLUTELY NECESSARY
11 THAT YOU BE HERE. IT IS ABSOLUTELY NECESSARY THAT
12 YOU BE ON TIME. WE CANNOT GET STARTED WITHOUT ALL 14
13 OF YOU, SO I LOOK FORWARD TO SEEING YOU AT THAT TIME.
14 THANK YOU SO MUCH. YOU MAY DEPART.

15 (WHEREUPON, THE JURY WAS REMOVED
16 FROM THE COURTROOM AND THE
17 FOLLOWING PROCEEDINGS COMMENCED
18 IN OPEN COURT.)

19 MR. WILSON: YOUR HONOR, THE DEFENDANTS
20 WHO ARE ON BOND ARE NOW IN CUSTODY?

21 THE COURT: YES, THE BOND HAS FALLEN AS TO
22 EACH DEFENDANT. I HAVE INSTRUCTED THE SHERIFF'S
23 OFFICE, IF ANYBODY WAS ON BOND, THAT BOND HAS NOW
24 FALLEN.

25 MR. LAWSON: MAY WE BE HEARD?

THE COURT: NO, SIR. NO, SIR. YOU DON'T
NEED TO BE HEARD ON THAT, JACK. THAT'S STANDARD AND
THAT'S MY POLICY IN CASES OF THIS NATURE.

(WHEREUPON, THE FOREGOING
PROCEEDINGS WERE ADJOURNED.)

(END OF VOLUME 1.)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

I, MARK W. HAGOOD, RPR, REGISTERED PROFESSIONAL REPORTER AND NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, FOURTH JUDICIAL CIRCUIT, DO HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IS A STENOGRAPHIC REPORT AND WAS TRANSCRIBED THROUGH COMPUTER-AIDED TRANSCRIPTION; THAT THE FOREGOING TRANSCRIPT CONTAINS A TRUE RECORD OF THE PROCEEDINGS.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED TO THE ACTION, NOR AM I FINANCIALLY INTERESTED IN THE ACTION.

WITNESS MY HAND AT FLORENCE, SOUTH CAROLINA, THIS 14TH DAY OF FEBRUARY, 1998.

[Handwritten signature of Mark W. Hagood]
MARK W. HAGOOD, RPR

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A P P E A R A N C E S

FOR THE STATE: RALPH J. WILSON, SOLICITOR
15TH CIRCUIT

FOR THE DEFENDANT: MILTON M. MOORE, JR., ESQUIRE
LEROY STATON

FOR THE DEFENDANT: JOHN M. ERVIN, III, ESQUIRE
MARTIN MCINTOSH

FOR THE DEFENDANT: MAHLON E. PADGETT, IV, ESQUIRE
RICKY STUCKEY JAMES ROGERS, ESQUIRE

FOR THE DEFENDANT: K. EDWARD REDMOND, ESQUIRE
JEFFREY WALLS

FOR THE DEFENDANT: WILLIAM A. ROGERS, ESQUIRE
ALFONZO STATON

FOR THE DEFENDANT: JACK W. LAWSON, JR., ESQUIRE
ROBERT GRAHAM

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1 THE COURT: ALL RIGHT. LET THE RECORD
2 REFLECT THAT THE STATE OF SOUTH CAROLINA REPRESENTED
3 BY SOLICITOR WILSON IS IN COURT. ALL SIX DEFENDANTS
4 ARE IN COURT ACCOMPANIED BY THEIR ATTORNEYS. THE
5 JURY IS NOT WITHIN THE COURTROOM. I UNDERSTAND THERE
6 MAY BE SOME MOTIONS. MR. ERVIN.

7 MR. ERVIN: YES, YOUR HONOR. JUST A
8 COUPLE OF MATTERS THAT WE NEED TO ADDRESS BRIEFLY. I
9 DON'T INTEND TO SLOW THE COURT DOWN, BUT YESTERDAY,
10 YOU RULED ON SEQUESTRATION, AND I DON'T BELIEVE ANY
11 INSTRUCTION WAS MADE TO THE AUDIENCE AS TO THE
12 SUBSTANCE OF YOUR RULING. ANY WITNESS FOR THE STATE
13 OR THE DEFENSE OF COURSE NEEDS TO BE INSTRUCTED THAT
14 THEY ARE NOT TO BE IN THE COURTROOM WHILE THE
15 TESTIMONY IS BEING PRESENTED UNTIL AFTER -- UNLESS
16 THEY'VE ALREADY TESTIFIED.

17 YOU ALSO STATED TO SOLICITOR WILSON THAT CERTAIN
18 NUMBER OF AGENTS COULD BE PRESENT DURING THE STATE'S
19 CASE IN CHIEF. YOUR HONOR, WHAT WE WOULD ASK IS THAT
20 HE DESIGNATE WHO HE WANTS TO KEEP IN HERE AND THEN IF
21 HE WANTS THEM TO REMAIN IN HERE AFTER THEY'VE
22 TESTIFIED, I DON'T THINK ANYBODY HAS ANY OBJECTION TO
23 THAT. WE JUST WANT TO HAVE SOME IDEA OF THE FLOW OF
24 THAT.

25 THE COURT: NO, SIR. I INDICATED

1 YESTERDAY I'M NOT GOING TO RESTRAIN HIM IN THAT
2 FASHION SIMPLY BECAUSE HE'S TRYING SIX DIFFERENT
3 INDIVIDUALS.

4 MR. ERVIN: YES.

5 THE COURT: ON SIX DIFFERENT SETS OF
6 FACTS.

7 MR. ERVIN: OKAY.

8 THE COURT: HE'S GOT TO HAVE HIS AGENTS
9 HERE TO COUNTER BALANCE ANYTHING THAT MIGHT COME UP.
10 HE CAN'T COUNTER BALANCE --

11 MR. ERVIN: DOES THAT MEAN ANYBODY
12 CONNECTED WITH LAW ENFORCEMENT?

13 THE COURT: NO, SIR. I'M GOING TO LEAVE
14 THAT IN HIS DISCRETION. NOW, HE'S AN OFFICER OF THE
15 COURT. I'M GOING TO LET HIM USE HIS DISCRETION IN
16 CONCLUDING WHAT INVESTIGATING OFFICERS HE NEEDS HERE
17 SIMPLY BECAUSE WE ARE TRYING SIX DIFFERENT CASES.
18 AND I THOUGHT I MADE THAT CLEAR YESTERDAY.

19 MR. ERVIN: WELL, YOU MAY HAVE, BUT I'M
20 JUST MAKING SURE I UNDERSTAND IT.

21 THE COURT: YES, SIR. ALL FACT WITNESSES,
22 NOW, OTHER THAN INVESTIGATING OFFICERS ARE EXCLUDED
23 ON BOTH SIDES.

24 MR. ERVIN: YES, SIR.

25 THE COURT: NOW, IF YOU FEEL AGGRIEVED BY

1 THAT, I WILL NOT ORDER ANYBODY SEQUESTERED AND WE'LL
2 LET BOTH SIDES --

3 MR. ERVIN: NO, SIR, I DON'T FEEL
4 AGGRIEVED. I WANT TO MAKE SURE THAT WE'RE ON THE
5 SAME PAGE.

6 THE COURT: NO, SIR. IF YOU DON'T WANT
7 SEQUESTRATION, MAKE A MOTION.

8 MR. ERVIN: NO, SIR. NO, SIR.

9 THE COURT: THANK YOU.

10 MR. ERVIN: WE ALSO MADE SEVERAL BRADY
11 MOTIONS AND I WANT TO BRING IT TO THE COURT'S
12 ATTENTION AND THE SOLICITOR'S ATTENTION, THERE WERE
13 SEVERAL INCONSISTENCIES IN CO-DEFENDANTS' STATEMENTS
14 REGARDING MISIDENTIFICATION, IN OTHER WORDS, WHERE
15 THEY WOULD INDICATE THEY WEREN'T FAMILIAR WITH WHO A
16 PERSON WAS OR WHAT THEIR APPEARANCE WAS, AND LATER ON
17 THEY WOULD MAKE AN IDENTIFICATION OF THAT PERSON IN
18 THEIR STATEMENT. I -- THIS HAPPENED MORE THAN ONCE.
19 AND I WOULD POINT OUT THAT MISIDENTIFICATION IS
20 DISCOVERABLE UNDER BRADY.

21 THE REASON I POINT THAT OUT IS IF THE STATE HAS
22 ANY INFORMATION REGARDING ANY SUGGESTIVE TECHNIQUES
23 EMPLOYED BY LAW ENFORCEMENT OR ANYBODY ELSE THAT
24 WOULD TEND TO ENABLE THESE WITNESSES TO COME BACK AND
25 MAKE IN-COURT INDICATION. THAT MAY BE AN ISSUE THAT

1 COMES UP LATER, BUT I WOULD RENEW MY BRADY MOTION AND
2 POINT OUT THAT MISIDENTIFICATION, IF IT'S EMPLOYED BY
3 LAW ENFORCEMENT THAT IS SUGGESTIVE, THAT IS
4 DISCOVERABLE. AND IF IT COMES UP LATER, YOU KNOW, WE
5 NEED TO ADDRESS THAT.

6 THE COURT: AGAIN, THE STATE OF SOUTH
7 CAROLINA TELLS ME UNDER THE APPROPRIATE RULE AND
8 BRADY DECISION THAT YOU -- THEY HAVE GIVEN YOU
9 EVERYTHING THAT YOU ARE ENTITLED TO. AGAIN, AS I
10 RELY ON THEM AS AN OFFICER OF THE COURT, I ALSO RELY
11 ON YOU.

12 MR. WILSON, DO YOU CARE TO RESPOND, SIR, FOR THE
13 RECORD?

14 MR. WILSON: NO, SIR. HIS QUESTION AND
15 STATEMENT IS SO VAGUE, I'M NOT SURE WHAT HE'S
16 REFERRING TO. IF HE'S ASKING WHETHER OR NOT THERE
17 WERE ANY LINEUPS OR ANYTHING LIKE THAT, THE ANSWER TO
18 THAT IS NO. IF THERE WAS, HE WOULD HAVE BEEN
19 PROVIDED IT.

20 MR. ERVIN: RIGHT.

21 MR. WILSON: IF HE'S ASKING WHETHER OR
22 NOT, YOU KNOW, THE POLICE MIGHT HAVE SAID IS IT JOHN
23 DOE, I CAN'T ANSWER THAT. I DON'T KNOW, I MEAN,
24 UNLESS HE CAN GIVE ME A SPECIFIC SITUATION OR
25 CIRCUMSTANCE TO TRY TO ADDRESS IT. BUT IF HE'S JUST

1 ASKING ME IN GENERAL IF THERE ARE ANY ORAL WITNESSES
 2 THAT WE TALKED TO OVER THE COURSE OF TWO-AND-A-HALF
 3 YEARS, IF THE POLICE AT SOME POINT IN TIME SUGGESTED
 4 A NAME OF A PERSON THAT THEY COULD NOT IDENTIFY, IF
 5 HE'S ASKING ME THAT, I CAN'T ANSWER THAT UNLESS HE
 6 WILL GIVE ME A SPECIFIC SITUATION.

7 MR. ERVIN: YOUR HONOR, I'LL TRY TO BE AS
 8 SUCCINCT AS POSSIBLE. WHAT I'M TALKING ABOUT, IF THE
 9 POLICE FOR EXAMPLE SUGGESTED OR SHOWED A PICTURE TO
 10 SOMEBODY AFTER THEY HAD STATED THAT THEY COULD NOT
 11 REMEMBER THE PERSON'S NAME, THEN OBVIOUSLY, THAT
 12 WOULD INVOLVE SUGGESTIVETY.

13 THE COURT: HERE'S WHAT YOU DO. IF
 14 SOMETHING COMES UP THAT YOU FEEL AGGRIEVED ABOUT, YOU
 15 OBJECT AND I'LL RULE ON IT. I AGREE WITH THE
 16 SOLICITOR AT THIS POINT. I DON'T KNOW WHAT YOU'RE
 17 AGGRIEVED ABOUT.

18 MR. ERVIN: I DON'T HAVE IT AT THIS POINT.

19 THE COURT: IT'S OBVIOUS THAT YOU DON'T
 20 HAVE IT, BUT IF IT COMES UP, I'LL RULE ON IT FOR YOU.
 21 ALL RIGHT. ANYTHING ELSE? ANYTHING FURTHER, MR.
 22 ERVIN?

23 MR. ERVIN: NO, YOUR HONOR, NOT FROM ME.

24 MR. PADGETT: YOUR HONOR, THIS IS NOT
 25 REALLY A MOTION. IT'S SOMETHING I WANT TO BRING UP

1 EARLY. FRIDAY I HAD DELIVERED SOME SUBPOENAS TO THE
2 SHERIFF'S DEPARTMENT, SOME 30 TO GET SOME PEOPLE
3 HERE, POTENTIAL DEFENSE WITNESSES. TWO WERE IN
4 GIBSON, NORTH CAROLINA, ABOUT HALF AN HOUR. AFTER I
5 DELIVERED THEM, SOMEONE FROM THE SHERIFF'S DEPARTMENT
6 CALLED ME AND TOLD ME THEY CAN'T DELIVER SUBPOENAS IN
7 NORTH CAROLINA, BUT ONE OF THOSE PEOPLE WERE BROUGHT
8 HERE AT LEAST TWICE TO TALK TO THE SHERIFF'S
9 DEPARTMENT. AND I WANT TO MAKE SURE --

10 THE COURT: WELL, IF YOU'LL READ THE CODE
11 BOOK, THERE'S A PROCEDURE FOR YOU TO GO GET NORTH
12 CAROLINA, BUT THERE'S A CERTAIN PROCEDURE THAT YOU
13 WILL HAVE TO FOLLOW. IN THE MEANTIME, I'LL ASK THE
14 SHERIFF IF YOU CAN GO GET THEM WITHOUT A SUBPOENA,
15 THEY WILL HAVE TO VOLUNTARILY COME. UNLESS YOU
16 COMPLY WITH THE STATUTE. WHO ARE THEY?

17 MR. PADGETT: ONE IS CALLED MYRA BENNETT,
18 FOX ANN, AND THE OTHER IS VERNON DUNBAR. AND
19 MS. BENNETT HAS BEEN BROUGHT HERE SEVERAL TIMES TO
20 TALK WITH SOLICITOR WILSON.

21 MR. WILSON: HE DID TURN THOSE SUBPOENAS
22 OVER TO SCOTLAND COUNTY. YOUR HONOR -- AND THE COURT
23 IS ABSOLUTELY CORRECT. THERE IS A PROCESS AND WE
24 HAVE TO FOLLOW THAT SAME PROCESS. IF THE WITNESS IS
25 UNWILLING OR UNCOOPERATIVE, THE ONLY WAY TO DO IT IS

1 GET AN ORDER HERE AND TAKE IT TO NORTH CAROLINA AND
2 HAVE THE COURT THERE ORDER THAT THEY APPEAR. THESE
3 OFFICERS CANNOT GO TO NORTH CAROLINA AND GET THAT
4 PERSON UNLESS THEY AGREE TO COME.

5 MR. ROGERS: THAT WAS ONE OF THE BASES FOR
6 A CONTINUANCE BECAUSE WE HAD THIS TIMEFRAME PROBLEM
7 AND WE KNEW WE HAD WITNESSES, AND THAT WAS EXACTLY
8 WHAT YOU TOLD US. YOU SAID MR. ROGERS, Y'ALL WILL
9 HAVE PLENTY OF TIME TO DO WHAT YOU NEED TO DO TO GET
10 YOUR WITNESSES. YOU CAN STAY IN THE CASE IF YOU WANT
11 TO. AND THAT WAS PARTIALLY ONE OF THE REASONS I
12 STAYED.

13 THE COURT: WELL --

14 MR. ROGERS: AND I UNDERSTAND THE COURT
15 PROCESS, BUT YOU KNOW, WE WERE -- BECAUSE WE WERE
16 RUSHED, BECAUSE THIS CASE CAME UP SO QUICKLY, WE WERE
17 HOPING FOR ANY ASSISTANCE FROM THE STATE THAT WE
18 COULD GET.

19 THE COURT: WE'LL GET YOU THE STATE'S
20 WITNESS, BUT THEY HAVE NO AUTHORITY TO SUBPOENA A
21 WITNESS. I PRESUME THAT Y'ALL KNOW THE LAW ABOUT
22 SUBPOENAING OUT-OF-STATE WITNESSES AS CAPABLE AS
23 Y'ALL ARE. I'M GOING TO DIRECT THE SHERIFF TO TAKE
24 SUCH ACTIONS AS HE CAN TO GET THEM HERE. IN THE
25 MEANTIME, PLEASE COMPLY WITH THE STATUTE AND WE'LL

1 SIGN THE NECESSARY ORDER SO THAT WE WILL HAVE
2 AUTHORITY TO DO IT.

3 MR. WILSON: YOUR HONOR, THIS CASE HAS
4 BEEN SET FOR TRIAL SINCE DECEMBER, AND I -- I
5 UNDERSTAND THAT SOME OF THE LAWYERS DIDN'T COME IN
6 UNTIL JANUARY, BUT EVEN THOSE WHO CAME IN JANUARY
7 WERE AWARE WHEN THEY CAME IN IN JANUARY THAT THIS
8 CASE WAS SET FOR TRIAL. AND SO I DON'T UNDERSTAND
9 THIS ARGUMENT THAT, WELL, WE WERE PREJUDICED SOMEHOW
10 BECAUSE THEY ALL KNEW SINCE DECEMBER AND AT THE
11 LATEST SINCE JANUARY WHEN THEY CAME IN.

12 THE COURT: THEY'VE HAD AMPLE TIME TO
13 COMPLY WITH THE STATUTE. THAT'S NOT HERE. I'M GOING
14 TO SEE IF THE SHERIFF CAN GET THEM HERE VOLUNTARILY,
15 AND IF NOT, I'LL DIRECT YOU TO COMPLY WITH THE
16 STATUTE AND WE'LL ISSUE THE NECESSARY ORDERS TO GET
17 THEM HERE.

18 MR. PADGETT: I WOULD ALSO POINT OUT THAT
19 MRS. BENNETT IS ON THE PROSECUTOR'S WITNESS LIST.

20 THE COURT: WELL, YOU WANT HIM OR THEY
21 WANT HIM?

22 MR. PADGETT: WE WOULD CERTAINLY LIKE TO
23 TALK TO HER, JUDGE.

24 MR. WILSON: I'M SORRY, WHO IS IT?

25 THE COURT: HE SAID BENNETT IS ON YOUR

1 LIST.

2 MR. WILSON: FOX ANN?

3 THE COURT: MYRA BENNETT IS SUBPOENAED FOR
4 THE DEFENSE. HE SAID Y'ALL SUBPOENAED HER. BUT YOU
5 DIDN'T HAVE ANY ADDRESS OF ANY KIND?

6 MR. PADGETT: NO, SIR. I'M A
7 COURT-APPOINTED LAWYER. I HAVE NO INVESTIGATOR.
8 THIS IS THE BIG MACHINE OVER HERE. THEY CAN FIND
9 HER.

10 THE COURT: PLEASE, PLEASE, I ASKED YOU
11 ONE QUESTION. DO YOU HAVE AN ADDRESS ON HER?

12 MR. PADGETT: I GOT ONE YESTERDAY.

13 MR. ROGERS: WE GOT ONE YESTERDAY.

14 THE COURT: WELL, PLEASE MAKE PROVISIO TO
15 GET IT TO HER AND SHE'LL TRY TO HELP YOU GET IT.

16 MR. ROGERS: YES, SIR.

17 THE COURT: ALL RIGHT. WHAT ELSE?

18 MR. WILL ROGERS: YOUR HONOR, I WOULD LIKE
19 TO MAKE A MOTION FOR A MISTRIAL AT THIS TIME. EVEN
20 AFTER YOU SPECIFICALLY TOLD THE REPORTER NOT TO
21 INTERVIEW ANYBODY RELATED WITH THE CASE, I WAS
22 SITTING AT HOME LAST NIGHT GOING OVER THE PHONE AND I
23 SAW WHERE SHE WAS CHASING MY CLIENT THROUGH THE
24 PARKING LOT ASKING HIM QUESTIONS ABOUT THE CASE.

25 THE COURT: DID HE RESPOND -- I DID NOT

1 SEE IT. I HAVE HEARD ABOUT IT FROM SEVERAL SOURCES
2 THIS MORNING. WHAT WAS RELATED TO ME, THAT SHE DID
3 ASK HIM. AND SHE SHOULD NOT HAVE DONE THAT AND WOULD
4 BE ADMONISHED AND FINED. BUT IT'S RELATED TO ME SHE
5 SAID, "ARE YOU GUILTY?" AND HE SAID, "NO COMMENT."
6 THERE WAS NOTHING INDICATING HIS GUILT IN THE CASE.
7 WHAT IS YOUR CLIENT'S NAME, FOR THE RECORD?

8 MR. WILL ROGERS: ALFONZO STATON.

9 THE COURT: IS THAT IN SUBSTANCE WHAT
10 OCCURRED?

11 MR. WILL ROGERS: YES, SIR, YOUR HONOR,
12 BUT I DON'T WANT IT TO BE INFERRED IF ANY OF THE
13 JURORS SAW IT SINCE HE WAS THE ONLY ONE THAT WAS
14 INTERVIEWED ON T.V. OR ASKED ABOUT IT THAT THEY THINK
15 HE IS MORE GUILTY OR THERE'S MORE EVIDENCE AGAINST
16 HIM THAN ANY OF THE OTHERS.

17 THE COURT: DO YOU WANT ME TO INQUIRE --
18 OBVIOUSLY THAT STANDING ALONE, THAT HE WAS ASKED
19 WHETHER HE WAS GUILTY OR NOT AND HE RESPONDED NO
20 COMMENT AND WALKED AWAY IS NOT SUFFICIENT FOR ME TO
21 DECLARE A MISTRIAL. IF YOU WISH ME TO, I'LL INQUIRE
22 OF THIS JURY WHO SAW THAT, BUT THAT JUST FURTHER
23 CALLS IT TO THEIR ATTENTION. WOULD YOU WANT ME TO
24 MAKE INQUIRY OF THE JURY?

25 MR. WILL ROGERS: NO, YOUR HONOR.

1 THE COURT: WELL, I WOULD BE GLAD TO MAKE
2 INQUIRY. AND IF SOMEBODY TELLS ME THEY SAW IT, I'LL
3 GIVE THEM AN ABSOLUTE NO INFERENCE CHARGE. I WILL DO
4 THAT. MR. WILSON, DO YOU HAVE A COMMENT FOR THE
5 RECORD IN THIS CONNECTION?

6 MR. WILSON: YES, SIR. YOUR HONOR, I
7 DON'T SEE ANY PREJUDICE TO THIS DEFENDANT AND I
8 CERTAINLY DON'T SEE ANY PREJUDICE TO THIS TRIAL IN
9 THE FACT THAT THE PRESS ASKED HIM IF HE WAS GUILTY
10 AND HE SAID NO COMMENT. I MEAN, HE'S -- HE'S PLED
11 NOT GUILTY. I DON'T UNDERSTAND.

12 MR. ERVIN: YOUR HONOR, AS FAR AS THAT'S
13 CONCERNED, AND I REALIZE HE'S NOT MY CLIENT, BUT ONE
14 THING THAT IS IMPORTANT AT LEAST FOR THE REST OF THIS
15 TRIAL IS THAT THE PRESS TRY TO AVOID PORTRAYING ANY
16 OF THESE --

17 THE COURT: I'LL TAKE CARE OF THAT WHEN I
18 GET AHOLD OF HER.

19 MR. ERVIN: HE WAS CLEARLY IN CUSTODY IS
20 THE POINT I WAS GOING TO MAKE. HE HAD ON CHAINS.

21 THE COURT: NO, SIR. THE CHAINS -- HE
22 DIDN'T HAVE ON CHAINS. THE HANDCUFFS WERE NOT SHOWN.

23 MR. ERVIN: HE HAD SOMEBODY WITH HIM,
24 DIDN'T HE?

25 THE COURT: NO, SHE JUST SHOWED HIS FACE.

1 MR. ERVIN: I SAW HIM RUNNING IS WHAT I
2 SAW.

3 THE COURT: NOW --

4 MR. ERVIN: I MUST HAVE SAW SOMETHING
5 DIFFERENT.

6 THE COURT: THERE WAS NOBODY SHOWN IN THE
7 PICTURE BUT HIM. THEY WALKED UP AND FORTUNATELY HE
8 SAID NO COMMENT AND THAT'S IT.

9 MR. ERVIN: THAT'S SOMETHING WE NEED TO
10 AVOID IS WHAT I'M SAYING, THEN.

11 THE COURT: WE WILL. AND OBVIOUSLY, WE'LL
12 DO THAT AS SOON AS I FIND THEM.

13 MR. ERVIN: COULD YOU TELL THE JURY --

14 THE COURT: YOU'RE NOT INVOLVED. THE
15 LAWYER HAS ASKED ME NOT TO DO THAT.

16 MR. ERVIN: I'M NOT TALKING ABOUT THE
17 SPECIFIC INCIDENT. LET ME SAY WHAT I'M GOING TO SAY.
18 COULD YOU INSTRUCT THE JURY THAT IN THE FUTURE IF
19 THEY ARE WATCHING TELEVISION AND SOMETHING COMES ON
20 TO PLEASE TURN THE CHANNEL OR TURN IT OFF? THAT'S
21 ALL I WAS GOING TO SAY.

22 THE COURT: NO, SIR. AT THE DAY'S END,
23 I'M GOING TO DO THAT. I DON'T WANT TO DO IT THIS
24 MORNING BECAUSE I DON'T WANT TO BRING ANY FURTHER
25 ATTENTION TO THAT IF THEY SAW IT.

1 LET THE RECORD REFLECT THAT I HAVE ADVISED MR.
2 ROGERS WHO REPRESENTS HIS DEFENDANT THAT I WILL
3 INQUIRE OF THE JURY IF HE WANTS ME TO. HE ASKED ME
4 NOT TO. I TOLD HIM THAT I WOULD GIVE A CURATIVE
5 INSTRUCTION. I HAVE CONCLUDED THAT I WILL NOT ASK
6 IT.

7 MR. WILL ROGERS: OKAY. I WOULD LIKE TO
8 ASK THE GENERAL INSTRUCTION IF THEY'VE SEEN ANYTHING
9 ON T.V. OR READ ANYTHING ABOUT IT AND THAT THEY ARE
10 NOT SUPPOSED TO USE THAT IN MAKING A DECISION IN THIS
11 CASE.

12 THE COURT: WELL, THAT'S CALLING -- THAT'S
13 DOING EXACTLY WHAT YOU'VE ASKED ME NOT TO DO. THAT'S
14 CALLING IT TO THEIR ATTENTION.

15 MR. WILL ROGERS: WELL, I DON'T MEAN
16 SPECIFICALLY WHAT HAPPENED YESTERDAY, BUT JUST IN
17 GENERAL IF THEY'VE READ --

18 THE COURT: DOES ANYBODY KNOW -- THERE WAS
19 NOTHING IN THE MORNING'S PAPER ABOUT THIS CASE. I
20 LOOKED AT ALL OF THEM.

21 MR. REDMOND: THIS IS ATTORNEY REDMOND
22 SPEAKING FOR JEFF WALLS. YOU HAD INDICATED A FEW
23 MINUTES AGO THAT YOU WOULD GIVE THEM THAT INSTRUCTION
24 AT THE END OF THE DAY. I GUESS I'M INQUIRING AS TO
25 WHETHER OR NOT --

1 THE COURT: NO, SIR, I DIDN'T SAY AT THE
2 END OF THE CASE.

3 MR. REDMOND: YOU DIDN'T SAY END OF THE
4 CASE. YOU SAID END OF THE DAY. AND THAT'S WHAT --

5 THE COURT: DO NOT LISTEN TO ANY
6 TELEVISION OR READ ANY REPORTS.

7 MR. REDMOND: BUT MY INQUIRY IS WHETHER OR
8 NOT THE JURY IS GOING TO BE ALL TOGETHER DURING
9 LUNCH, BECAUSE IF NOT, THEY ARE GOING TO BE FREE TO
10 GO. THERE'S ALWAYS THE MIDDAY NEWS THAT COULD POSE A
11 PROBLEM.

12 THE COURT: I WILL DO THAT EACH TIME.

13 MR. REDMOND: THANK YOU, YOUR HONOR.

14 THE COURT: I'M NOT GOING TO SEQUESTER
15 THEM FOR LUNCH.

16 MR. LAWSON: YOUR HONOR, JACK LAWSON
17 REPRESENTING ROBERT GRAHAM. AND THERE IS AN ARTICLE
18 IN THE FLORENCE MORNING NEWS.

19 THE COURT: HAVE YOU READ ANYTHING ABOUT
20 IT?

21 MR. LAWSON: I TRY TO STAY AWAY FROM THAT
22 NEWSPAPER THE BEST I CAN. I'M KIND OF ALLERGIC TO
23 IT, JUDGE.

24 THE COURT: NO, SIR. I HAVE READ THAT.
25 THERE'S NOTHING OFFENSIVE. THAT'S JUST A GENERAL

1 SUMMARY OF WHAT OCCURRED ON YESTERDAY. ALL RIGHT,
2 SIR. ARE WE NOW READY TO PROCEED WITH THE SWEARING
3 OF THE JURY?

4 MR. LAWSON: YOUR HONOR, I HAVE JUST A
5 COUPLE OF MATTERS I WANT TO CONCLUDE FOR THE RECORD.

6 THE COURT: OKAY.

7 MR. LAWSON: AND I'M NOT ARGUING ANY
8 POINT, BUT I WANT TO CLEAR UP THE RECORD IN RELATION
9 TO A MOTION FOR SEVERANCE AS IT WOULD RELATE TO
10 ROBERT GRAHAM. FIRST OF ALL, IT'S CLEAR FROM WHEN
11 THE JURY WAS VOIR DIRE THAT HE IS NOT AND IS THE
12 ONLY DEFENDANT IN THIS SIX-DEFENDANT TRIAL WHO IS NOT
13 CHARGED WITH MURDER. MY CONCERN IS THAT WERE HE NOT
14 BEING TRIED FOR --- IN A CASE WITH THE DEFENDANTS
15 CHARGED WITH MURDER, THERE WOULD BE EVIDENCE -- OR
16 THERE WILL BE EVIDENCE IN THIS CASE THAT MAY BE
17 ADMISSIBLE AGAINST PEOPLE CHARGED WITH MURDER THAT IN
18 A SEPARATE TRIAL OR IN A TRIAL WITH INDIVIDUALS NOT
19 CHARGED WITH MURDER WOULD NOT BE ADMISSIBLE OR
20 RELEVANT IN RELATION TO ROBERT GRAHAM. IT CREATES AN
21 IMPOSSIBLE DEFENSE SITUATION BECAUSE I MAY HAVE
22 STANDING TO OBJECT TO THE INTRODUCTION OF EVIDENCE
23 AND IT MAY BE INADMISSIBLE AGAINST MY CLIENT, BUT IT
24 MAY BE ADMISSIBLE AGAINST OTHER CLIENTS AND --

25 THE COURT: DIDN'T YOU MAKE THE SAME

1 ARGUMENT YESTERDAY, MR. LAWSON?

2 MR. LAWSON: AS TO THIS EVIDENCE, I DON'T
3 BELIEVE I DID, YOUR HONOR. THERE'S AN ADDITIONAL
4 GROUND THAT I WANTED TO STATE.

5 THE COURT: GO AHEAD AND STATE IT FOR THE
6 RECORD.

7 MR. LAWSON: YOUR HONOR, DURING THE
8 INVESTIGATION, MY CLIENT WAS INTERVIEWED BY THE
9 POLICE AND GAVE A STATEMENT. AND IN THAT STATEMENT,
10 HE SAID SOME THINGS IN RELATION TO PEOPLE
11 COMMUNICATING INFORMATION TO HIM THAT SHOULD IN THE
12 DEFENSE OF THE CASE WE HAVE TO USE HIM AS A WITNESS,
13 THEN THAT INFORMATION WILL BE INCONSISTENT WITH THE
14 DEFENSES OF OTHER DEFENDANTS AND WILL AT THAT POINT
15 CREATE AN INCONSISTENT DEFENSE SITUATION AS IT
16 RELATES TO OTHER DEFENDANTS.

17 THE COURT: YOU HAVE NO RESPONSIBILITIES
18 TO THE OTHER DEFENDANTS IN THIS CASE.

19 MR. LAWSON: I HAVE AN OBLIGATION TO HIM,
20 THOUGH.

21 THE COURT: I ACCEPT THAT.

22 MR. LAWSON: AND INCONSISTENT DEFENSE IS
23 PROBABLY THE MAIN REASON THAT A JUDGE SHOULD SEVER A
24 TRIAL, ESPECIALLY IN A SITUATION LIKE THIS.

25 THE COURT: LET ME GET MR. WILSON ON THE

1 RECORD. WHAT'S YOUR POSITION, MR. WILSON?

2 MR. WILSON: YOUR HONOR, MY POSITION ON
3 THIS MATTER IS THE SAME AS IT WAS ON YESTERDAY WHEN
4 HE BROUGHT UP THIS SAME ISSUE. THESE -- ALL OF THESE
5 FACTS ARISE OUT OF THE SAME SET OF CIRCUMSTANCES,
6 WHICH IS THE DEATH AND MURDER OF THIS VICTIM. THIS
7 DEFENDANT ALLEGEDLY OWNED OR LIVED IN THE HOUSE WHERE
8 THIS VICTIM WAS HELD CAPTIVE FOR A SUBSTANTIAL PERIOD
9 OF TIME. HE IS ALLEGED TO HAVE HAD SEXUAL
10 INTERCOURSE WITH HER AT SOME POINT IN TIME. HE WAS
11 ALLEGED TO BE AWARE THAT SHE WAS THERE BEING TIED UP,
12 TAPED UP FOR A PERIOD OF TIME. THE ONLY THING THAT
13 HE IS NOT ACCUSED OF AND PROBABLY HE SHOULD BE
14 ACCUSED OF IS THAT HE DID NOT PARTICIPATE IN THE
15 MURDER. AND THE ONLY REASON HE WAS NOT CHARGED WITH
16 THAT THAT IS HE WAS NOT IN THE CAR WHEN THEY DUMPED
17 HER OFF THE BRIDGE.

18 THE COURT: LET'S DON'T ARGUE THIS
19 POSITION ANY MORE.

20 MR. LAWSON: MAY I MAKE ONE POINT, YOUR
21 HONOR?

22 THE COURT: YES, SIR. I'LL PERMIT THAT.
23 AND THEN WE'RE GOING TO GET ON WITH THIS CASE.

24 MR. LAWSON: THE STATE ARGUED IN
25 SEQUESTRATION THAT THIS WAS SEPARATE CIRCUMSTANCES

1 AND THERE WAS NO WAY FOR HIM TO KNOW WHICH OFFICER HE
2 NEEDED TO DESIGNATE AS -- AS THE CASE AGENT. HE NOW
3 ARGUES THAT IT'S ALL THE SAME CIRCUMSTANCES AND THAT
4 IS INCONSISTENT TOTALLY IN THE TWO POSITIONS. THEY
5 ARE TOTALLY INCONSISTENT AND IT JUST DOESN'T MAKE
6 SENSE. IF IT IS SO INCONCLUSIVE AS TO REQUIRE THE
7 PRESENCE OF ALL OF THE POLICE OFFICERS --

8 THE COURT: LET'S END THIS CONVERSATION,
9 NOW, GENTLEMEN. IT'S 10:30 AND THE JURY HAS BEEN
10 SITTING BACK THERE AND I'VE BEEN VERY PATIENT WITH
11 ALL SIX MOTIONS. ANY OTHER LAWYER WANT TO BE HEARD?
12 I THINK I'VE HEARD FROM ALL SIX OF YOU. MOTION
13 DENIED. ANY OTHER MOTIONS? MR. ERVIN, HAVE YOU GOT
14 ANY MORE?

15 MR. ERVIN: NO, SIR.

16 THE COURT: I WANT EVERYBODY TO TAKE THE
17 RECORD, NOW, GENTLEMEN IF ANYBODY HAS ANY OTHER
18 MOTIONS THAT I HAVEN'T HEARD, I'LL BE GLAD TO HEAR
19 IT. ALL RIGHT. BRING THE JURY IN.

20 MR. WILSON: YOUR HONOR, BEFORE YOU BRING
21 THEM.

22 THE COURT: AS THEY COME IN -- EXCUSE ME,
23 OPENING STATEMENTS ARE NOT SUMMATIONS. AND I'M GOING
24 TO ADHERE VERY STRICTLY TO OPENING STATEMENTS. I'LL
25 GIVE YOU AIL OF THE TIME.

1 MR. WILSON: CAN I ASK IF THERE ARE ANY
2 WITNESSES, ANY WITNESSES IN THE COURTROOM AT THIS
3 TIME, IF YOU'RE SUBPOENAED AS A WITNESS, YOU SHOULD
4 NOT BE IN THE COURTROOM. ANY PERSON IN THE COURTROOM
5 THAT HAS BEEN SUBPOENAED HERE AS A WITNESS? IF YOU
6 HAVE, YOU NEED TO GO TO THE SOLICITOR'S OFFICE. ANY
7 OTHER PERSON IN THE COURTROOM?

8 THE COURT: BILL, TELL YOUR BAILIFFS IF
9 ANYBODY COMES IN THE COURTROOM THAT THEY NEED TO --

10 MR. LAWSON: IF THE BAILIFFS --

11 THE COURT: I'VE ALREADY ASKED THEM TO DO
12 THAT.

13 MR. LAWSON: IF THEY FIND OUT THEY ARE
14 WITNESSES.

15 THE COURT: YES, SIR. THANK YOU, THOUGH.
16 ALL RIGHT. LET'S KEEP THESE WITNESSES IN ACCORD---
17 THESE OPENING STATEMENTS IN ACCORDANCE WITH THE
18 RULES, NOW.

19 MR. WILSON: YOUR HONOR, DO YOU HAVE THE
20 INDICTMENTS?

21 THE COURT: YES, SIR. AND I WOULD LIKE
22 THEM BACK. I NEED THE CLERK TO SWEAR THE WITNESS --
23 SWEAR THE JURY. WHERE IS HE? WILL YOU SWEAR THE
24 JURY FOR ME, JOY?

25 THE CLERK: YES.

1 (WHEREUPON, THE JURY WAS RETURNED
2 TO THE COURTROOM AND THE FOLLOWING
3 PROCEEDINGS WERE COMMENCED IN
4 OPEN COURT.)

5 THE COURT: THANK YOU, MA'AM. ALL RIGHT.
6 MADAM FOREMAN, AS I STATED YESTERDAY, YOU WILL OCCUPY
7 THAT CHAIR AND THE ALTERNATES IN THE CHAIRS THEY ARE
8 IN AND THE REST AS YOU CHOOSE. I HOPE THE HAM
9 BISCUITS WERE SATISFACTORY TO ALL OF YOU. MR. CLERK,
10 PLEASE SWEAR THIS JURY.

11 THE CLERK: WILL YOU PLEASE STAND AND
12 RAISE YOUR RIGHT HAND.

13 (WHEREUPON, THE JURY, AS IMPANELED, WAS DULY
14 SWORN BY THE CLERK OF COURT FOR RENDERING A
15 TRUE VERDICT.)

16 THE COURT: ALL RIGHT. MADAM FOREMAN AND
17 LADIES AND GENTLEMEN, RECOGNIZING THAT FOR MANY OF
18 YOU THIS IS THE FIRST TIME YOU'VE SET ON A JURY,
19 PARTICULARLY A JURY IN A CRIMINAL CASE, LET ME TELL
20 YOU HOW WE WILL PROCEED. MR. WILSON, WHO REPRESENTS
21 THE STATE OF SOUTH CAROLINA, WILL FIRST MAKE AN
22 OPENING STATEMENT REGARDING THE STATE'S POSITION IN
23 THIS CASE. THE VARIOUS DEFENDANTS' ATTORNEYS WILL
24 SIMILARLY MAKE AN OPENING STATEMENT WITH REGARDS TO
25 THEIR POSITION.

1 NOW, WHAT THE LAWYERS TELL YOU IS NOT EVIDENCE.
2 IT'S THEIR VIEW OF THE CASE, BUT IT IS NOT EVIDENCE.
3 EVIDENCE COMES FROM THIS WITNESS STAND UNDER OATH.
4 FOLLOWING THE OPENING STATEMENTS OF COUNSEL FOR THE
5 STATE AND FOR THE DEFENSE, THE STATE OF SOUTH
6 CAROLINA WILL CALL ITS VARIOUS WITNESSES TO TESTIFY.
7 THEY WILL BE CROSS-EXAMINED BY THE ATTORNEYS FOR THE
8 DEFENSE. AFTER THE STATE HAS PRODUCED ITS WITNESSES,
9 THE DEFENDANT, IF HE CHOOSES TO, MAY CALL SUCH
10 WITNESSES AS THEY DESIRE TO TESTIFY. THE STATE OF
11 SOUTH CAROLINA EQUALLY WILL HAVE A RIGHT TO
12 CROSS-EXAMINE THOSE WITNESSES.

13 AT THE CONCLUSION OF THE TAKING OF ALL OF THE
14 TESTIMONY, WE WILL THEN HAVE SUMMATION, MEANING FINAL
15 POSITIONS, FINAL ARGUMENT BY THE STATE OF SOUTH
16 CAROLINA AND BY EACH OF THESE COUNSEL FOR THE
17 DEFENDANTS. AT THE CONCLUSION OF THEIR SUMMATION, I
18 WILL GIVE YOU THE INSTRUCTIONS IN THE LAW AS IT
19 PERTAINS TO ANY ISSUE THAT IS RAISED IN THE TRIAL OF
20 THIS CASE.

21 NOW, FROM THIS MOMENT ON, I WANT YOU TO
22 UNDERSTAND AS STRONGLY AS I CAN THAT THERE IS NOBODY
23 IN THIS WIDE WORLD THAT CAN TELL YOU 12 WHAT THE
24 FACTS ARE. YOU AND ONLY YOU DECIDE WHAT THE FACTS
25 ARE, MEANING WHAT REALLY HAPPENED.

1 I'M THE JUDGE IN THIS CASE AND I WILL TELL YOU
2 WHAT THE LAW IS. I HAVE NO RIGHT TO HAVE A FACTUAL
3 OPINION AND I HAVE NONE. YOU WILL TAKE THE FACTS AS
4 YOU FIND THEM TO BE AND APPLY THOSE FACTS TO THE LAW
5 OF THIS CASE AND REACH THAT VERDICT THAT'S FAIR TO
6 THE STATE OF SOUTH CAROLINA, THE PEOPLE OF MARLBORO
7 COUNTY AND THAT'S EQUALLY FAIR TO THESE DEFENDANTS.

8 THE SOLICITOR HAS READ AND WILL READ AGAIN TO
9 YOU THESE VARIOUS INDICTMENTS. NOW, I TELL YOU THAT
10 AN INDICTMENT IS NOT EVIDENCE. THE ALLEGATIONS IN AN
11 INDICTMENT IS NOT EVIDENCE. EVIDENCE, IF ANY, COMES
12 FROM THIS WITNESS STAND. I TELL YOU TOO THAT YOU 12
13 ARE THE SOLE AND ONLY JUDGES OF THE CREDIBILITY,
14 MEANING THE BELIEVABILITY OF ALL OF THE WITNESSES WHO
15 TESTIFY. YOU MAY BELIEVE ALL OF WHAT A WITNESS SAYS
16 OR NONE. YOU MAY BELIEVE A SMALL PORTION AND
17 DISREGARD THE LARGER OR THE OTHER WAY AROUND. YOU
18 MAY BELIEVE ONE WITNESS AGAINST THAT OF MANY OR THE
19 OTHER WAY AROUND. YOU DID NOT LOSE OR LEAVE YOUR
20 COMMON SENSE ON THE STREETS OF BENNETTSVILLE, SOUTH
21 CAROLINA WHEN YOU WALKED INTO THIS COURTROOM AND WE
22 ALL KNOW THAT IN EVERYDAY LIVES, BE IT RAISING OUR
23 FAMILY OR AT WORK OR WHATEVER, WHEN PEOPLE TELL US
24 THINGS, WE SIZE THEM UP, WE TEST THEIR CREDIBILITY.
25 WE JUDGE THEIR BELIEVABILITY. WE SAY TO OURSELVES

1 HOW DID THIS PERSON COME TO KNOW ABOUT THE FACTS THAT
 2 THEY ARE TELLING ME? WE ASK OURSELVES DOES THIS
 3 PERSON HAVE SOME BIAS OR PREJUDICE? WE ASK OURSELVES
 4 IS THIS PERSON LYING, AND IF SO, WHY? THESE ARE THE
 5 SORT OF CONCEPTS THAT WE ALL USE AND YOU WOULD USE AS
 6 JURORS IN JUDGING THE CREDIBILITY AND THE
 7 BELIEVABILITY OF ALL OF THE WITNESSES WHO TESTIFY.

8 NOW, EVERY DEFENDANT, NO MATTER HOW SERIOUS MAY
 9 BE THE CHARGE, IS ALWAYS PRESUMED INNOCENT. AND THAT
 10 PRESUMPTION OF INNOCENCE REMAINS WITH THEM OR HIM
 11 THROUGHOUT THE TRIAL UNTIL YOU THE JURY HAVE FOUND
 12 THEM OR HIM GUILTY BY YOUR SATISFACTION BEYOND A
 13 REASONABLE DOUBT. THAT IS THE BURDEN THAT THE STATE
 14 OF SOUTH CAROLINA HAS.

15 NOW, AS I'VE INDICATED, AT THE CONCLUSION OF THE
 16 TESTIMONY AND SUMMATION, I WILL BE WITH YOU WITH
 17 DETAILED INSTRUCTIONS OF LAW WITH REGARDS TO THE
 18 ISSUES THAT MAY BE RAISED IN THE TRIAL OF THIS CASE.

19 OPENING STATEMENTS, SOLICITOR.

20 MR. WILSON: THANK YOU VERY MUCH. MADAM
 21 FORELADY AND LADIES AND GENTLEMEN, AS HIS HONOR TOLD
 22 YOU EARLIER ON YESTERDAY, MY NAME IS RALPH WILSON AND
 23 I'M THE SOLICITOR FOR THE 15TH JUDICIAL CIRCUIT WHICH
 24 IS Horry AND GEORGETOWN COUNTIES. I'VE BEEN
 25 APPOINTED TO TRY THIS PARTICULAR CASE IN THE MARLBORO

1 COUNTY BY THE ATTORNEY GENERAL OF SOUTH CAROLINA.

2 LET ME START OUT BY SAYING FIRST OF ALL THAT I'M VERY
3 GRATEFUL TO YOU ON BEHALF OF THE PEOPLE OF THIS
4 COUNTY AND THE PEOPLE OF THIS STATE FOR YOUR
5 WILLINGNESS TO SERVE AND I KNOW THAT WHEN EACH OF YOU
6 GOT YOUR SUMMONS TO COME TO COURT, YOU PROBABLY GOT
7 THEM WITH MIXED EMOTIONS. SO YOU PROBABLY THOUGHT,
8 WELL, GOSH, YOU KNOW, I'VE REALLY GOT A LOT OF OTHER
9 THINGS TO DO. I REALLY DON'T NEED TO GO DOWN HERE
10 FOR A THE WHOLE WEEK AND SPEND A WEEK LISTENING TO A
11 BUNCH OF LAWYERS GO ON AND ON AND ON. I WOULD RATHER
12 BE SPENDING TIME WITH MY FAMILY OR WORKING. AND I
13 KNOW THAT THOSE THINGS ARE IMPORTANT TO YOU, BUT I
14 ALSO WANT YOU TO UNDERSTAND HOW IMPORTANT THIS CASE
15 IS TO THE PEOPLE OF THIS COUNTY, TO THE PEOPLE OF
16 THIS STATE AND TO THOSE DEFENDANTS WHO ARE ON TRIAL
17 HERE TODAY. IT'S IMPORTANT TO EVERYBODY. SO YOUR
18 PRESENCE HERE TODAY IS EXTREMELY IMPORTANT BECAUSE,
19 YOU SEE, THIS PROCESS WOULD NOT WORK, CANNOT WORK AND
20 DOES NOT WORK UNLESS YOU THE JURY PARTICIPATE. YOU
21 ARE THE BACKBONES AND THE CORNERSTONES OF THIS
22 PROCESS.

23 IF -- IF THERE IS JUSTICE IN MARLBORO COUNTY IN
24 THIS CASE, IT RESTS WITH YOU. YOU KNOW, AND SO OFTEN
25 WE THINK THAT, WELL, IF WE WANT JUSTICE, WE JUST GO

1 DOWN TO THAT COURTHOUSE AND IT'S JUST GOING TO
2 HAPPEN. WELL, IT DOESN'T HAPPEN THAT WAY. JUSTICE
3 IS ONLY AS GOOD AS THE PEOPLE WHO SERVE WHERE YOU
4 ARE. IF THERE'S NO JUSTICE IN YOUR HEARTS, IF THERE
5 IS NO JUSTICE IN YOUR MIND, THEN THERE IS NO JUSTICE
6 IN MARLBORO COUNTY THIS DAY BECAUSE YOU ARE IT. YOU
7 CARRY AN AWESOME, AWESOME RESPONSIBILITY.

8 AND THINK WHEN HIS HONOR WAS ADDRESSING YOU ON
9 YESTERDAY, HE TOLD YOU THAT PROBABLY THERE'S NO
10 GREATER SERVICE THAT YOU CAN RENDER OTHER THAN TO
11 SERVE IN THE MILITARY THAN TO SERVE ON A JURY BECAUSE
12 YOU DO GREAT SERVICE TO THE PEOPLE OF THIS COUNTY AND
13 THE PEOPLE OF THIS STATE AND THIS NATION.

14 NOW, LET ME SAY TO YOU, LADIES AND GENTLEMEN,
15 THAT AS MOST TRIALS GO, THIS WILL PROBABLY BE A
16 LENGTHY TRIAL. IT WILL TAKE US SOME TIME. THERE
17 WILL BE POINTS IN TIME IN THIS PROCESS WHEN THINGS
18 WILL MOVE SLOW OR AT LEAST YOU WILL BELIEVE THAT THEY
19 ARE MOVING SLOW AND THAT IS BECAUSE THERE ARE THINGS
20 THAT WE HAVE TO DO. THERE IS EVIDENCE THAT HAS TO BE
21 PRESENTED. THERE ARE CHAIN OF CUSTODY WITNESSES THAT
22 HAVE TO TESTIFY AND SOME OF THAT IS NOT REAL
23 EXCITING. SOME OF IT IS DOWNRIGHT BORING. BUT IT'S
24 A VERY INTRICATE PART OF THIS PROCESS. I ASK YOU FOR
25 YOUR PATIENCE. I ASK YOU TO TAKE YOUR TIME AND

1 LISTEN BECAUSE EVERYTHING THAT HAPPENS IN THIS
2 COURTROOM FOR THE NEXT FEW DAYS WILL BE EXTREMELY,
3 EXTREMELY IMPORTANT, NOT JUST TO THE STATE OF SOUTH
4 CAROLINA, BUT TO ALL OF THE PEOPLE INVOLVED IN THE
5 PROCESS.

6 SO IT IS VERY IMPORTANT, VERY VITAL THAT YOU PAY
7 EXTREMELY CLOSE ATTENTION TO EVERYTHING THAT'S SAID
8 AND DONE BECAUSE AT THE END OF THIS TRIAL HIS HONOR
9 IS GOING TO INSTRUCT YOU AS TO WHAT THE LAW IS. HE'S
10 GOING TO GIVE YOU SOME INSTRUCTIONS AND YOU'RE GOING
11 TO BE ASKED TO GO BACK IN YOUR JURY ROOM AND
12 DELIBERATE. AND YOU'RE GOING TO BE ASKED TO RETURN A
13 VERDICT THAT SPEAKS THE TRUTH. THAT'S WHAT VERDICT
14 MEANS, TO SPEAK THE TRUTH. THAT'S ALL ANYONE HAS A
15 RIGHT TO ASK OF YOU. YOU HAVE NO FRIENDS TO REWARD.
16 YOU HAVE NO ENEMIES TO PUNISH. AND IF YOU COME HERE
17 TO PUNISH SOMEONE OR IF YOU'VE COME HERE TO REWARD
18 SOMEONE, THEN YOU'RE IN THE WRONG PLACE. THAT IS NOT
19 YOUR JOB. THAT IS NOT YOUR RESPONSIBILITY. YOUR JOB
20 IS SIMPLE, STRAIGHTFORWARD, TO FIND THE TRUTH AND TO
21 WRITE THAT TRUTH ON YOUR VERDICT FORM, WHATEVER THAT
22 TRUTH MAY BE. THAT'S ALL THE STATE OF SOUTH CAROLINA
23 CAN ASK OF YOU AND THAT'S ALL THESE DEFENDANTS HAVE A
24 RIGHT TO ASK OF YOU.

25 NOW, LET ME SHARE WITH YOU THE CHARGES IN THIS

1 CASE. THESE DEFENDANTS ARE CHARGED WITH THE CRIME
 2 WHICH OCCURRED BACK IN NOVEMBER OF 1994, SOME
 3 TWO-AND-A-HALF YEARS AGO. MURDER OF DARLENE
 4 PATTERSON, A HUMAN BEING, A PERSON. THEY ARE CHARGED
 5 WITH HER KIDNAPPING, WITH HER RAPE, AND WITH CRIMINAL
 6 CONSPIRACY. THE ONLY DEFENDANT NOT CHARGED WITH THE
 7 MURDER IS JEFFREY WALLS WHO IS CHARGED WITH
 8 KIDNAPPING, CRIMINAL SEXUAL CONDUCT, AND CRIMINAL
 9 CONSPIRACY.

10 NOW, LET ME TALK WITH YOU FOR JUST A SECOND
 11 ABOUT WHAT THAT MEANS. WHEN WE SAY MURDER, WHAT ARE
 12 WE TALKING ABOUT? WE HEAR IT ALL OF THE TIME ON
 13 TELEVISION. WE SEE IT ON THE T.V. SHOWS. AND WHAT
 14 DOES IT REALLY MEAN? WHAT DOES THE STATE HAVE TO
 15 PROVE? WHAT DO WE HAVE TO SHOW YOU? OBVIOUSLY WE'VE
 16 GOT TO SHOW YOU THAT SOMEONE'S DEAD. THAT'S THE
 17 FIRST THING IN ORDER TO HAVE A MURDER. BUT MURDER,
 18 LADIES AND GENTLEMEN -- AND HIS HONOR WILL GIVE YOU
 19 THE LAW AT A LATER TIME, AND IF I SAY SOMETHING
 20 THAT'S INCONSISTENT WITH WHAT HIS HONOR SAYS, YOU
 21 DISREGARD WHAT I SAY. IT IS HIS RESPONSIBILITY TO
 22 GIVE YOU THE LAW. MURDER IS THE UNLAWFUL OR
 23 FELONIOUS KILLING OF ONE PERSON BY ANOTHER PERSON
 24 WITH MALICE AFORETHOUGHT. NOW, THAT'S A LOT OF LEGAL
 25 MUMBO JUMBO, BUT WHAT IT MEANS IS THIS. IF YOU KILL

1 SOMEBODY AND YOU HAVE ILL WILL TOWARDS THAT PERSON,
 2 IF YOU HAVE HATRED TOWARDS THAT PERSON, IF YOU HAVE A
 3 HEART THAT IS DEVOID OF SOCIAL DUTY AND
 4 RESPONSIBILITY AT THE TIME OF THE KILLING, THEN THAT
 5 IS MURDER. AND IT ONLY HAS TO BE AFORETHOUGHT. IT
 6 DOESN'T HAVE TO BE SOMETHING THAT YOU PLANNED FOR A
 7 WEEK. DOESN'T HAVE TO BE SOMETHING THAT YOU'VE
 8 PLANNED FOR A MONTH. DOESN'T HAVE TO BE SOMETHING
 9 THAT YOU PLANNED FOR TWO HOURS. AS LONG AS IT'S
 10 AFORETHOUGHT. THAT'S WHAT MURDER IS. THE KILLING OF
 11 ONE HUMAN BEING BY ANOTHER WITH MALICE AFORETHOUGHT.
 12 HATRED, ILL WILL. A HEART DEVOID OF SOCIAL DUTY AND
 13 RESPONSIBILITY, FATALLY BENT ON MISCHIEF.

14 THE STATE WILL PROVE TO YOU BEYOND ANY
 15 REASONABLE DOUBT THAT THESE FIVE GENTLEMEN BETWEEN
 16 NOVEMBER 12 AND NOVEMBER 24TH OF 1994 HAD HEARTS
 17 DEVOID OF SOCIAL RESPONSIBILITY, THEY HAD HEARTS
 18 DEVOID OF SOCIAL DUTY AND FATALLY BENT ON MISCHIEF.
 19 FATALLY BENT ON MISCHIEF.

20 THEN WE ASK, WELL, THEN, WHAT IS KIDNAPPING?
 21 KIDNAPPING, LADIES AND GENTLEMEN, IS THE SEIZING, THE
 22 CONFINING, THE DECOYING OF AN INDIVIDUAL WITHOUT
 23 AUTHORITY OF LAW. THAT IS, TO HOLD A PERSON AGAINST
 24 HIS OR HER WILL WITHOUT AUTHORITY OF LAW. TO SEIZE
 25 THAT PERSON, TO PREVENT THAT PERSON FROM FREELY

1 MOVING AND GOING ABOUT HIS OR HER BUSINESS AGAINST
2 THAT PERSON'S WILL. THAT IS WHAT KIDNAPPING IN A
3 LAYMAN'S NON-COMPLEX TERM, THAT'S WHAT IT MEANS.
4 THAT'S WHAT THE STATE HAS TO PROVE. THE STATE HAS TO
5 PROVE TO YOU BEYOND ANY REASONABLE DOUBT THAT THESE
6 SIX GENTLEMEN, THESE SIX DEFENDANTS KIDNAPPED AND
7 HELD DARLENE PATTERSON AGAINST HER WILL FOR A PERIOD
8 OF TIME.

9 THE NEXT CHARGE IS CRIMINAL SEXUAL CONDUCT, ALL
10 SIX CHARGED WITH CRIMINAL SEXUAL CONDUCT. WHAT IS
11 CRIMINAL SEXUAL CONDUCT? UNDER THE OLD STATUTES, WE
12 USED TO CALL IT RAPE, BUT NOW WE'VE GOT MORE MODERN
13 AND WE CALL IT CRIMINAL SEXUAL CONDUCT BECAUSE IT
14 SOUNDS BETTER, I ASSUME. BUT IT'S STILL RAPE. IT IS
15 FORCIBLE -- FORCIBLE SEXUAL INTERCOURSE WITH AN
16 INDIVIDUAL -- BECAUSE IT DOES NOT HAVE TO BE A
17 WOMAN -- IT CAN BE A MAN -- AGAINST THAT PERSON'S
18 WILL. INSERTING OF ANY PART OF YOUR BODY OR ANY
19 OBJECT INTO A CAVITY OF THAT OTHER PERSON FOR
20 NON-MEDICAL PURPOSES IS THE NON-TECHNICAL DEFINITION.
21 AND ALL THAT MEANS IS HAVING SEX WITH A PERSON
22 AGAINST HIS OR HER WILL. OR -- OR WHILE THAT PERSON
23 IS THE VICTIM OF FORCIBLE CONFINEMENT SUCH AS
24 KIDNAPPING.

25 NOW, CRIMINAL CONSPIRACY, WHAT DOES THAT MEAN?

1 CRIMINAL CONSPIRACY. SIMPLY PUT, LADIES AND
 2 GENTLEMEN, A CONSPIRACY IS WHEN TWO OR MORE PEOPLE --
 3 WHEN TWO OR MORE PEOPLE HAVE EITHER A VERBAL OR A
 4 TACIT UNDERSTANDING TO DO EITHER A LAWFUL ACT BY
 5 ILLEGAL MEANS OR AN ILLEGAL ACT BY LAWFUL MEANS. IT
 6 IS SIMPLY TO HAVE AN AGREEMENT TO DO SOMETHING WRONG.
 7 THAT'S WHAT A CONSPIRACY IS. A BIG WORD. DOESN'T
 8 MEAN ANYTHING OTHER THAN TWO OR MORE PEOPLE GETTING
 9 TOGETHER AND THAT THEY HAVE AN UNDERSTANDING OR AN
 10 AGREEMENT TO DO SOMETHING THAT IS WRONG. THAT'S WHAT
 11 THESE DEFENDANTS ARE CHARGED WITH. THAT'S WHAT THE
 12 STATE IS REQUIRED TO PROVE TO YOU BEYOND ANY
 13 REASONABLE DOUBT.

14 THERE IS A TERM THAT YOU WILL HEAR. IT'S CALLED
 15 THE HAND OF ONE IS THE HAND OF ALL. WHAT DOES THAT
 16 MEAN? THE HAND OF ONE IS THE HAND OF ALL. IF TWO OR
 17 MORE PEOPLE ENGAGE TO COMMIT A FELONY, BUT ONLY ONE
 18 PERSON STRIKES THE FATAL BLOW, IT DOES NOT MATTER IF
 19 THEY WERE BOTH PRESENT AIDING AND ABETTING AT THE
 20 TIME OF THE COMMISSION OF THE CRIME, THEN THEY ARE
 21 BOTH GUILTY AS PRINCIPALS. THAT IS THE HAND OF ONE
 22 IS THE HAND OF ALL.

23 ALL OF THESE GENTLEMEN, THE STATE WILL SHOW YOU,
 24 WERE PRESENT, WERE AIDING, WERE ASSISTING EACH OTHER
 25 IN THE KIDNAPPING, IN THE RAPE, IN THE CONSPIRACY,

1 AND EXCEPT FOR JEFFREY WALLS, IN THE MURDER OF
2 DARLENE PATTERSON, AND THAT FOR REASONS SATISFACTORY
3 TO THEMSELVES WHICH -- WHICH WE THINK WE WILL BE ABLE
4 TO SHOW AT SOME POINT -- FOR REASONS SATISFACTORY TO
5 THEMSELVES, THEY DECIDED TO KIDNAP HER, TO RAPE HER,
6 TO MURDER HER. THAT'S WHY WE'RE HERE.

7 NOW, I WOULD LIKE TO TALK WITH YOU FOR JUST A
8 COUPLE OF MINUTES ABOUT WHAT THE STATE HAS TO PROVE
9 AND THE DEGREE OF PROOF THAT'S REQUIRED. HIS HONOR
10 HAS TOLD YOU THAT THE STATE HAS TO PROVE BEYOND A
11 REASONABLE DOUBT. AND THAT IS CORRECT. BEYOND A
12 REASONABLE DOUBT. WELL, WHAT DOES THAT MEAN? THAT
13 DOES NOT MEAN THAT THE STATE HAS TO PROVE TO YOU
14 BEYOND ANY DOUBT BECAUSE THERE IS NO SUCH THING. YOU
15 CAN HAVE A DOUBT ABOUT ANYTHING. YOU CAN DOUBT
16 WHETHER YOU'RE GOING TO GROW ANY MORE COTTON IN
17 MARLBORO COUNTY. THAT'S A FOOLISH DOUBT. THAT'S A
18 WHIMSICAL DOUBT. YOU CAN DOUBT WHETHER THE SUN IS
19 GOING TO RISE NEXT MONTH. YOU COULD HAVE A DOUBT
20 ABOUT THAT, BUT THAT'S NOT A REASONABLE DOUBT.
21 THAT'S A FOOLISH DOUBT. THAT'S A WHIMSICAL TYPE OF
22 DOUBT. THE STATE DOESN'T HAVE TO PROVE BEYOND A
23 CRAZY, MADE-UP, FOOLISH KIND OF DOUBT. YOU COULD
24 DOUBT WHETHER THE OCEAN IN MYRTLE BEACH IS SALTY
25 RIGHT NOW. YOU CAN'T SEE IT. YOU CAN'T TASTE IT.

1 SO MAYBE IT'S NOT SALTY. THAT'S NOT A REASONABLE
2 DOUBT. THAT'S A FOOLISH DOUBT. THE STATE DOESN'T
3 HAVE TO PROVE BEYOND THAT KIND OF DOUBT.

4 YOU WILL HEAR A NUMBER OF WITNESSES IN THIS
5 CASE, A NUMBER OF WITNESSES. AND YOU'RE GOING TO
6 HAVE TO JUDGE THE BELIEVABILITY OF THOSE WITNESSES.
7 YOU ARE GOING TO HAVE TO JUDGE THE CREDIBILITY OF
8 THOSE WITNESSES. NO ONE ELSE CAN DO THAT. HIS HONOR
9 IS THE JUDGE OF THE LAW AND HE WILL TELL US ALL WHAT
10 THE LAW IS. HE WILL TELL US LAWYERS WHAT THE LAW IS
11 AND IF WE GET OUT OF LINE, HE WILL GET US
12 STRAIGHTENED OUT REAL QUICK AND HE WILL TELL YOU WHAT
13 THE LAW IS AS FAR AS THIS CASE IS CONCERNED BEFORE
14 YOU CAN DELIBERATE AND PROCEDURALLY AS WE GO
15 THROUGHOUT THIS TRIAL.

16 BUT WHEN IT COMES TO THE FACTS OF THIS CASE,
17 WHEN IT COMES TO DECIDING WHO IS TO BE BELIEVED AND
18 WHAT IS TO BE BELIEVED, YOU, THE 12 OF YOU, NOW THE
19 14 OF YOU, WILL BE THE SOLE JUDGES OF THOSE FACTS.
20 NOT HIS HONOR, NOT MYSELF, NOT THE DEFENSE LAWYERS.
21 YOU. YOU WILL DECIDE WHAT YOU WILL BELIEVE AND WHAT
22 YOU WON'T BELIEVE. YOU CAN BELIEVE EVERYTHING THAT A
23 WITNESS SAYS. YOU CAN DISBELIEVE ALL THAT A WITNESS
24 SAYS. YOU CAN BELIEVE PART OF WHAT A WITNESS SAYS AS
25 LONG AS THERE'S SOME GOOD REASON FOR YOU DOING SO.

1 THAT IS YOUR RIGHT AS JURORS. I SIMPLY ASK YOU TO
2 ASK YOURSELVES WHEN THESE WITNESSES ARE TESTIFYING,
3 ASK YOURSELVES, WHAT REASON WOULD THIS WITNESS HAVE
4 TO LIE? WHAT REASON WOULD THE WITNESS HAVE TO BE
5 HONEST OR TO TELL THE TRUTH? WHAT OPPORTUNITY DID
6 THE WITNESS HAVE TO SEE OR HEAR WHAT THE WITNESS IS
7 TESTIFYING ABOUT? IS THE WITNESS CONSISTENT IN WHAT
8 HE OR SHE SAYS OR ARE THEY INCONSISTENT AND
9 CONTRADICT THEMSELVES CONSISTENTLY? THOSE ARE THE
10 KIND OF QUESTIONS I WOULD SUGGEST TO YOU THAT MIGHT
11 BE APPROPRIATE FOR YOU TO CONSIDER IN JUDGING THE
12 CREDIBILITY OR BELIEVABILITY OF PEOPLE WHO TAKE THE
13 STAND.

14 SOMETIMES, YOU KNOW, AND I CAN REMEMBER SO OFTEN
15 WHEN I WAS GROWING UP IN HORRY COUNTY MY MOM WOULD
16 ALWAYS SAY, "WELL, IT'S NOT SO MUCH WHAT YOU SAY,
17 IT'S WHAT YOU DO." WELL, THE SAME THING IS TRUE WITH
18 WITNESSES WHEN THEY ARE TESTIFYING. IT MAY NOT BE
19 EXACTLY WHAT THEY SAY, BUT HOW THEY ACT WHEN THEY SAY
20 IT. CAN THEY LOOK AT YOU? DO THEY LOOK DOWN? THOSE
21 ARE THE KIND OF THINGS THAT I WOULD SUGGEST ARE GOING
22 TO BE IMPORTANT TO YOU IN HELPING YOU DECIDE WHETHER
23 YOU NEED TO BELIEVE OR WANT TO BELIEVE ALL OR PART OF
24 WHAT A WITNESS SAYS.

25 THE ONLY OTHER THING THAT I WOULD ASK OF YOU,

1 LADIES AND GENTLEMEN, IS THIS. I WILL NOT HAVE AN
2 OPPORTUNITY OBVIOUSLY TO TALK TO YOU AGAIN UNTIL WE
3 DO CLOSING ARGUMENTS, WHICH IS THE WAY THAT OUR
4 SYSTEM WORKS. AND I WOULD ASK YOU AGAIN FOR YOUR
5 PATIENCE THROUGHOUT THIS TRIAL. AS I SAID, THERE
6 WILL BE TECHNICAL EVIDENCE THAT WE WILL PRODUCED. IT
7 WILL TAKE TIME. IT WILL BE BORING. IT WILL NOT BE
8 EXCITING. SOME OF IT HOPEFULLY WILL BE EXCITING, BUT
9 A LOT OF IT WILL NOT BE. BUT IT STILL HAS TO BE
10 DONE, AND I ASK FOR YOUR PATIENCE WHILE WE GO THROUGH
11 THAT PROCESS. IT IS AS NECESSARY AS ANY OTHER PART
12 OF THIS TRIAL. IF YOU DO THOSE THINGS, IF YOU DO
13 THOSE THINGS, YOU'RE GOING TO BE IN A POSITION AT THE
14 END OF THIS TRIAL TO DO WHAT YOU HAVE PLEDGED TO DO,
15 WHICH IS TO TRULY TRY THE ISSUES BETWEEN THE STATE OF
16 SOUTH CAROLINA AND THESE SIX DEFENDANTS WHO ARE NOW
17 SEATED OVER THERE SO THAT AT THE END OF THAT TRIAL
18 YOU CAN RENDER A VERDICT THAT SPEAKS THE TRUTH,
19 WHATEVER THAT TRUTH MIGHT BE. THANK YOU SO VERY MUCH
20 FOR YOUR TIME AND YOUR PATIENCE AND FOR THE CONCERN
21 THAT I KNOW YOU WILL GIVE THIS CASE THROUGHOUT.
22 THANK YOU, AGAIN.

23 THE COURT: I'LL LET YOU GO TO YOUR JURY
24 ROOM JUST A MOMENT. I'LL BE CALLING YOU RIGHT BACK.
25 (WHEREUPON, THE JURY WAS REMOVED

1 THIS CASE IS SO COMPLICATED THAT THE SOLICITOR IN HIS
2 OPENING STATEMENTS HAS NOW INDICATED THAT MY CLIENT
3 IS INCLUDED IN THE MURDER CHARGES, AND I TOLD YOU,
4 JUDGE, THAT'S WHAT I'M TRYING TO AVOID.

5 THE COURT: I UNDERSTAND THAT. THAT'S
6 DENIED. BRING THE JURY BACK OUT.

7 MR. PADGETT: JUDGE, WE OBJECT TO YOU
8 ALLOWING THE JURY -- THE SOLICITOR TO REOPEN AND THE
9 COURT HELPING HIM ALONG.

10 MR. REDMOND: I WOULD JOIN IN THAT, YOUR
11 HONOR.

12 MR. WILSON: I HAVE NO PROBLEM WITH THAT,
13 JUDGE. AND THEY CAN SAY WHATEVER THEY WANT.

14 THE COURT: BUT OBVIOUSLY I ANNOUNCED THE
15 CASE. I ANNOUNCED IT CORRECTLY. AND YOU ANNOUNCED
16 IT CORRECTLY. AND I HAVE A DUTY TO CLEAR THE RECORD
17 OF ANY MISUNDERSTANDING.

18 MR. REDMOND: YOUR HONOR --

19 THE COURT: I WILL ACCEPT A MOTION FROM
20 ALL OF YOU THAT YOU OBJECT TO IT. DENIED. BRING THE
21 JURY IN. THIS IS RIDICULOUS.

22 MR. PADGETT: AGREED.

23 THE COURT: YOU MAY PROCEED, SOLICITOR.
24 AND THEN EACH ONE OF YOU MAY PROCEED.

25 MR. WILSON: THANK YOU.

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(WHEREUPON, THE JURY WAS RETURNED TO THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE COMMENCED IN OPEN COURT.)

THE COURT: YOU MAY CONCLUDE YOUR REMARKS, SOLICITOR.

MR. WILSON: THANK YOU, YOUR HONOR. MADAM FORELADY, LADIES AND GENTLEMEN, IN MY HASTE, I OMITTED TO TELL YOU THAT ROBERT GRAHAM -- WHERE IS HE -- SEATED OVER HERE -- I GUESS THAT'S A GREEN SHIRT. MR. GRAM IS CHARGED WITH KIDNAPPING, CRIMINAL SEXUAL CONDUCT, AND MR. JEFFREY WALLS IS CHARGED WITH MURDER AND I SAID THAT HE WAS NOT. HE IS CHARGED WITH MURDER. AND JUST SO THAT EVERYTHING IS CLEAR, I WILL GO OVER THOSE CHARGES WITH YOU AGAIN SO THAT THERE IS NO CONFUSION ABOUT IT. ROBERT GRAHAM IS CHARGED IN AND INDICTED FOR COUNT ONE, KIDNAPPING; COUNT TWO, CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE; COUNT THREE, CRIMINAL CONSPIRACY. JEFFREY WALLS IS CHARGED WITH MURDER, THE CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE, KIDNAPPING, CRIMINAL CONSPIRACY. CHARLES M. RICKY STUCKEY, JUNIOR, IS CHARGED WITH KIDNAPPING, MURDER, CRIMINAL SEXUAL CONDUCT FIRST DEGREE, CRIMINAL CONSPIRACY. ALFONZO STATON IS CHARGED WITH INDICTMENTS FOR KIDNAPPING,

1 MURDER, CRIMINAL SEXUAL CONDUCT FIRST DEGREE,
2 CRIMINAL CONSPIRACY. LEROY STATON, INDICTMENT FOR
3 KIDNAPPING, MURDER, CRIMINAL SEXUAL CONDUCT FIRST
4 DEGREE, CRIMINAL CONSPIRACY. MARTIN MCINTOSH,
5 INDICTMENTS FOR KIDNAPPING, MURDER, CRIMINAL SEXUAL
6 CONDUCT FIRST DEGREE, CRIMINAL CONSPIRACY. THANK
7 YOU.

8 THE COURT: ALL RIGHT, SIR. GENTLEMEN,
9 YOU MAY DECIDE FOR YOURSELVES IN WHAT ORDER YOU CARE
10 TO SPEAK.

11 MR. ERVIN: PLEASE THE COURT?

12 THE COURT: MR. ERVIN.

13 MR. ERVIN: I PRACTICE LAW OVER IN
14 DARLINGTON COUNTY, A NEIGHBORING COUNTY HERE TO
15 MARLBORO COUNTY IN THE FOURTH JUDICIAL CIRCUIT AND I
16 REPRESENT MARTIN MCINTOSH SEATED RIGHT HERE TO MY
17 RIGHT. THIS IS A TERRIBLE CASE. I WANT TO BEGIN BY
18 SAYING THAT BECAUSE I DON'T KNOW IN MY 11 YEARS OF
19 PRACTICE -- PRACTICING LAW, WHICH INCLUDES SEVEN
20 YEARS OF DOING WHAT THE SOLICITOR IS DOING,
21 PROSECUTING, THAT I'VE EVER SEEN ONE, A CASE LIKE
22 THIS, WHERE THE FACTS WERE SO BAD. IT'S TERRIBLE.
23 BUT WE'RE NOT GATHERED HERE -- Y'ALL ARE NOT GATHERED
24 HERE TO DECIDE HOW TERRIBLE THE CHARGES ARE OR HOW
25 EGREGIOUS OR HEINOUS THE CRIME IS, HOW BAD IT IS.

1 YOU ARE GATHERED HERE TO FIND WHO DID IT. AND AS I
 2 STAND IN FRONT OF YOU RIGHT NOW, MARTIN MCINTOSH IS
 3 NOT GUILTY. NOT GUILTY. HE IS PRESUMED INNOCENT.
 4 AND THAT PRESUMPTION REMAINS WITH HIM THROUGHOUT THIS
 5 TRIAL. I DON'T MEAN FROM THE BEGINNING, I DON'T MEAN
 6 DURING THE MIDDLE OF IT OR THE END. THROUGHOUT.
 7 THROUGHOUT THE ENTIRE PROCESS, UNTIL THEY REMOVE THAT
 8 PRESUMPTION OF INNOCENCE.

9 AND TO REMOVE IT, THEY HAVE TO PROVE MARTIN
 10 MCINTOSH GUILTY BEYOND A REASONABLE DOUBT. NOW,
 11 YOU'VE HEARD THE SOLICITOR GIVE YOU EXAMPLES OF
 12 REASONABLE DOUBT. YOU'VE GOT TO USE YOUR OWN
 13 EXPERIENCES IN LIFE TO DECIDE WHAT A REASONABLE DOUBT
 14 IS. IT'S A DOUBT FOR WHICH YOU CAN GIVE A REASON.
 15 BUT A REASONABLE DOUBT, TO ME, AND TO OUR STATE
 16 SUPREME COURT, IS A DOUBT WHICH CAUSES A PERSON TO
 17 HESITATE TO ACT. IT'S A GUT FEELING SOMETIMES. YOU
 18 DON'T WANT TO SPECULATE. YOU DON'T WANT TO GUESS
 19 ABOUT THINGS. IF YOU'VE GOT A FLINCH WHEN YOU GO TO
 20 MAKE A DECISION, I'M NOT SURE THIS IS RIGHT, THIS IS
 21 RIGHT, SOMETHING IS BOTHERING ME, I'VE GOT TO ASK A
 22 FEW MORE QUESTIONS, THAT'S A REASONABLE DOUBT.

23 NOW, THE JUDGE TALKED TO Y'ALL ABOUT CREDIBILITY
 24 OF THE WITNESSES AND THE SOLICITOR TOUCHED ON THAT
 25 TOO. AND THAT'S PROBABLY THE MOST IMPORTANT THING

1 THAT YOU HAVE TO FOCUS ON IN A CRIMINAL CASE. YOU
2 MAY ASK YOURSELF, WHY IS THAT SO IMPORTANT? BECAUSE
3 PRIMARILY, THAT'S ALL YOU'RE GOING TO BASE YOUR
4 DECISION ON IS THE TESTIMONY YOU HEAR FROM THE
5 WITNESS STAND AND THE EVIDENCE THAT'S PUT IN THROUGH
6 THOSE WITNESSES, WHATEVER TYPE OF EVIDENCE YOU HAVE
7 FOR YOUR CONSIDERATION. THE BIGGEST THING YOU HAVE
8 TO LOOK AT, THE MOST IMPORTANT THING IS TO DETERMINE
9 WHETHER SOMEBODY IS BELIEVABLE, WHETHER THEY ARE
10 CREDIBLE, WHETHER OR NOT THEY HAVE ANYTHING TO GAIN
11 FROM THEIR TESTIMONY, WHETHER OR NOT THEY ARE BIASED.
12 WHAT DO THEY HAVE TO GAIN FROM IT? WHAT DO THEY HAVE
13 TO LOSE BY THEIR TESTIMONY?

14 WELL, I'M GOING TO TELL YOU BEFORE THE STATE
15 EVEN BEGINS TO PRESENT THEIR CASE THAT THE BULK OF
16 THEIR CASE IS BASED ON THE TESTIMONY OF TWO
17 CO-DEFENDANTS, CO-DEFENDANTS. AND WHEN I SAY
18 CO-DEFENDANTS, I MEAN PEOPLE WHO JUST LAST WEEK STOOD
19 IN THIS VERY SAME COURTROOM AND SAID I AM NOT GUILTY.
20 I'M NOT GUILTY. AND LATER ON IN THE WEEK, AS THE
21 DEAL GOT SWEETENED, THEY DECIDED THEY WOULD TESTIFY
22 FOR THE STATE TO LESSER CHARGES. THOSE CHARGES THAT
23 THE SOLICITOR READ OUT AGAINST ALL OF THESE PEOPLE
24 THAT HAVE BEEN CHARGED WITH THE EXCEPTION OF ROBERT
25 GRAHAM WHO IS NOT CHARGED WITH MURDER, THESE TWO

1 CO-DEFENDANTS, BOBBY RANSOM AND DANNY DAVIS WERE
2 CHARGED WITH MURDER AND EVERYTHING ELSE THAT THEY ARE
3 CHARGED WITH. THEY DIDN'T PLEAD TO THAT. THEY PLED
4 TO LESSER CHARGES. THEY WERE THE FIRST PIGS TO THE
5 TROUGH AND THEY GOT FED EARLY.

6 SO WHAT DID THEY HAVE TO GAIN? WELL, YOU WILL
7 HEAR ABOUT THAT. I'M NOT GOING TO GO INTO ALL OF IT,
8 BUT YOU'LL HEAR ABOUT IT DURING THIS TRIAL AND YOU
9 WILL ALSO HEAR THAT CERTAIN STATEMENTS WERE MADE BY
10 WITNESSES, INCLUDING THESE CO-DEFENDANTS, BOBBY
11 RANSOM AND DANNY DAVIS. THAT GOES BACK TO THAT THING
12 ABOUT CREDIBILITY. ONCE AGAIN, I WANT TO TALK ABOUT
13 CREDIBILITY. WHAT DO YOU DO WHEN YOU'RE WEIGHING
14 CREDIBILITY AND BELIEVABILITY OF A WITNESS? THE
15 JUDGE TOLD YOU AND GAVE YOU SOME EXAMPLES. YOU
16 OBSERVE THEIR DEMEANOR. BUT YOU ALSO HAVE TO LOOK TO
17 WHETHER THEY'VE MADE A STATEMENT AND WHETHER OR NOT
18 THEY'VE MADE A STATEMENT BEFORE THAT'S NOT
19 CONSISTENT. IN OTHER WORDS, ONE OF THOSE TIMES, THEY
20 WERE EITHER CONFUSED OR THEY WERE LYING OR THEY HAD A
21 REASON FOR TESTIFYING THE WAY THEY DID.
22 INCONSISTENCIES. PRIOR INCONSISTENT STATEMENTS.

23 THIS CASE IS REplete WITH THAT. IT'S FULL OF
24 IT. AND THOSE ARE THE KIND OF THINGS THAT YOU A JURY
25 MUST LOOK AT AND YOU MUST EXAMINE THE VERACITY AND

1 THE TRUTHFULNESS OF ANY WITNESS WHO COMES IN AND
2 CHANGES THEIR STORY ONLY TO BENEFIT. AND THAT'S WHAT
3 THEY DID. THEY CHANGED THEIR STORIES REPEATEDLY.
4 AND THEY ARE NOT THE ONLY WITNESSES FOR THE STATE WHO
5 HAVE DONE THAT. YOU WILL HEAR OTHERS. AND I ASK YOU
6 TO CONSIDER NOT ONLY THE PEOPLE YOU HEAR FROM, BUT
7 THOSE YOU DON'T.

8 THERE MAY BE OTHER CO-DEFENDANTS WHO ARE CHARGED
9 IN THIS CASE, AND THERE ARE OTHER CO-DEFENDANTS,
10 QUITE A FEW, WHO DON'T TESTIFY OR ARE NOT CALLED BY
11 THE STATE. AND THAT'S WORTHY OF AS MUCH
12 CONSIDERATION AS THE TESTIMONY THAT YOU HEAR FROM THE
13 WITNESSES.

14 NOW, THE JUDGE POINTED OUT TO THE SOLICITOR THAT
15 HE NEEDED TO CORRECT AN ERROR WHEN HE READ OUT THE
16 NAME OF JEFFREY WALLS AS BEING THE PERSON NOT CHARGED
17 WITH MURDER INSTEAD OF ROBERT GRAHAM. AS I TOLD YOU,
18 THIS CASE IS -- IS CONFUSING. A LOT OF INCONSISTENT
19 STATEMENTS. THAT'S WHY THE SOLICITOR WAS CONFUSED,
20 BECAUSE THE EVIDENCE ITSELF CREATES CONFUSION. AND
21 THEY ARE RESPONSIBILITY, THE STATE IS RESPONSIBLE FOR
22 PROVING THE GUILT OF MARTIN MCINTOSH BEYOND A
23 REASONABLE DOUBT. KEEP IN MIND ALL OF THESE
24 INCONSISTENCIES DURING THE TRIAL. FOCUS ON THAT,
25 WEIGH THAT. PUT ASIDE THE EMOTIONS THAT TEND TO

1 PREVAIL IN A CASE LIKE THIS.

2 DURING VOIR DIRE, WE ASKED YOU A LOT OF
3 QUESTIONS. VOIR DIRE IS WHEN THE JUDGE ASKED YOU ALL
4 OF THE QUESTIONS ABOUT WHETHER YOU KNEW ANYTHING
5 ABOUT THE CASE. IT'S WHEN I ALSO ASKED SOME
6 QUESTIONS ABOUT CONNECTIONS TO LAW ENFORCEMENT,
7 WHETHER OR NOT ANYBODY HAD BEEN THE VICTIM OF A
8 VIOLENT CRIME. AND THE REASON THE JUDGE AND I ASKED
9 THOSE QUESTIONS WAS WE ARE TRYING TO GET A JURY THAT
10 WOULD BE FAIR, WHO COULD PUT ASIDE THEIR PERSONAL
11 FEELINGS AND SPEAK THE TRUTH. AND AFTER ASKING ALL
12 OF THOSE QUESTIONS, WE ARRIVED AT THE 12 OF YOU AND
13 THE TWO ALTERNATES AND MARK MCINTOSH IS COMFORTABLE
14 WITH THAT. WE'RE VERY COMFORTABLE BECAUSE WE BELIEVE
15 IN YOU TO SPEAK THE TRUTH. WE BELIEVE THAT YOU WILL
16 SPEAK THE TRUTH TO THE STATE OF SOUTH CAROLINA. YOU
17 WILL SPEAK THE TRUTH TO MARTIN. YOU WILL SPEAK THE
18 TRUTH TO EVERYBODY IN THIS COURTROOM, AND THAT IS A
19 VERDICT OF NOT GUILTY. THANK YOU.

20 THE COURT: MR. ROGERS.

21 MR. ROGERS: IF IT PLEASE THE COURT.

22 MR. SOLICITOR.

23 MR. WILSON: YES, SIR.

24 MR. ROGERS: I, ALONG WITH MAHLON PADGETT
25 REPRESENT CHARLES RICKY STUCKEY. AS YOU'VE HEARD, AS

1 RICKY STUCKEY SITS BEFORE YOU, HE'S NOT GUILTY. HE
2 IS PRESUMED INNOCENT, AND THAT PRESUMPTION STAYS WITH
3 HIM UNTIL AND UNLESS THE SOLICITOR CONVINCES YOU BY
4 TESTIMONY FROM THIS WITNESS STAND THAT RICKY STUCKEY
5 COMMITTED THESE CRIMES WITH WHICH HE'S CHARGED. AND
6 THAT'S A HEAVIER BURDEN. WE'VE ALL HEARD THE
7 DIFFERENCE IN CIVIL CASES. THE STANDARD OF PROOF IS
8 NOT AS HEAVY. THE BURDEN OF PROOF IS NOT AS HEAVY.
9 THE PERSON WHO'S BRINGING THE ACTION AGAINST THE
10 OTHER PERSON ONLY HAS TO CONVINCING THE JURY BY THE
11 PREPONDERANCE OF THE EVIDENCE, AND IF THEY USE A
12 BALANCED SCALE, THAT IS 51 PERCENT TO 50. BUT THAT'S
13 A SMALLER BURDEN.

14 BUT IN A CRIMINAL CASE, BECAUSE PEOPLE'S LIVES
15 AND LIBERTIES ARE AT STAKE, THERE'S A HEAVIER BURDEN.
16 AND THE SOLICITOR HAS TO CONVINCING YOU BEYOND A
17 REASONABLE DOUBT. AND AS MR. ERVIN EXPLAINED TO YOU,
18 A REASONABLE DOUBT IS SIMPLY A DOUBT WHICH REASONABLE
19 PEOPLE HAVE THAT WOULD MAKE THEM HESITATE TO ACT IN A
20 CERTAIN SITUATION. AGAIN, YOU'RE GOING TO HAVE TO
21 LISTEN TO THE EVIDENCE FROM THE WITNESS STAND.

22 THERE WILL BE QUESTIONS OF CREDIBILITY IN THIS
23 CASE AND YOU ARE THE JUDGES OF CREDIBILITY. I WOULD
24 LIKE TO USE THE EXAMPLE IF I TOLD YOU YESTERDAY I WAS
25 43, YOU WOULDN'T HAVE ANY REASON TO DISBELIEVE ME.

1 BUT IF I STOOD UP HERE TODAY AND TOLD YOU I WAS 45,
 2 YOU WOULD HAVE SOME DOUBT AND YOU WOULD REQUIRE SOME
 3 PROOF. AND THAT PROOF, OBJECTIVE PROOF WOULD NOT BE
 4 WHAT I TOLD YOU, BUT WHAT CONSISTS OF EITHER MY
 5 DRIVER'S LICENSE OR MY BIRTH CERTIFICATE. THAT'S
 6 OBJECTIVE PROOF. THAT'S PROOF THAT YOU CAN RELY ON
 7 AS OPPOSED TO WHAT I TOLD YOU, WHAT MY BIASES MIGHT
 8 BE FOR TELLING YOU AN UNTRUTH.

9 SO I ASK YOU TO HAVE THAT WHEN YOU'RE LISTENING
 10 TO THE EVIDENCE AND DELIBERATING IN THIS CASE. YOU
 11 KNOW, OUR SYSTEM OF JURISPRUDENCE WAS BASED ON THE
 12 OLD ENGLISH SYSTEM. AND IN THAT SYSTEM THEY HAD
 13 THREE FORMS OF VERDICT, GUILTY, NOT GUILTY AND NOT
 14 PROVEN BECAUSE THEY RECOGNIZE THAT THERE ARE CERTAIN
 15 SITUATIONS THAT NO MATTER -- HOW MANY FACTS YOU HAVE,
 16 HOW MANY WITNESSES YOU HAVE, THAT THERE ARE SOME
 17 CASES THAT YOU JUST CAN'T PROVE BEYOND THAT
 18 REASONABLE DOUBT.

19 WELL, OUR SYSTEM OF JURISPRUDENCE HAS
 20 ENCOMPASSED THE NOT PROVEN VERDICT INTO NOT GUILTY,
 21 SO IF AFTER HEARING ALL OF THE EVIDENCE YOU FEEL THAT
 22 THE STATE HAS NOT PROVEN BEYOND A REASONABLE DOUBT OR
 23 IF YOU JUST DON'T KNOW WHAT WENT ON, IF IT'S SO
 24 CONFUSING THAT YOU CAN'T SORT OUT WHO DID WHAT AND
 25 WHAT HAPPENED WHEN, THAT'S A REASONABLE DOUBT. THAT

1 COULD CAUSE YOU TO HESITATE TO ACT.

2 NOW, AGAIN, THIS CASE INVOLVES A MURDER. AND I
3 ASK YOU NOT TO LET YOUR SYMPATHIES AND YOUR EMOTIONS
4 INFLUENCE YOUR JUDGMENT. EACH OF YOU HAVE TAKEN AN
5 OATH TO JUDGE THIS CASE FAIRLY AND OBJECTIVELY FROM
6 THE EVIDENCE OR LACK OF EVIDENCE BECAUSE I THINK
7 YOU'RE GOING TO FIND THAT THERE IS A LACK OF
8 OBJECTIVE EVIDENCE IN THIS CASE. BUT YOU NEED --
9 YOU'VE EACH TAKEN AN OATH TO JUDGE THIS CASE FAIRLY
10 BASED ON THE TESTIMONY THAT YOU'VE HEARD. AND I
11 THINK AFTER YOU'VE LISTENED TO ALL OF THE EVIDENCE
12 AND APPLIED THE LAW AS THE JUDGE WILL GIVE IT TO YOU,
13 YOU WILL FIND A REASONABLE DOUBT AND YOU WILL FIND
14 RICKY STUCKEY NOT GUILTY. THANK YOU.

15 THE COURT: THANK YOU. WHO'S NEXT.

16 MR. MOORE: I'M MILTON MOORE. I PRACTICE
17 LAW HERE IN BENNETTSVILLE AND LEROY STATON IS MY
18 CLIENT. I AGAIN WANT TO THANK YOU FOR COMING DOWN
19 AND SERVING THIS WEEK, THOSE OF YOU WHO TOOK TIME OFF
20 FROM THE TIME OF YOUR JOB AND THOSE OF YOU WHO TAKE
21 CARE OF YOUR SMALL CHILDREN. THE ISSUE INVOLVED IN
22 THIS CASE IS WHETHER OR NOT LEROY STATON SHOULD HAVE
23 BEEN CHARGED WITH ALL OF THESE CRIMES THAT HAVE BEEN
24 MENTIONED BY THE SOLICITOR AND BY MY TWO
25 PREDECESSORS. WE WILL SHOW THAT LEROY STATON WAS NO

1 WHERE AROUND THE SCENE OF THE CRIME HE'S BEEN CHARGED
 2 WITH. WE WILL SHOW THAT FOR A 12-DAY PERIOD FROM
 3 NOVEMBER 12TH, THE DATE THAT DARLENE PATTERSON WAS
 4 TAKEN ON A SATURDAY, TO NOVEMBER 24TH ON THANKSGIVING
 5 DAY, THE DATE THE BODY OF DARLENE PATTERSON WAS
 6 FOUND, LEROY STATON WAS NOWHERE NEAR A TRAILER ON THE
 7 POND ROAD OR AN ABANDONED HOUSE ON THE BURNT FACTORY.
 8 WE'RE GOING TO SHOW HE WAS NOWHERE NEAR ANY OF THOSE
 9 THINGS.

10 LEROY WILL TESTIFY ON HIS OWN BEHALF AND HIS
 11 ALIBI DEFENSE WILL BE SUPPORTED BY AT LEAST FOUR OR
 12 FIVE OTHER WITNESSES. WE THINK OUR ALIBI WITNESSES
 13 WILL BE SOUND AND SOLID AND ONE THAT YOU CAN
 14 ABSOLUTELY HANG YOUR HAT ON IN RENDERING A VERDICT OF
 15 NOT GUILTY.

16 I WOULD LIKE TO TELL YOU THE STATE, MR. WILSON,
 17 HAS THE BURDEN OF PROVING THAT A CRIME WAS COMMITTED
 18 BEYOND A REASONABLE DOUBT. THAT MEANS THAT THE STATE
 19 MUST EXCLUDE EVERY OTHER POSSIBLE REASONABLE
 20 HYPOTHESIS OF THE GUILT SAVE THAT OF THE DEFENDANT
 21 LEROY STATON. THE STATE MUST PRESENT EVIDENCE TO YOU
 22 THAT SHOWS WITHOUT ANY QUESTION THAT THE ONLY PERSON
 23 WHO COULD HAVE COMMITTED THESE CRIMES IS THE ACCUSED.
 24 IT CANNOT BE ALMOST. IT CANNOT BE PARTIAL OR WHAT
 25 COULD BE DESCRIBED AS A PREPONDERANCE OF THE EVIDENCE

1 OR A GREATER WEIGHT OF THE EVIDENCE. THAT IS ONLY
2 TRUE AND APPLIES ONLY IN CIVIL CASES. IN CRIMINAL
3 CASES, THE STATE MUST OFFER TOTAL AND ABSOLUTE PROOF
4 BEYOND A REASONABLE DOUBT THAT THE ACCUSED COMMITTED
5 THE CRIMES HE IS CHARGED WITH.

6 YOU WILL BE SHOWN THAT THE STATE DID NOT HAVE
7 ANY REAL SOLID EVIDENCE IN THIS CASE. THE STATE IS
8 GOING TO BASE THEIR CASE PRIMARILY ON THE TESTIMONY
9 GIVEN FROM TWO DEFENDANTS IN THIS CASE. AND AS THE
10 CASE PROGRESSES, I THINK YOU SEE FOR THE MOST PART
11 THAT THAT IS EXACTLY WHAT'S GOING TO OCCUR IN THIS
12 TRIAL.

13 MY CLIENT WAS ASKED TO GIVE BLOOD, SALIVA
14 SAMPLES TO THE STATE, WHICH HE DID AT MARLBORO PARK
15 HOSPITAL. ALL OF THOSE TESTS CAME BACK NEGATIVE
16 AFTER BEING COMPARED WITH VARIOUS ITEMS AT THE CRIME
17 SCENE AND VARIOUS SAMPLES TAKEN FROM THE BODY OF THE
18 VICTIM.

19 I ASK YOU TO LISTEN VERY CLOSELY TO ALL OF THE
20 EVIDENCE IN THIS CASE AND I ASK YOU TO RENDER A
21 VERDICT OF NOT GUILTY. AND I APPRECIATE IT.

22 THE COURT: MR. REDMOND.

23 MR. REDMOND: THANK YOU, YOUR HONOR. IF
24 IT PLEASE THE COURT. LADIES AND GENTLEMEN OF THE
25 JURY. SOLICITOR. MY NAME IS KERNARD REDMOND. I'M A

1 MEMBER OF THE FLORENCE COUNTY BAR. I HAD THE
2 PLEASURE TO SERVE THE FOURTH CIRCUIT AS AN ASSISTANT
3 SOLICITOR A FEW YEARS AGO WHICH ALSO ENCOMPASSES
4 MARLBORO COUNTY. AND AGAIN IT WAS A GREAT PLEASURE.

5 LET ME OPEN BY SAYING AS EVERYONE ELSE HAS SAID,
6 THAT THIS WAS A HEINOUS CRIME. NOBODY IS DENYING
7 THAT. IT WAS AN EXTREMELY HEINOUS CRIME. BUT WE'VE
8 GOT TO KEEP ONE THING IN MIND. JUST BECAUSE THESE
9 GENTLEMEN HAVE BEEN CHARGED WITH THE CRIME -- AND MY
10 CLIENT IS JEFF WALLS -- THE STATE OF SOUTH CAROLINA,
11 THROUGH THE SOLICITOR, HAS THE BURDEN OF PROVING
12 BEYOND A REASONABLE DOUBT THAT MY CLIENT, JEFFREY
13 WALLS, COMMITTED THIS OFFENSE.

14 JEFFREY WALLS IS RIGHT HERE FOR THOSE OF YOU WHO
15 MAY NOT REMEMBER. AND AS I SAID, I'M REPRESENTING
16 HIM. I'M DEFENDING HIM IN THIS CASE. THE BURDEN OF
17 PROOF, REASONABLE DOUBT. THESE ARE TERMS THAT YOU'VE
18 HEARD AND HAVE BEEN SOMEWHAT DEFINED FOR YOU ALREADY.
19 IT WILL BE ELABORATED ON IN SUMMATION AND THROUGH THE
20 JUDGE'S CHARGE, BUT WHEN WE SAY THE STATE HAS THE
21 BURDEN OF PROOF, THEY HAVE THE BURDEN OF PROVING
22 BEYOND A REASONABLE DOUBT. BEYOND A REASONABLE DOUBT
23 IS NOT A STANDARD TO BE TAKEN LIGHTLY BECAUSE AS HIS
24 HONOR WILL CHARGE YOU, IT IS THAT WHICH WILL CAUSE A
25 REASONABLE PERSON, AS ALL OF YOU JURORS ARE, TO

1 HESITATE TO ACT. TO HESITATE TO ACT. IN OTHER
2 WORDS, IF YOU HAVE SOME INHIBITION ABOUT FINDING
3 THESE GENTLEMEN GUILTY, THEN BY LAW, YOUR VERDICT
4 MUST BE NOT GUILTY.

5 AS OTHER COUNSEL HAVE INDICATED, NOT PROVEN. IN
6 OTHER WORDS, THEY HAVE NOT PROVEN THEIR CASE. THAT'S
7 NOT GUILTY IN THE STATE OF SOUTH CAROLINA. THEY HAVE
8 NOT PROVEN THEIR CASE BY A REASONABLE DOUBT. YOU'VE
9 ALL SEEN THE LADY OF JUSTICE WITH THE HAND OUT. YOU
10 NOTICE HOW SHE'S UNEMOTIONAL, LOOKING STRAIGHT. WITH
11 THE SCALES IN A CRIMINAL CASE, AS HAS BEEN INDICATED,
12 THAT SCALE THE STATE HAS TO HAVE THIS BURDEN, THAT
13 SCALE HAS TO BE WEIGHED DOWN HERE BEYOND A REASONABLE
14 DOUBT.

15 A LOT OF THE EVIDENCE YOU'RE GOING TO HEAR IS
16 GOING TO BE CIRCUMSTANTIAL, AND I'M GOING TO
17 ELABORATE ON A LOT OF THIS IN SUMMATION. AND HIS
18 HONOR WILL INSTRUCT YOU BECAUSE THERE'S A LOT OF
19 CIRCUMSTANTIAL EVIDENCE INVOLVED HERE THAT
20 CIRCUMSTANTIAL EVIDENCE HAS TO POINT CONCLUSIVELY
21 THAT MY CLIENT DID THIS. I DON'T THINK THAT YOU WILL
22 FIND THAT. I ALSO WANT TO INDICATE THAT THERE WERE
23 SOME WORDS USED BY THE SOLICITOR IN HIS OPENING
24 ARGUMENTS THAT I THINK IS SIGNIFICANT. CRAZY, MADE
25 UP, CONTRADICTIONS. THOSE ARE GOING TO BE WORDS THAT

1 I THINK WE'RE ALL GOING TO BE DISCUSSING WITH YOU
 2 COME CLOSING ARGUMENT AND YOU WILL SEE AS THE
 3 TESTIMONY WILL BEAR OUT DURING THE STATE'S CASE.
 4 CRAZY, MADE UP, CONTRADICTION. THIS CASE IS REplete
 5 WITH THEM. AND I WOULD ARGUE THAT ONCE YOU HEAR THE
 6 EVIDENCE AS I ALREADY DO THAT THE STATE CAN'T CARRY
 7 THAT BURDEN OF BEYOND A REASONABLE DOUBT AND
 8 THEREFORE THAT MY CLIENT WILL BE ENTITLED TO A
 9 VERDICT OF NOT GUILTY.

10 IN CLOSING, I WOULD LIKE TO ADDRESS ONE OTHER
 11 ISSUE. MY CLIENT, JEFF WALLS, IS CHARGED WITH MURDER
 12 AND THE SOLICITOR HAD MISSPOKEN ON THAT. HE IS
 13 CHARGED. BUT I THINK IT'S A SIGNIFICANT OMISSION IN
 14 THAT I THINK ONCE THE EVIDENCE IS FOUND, NOT ONLY
 15 WILL THERE BE AN ISSUE AS TO WHETHER OR NOT THAT MY
 16 CLIENT IS GUILTY, THERE WILL BE REASONABLE DOUBT, BUT
 17 THAT THERE IS ALSO ALL OF THE OTHER CHARGES THAT HE
 18 HAS BEEN CHARGED WITH. SO I ASK YOU TO PAY CLOSE
 19 ATTENTION TO ALL OF THE EVIDENCE THAT YOU HEAR.

20 PAY CLOSE ATTENTION TO A CASE THAT IS PRESENTED
 21 AND ARGUMENTS THAT ARE MADE RELATED TO THOSE AND THE
 22 EXAMINATION BY BOTH THE STATE AND THE DEFENSE, AND
 23 WHEN YOU HAVE COME TO YOUR CONCLUSION AT THE VERY END
 24 OF THIS CASE, WHEN YOU COME BACK BEFORE US TO RENDER
 25 A VERDICT OR TO DELIVER YOUR VERDICT, I BELIEVE THAT

1 ONCE YOU'VE HEARD EVERYTHING, THE CRAZY, MADE UP
2 ASPECTS OF THIS CASE, CONTRADICTION, THE PRIOR
3 INCONSISTENT STATEMENTS, THAT YOU AGAIN, AS I, WILL
4 CONCLUDE THAT THE PROPER VERDICT IS NOT GUILTY. I
5 THANK YOU FOR YOUR ATTENTION AND I WILL TALK WITH YOU
6 AT THE END OF THE CASE.

7 THE COURT: THANK YOU, MR. REDMOND. YOU
8 MAY PROCEED, MR. ROGERS?

9 [REDACTED]: THANK YOU. I'M WILL
10 ROGERS. I REPRESENT MR. STATON WHO SITS RIGHT BEHIND
11 ME AND HE IS CHARGED WITH SEVERAL DIFFERENT CRIMES AS
12 THE SOLICITOR HAS TOLD YOU. BUT JUST BECAUSE HE IS
13 CHARGED WITH THESE CRIMES DOESN'T MEAN THAT HE IS
14 GUILTY. HE'S INNOCENT. AND THE REASON I SAY THAT IS
15 BECAUSE OUR SYSTEM OF JUSTICE IS BASED ON THE
16 PREMISES THAT A PERSON IS INNOCENT UNTIL PROVEN
17 GUILTY. MY CLIENT DOESN'T HAVE TO PROVE A THING. MY
18 CLIENT DOESN'T HAVE TO PROVE A THING. NONE OF US
19 HAVE TO PROVE A THING. THE SOLICITOR'S OFFICE HAS
20 TO. THE STATE OF SOUTH CAROLINA HAS TO PROVE BEYOND
21 A REASONABLE DOUBT THAT MY CLIENT COMMITTED THE
22 CRIMES THAT AT HE IS CHARGED WITH.

23 AS FAR AS THE EVIDENCE IN THIS CASE, YOUR JOB
24 TODAY IS TO LISTEN TO THE EVIDENCE. YOU HAVE GIVEN
25 YOUR OATH THAT YOU WILL LISTEN TO THE EVIDENCE, AND

1 AT THE END OF THE CASE, THE JUDGE WILL INSTRUCT US ON
2 THE PROPER LAW THAT APPLIES TO THIS CASE. ONCE YOU
3 HEAR THAT, YOU ARE TO TAKE THAT EVIDENCE, GO BACK
4 THERE IN THE JURY ROOM, DELIBERATE AND APPLY THE LAW
5 TO THE FACTS OF THIS CASE AND DECIDE WHETHER OR NOT
6 MY CLIENT, ALFONZO STATON, HAS COMMITTED THE CRIMES
7 AS HE HAS BEEN CHARGED WITH.

8 I ALSO WANT TO BRING ANOTHER POINT TO YOUR
9 ATTENTION. THAT IS, YOU DON'T NEED TO DRAW ANY KIND
10 OF INFERENCE FROM THE FACT THAT THESE DEFENDANTS ARE
11 ALL BEING TRIED TOGETHER. THESE ARE INDIVIDUAL
12 CASES, BUT THEY ARE BEING TRIED AT ONE TIME. ANOTHER
13 THING -- ANOTHER THING I WANT TO BRING TO YOUR
14 ATTENTION TOO IS WHAT EVERYBODY ELSE HAS SAID, IS
15 CREDIBILITY OF THE WITNESSES IS VERY IMPORTANT. AND
16 THE REASON YOU HAVE HEARD THAT PHRASE FROM EVERYBODY
17 THAT GOT UP HERE IS BECAUSE IT IS ONE OF THE MAIN
18 ISSUES IN THIS CASE. IT'S BEEN SAID SEVERAL TIMES
19 THAT THEY HAVE TWO CO-DEFENDANTS WHO ARE GOING TO
20 TESTIFY AGAINST MY CLIENT AND THE OTHER
21 CO-DEFENDANTS, AND YOU NEED TO BE VERY AWARE TO MAKE
22 SURE YOU TAKE SPECIAL ATTENTION -- PAY SPECIAL
23 ATTENTION TO THEIR CREDIBILITY BECAUSE THEY HAVE
24 GIVEN SEVERAL DIFFERENT STATEMENTS OVER THE COURSE OF
25 THIS INVESTIGATION.

1 CAN'T WE? BECAUSE THE STATE HAS CHOSEN TO TRY SIX
2 PEOPLE AT ONE TIME.

3 YOU HAVE TO UNDERSTAND THAT IN OUR SYSTEM, THE
4 STATE DECIDES WHEN A CASE IS TRIED AND WHO IS TRIED.
5 SO THE STATE CALLED THIS CASE AS A MULTIPLE-DEFENDANT
6 CASE. AS A RESULT, THE DEFENDANTS HAD NO CHOICE IN
7 WHO THEY WERE BEING TRIED WITH OR HOW THEY WERE BEING
8 TRIED IN THIS CASE. SO WHAT WILL BE SAID IN RELATION
9 TO THE DEFENDANTS BEING JUDGED SEPARATELY IS
10 ABSOLUTELY ESSENTIAL IN THIS CASE. IS IT GOING TO BE
11 A PROBLEM? I THINK SO. I THINK IT'S GOING TO BE A
12 PROBLEM BECAUSE THE SOLICITOR HAS ALREADY HAD A
13 PROBLEM DIFFERENTIATING BETWEEN THE DEFENDANTS IN
14 THIS CASE. AND I HAVE TO RELY ON YOU GOOD PEOPLE
15 FROM MARLBORO COUNTY. YOU HAVE GIVEN OF YOUR TIME.
16 YOU'VE AGREED TO SIT HERE AND LISTEN AND JUDGE THE
17 FACTS. YOU JUDGE THIS CASE. THE JUDGE WILL TELL YOU
18 THE LAW AND YOU WILL GO BACK TO YOUR JURY ROOM AND
19 JUDGE THESE FACTS. AND IF THE STATE PROVES TO YOU
20 BEYOND A REASONABLE DOUBT ALL OF THE CHARGES AND ALL
21 OF THE EVIDENCE AGAINST ALL OF THE DEFENDANTS, THEN A
22 VERDICT AT YOUR HANDS OF GUILTY IS APPROPRIATE.

23 BUT IF THE STATE SHOULD FAIL IN THEIR PROOF AS
24 TO AN ELEMENTS OF AN OFFENSE AGAINST ONE DEFENDANT,
25 AS TO THAT OFFENSE AND THAT DEFENDANT, YOU MUST FIND

1 HIM NOT GUILTY. THIS TRIAL IS A JOINT TRIAL, NOT
 2 LIKE OUR NORMAL TRIALS WHERE YOU COME IN AND THE
 3 STATE PROSECUTES ONE PERSON. THEY'VE CHOSEN TO GO
 4 AGAINST SIX PEOPLE AT ONE TIME. AND THAT'S GOING TO
 5 MAKE IT HARD ON YOU AND ON THE DEFENSE. BUT YOU ARE
 6 UNDER AN OBLIGATION AND A DUTY TO SEPARATE THIS
 7 EVIDENCE AND TO GIVE EACH DEFENDANT, ROBERT GRAHAM
 8 PRIMARILY AS MY RESPONSIBILITY, SEPARATE
 9 CONSIDERATION. SEPARATE CONSIDERATION. NOT ONLY ON
 10 THE CHARGES, EACH INDIVIDUAL CHARGE, BUT AS TO EACH
 11 INDIVIDUAL PERSON. THEY HAVE TO BRING EVIDENCE IN
 12 THIS COURTROOM TO PROVE TO YOU BEYOND A REASONABLE
 13 DOUBT THAT ROBERT GRAHAM, NOT THAT RICKY STUCKEY, NOT
 14 THAT LEROY STATON, NOT THAT ANY OF THE OTHER
 15 DEFENDANTS DID SOMETHING, BUT THAT ROBERT GRAHAM DID.
 16 AND YOU'RE GOING TO HAVE TO DECIPHER THIS EVIDENCE.
 17 YOU'RE GOING TO HAVE TO JUDGE THE CREDIBILITY OF THE
 18 WITNESSES, THE BELIEVABILITY.

19 IN OTHER WORDS, WHEN A WITNESS TESTIFIES, IS
 20 THIS THE KIND OF PERSON ON WHOM YOU WOULD RELY IN
 21 YOUR EVERYDAY ENDEAVORS IN RELATION TO YOUR GOOD
 22 COMMON SENSE? IS THIS SOMEBODY WHO IF I MET IN THE
 23 STREET AND TOLD ME A MATTER OF SOME CONSEQUENCE THAT
 24 I WOULD ACT ON WHAT THEY HAVE SAID BECAUSE I BELIEVE
 25 THEM? IS THAT THE KIND OF PERSON YOU'RE GOING TO

1 HEAR FROM IN THE STATE'S CASE? AND I SUBMIT THAT YOU
2 WILL NOT. AND WHEN YOU JUDGE THAT CREDIBILITY, YOU
3 WILL FIND MORE THAN A REASONABLE DOUBT. YOU WILL
4 FIND ABUNDANT REASONABLE DOUBT AS TO WHY ROBERT
5 GRAHAM SHOULD BE FOUND NOT GUILTY IN THIS CASE.

6 I HAVE AND ROBERT GRAHAM IN THIS COURTROOM NO
7 OBLIGATION TO BRING IN EVIDENCE TO YOU. THAT DUTY,
8 THAT RESPONSIBILITY AND THAT BURDEN IS ON THE STATE.
9 IT RESTS ON THE STATE AND ONLY AND UNLESS YOU THE
10 JURY FIND BEYOND A REASONABLE DOUBT, THEN AND IN THAT
11 EVENT ONLY HAVE THEY CARRIED THEIR BURDEN OF PROOF.

12 BUT THE DEFENSE IN ANY CRIMINAL CASE HAS NO
13 OBLIGATION TO BRING IN EVIDENCE. WE ARE NOT REQUIRED
14 TO PROVE ANYTHING. THE STATE HAS TO PROVE GUILT AND
15 THEY HAVE TO PROVE IT BEYOND A REASONABLE DOUBT.
16 THEY HAVE TO PROVE IT BEYOND A REASONABLE DOUBT AS TO
17 EACH ELEMENT OF EACH OFFENSE.

18 IN THIS CASE, THE SOLICITOR HIMSELF IN OPENING
19 STATEMENTS FORGOT THAT ROBERT GRAHAM WAS NOT CHARGED
20 WITH MURDER. I ASK YOU TO LISTEN INTENTLY AND JUDGE
21 THIS EVIDENCE CRITICALLY BECAUSE WHAT YOU ARE ASKED
22 TO DECIDE IS CRITICAL, IS CRITICAL TO THE PEOPLE WHO
23 ARE ON TRIAL. THEY MUST PROVE ROBERT GRAHAM DID THE
24 THINGS THEY ALLEGE AND THEY MUST PROVE IT BY THE
25 EVIDENCE BEYOND A REASONABLE DOUBT. AT THE

1 CONCLUSION OF THIS CASE, THEY WILL NOT -- WILL NOT
2 HAVE DONE THAT AS TO ROBERT GRAHAM. THANK YOU.

3 THE COURT: THANK YOU, MR. LAWSON. I
4 BELIEVE WE HAVE ONE MORE OPENING STATEMENT.
5 MR. PADGETT?

6 MR. PADGETT: MR. ROGERS TOOK CARE OF THAT
7 FOR US.

8 THE COURT: ALL RIGHT. WE'LL TAKE A VERY
9 SHORT BREAK NOW SO THAT YOU CAN BEGIN TO GET YOUR
10 WITNESSES READY. GO TO YOUR JURY ROOM. WE'LL START
11 BACK VERY SHORTLY. TAKE ABOUT FIVE MINUTES, PLEASE.

12 (WHEREUPON, THE JURY WAS REMOVED
13 FROM THE COURTROOM AND THE
14 FOLLOWING PROCEEDINGS COMMENCED
15 IN OPEN COURT.) HE

16 MR. PADGETT: I NEED TO PUT A MOTION ON
17 THE RECORD.

18 THE COURT: ALL RIGHT, SIR.

19 MR. PADGETT: ON BEHALF OF RICKY STUCKEY,
20 WE MOVE FOR A MISTRIAL BASED ON THE STATEMENT MADE
21 DURING OPENING STATEMENT WHICH REFERENCED THE FACT
22 THAT A DEFENDANT GAVE BLOOD AND SALIVA SAMPLES AND WE
23 FEEL THIS ISSUE HAS BEEN FLASHED IN THE JURY'S MIND
24 NOW AND IT GOES --

25 THE COURT: WELL, IT SHOULDN'T HAVE BEEN

1 MADE, BUT I DON'T SEE IT'S PREJUDICIAL TO YOUR
2 DEFENDANT.

3 YOU DON'T DISCUSS -- I DIDN'T CALL YOU DOWN
4 ABOUT IT. I DIDN'T WANT TO SAY ANY MORE ABOUT IT,
5 BUT YOU DON'T DISCUSS FACTUAL ISSUES IN YOUR OPENING
6 STATEMENT.

7 MR. PADGETT: IT'S OUR POSITION THAT THE
8 JURY WILL BE THINKING NOW HE CAME BACK NEGATIVE.
9 WHAT ABOUT EVERYBODY ELSE?

10 THE COURT: I WILL GIVE A CURATIVE
11 INSTRUCTION AS YOU DESIRE IT. AS I UNDERSTAND IT,
12 DNA IS NOT AN ISSUE IN THIS CASE.

13 MR. PADGETT: IT WASN'T UNTIL --

14 MR. WILSON: IT'S NOT.

15 THE COURT: IT'S NOT GOING TO BE IN JUST A
16 MOMENT.

17 MR. MOORE: WELL, YOUR HONOR, I DON'T WANT
18 ONE OF MY CO-COUNSEL MAKING A MOTION AGAINST ME IS
19 BASICALLY WHAT IT AMOUNTS TO.

20 THE COURT: YES, SIR, IT DOES.

21 MR. PADGETT: NOT AGAINST HIM. JUST FOR A
22 MISTRIAL.

23 THE COURT: I'LL DENY THAT AND I WILL TELL
24 THE JURY THERE WAS SOME REFERENCE TO DNA. DNA IS NOT
25 AN ISSUE IN THE CASE. TO SAVE TIME, ALL SIX OF YOU

1 MAKING A MOTION?

2 MR. REDMOND: I WAS GOING TO JOIN IN THAT
3 MOTION, BUT I HAVE ANOTHER MOTION.

4 THE COURT: WHAT IS THAT?

5 MR. REDMOND: A MOTION FOR SEVERANCE AT
6 THIS TIME, YOUR HONOR, BECAUSE NOW I THINK THE ISSUE
7 HAS BEEN FLAGGED IN THE JURY'S MIND. I DIDN'T HAVE
8 ANYTHING TO SAY ABOUT IT, WASN'T GOING TO HAVE
9 ANYTHING TO SAY ABOUT IT, BUT NOW I THINK IT'S A CASE
10 WHERE I MAY BE PREJUDICED.

11 THE COURT: NO, SIR. YOU WON'T BE. DNA
12 IS NOT AN ISSUE IN THE CASE AND WILL NOT BE. MOTION
13 DENIED.

14 MR. PADGETT: IF THAT'S DENIED, WE ASK FOR
15 SEVERANCE AS WELL BASED ON DNA.

16 THE COURT: DENIED. ALL SIX OF YOU,
17 DENIED.

18 MR. LAWSON: I WOULD LIKE TO JOIN IN THAT
19 MOTION, YOUR HONOR. THAT'S MY MOTION, JUDGE.

20 THE COURT: WE'LL SAVE SOME TIME THIS WAY.

21 MR. LAWSON: CAN I GET SOME -- I JUST
22 SPILLED ICE ALL OVER THE PLACE.

23 THE COURT: YES, SIR. I DON'T WANT YOU TO
24 STOP TALKING. FILL UP. ALL RIGHT. ARE WE NOW
25 READY, GENTLEMEN, TO BRING THE JURY IN? GOT ANY MORE

1 MOTIONS? ALL RIGHT. THANK YOU. BRING THE JURY IN.
2 (WHEREUPON, THE JURY WAS RETURNED
3 TO THE COURTROOM AND THE FOLLOWING
4 PROCEEDINGS WERE COMMENCED IN
5 OPEN COURT.)

6 THE COURT: MADAM FOREMAN, LADIES AND
7 GENTLEMEN, IN THE OPENING STATEMENT BY MR. MILTON
8 MOORE IN THE REPRESENTATION OF HIS DEFENDANT, LEROY
9 STATON, SOME OBSCURE REFERENCE WAS MADE TO DNA. I
10 TELL YOU NOW THAT DNA IS NOT AND WILL NOT BE AN ISSUE
11 IN THIS CASE AS TO THE DEFENDANT LEROY STATON OR AS
12 TO ANY OF THE OTHER FIVE DEFENDANTS. I INSTRUCT YOU
13 TO DISREGARD ENTIRELY THE STATEMENTS OF MR. MOORE
14 WITH REFERENCE TO DNA. THAT MUST NOT AT ANY TIME
15 ENTER INTO YOUR DELIBERATIONS AS AGAINST HIS
16 DEFENDANT OR ANY OF THE DEFENDANTS.

17 YOU MAY NOW CALL YOUR FIRST WITNESS.

18 MR. WILSON: THANK YOU, YOUR HONOR.
19 MS. VIOLA DAVIS.

20 VIOLA DAVIS,
21 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
22 TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION
24 BY MR. WILSON:

25 Q. MS. DAVIS, IF YOU WOULD, STATE YOUR FULL

1 NAME AND SPELL YOUR LAST NAME FOR THE COURT.

2 A. VIOLA DAVIS, D-A-V-I-S.

3 Q. AND WHERE ARE YOU EMPLOYED, MS. DAVIS?

4 A. CHESTERFIELD/MARLBORO ECONOMICS

5 OPPORTUNITY COUNCIL.

6 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

7 A. TWENTY-SIX YEARS.

8 Q. AND WHERE DO YOU LIVE?

9 A. BENNETTSVILLE.

10 Q. ALL RIGHT. HOW LONG HAVE YOU LIVED HERE?

11 THE COURT: MS. DAVIS, PLEASE TALK A
12 LITTLE CLOSER TO THE MICROPHONE.

13 THE WITNESS: SINCE 1974.

14 BY MR. WILSON:

15 Q. 1974. I DON'T KNOW IF THAT MICROPHONE IS
16 BREAKING UP, YOUR HONOR.

17 THE COURT: SHE'S NOT CLOSE ENOUGH.

18 THE CLERK: JUST HOLD IT CLOSE TO YOU.

19 BY MR. WILSON:

20 Q. I'M SORRY. YOU'VE LIVED HERE SINCE WHEN?

21 A. 1974.

22 Q. OKAY. AND ARE YOU MARRIED?

23 A. YES.

24 Q. DO YOU HAVE CHILDREN?

25 A. YES.

1 Q. ALL RIGHT. AND YOUR WHOLE FAMILY LIVES
2 HERE, HAS BEEN?

3 A. YES.

4 Q. LET ME ASK YOU ABOUT DARLENE PATTERSON.
5 WHAT'S YOUR RELATIONSHIP TO DARLENE PATTERSON?

6 A. MY SISTER.

7 Q. ALL RIGHT. AND HOW OLD WAS DARLENE?

8 A. THIRTY-SIX.

9 Q. AND WHERE DID SHE LIVE?

10 A. BENNETTSVILLE.

11 Q. AND DO Y'ALL LIVE FAR APART?

12 A. ABOUT A MILE.

13 Q. OKAY. AND WHAT ABOUT YOUR MOTHER? DOES
14 SHE LIVE HERE?

15 A. SHE'S DECEASED.

16 Q. SHE'S DECEASED. WAS SHE LIVING BACK IN
17 '94?

18 A. SHE DIED IN '92.

19 Q. OKAY.

20 A. I MEAN '72.

21 Q. '72?

22 A. '72.

23 Q. ALL RIGHT. LET ME ASK YOU, IN REFERENCE
24 TO DARLENE, DID SHE HAVE ANY CHILDREN?

25 A. YES.

1 Q. HOW MANY CHILDREN DID DARLENE HAVE?

2 A. TWO.

3 Q. ALL RIGHT. HOW OLD WERE HER CHILDREN?

4 A. NINE AND SEVENTEEN.

5 Q. VERY WELL. NOW, AT THE TIME -- LET'S GO
6 BACK TO 1994, NOVEMBER. DID YOU SEE HER ON NOVEMBER
7 THE 12TH OF --

8 MR. LAWSON: OBJECTION, YOUR HONOR. HE'S
9 LEADING THE WITNESS.

10 THE COURT: NO, SIR. I'LL PERMIT THAT
11 QUESTION.

12 BY MR. WILSON:

13 Q. DID YOU SEE HER ON NOVEMBER 12TH OF 1994?

14 A. YES.

15 Q. ALL RIGHT. TELL THIS JURY WHERE AND UNDER
16 WHAT CIRCUMSTANCES YOU SAW HER ON NOVEMBER 12TH OF
17 1994.

18 A. OKAY. I WAS -- I WAS AT HER HOUSE AND WE
19 WENT TO THE STORE TO PICK UP SOME FOOD. WE WAS GOING
20 TO HAVE OUR GOSPEL CHOIR ANNIVERSARY THAT SUNDAY.

21 Q. ALL RIGHT. YOU WERE HAVING GOSPEL CHOIR
22 ANNIVERSARY AT YOUR CHURCH ON THAT SUNDAY?

23 A. CORRECT.

24 Q. AND WHAT DAY OF THE WEEK WAS THE 12TH?
25 WHAT DAY OF THE WEEK?

1 A. A SATURDAY.

2 Q. AND WHAT TIME WAS THAT YOU WENT TO THE
3 STORE WITH HER?

4 A. I WOULD SAY ABOUT PROBABLY 7:00.

5 Q. OKAY. 7:00 P.M.

6 A. PROBABLY BETWEEN 6:30 AND 7:00.

7 Q. OKAY. AND WHEN Y'ALL WENT TO THE STORE,
8 WERE YOU DRIVING OR WAS SHE DRIVING OR DID Y'ALL
9 WALK? HOW DID YOU GET THERE?

10 A. I DROVE.

11 Q. OKAY. AND DOES SHE HAVE A CAR? OR DID
12 SHE HAVE A CAR IS PROBABLY THE MORE APPROPRIATE
13 QUESTION.

14 A. YES.

15 Q. ALL RIGHT. AND WHAT KIND OF CAR DID SHE
16 HAVE?

17 A. IT'S A LITTLE -- I THINK IT'S A LITTLE
18 SMALL CHEVY.

19 Q. A SMALL CHEVY. WHAT COLOR, IF YOU
20 REMEMBER?

21 A. ORANGISH OR REDDISH ORANGE.

22 Q. NOW, WAS HER CAR WORKING DURING THIS TIME?

23 A. NO, IT WAS DOWN.

24 Q. IT WAS DOWN? OKAY. NOW, WHEN YOU SAY
25 IT'S DOWN, YOU MEAN IT WASN'T OPERABLE?

1 A. IT WOULD CRANK, BUT IT WOULDN'T PULL --
2 YOU KNOW, MOVE.

3 Q. OKAY. NOW, WHEN Y'ALL CAME BACK FROM THE
4 STORE, WHERE DID YOU GO?

5 A. OKAY. WHEN WE CAME BACK, SHE GOT OUT AND
6 I SAW HER GO IN THE HOUSE.

7 Q. YOU PUT HER OUT AT HER HOUSE?

8 A. AT HER HOUSE.

9 Q. ALL RIGHT. THEN WHAT?

10 A. AND SHE WENT ON TO THE HOUSE AND I WENT ON
11 HOME.

12 Q. ALL RIGHT. OKAY. AND ABOUT WHAT TIME IN
13 THE EVENING WOULD THIS HAVE BEEN ON SATURDAY THE
14 12TH?

15 A. PROBABLY ABOUT BETWEEN 8:00 AND 8:30.

16 Q. BETWEEN 8:00 AND 8:30. ALL RIGHT. DID
17 YOU SEE HER AGAIN ON THE 12TH?

18 A. NO.

19 Q. IS THAT THE LAST TIME YOU SAW HER?

20 A. THE LAST TIME.

21 Q. ALL RIGHT. YOU NEED TO KEEP THE MIC WHERE
22 YOU CAN TALK BECAUSE, I'M SORRY, WHEN YOU TAKE IT
23 DOWN, WE CAN'T HEAR YOU.

24 A. ALL RIGHT.

25 Q. SO YOU SAW HER THE LAST TIME BETWEEN 8:00

1 AND 8:30 ON THE 12TH WHEN YOU PUT HER OUT AT HER
2 HOUSE; IS THAT CORRECT?

3 A. CORRECT.

4 Q. DID YOU SEE HER ACTUALLY GO IN THE HOUSE?

5 A. YES.

6 Q. AND WAS THERE ANYONE ELSE HOME WITH HER
7 WHEN YOU DROPPED HER OFF ON THE 12TH?

8 A. NOT THAT I KNOW.

9 Q. WHERE WERE THE CHILDREN?

10 A. THERE WERE THREE DOORS. MY GRANDMOTHER
11 LIVES THREE DOORS FROM THERE. THEY WERE THERE.

12 Q. YOUR GRANDMOTHER LIVES THREE DOORS DOWN
13 FROM DARLENE?

14 A. YES.

15 Q. AND THE CHILDREN WERE AT THE GRANDMOTHER'S
16 HOUSE?

17 A. AT THE GRANDMOTHER.

18 Q. NOW, WHEN YOU DROPPED HER OFF AT 8:00 --
19 OR BETWEEN 8:00 AND 8:30, WHERE WAS DARLENE'S CAR, IF
20 YOU RECALL?

21 A. RIGHT IN THE BACK.

22 Q. IN THE BACK OF THE YARD?

23 A. UH-HUH.

24 Q. NOW, WAS THERE A PROBLEM WITH HER CAR, TO
25 YOUR KNOWLEDGE?

1 A. YES. IT HAD -- IT WAS SUPPOSED TO BE I
2 THINK SOMETHING WRONG WITH THE ENGINE.

3 Q. ALL RIGHT. AND DID SHE HIRE SOMEBODY TO
4 FIX THE CAR?

5 A. YES.

6 Q. WHO WAS HIRED TO FIX THE CAR?

7 A. WELL, THEY CALL HIM RINGO.

8 Q. CALL HIM WHAT?

9 A. RINGO.

10 Q. RINGO? IS THAT RINGO PEARSON?

11 A. CORRECT.

12 Q. HE WAS HIRED TO FIX THE CAR. ISN'T THAT
13 CORRECT?

14 A. YES.

15 Q. ALL RIGHT. NOW, DID YOU KNOW RINGO
16 PEARSON?

17 A. NO.

18 Q. ALL RIGHT. HAD YOU MET HIM PRIOR TO
19 NOVEMBER 12TH OF 1994?

20 A. I SAW HIM ON THE -- ON THE 12TH WHEN WE
21 WENT -- BEFORE WE WENT TO THE STORE.

22 Q. YOU SAW RINGO PEARSON ON THE 12TH BEFORE
23 YOU WENT TO THE STORE. WHERE DID YOU SEE RINGO
24 PEARSON ON THE 12TH BEFORE YOU WENT TO THE STORE?

25 A. AT THE WALKWAY BACK UP TO DARLENE'S STEP.

1 Q. AT HER HOUSE?

2 A. YEAH, AT HER HOUSE.

3 Q. AND WHAT TIME OF DAY WOULD THIS HAVE BEEN?

4 A. RIGHT BEFORE WE WENT TO THE STORE. I

5 THINK ABOUT 7 -- BETWEEN 7:00 AND 7:30.

6 Q. OKAY. DID RINGO PEARSON HAVE A

7 CONVERSATION IN YOUR PRESENCE WITH DARLENE?

8 A. YES. I COULDN'T HEAR.

9 Q. I DON'T WANT TO KNOW WHAT WAS SAID, JUST

10 DID THEY HAVE A CONVERSATION IN YOUR PRESENCE?

11 A. YES.

12 Q. OKAY. AND AS A RESULT OF THAT

13 CONVERSATION, DID SHE GO WITH YOU OR DID SHE STAY

14 THERE?

15 A. OKAY. SHE WENT WITH ME TO THE STORE AFTER

16 HE LEFT.

17 Q. OKAY. NOW, AND AFTER THAT, DID YOU HAVE

18 AN OCCASION TO SEE RINGO PEARSON AFTER THE 12TH?

19 A. YES.

20 Q. OKAY. AND WHERE DID YOU SEE HIM AFTER THE

21 12TH?

22 A. WHEN HE PUSHED -- PUSHED THE CAR UP FROM

23 DARLENE'S HOUSE.

24 Q. KEEP IT -- I'M SORRY. GO AHEAD.

25 A. OKAY. HE PUSHED THE CAR FROM DARLENE --

1 WHILE THE BODY WAS MISSING.

2 Q. WHILE SHE WAS MISSING, HE PUSHED THE CAR
3 FROM WHERE?

4 A. FROM DARLENE'S HOUSE TO MY GRANDMOTHER.

5 Q. OKAY. DO YOU KNOW WHEN THIS WAS? HOW
6 LONG AFTER THE 12TH I GUESS IS WHAT I'M ASKING?

7 A. OKAY. IT WAS THE NEXT -- I THINK THE NEXT
8 WEEK. I CAN'T REMEMBER THE DATES.

9 Q. SO IT WOULD HAVE BEEN THE FOLLOWING WEEK?

10 A. THE FOLLOWING WEEK.

11 Q. ALL RIGHT. NOW, LET ME ASK YOU, YOU SAID
12 THAT Y'ALL HAD AN ENGAGEMENT ON SUNDAY WITH YOUR
13 CHOIR?

14 A. CORRECT.

15 Q. DID DARLENE SHOW UP FOR THAT ENGAGEMENT?

16 A. NO.

17 Q. ALL RIGHT. DID SHE HAVE A POSITION WITH
18 THE CHOIR?

19 A. YES, SHE DID.

20 Q. WHAT WAS HER POSITION?

21 A. TREASURER.

22 Q. ALL RIGHT. AND WAS SHE SUPPOSED TO BE
23 THERE AS AN OFFICER?

24 A. YES.

25 Q. DID SHE SHOW UP?

1 A. NO.

2 Q. AND AT SOME POINT IN TIME, DID YOU THEN OR
3 THEREAFTER YOU OR YOUR FAMILY MEMBERS BECOME
4 CONCERNED ABOUT DARLENE AND HER WHEREABOUTS?

5 A. YES, I DID.

6 Q. TELL US WHAT CAUSED YOU CONCERN AND WHAT
7 YOU DID.

8 A. WELL, AFTER I DROPPED HER OFF AND I WENT
9 ON HOME TO DO SOME COOKING, SHE WAS SUPPOSED TO CALL
10 ME.

11 Q. SHE WAS SUPPOSED TO CALL YOU WHEN?

12 A. AFTER I GOT TO THE HOUSE.

13 Q. SATURDAY NIGHT?

14 A. SHE SAID SHE WAS TIRED AND SHE WAS GOING
15 TO CALL ME LATER ON.

16 Q. OKAY. SO WHAT TIME WERE YOU EXPECTING HER
17 TO CALL YOU ON SATURDAY NIGHT?

18 A. ABOUT 10:00.

19 Q. ALL RIGHT. DID SHE CALL YOU ON SATURDAY
20 NIGHT?

21 A. NO.

22 Q. ALL RIGHT. WELL, DID YOU TRY TO CALL HER
23 ON SATURDAY NIGHT?

24 A. YES, I DID.

25 Q. ALL RIGHT. AND DID YOU GET AN ANSWER?

1 A. NO.

2 Q. AND AS A RESULT OF THAT, WHAT DID YOU DO?

3 A. WELL, I CALLED UP TO MY GRANDMOTHER AFTER
4 MY -- MY OLDER SISTER GOT OFF FROM WORK, AND I THINK
5 SHE CALLED.

6 Q. NOW, WE'RE STILL TALKING SATURDAY NIGHT?

7 A. SATURDAY NIGHT.

8 Q. OKAY. GO AHEAD.

9 A. BUT WE NEVER DID GET AN ANSWER.

10 Q. OKAY.

11 A. AND I TOLD HER SON, I THINK, THAT -- TO
12 CHECK, BUT HE WENT UP, BUT HE STILL DIDN'T SEE HER.

13 Q. NOW, WHOSE SON?

14 A. DARLENE'S OLDEST SON.

15 Q. HOW OLD IS HE?

16 A. HE WAS 17 THEN. HE'S 19 NOW.

17 Q. ALL RIGHT. HE WAS 17. AND WHERE WAS HE
18 STAYING?

19 A. HE STAYED WITH DARLENE, BUT SEE, THEY
20 WOULD STAY WITH MY GRANDMOTHER UNTIL 11:00 UNTIL MY
21 OTHER SISTER GOT OFF, THEN THEY WOULD GO BACK HOME.

22 Q. OKAY.

23 A. BUT WHEN HE KEPT CHECKING, SHE WASN'T
24 THERE, THEY WENT BACK UP TO MY GRANDMOTHER'S AND
25 STAYED UP THERE I THINK THE REST OF THE NIGHT.

1 Q. OKAY. SO THEY STAYED WITH YOUR
2 GRANDMOTHER UNTIL 11:00 WHEN YOUR SISTER GETS OFF?

3 A. MY OLDEST SISTER.

4 Q. AND THEN THEY GO BACK TO THEIR MOTHER'S
5 HOUSE WHICH IS DARLENE AND SPEND THE NIGHT?

6 A. UH-HUH. CORRECT.

7 Q. BUT ON THIS NIGHT, SHE DIDN'T SHOW UP SO
8 THEY WENT BACK TO THE GRANDMOTHER'S?

9 A. CORRECT.

10 Q. AND THEY SPENT THE NIGHT WITH THE
11 GRANDMOTHER?

12 A. CORRECT.

13 Q. NOW, DURING THE COURSE OF THE NIGHT, YOU
14 SAID THAT YOU CALLED YOUR GRANDMOTHER'S HOUSE TO
15 CHECK AND SEE WHERE DARLENE WAS?

16 A. YEAH.

17 Q. DID YOU CALL ANY OTHER PLACES?

18 A. NO.

19 Q. ALL RIGHT. AND DID YOU EVER FIND OUT
20 WHERE DARLENE WAS THAT NIGHT?

21 A. NO.

22 Q. ALL RIGHT. WHAT ABOUT THE NEXT MORNING?

23 A. WELL, THE NEXT MORNING, WE GOT REALLY
24 CONCERNED AND -- WELL, REALLY, WE GOT CONCERNED THAT
25 NIGHT BECAUSE THE KIDS KEPT CALLING, I THINK. AND

1 THEN THAT SUNDAY MORNING, I SAID I KNEW SHE WOULDN'T
2 LEAVE THE CHILDREN. YOU KNOW, WE HAD OUR GOSPEL
3 CHOIR ANNIVERSARY AND SHE WAS ON THE PROGRAM AND SHE
4 LOVED -- LOVED ALL OF US AND WE WAS VERY CONCERNED,
5 BUT I WAS TRYING TO HOLD MYSELF TOGETHER BECAUSE I
6 KNEW THE GOSPEL CHIOR ANNIVERSARY AND I WAS THE
7 PRESIDENT AND THE LEAD SINGER AND SHE WAS THE SECOND
8 SINGER ON THE CHIOR.

9 Q. OKAY. AND WHAT TIME WAS THE PROGRAM ON
10 SUNDAY?

11 A. 3:30.

12 Q. AND SO 3:30 -- FROM 8:00 OR 8:30 SATURDAY
13 EVENING UNTIL 3:30 ON SUNDAY, YOU STILL HAD NOT SEEN
14 OR HEARD FROM DARLENE; IS THAT CORRECT?

15 A. NO.

16 Q. AT SOME POINT IN TIME -- WELL, WHAT DO YOU
17 DO THEREAFTER?

18 A. OKAY. BEFORE -- AFTER THE GOSPEL CHIOR?

19 Q. RIGHT. AFTER THE ANNIVERSARY AND YOU
20 STILL HAVEN'T SEEN HER, WHAT DO YOU DO?

21 A. WELL, I TOLD MY PASTOR AND TOLD SOME OF
22 THEM AT THE CHURCH, YOU KNOW, THE FAMILY, THAT I
23 WAS -- I WAS TRYING TO HOLD MYSELF TOGETHER AND THAT
24 I WAS REAL CONCERNED BECAUSE I KNOW SOMETHING JUST
25 WASN'T RIGHT. AND I SAID IT'S EARLY IN THE MORNING,

1 I'M GOING TO THE POLICE DEPARTMENT AND CHECK WITH THE
2 POLICE DEPARTMENT TO SEE WHAT THEY CAN DO.

3 Q. ALL RIGHT. AND DID YOU DO THAT?

4 A. I WENT THAT MONDAY MORNING.

5 Q. MONDAY MORNING YOU WENT TO THE POLICE
6 DEPARTMENT?

7 A. UH-HUH.

8 Q. ALL RIGHT. AND DID YOU FILE A REPORT WITH
9 THE POLICE ON MONDAY MORNING?

10 A. OKAY. WE TALKED AND THEY ASKED US, WELL,
11 MAYBE -- I SAID NO, THERE'S NO MAYBE BECAUSE I KNOW
12 MY SISTER WOULDN'T HAVE LEFT US. AND THEY STARTED,
13 YOU KNOW, CHECKING A LITTLE BIT. AND THEN THAT WEEK,
14 THAT NEXT WEEKEND, A LOT OF PRESSURE CAME DOWN ON
15 THEM AND I CALLED MR. FOLEY ABOUT 1:00 OR 2:00 IN THE
16 MORNING, THE SHERIFF'S DEPARTMENT, I CALLED HIM AT
17 HOME.

18 Q. SO YOU WENT ON -- SHE -- ON SATURDAY THE
19 12TH -- ON MONDAY THE 4TH, YOU WENT TO THE POLICE; IS
20 THAT RIGHT?

21 A. UH-HUH.

22 Q. AND DID THEY FILL OUT THE PAPERWORK AND DO
23 ALL OF THAT OTHER STUFF?

24 A. I DON'T THINK THAT MONDAY -- I THINK MAYBE
25 THAT WEDNESDAY.

1 Q. ALL RIGHT. THEY DIDN'T DO IT THAT DAY?

2 A. NO.

3 Q. ALL RIGHT. AND WHAT DID THEY TELL YOU?
4 WHY WOULDN'T THEY DO A REPORT? WHY WOULDN'T THEY DO
5 THE REPORT LIKE YOU ASKED THEM?

6 A. I'M NOT SURE IF THEY DID -- I REMEMBER
7 THEM ASKING ME A LOT OF QUESTIONS.

8 Q. OKAY.

9 A. AND THEN I KEPT GOING BACK LIKE EVERY
10 OTHER DAY OR CALLING OR WHATEVER.

11 Q. ALL RIGHT.

12 A. BUT THEN THAT NEXT WEEK, I WENT TO THE
13 SHERIFF.

14 Q. ALL RIGHT. SO THEN YOU FINALLY WENT TO
15 THE SHERIFF'S DEPARTMENT?

16 A. WELL, I FIRST CALLED AT HOME ON A SUNDAY
17 NIGHT AND I TOLD HIM I JUST HAD FUNNY FEELINGS ABOUT
18 MY -- BECAUSE I KNOW SOMETHING WAS WRONG.

19 Q. ALL RIGHT. NOW, WHEN YOU INITIALLY WENT
20 DOWN TO THE BENNETTSVILLE POLICE DEPARTMENT, CITY
21 POLICE DEPARTMENT --

22 A. UH-HUH, THE CITY.

23 Q. AND THEN LATER YOU WENT TO THE SHERIFF'S
24 DEPARTMENT?

25 A. CORRECT.

1 Q. OKAY. NOW, AND YOU WENT TO THE SHERIFF
2 BECAUSE THE POLICE WASN'T DOING ANYTHING?

3 A. WELL, THEY JUST WASN'T MOVING FAST ENOUGH.
4 I MEAN, YOU KNOW, IT WAS MY SISTER.

5 Q. RIGHT. AND THEY WASN'T MAKING PROGRESSION
6 SATISFACTORY TO YOU?

7 A. WELL, THEY STARTED ASKING QUESTIONS AND
8 CHECKING WITH DIFFERENT PEOPLE I THINK ON THE STREETS
9 AND WHATEVER.

10 Q. OKAY.

11 A. BUT IT -- YOU KNOW, LIKE I SAID, IT WAS MY
12 SISTER.

13 Q. FROM -- FROM NOVEMBER THE 12TH WHEN YOU
14 DROPPED HER OFF, WHEN IS THE NEXT TIME THEN THAT YOU
15 SAW YOUR SISTER?

16 A. AFTER I DROPPED HER OFF?

17 Q. YEAH.

18 A. NEVER DIDN'T SEE HER ANY MORE.

19 Q. DID YOU EVER SEE HER BODY AFTER THAT?

20 A. NO.

21 Q. YOU DIDN'T SEE -- YOU DIDN'T SEE IT?

22 A. NO.

23 Q. WELL, DID THE POLICE TELL YOU THAT THEY
24 HAD FOUND HER?

25 A. THANKSGIVING DAY, WE WAS ALL SITTING

1 AROUND AND MISTER -- HE WAS THE SHERIFF THEN, CHUCK
2 FOLEY, AND HEPBURN, THEY WALKED IN ON THANKSGIVING
3 DAY.

4 Q. ALL RIGHT. AND THAT'S WHEN SHE WAS
5 LOCATED, ON THANKSGIVING DAY?

6 A. UH-HUH.

7 Q. LET ME ASK YOU, IN REGARDS TO YOUR SISTER,
8 DID SHE WEAR GLASSES?

9 A. YES, SHE DID.

10 Q. ALL RIGHT. DESCRIBE THE GLASSES TO US
11 THAT SHE WORE, THE KIND OF GLASSES THAT SHE WORE.

12 A. I CAN'T EXACTLY REMEMBER. THEY WAS KIND
13 OF LARGE, DARK. I THINK KIND OF DARK RIMS.

14 Q. ALL RIGHT. AND HAD SHE WORN GLASSES FOR A
15 LONG TIME?

16 A. YES.

17 Q. ALL RIGHT. COULD SHE SEE WITHOUT THEM?

18 A. YEAH, BUT SHE NEEDED HER GLASSES.

19 Q. COULD SHE READ BOOKS WITHOUT THEM?

20 A. SHE MOSTLY KEPT HER GLASSES ON. SHE
21 NEEDED HER GLASSES.

22 Q. ALL RIGHT. HOW LONG -- DO YOU KNOW HOW
23 MANY YEARS SHE HAS BEEN WEARING GLASSES?

24 A. SEEMS LIKE EVER SINCE SHE CAME OUT -- I
25 BELIEVE BEEN OUT OF HIGH SCHOOL.

1 Q. THEN SHE WORE GLASSES SINCE THEN, SINCE
2 SHE CAME OUT OF HIGH SCHOOL AND SHE WAS 36?

3 A. YEAH, SINCE THE TIME SHE CAME OUT OF HIGH
4 SCHOOL UNTIL -- SHE ALWAYS WORE GLASSES.

5 Q. OKAY.

6 A. SHE WOULD TAKE THEM OFF EVERY ONCE IN
7 AWHILE.

8 MR. WILSON: OKAY. THANK YOU SO MUCH.
9 ANSWER ANY QUESTIONS THESE GENTLEMEN MIGHT HAVE FOR
10 YOU.

11 MR. ERVIN: I DON'T HAVE ANY QUESTIONS,
12 MS. DAVIS.

13 MR. PADGETT: NO QUESTIONS, JUDGE.

14 MR. REDMOND: NO QUESTIONS, YOUR HONOR.

15 MR. MOORE: NO QUESTIONS, YOUR HONOR.

16 MR. WILL ROGERS: NO QUESTIONS, YOUR
17 HONOR.

18 MR. LAWSON: I DON'T HAVE ANY QUESTIONS.

19 THE COURT: YOU MAY COME DOWN. THANK YOU.

20 MR. WILSON: CAPTAIN ALLEN MCDANIEL.

21 THE CLERK: WILL YOU STATE YOUR FULL NAME.

22 THE WITNESS: THOMAS ALLEN MCDANIEL.

23 THOMAS ALLEN MCDANIEL,
24 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
25 TESTIFIED AS FOLLOWS:

D I R E C T E X A M I N A T I O N

BY MR. WILSON:

Q. CAPTAIN, YOU'RE WITH THE BENNETTSVILLE
CITY POLICE DEPARTMENT?

A. I AM.

Q. HOW LONG HAVE YOU BEEN WITH THE
BENNETTSVILLE POLICE DEPARTMENT?

A. APPROXIMATELY 18 YEARS NOW, SIR, A LITTLE
BIT OVER.

Q. AND LET ME SHOW YOU THESE TWO REPORTS.
LET ME SHOW YOU THIS ONE FIRST, IF YOU WOULD. TAKE A
LOOK AT THAT FOR ME. AND LOOK AT THE DATE AND
SIGNATURES AT THE BOTTOM OF THOSE FORMS FOR ME. ALL
RIGHT. DO YOU RECOGNIZE THAT?

A. YES, SIR. I DO.

Q. AND IS THAT A DOCUMENT THAT'S NORMALLY
KEPT IN THE CITY POLICE DEPARTMENT IN THE COURSE OF
YOUR BUSINESS THERE?

A. YES, SIR. THIS IS AN INCIDENT REPORT.

Q. ALL RIGHT. AND IF YOU WOULD, IT'S AN
INCIDENT REPORT FROM THE CITY OF BENNETTSVILLE POLICE
DEPARTMENT IN REFERENCE TO WHAT?

A. THIS IS -- THIS IS A REPORT IN REFERENCE
TO A MISSING PERSON. AND IT WAS TAKEN BY A DERRICK
MCQUEEN WHO WAS WITH OUR DEPARTMENT AT THAT TIME.

1 Q. OKAY. SO IT WAS FILED ON THE 15TH OF
2 NOVEMBER, '94?

3 A. THAT'S CORRECT.

4 Q. VERY WELL. AND THAT'S ALSO FOR A MISSING
5 PERSONS FOR DARLENE PATTERSON?

6 A. THAT IS CORRECT. DARLENE PATTERSON AND
7 IT'S A MISSING PERSONS REPORT.

8 MR. WILSON: I ASK THAT THIS BE MARKED FOR
9 IDENTIFICATION ONLY.

10 THE COURT: ALL RIGHT FOR IDENTIFICATION.

11 (STATE'S EXHIBIT NUMBER 1
12 MARKED FOR IDENTIFICATION.)

13 BY MR. WILSON:

14 Q. CAPTAIN, WHENEVER A MISSING REPORT COMES
15 IN, IS THERE A PERIOD OF TIME THAT YOU'RE REQUIRED TO
16 WAIT OR DO YOU HAVE A POLICY ABOUT HOW LONG YOU HAVE
17 TO WAIT BEFORE YOU ACTUALLY START OR CONDUCT A
18 FULL-FLEDGED INVESTIGATION OR DO YOU IMMEDIATELY GO
19 OUT AND START LOOKING FOR THE PERSON?

20 A. ONCE THIS REPORT IS FILED WITH US, WE --
21 WE TYPICALLY GO AHEAD AND START WITH THE PROCEDURES
22 WITH IT. SOMETIMES IT TAKES AWHILE. BUT THERE'S NO
23 REAL HOLD UP IN IT, NO, SIR. THERE'S NO PERIOD OF
24 TIME.

25 Q. SO THERE'S NO WAITING TIME FROM THE TIME

1 THE PERSON IS ABSENT UNTIL THE TIME THAT YOU START
2 THE INVESTIGATION?

3 A. NO, SIR.

4 MR. WILSON: THANK YOU SO MUCH. ANSWER
5 ANY QUESTIONS THAT THESE GENTLEMEN MAY HAVE FOR YOU.

6 MR. ERVIN: NO QUESTIONS, YOUR HONOR.

7 MR. PADGETT: NO QUESTIONS.

8 MR. REDMOND: NO QUESTIONS, YOUR HONOR.

9 MR. MOORE: NO QUESTIONS.

10 MR. WILL ROGERS: NO QUESTIONS, YOUR
11 HONOR.

12 MR. LAWSON: MAY IT PLEASE THE COURT, I
13 JUST WANT TO LOOK AT ONE THING. AS I UNDERSTOOD IT,
14 THESE WERE THE SAME REPORTS, JUST ONE'S A COPY AND
15 ONE'S AN ORIGINAL?

16 MR. WILSON: YES. ONE IS A COPY. ONE'S
17 THE ORIGINAL.

18 MR. LAWSON: NO QUESTIONS.

19 MR. WILSON: CHARLES LEMMON.

20 THE CLERK: WHAT'S YOUR NAME?

21 THE WITNESS: CHARLES LEMMON.

22 CHARLES LEMMON,
23 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
24 TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MR. WILSON:

2 Q. IS IT LIEUTENANT?

3 A. YES, SIR. NOW, I AM.

4 Q. LIEUTENANT, LET ME ASK YOU, WHEN DID YOU
5 COME WITH THE SHERIFF'S DEPARTMENT?

6 A. I THINK IT WAS BACK IN '87.

7 Q. ALL RIGHT. AND YOU'VE BEEN WITH THEM
8 SINCE THAT TIME?

9 A. YES, SIR.

10 Q. ALL RIGHT. AND LET ME ASK YOU BACK IN
11 NOVEMBER 1994 IF YOU HAD AN OCCASION TO GO DOWN TO
12 WHAT'S CALLED BURNT FACTORY ROAD FOR SOME EVENT OR
13 SOMETHING THAT OCCURRED?

14 A. YES, I DID.

15 Q. ALL RIGHT. WOULD YOU TELL US HOW YOU CAME
16 TO GO DOWN THERE?

17 A. YES, SIR. ON OR ABOUT NOVEMBER THE 24TH,
18 1994, ROUGHLY ABOUT 2:00 P.M., I WAS SITTING IN THE
19 SHERIFF'S OFFICE WHEN A WHITE MALE SUBJECT BY THE
20 NAME OF HARRY LOUIS KRAMER CAME IN. HE WALKED IN AND
21 HE SAID, HOW ARE YOU DOING? I SAID, FINE, SIR.

22 MR. LAWSON: YOUR HONOR, I --

23 MR. WILSON: I DON'T WANT YOU TO TELL ME
24 WHAT MR. KRAMER TOLD YOU, BUT AS A RESULT OF HAVING
25 MR. KRAMER COME TO SEE YOU -- IS THAT CORRECT?

1 THE WITNESS: THAT'S CORRECT.

2 BY MR. WILSON:

3 Q. AS A RESULT OF ANY CONVERSATION YOU HAD
4 WITH MR. KRAMER, WHAT DID YOU DO?

5 A. I WENT TO WHAT IS KNOWN AS THE BURNT
6 FACTORY LANE HERE IN MARLBORO COUNTY.

7 Q. OKAY. AND ONCE YOU GOT TO BURNT FACTORY
8 LANE, TELL US WHAT IF ANYTHING YOU FOUND?

9 A. FOUND A BLACK FEMALE'S BODY IN THE WATER
10 FACE DOWNWARD.

11 Q. ALL RIGHT. YOU FOUND A BLACK FEMALE IN
12 THE WATER FACE DOWN?

13 A. YES, SIR.

14 Q. CAN YOU DESCRIBE MORE SPECIFICALLY THE
15 BODY AND THE CONDITION OF THE BODY AT THE TIME YOU
16 FOUND HER?

17 A. YES, SIR, I CAN. IT WAS A BLACK FEMALE
18 BODY. SHE WAS FACE DOWN IN THE WATER AND SHE HAD ON
19 A PAIR OF M.I.A. LACED BLACK SHOES, A PAIR OF PINK
20 PANTIES, AND THE BUTTOCKS AREA WAS STICKING UP ABOVE
21 THE WATER AREA, A PAIR OF BURGUNDY SHORTS. AND SHE
22 HAD ON A WATCH ON THE RIGHT ARM AND HAD A BLOUSE ON
23 THAT HAD LITTLE DUCKS IN THE BLOUSE AREA. AND HER
24 LEGS WAS TOGETHER LIKE SO AND THEY WAS TAPED WITH
25 GRAY DUCT TAPE. AND FROM HERE UP WAS TAPED WITH GRAY

1 DUCT TAPE.

2 Q. OKAY. LET ME SHOW YOU A PHOTOGRAPH WHICH
3 IS AN AERIAL PHOTOGRAPH AND ASK YOU TO TAKE A LOOK AT
4 THAT AND TELL ME WHETHER OR NOT YOU KNOW THAT AREA.

5 A. YES, SIR, I DO.

6 Q. ALL RIGHT. WHAT AREA OF THE COUNTY WOULD
7 THAT BE?

8 A. THAT'S GOING TO BE THE BURNT FACTORY LANE
9 AREA, WHICH IS THE AREA WHERE THE BODY WAS.

10 MR. WILSON: ALL RIGHT. YOUR HONOR, I ASK
11 THAT THIS BE MARKED AT THIS TIME TO FOR
12 IDENTIFICATION PURPOSES ONLY.

13 (STATE'S EXHIBIT NUMBER 2
14 MARKED FOR IDENTIFICATION.)

15 BY MR. WILSON:

16 Q. TAKE A LOOK AT THESE PHOTOGRAPHS, AND
17 OTHER THAN THE AREA, TELL ME WHETHER THOSE PICTURES
18 ACCURATELY DEPICT --

19 MR. ERVIN: YOUR HONOR, BEFORE WE GET INTO
20 THIS TESTIMONY, I OBJECT. I BELIEVE WE HAVE A MATTER
21 OF LAW THAT NEEDS TO BE ADDRESSED.

22 MR. WILSON: LET ME FINISH -- STATE MY
23 QUESTION SO THE RECORD IS CLEAR.

24 THE COURT: ALL RIGHT.

25 MR. WILSON: WHAT I'M ASKING YOU AT THIS

1 TIME IS FOR YOU TO TELL ME WHETHER OR NOT YOU CAN
2 IDENTIFY THE BODY IN THOSE PICTURES AND WHETHER OR
3 NOT YOU CAN IDENTIFY THAT THIS ACCURATELY DEPICTS
4 WHAT YOU OBSERVED WHEN YOU INITIALLY OBSERVED THE
5 BODY ON NOVEMBER THE 24TH OF 1994.

6 THE WITNESS: THIS IS CORRECT. THIS IS
7 WHAT I OBSERVED.

8 THE COURT: LET YOU GO TO YOUR JURY ROOM
9 JUST A MOMENT, PLEASE. LET ME SEE THOSE PHOTOGRAPHS,
10 MR. WILSON.

11 (WHEREUPON, THE JURY WAS REMOVED
12 FROM THE COURTROOM AND THE
13 FOLLOWING PROCEEDINGS COMMENCED
14 IN OPEN COURT.)

15 THE COURT: MR. ERVIN, WHAT'S YOUR
16 PROPOSITION?

17 MR. ERVIN: YOUR HONOR, I'M ANTICIPATING
18 THAT THE SOLICITOR IS GOING TO SEEK TO HAVE THOSE
19 ADMITTED OR MARKED AT THIS TIME. BUT THE DANGER YOU
20 HAVE IN MARKING SOMETHING FOR IDENTIFICATION IS THAT
21 WHILE YOU'RE HANDLING IT, THE JURY COULD SEE IT. AT
22 THIS POINT, IT SEEMS AN APPROPRIATE TIME FOR YOU TO
23 RULE ON THE ADMISSIBILITY OF ANY PHOTOGRAPHS THAT HE
24 INTENDS TO INTRODUCE THROUGH THIS WITNESS OR ANY
25 OTHERS.

1 THE COURT: WHAT'S YOUR OBJECTION TO THE
2 PHOTOGRAPHS?

3 MR. ERVIN: THEY ARE INFLAMMATORY.

4 THE COURT: SIR?

5 MR. ERVIN: HIGHLY PREJUDICIAL,
6 INFLAMMATORY, THEY ARE OF NO BENEFIT, NO PROBATIVE
7 VALUE BECAUSE THE WITNESSES CAN TESTIFY AS TO THE
8 CONDITION OF THE BODY. THE CORONER AND DR. CONRADI
9 WILL BE HERE EITHER LATE IN THE AFTERNOON OR TOMORROW
10 TO TESTIFY TO THE CONDITION OF THE BODY, HOW THE BODY
11 WAS FOUND. HE CAN DO ALL OF THAT, BUT THE PICTURES
12 THEMSELVES ARE REPULSIVE, ARE TERRIBLE.

13 THE COURT: WHAT'S YOUR POSITION,
14 MR. WILSON?

15 MR. WILSON: YOUR HONOR, MY POSITION IS
16 THAT THESE PICTURES ARE ACTUALLY THE BEST EVIDENCE
17 FOR THIS JURY TO SHOW EXACTLY THE WAY THE BODY WAS
18 FOUND, THE MANNER THAT THIS BODY WAS TAPED UP. THESE
19 DEFENDANTS ARE NOT ONLY CHARGED WITH MURDER, BUT THEY
20 ARE CHARGED WITH KIDNAPPING. AND TO SHOW THAT -- YOU
21 KNOW, I DON'T KNOW WHAT THEIR DEFENSE IS GOING TO BE,
22 BUT THEY COULD SUGGEST, WELL, MAYBE SHE JUMPED OFF
23 THE BRIDGE. THIS WILL CERTAINLY SHOW THAT WITH THE
24 HANDS TIED BEHIND HER BACK AND THE FEET TIED THAT SHE
25 DIDN'T VOLUNTARILY JUMP OFF THE BRIDGE. I'M NOT

1 SAYING THERE'S NOT A LESSER WAY THAT WE MIGHT BE ABLE
2 TO PUT UP EVIDENCE, BUT WE'RE NOT REQUIRED TO DO
3 THAT. THE STATE HAS THE RIGHT TO PUT UP ITS CASE IN
4 THE ORDER AND IN THE MANNER THAT THE CASE -- THAT THE
5 STATE SEES FIT, NOT BECAUSE THE DEFENSE FINDS IT
6 OBJECTIONABLE THAT WE WOULD HANDLE IT IN A CERTAIN
7 WAY.

8 THE COURT: THESE PICTURES SHOW
9 CONCLUSIVELY THE MANNER IN MY MIND IN WHICH THE
10 CULPRIT OR CULPRITS LEFT THIS BODY. IN ADDITION TO
11 THAT, THESE PICTURES SHOW A RESTRAINT, WHICH IS AN
12 ELEMENT OF KIDNAPPING. I CONCLUDE THAT UNDER THE
13 CIRCUMSTANCES IN THIS CASE THAT THESE PHOTOGRAPHS ARE
14 ADMISSIBLE.

15 WHAT'S YOUR NEXT QUESTION? AND I -- I ASSUME
16 THAT THE SAME MOTION IS MADE BY ALL SIX COUNSEL. I
17 NOTE IT FOR THE RECORD AND IN EACH INSTANCE I
18 OVERRULE IT RESPECTFULLY. YES, SIR.

19 MR. ERVIN: YOUR HONOR, BEFORE YOUR
20 RULING, YOU'VE LOOKED AT THEM --

21 THE COURT: I'VE ALREADY RULED.

22 MR. ERVIN: WELL, SINCE YOU'VE RULED, CAN
23 WE SEE THE PICTURES THAT --

24 THE COURT: YES, SIR. I ASSUME THAT
25 YOU'VE ALREADY SEEN THEM.

1 MR. ERVIN: YES, SIR.

2 MR. WILSON: YES, SIR. FOR THE RECORD,
3 THEY HAVE EVERY PHOTOGRAPH THAT I HAVE; EVERY
4 PHOTOGRAPH. NOW, THEY DON'T HAVE THE BLOWUP, BUT
5 THEY HAVE EVERY PHOTOGRAPH. EVERY DEFENDANT WAS
6 GIVEN A COPY OF ALL OF THESE PHOTOGRAPHS, \$2,000
7 WORTH OF THEM.

8 MR. LAWSON: YOUR HONOR, I UNDERSTAND
9 THAT, BUT WE DON'T KNOW WHICH ONES THEY ARE MOVING TO
10 INTRODUCE INTO EVIDENCE.

11 THE COURT: WELL, YOU MAY LOOK RIGHT NOW.
12 LET'S LOOK AND LET'S GET ON.

13 MR. LAWSON: WELL, I HAVE A VIDEOTAPE THAT
14 THEY --

15 THE COURT: WE'RE NOT TALKING ABOUT A
16 VIDEOTAPE JUST LOOK AT THE PHOTOGRAPHS AND LET'S GET
17 ON.

18 MR. ERVIN: YOUR HONOR, WHILE THEY ARE
19 LOOKING AT THE PHOTOGRAPHS.

20 THE COURT: LET'S HAVE THEM BACK, PLEASE.

21 MR. ERVIN: WHILE THEY ARE REVIEWING THEM,
22 AS FAR AS OUR GROUNDS, I KNOW YOU'VE OVERRULED ME,
23 BUT I WOULD LIKE TO PLACE ON THE RECORD THAT WE FEEL
24 THAT THESE PHOTOGRAPHS SHOULD BE EXCLUDED BECAUSE
25 THEY ARE CALCULATED TO AROUSE THE SYMPATHY OR

1 PREJUDICE OF THE JURY AND ARE IRRELEVANT OR NECESSARY
2 TO ESTABLISH THE FACTS. THE WITNESSES CAN TESTIFY TO
3 THE FACTS THAT THEY ARE BOUND JUST AS WELL AS THESE
4 PICTURES DO.

5 THE COURT: YOU'VE MADE THAT AND I
6 UNDERSTAND. NO, SIR. I CONCLUDE THAT GIVEN THE FACT
7 THAT THERE IS A KIDNAPPING INDICTMENT HERE, THIS JURY
8 IS ENTITLED TO SEE THESE PHOTOGRAPHS WITH REGARDS TO
9 THE ISSUE OF RESTRAINT, WHICH IS A VITAL ELEMENT OF
10 KIDNAPPING. IN ADDITION TO THAT, OUR SUPREME COURT
11 HAS HELD MANY TIMES THAT A JURY IS ENTITLED TO SEE
12 THE BODY IN THE CONDITION THAT THE CULPRIT LEFT IT.

13 MR. LAWSON: WELL, YOUR HONOR, COULD I FOR
14 THE RECORD STATE AN OBJECTION?

15 THE COURT: IF IT'S DIFFERENT THAN HIS
16 OBJECTIONS, GO AHEAD.

17 MR. LAWSON: YES, SIR. THIS IS NOT THE
18 CONDITION OF THE BODY THE WAY IT WAS LEFT. THIS IS
19 THE CONDITION THAT IT WAS FOUND AND THERE HAS BEEN
20 SUBSTANTIAL DETERIORATION.

21 THE COURT: I'M TALKING ABOUT, MR. LAWSON,
22 THE CONDITION OF THE BODY IN THAT IT CLEARLY SHOWS
23 DUCT TAPE AROUND THE POOR VICTIM'S FACE.

24 MR. LAWSON: YOUR HONOR, THAT CAN BE SHOWN
25 BY THESE TWO PHOTOGRAPHS WITHOUT THIS PHOTOGRAPH.

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THE COURT: OKAY. YOU'VE GOT YOUR POSITION. THOSE PHOTOGRAPHS ARE GOING INTO THIS RECORD. YOUR OBJECTION IS NOTED.

MR. LAWSON: AND YOUR HONOR, FOR THE RECORD, HE HAS TWO PHOTOGRAPHS INDICATING TAPE AROUND HANDS AND FEET. HE HAS ONE PHOTOGRAPH OF THE ENTIRE BODY SHOWING SUBSTANTIAL DETERIORATION THAT HAS OCCURRED OVER A PERIOD OF DAYS. AND TO USE THIS PICTURE FOR THIS PROPOSITION IS JUST OVERKILL IN RELATION TO THIS JURY.

THE COURT: I CONCLUDE IT IS NOT. SO WE ARE GOING TO LET THEM GO IN.

MR. ERVIN: COULD WE HAVE THEM MARKED SO YOU CAN DIFFERENTIATE?

MR. LAWSON: YEAH, I WOULD LIKE --

MR. ROGERS: MAY I ADD AN ADDITIONAL GROUND TO -- FOR THE RECORD?

THE COURT: LET THE RECORD SHOW THAT MY RULING IS BASED ON SEVERAL MATTERS. ONE OF THESE PICTURES SHOWS THAT SHE WAS TAPED UP IN THE FACE AND AROUND THE NECK. ANOTHER SHOWS THAT SHE WAS TAPED UP AROUND THE LEGS. AS I INDICATED BEFORE, SEVERAL OF THE INDICTMENTS RELATE TO KIDNAPPING. THE PRESENCE OF TAPE AROUND THE FACE AND THE NECK IS EVIDENCE, IF BELIEVED BY THIS JURY, OF RESTRAINT AS TO THIS

1 INDIVIDUAL, AND THESE PICTURES IN MY VIEW HAVE
2 SUFFICIENT PROBATIVE VALUE TO SUBMIT THEIR
3 INTRODUCTION TO THE JURY AND THEY ARE INTRODUCED.

4 NOW, SOLICITOR, IN FAIRNESS TO THE DEFENSE --

5 MR. WILSON: YES, SIR.

6 THE COURT: -- IDENTIFY THEM SPECIFICALLY
7 AS WE INTRODUCE THEM. NOW, GENTLEMEN, YOU ARE FULLY
8 PROTECTED ON THE RECORD ON THAT ISSUE.

9 MR. ERVIN: YES, SIR.

10 MR. ROGERS: WOULD YOU ALLOW ME TO ADD AN
11 ADDITIONAL GROUND?

12 THE COURT: I WOULD, SIR, IF IT'S
13 ADDITIONAL, YES, SIR.

14 MR. ROGERS: ADDITIONAL WOULD BE THE COLOR
15 OF THE PHOTOGRAPHS, THAT WHAT HE INTENDS TO SHOW CAN
16 EASILY BE SHOWN IN BLACK AND WHITE PHOTOS. AND
17 BECAUSE THESE ARE IN COLOR, WE THINK THE PREJUDICE
18 OUTWEIGHS THE PROBATIVE.

19 THE COURT: DO YOU WANT TO RESPOND TO THAT
20 POSITION?

21 MR. WILSON: WELL, YOUR HONOR, THE ONLY
22 THING I CAN RESPOND IN REGARDS TO THAT IS THESE ARE
23 THE PHOTOGRAPHS THAT WE HAVE. AND THESE ARE THE ONES
24 THAT WE ARE OFFERING AND THIS IS HOW IT LOOKED. I
25 MEAN, THE FACT THAT IT'S IN COLOR, I MEAN, SHE WAS IN

1 COLOR.

2 THE COURT: NO NEED TO ARGUE THAT.

3 MR. ROGERS HAS SUCCINCTLY STATED HIS POSITION WITH
4 REGARD TO THE COLOR OF THE PHOTOGRAPHS AND I'VE RULED
5 ON THAT. DO YOU HAVE ANOTHER CASE?

6 MR. REDMOND: NOT SPECIFICALLY DEALING
7 WITH THE PHOTOGRAPHS, BUT I'M OBJECTING TO
8 EVERYTHING.

9 THE COURT: I UNDERSTAND THAT.

10 MR. REDMOND: BASED ON YOUR HONOR'S
11 RULING, TALKING ABOUT PROBATIVE VALUE NOW, I'M
12 DEALING WITH THE ISSUE AS TO PREJUDICE AS TO
13 MR. ROGERS AND I'M SURE THE OTHER DEFENDANTS BECAUSE
14 WITH THE PROBATIVE VALUE STATEMENT THE COURT JUST
15 MADE, YEAH, PICTURES, IF THEY ARE THERE, IF THEY ARE
16 ALWAYS FOUND TO BE PROBATIVE VALUE, THAT'S ONE THING,
17 BUT THE SUPREME COURT HAS SPECIFICALLY MADE AN
18 ALLOWANCE FOR PREJUDICE OUTSIDE OF THE ISSUE OF
19 PROBATIVE VALUE.

20 THE COURT: I AGREE WITH THAT.

21 MR. REDMOND: AND I WANT TO MAKE SURE THAT
22 THOSE TWO ISSUES ARE SEPARATED TO PROTECT MY --

23 THE COURT: MR. REDMOND, I CONCLUDE THAT
24 UNDER THE FACTUAL SITUATION AS IT'S DEVELOPED AT THIS
25 POINT THAT THESE PICTURES ARE GOING IN THE RECORD,

1 AND YOU ARE PROTECTED ON THE RECORD, AND YOU ARE, AND
2 MR. ROGERS IS. NOW, LET'S DON'T ARGUE THIS QUESTION
3 ANY MORE.

4 MR. ERVIN: I DON'T HAVE ANY MORE
5 ARGUMENT.

6 THE COURT: WE'RE GOING TO BE HERE FOR
7 THREE WEEKS IF YOU WANT TO REARGUE EVERY POSITION.

8 MR. ERVIN: I'M NOT. IN THE INTEREST OF
9 JUDICIAL ECONOMY --

10 THE COURT: THAT'S THE FIRST TIME YOU'VE
11 EXERCISED THAT, BUT GO AHEAD.

12 MR. ERVIN: WE HAVE A LOT OF PICTURES, BUT
13 DO YOU WANT TO DEAL WITH THEM NOW OR LATER?

14 THE COURT: NO, SIR, AS THE CASE DEVELOPS
15 AND AS THEY ARE INTRODUCED.

16 MR. ERVIN: I THOUGHT IT WOULD SPEED
17 THINGS UP.

18 THE COURT: NO, SIR. I'LL HEAR WHATEVER
19 EVIDENCE THEY ARE THE RESULT OF.

20 MR. LAWSON: YOUR HONOR, FOR THE RECORD,
21 THERE IS AN IDENTIFICATION NUMBER ON THIS PICTURE
22 THAT'S NOT A COURT'S EXHIBIT NUMBER, BUT IT HAS A
23 SLED NUMBER L9316345, AND I'M NOT SURE THAT THESE
24 SLED NUMBERS ON THE BOTTOM OF THESE PHOTOGRAPHS ARE
25 ADMISSIBLE WITH THE PHOTOGRAPHS. BUT THAT IS A

1 SPECIFIC PHOTOGRAPH -- THE SPECIFIC PHOTOGRAPH THAT I
2 OBJECTED TO AND I REFERRED TO. YOU KNOW, I OBJECT TO
3 ALL OF THEM AS WELL, BUT I CAN SEE WHERE UNDER YOUR
4 HONOR'S RULING THESE OTHER THREE MAY CAN COME IN IN
5 A -- I'M NOT CONCEDEDING THAT, FOR THE RECORD, BUT THE
6 ONE THAT I REALLY OBJECT TO IS THE ONE THAT I JUST
7 GAVE THE NUMBER ON.

8 THE COURT: I UNDERSTAND. THANK YOU. I
9 APPRECIATE YOUR CONCURRENCE WITH MY POSITION. ALL
10 RIGHT. LET'S BRING THE JURY BACK IN.

11 (STATE'S EXHIBIT NUMBERS 3, 4, 5 AND 6
12 MARKED FOR IDENTIFICATION
13 AND ENTERED INTO EVIDENCE.)

14 (WHEREUPON, THE JURY WAS RETURNED
15 TO THE COURTROOM AND THE FOLLOWING
16 PROCEEDINGS WERE COMMENCED IN
17 OPEN COURT.)

18 BY MR. WILSON:

19 Q. LET ME SHOW YOU AGAIN THESE PHOTOGRAPHS
20 AND ASK YOU AGAIN WHETHER OR NOT THESE PHOTOGRAPHS
21 ACCURATELY DEPICT WHAT YOU OBSERVED BACK ON NOVEMBER
22 24TH, DOWN AT HICKORY -- WAS IT BURNT FACTORY?

23 A. BURNT FACTORY --

24 Q. -- ROAD. IS THAT CORRECT?

25 A. YES, SIR.

1 Q. ALL RIGHT. NOW, LET ME SHOW YOU WHAT'S
2 BEEN MARKED NOW AS STATE'S EXHIBIT NUMBER 6 AND ASK
3 YOU IF YOU CAN DESCRIBE THAT TO ME AND TELL ME WHAT'S
4 THERE?

5 A. THIS IS THE -- THIS IS WHAT I OBSERVED ON
6 THE SCENE ON THE BODY OF THE FEMALE WITH DUCT TAPE
7 FROM HERE TO THE CHIN AREA AND THE PINK UNDERCLOTHING
8 AND THE BLOUSE WITH THE DUCKS IN IT AS WELL AS THE
9 BODY AND THE SHOES.

10 Q. AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER
11 3 AND ASK YOU TO TAKE A LOOK AT THAT ONE FOR ME.

12 A. YES, SIR. THIS AS WELL IS THE SAME, BUT
13 IT HAS AS THE DUCT TAPE AROUND THE ARMS AREA AND
14 PARTIALLY OVER THE HANDS AREA, THE GRAY DUCT TAPE.

15 Q. ALL RIGHT. AND LET ME SHOW YOU NOW WHAT'S
16 MARKED AS STATE'S EXHIBIT NUMBER 5.

17 A. YES, SIR. THIS SHOWS THE DUCT AREA -- THE
18 DUCT TAPE THAT'S AROUND THE AREA OF THE LEGS AND THE
19 SHOES THAT WAS ON AT THE TIME.

20 Q. OKAY. AND NOW WHAT'S BEEN MARKED AS
21 STATE'S EXHIBIT NUMBER 4.

22 A. OKAY. THIS IS THE PARTIAL OF THE HEAD
23 AREA, OF THE MOUTH AND NOSE AREA WITH THE DUCT TAPE
24 SHOWN ON THE BODY.

25 Q. NOW, WHEN YOU WENT DOWN TO THE BURNT

1 FACTORY ROAD, DID YOU GO ALONE?

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

3 Q. WHO DID YOU GO WITH?

4 A. AT THE TIME, I CALLED ONE OF MY OFFICERS
5 THAT WAS ON THE SHIFT.

6 Q. OKAY. AND WHO WAS THAT?

7 A. JERRY SMITH.

8 Q. OKAY. AND DID BOTH OF YOU DO THE SAME
9 THING OR DID YOU SEARCH THE AREA FOR ANY ITEMS OTHER
10 THAN THE BODY OR DID YOU STOP THERE AND JUST GET SOME
11 HELP? WHAT DID YOU DO AFTER THAT POINT?

12 A. YES, SIR. WHAT I DID WAS WHAT WE ARE
13 SUPPOSED TO DO IS WHEN I GET TO THE SCENE, BEING THE
14 SUPERVISOR OVER THE SHIFT AND FOUND -- AND SAW WHAT I
15 HAD, I IMMEDIATELY GOT THE AREA CLOSED OUT AND NOT
16 LET ANY TRAFFIC IN, NO TRAFFIC OUT, WHICH THERE
17 WASN'T ANY TRAFFIC AT THAT TIME. AT WHICH TIME, AS A
18 RESULT OF A RADIO CONVERSATION WITH MYSELF AND MY
19 DISPATCHER, I NOTIFIED THE SHERIFF AT THE TIME,
20 INVESTIGATORS AT THE TIME, AND AS WELL AS THE CORONER
21 AT THE TIME.

22 Q. OKAY. NOW, HOW LONG WOULD YOU THINK --
23 HOW LONG WOULD YOU THINK THAT YOU WERE DOWN THERE
24 FROM THE TIME YOU -- YOU LEFT THE OFFICE UNTIL THE
25 TIME YOU RETURNED BACK TO THE STATION?

1 A. I WOULD SAY IT WAS SEVERAL HOURS. I -- I
2 GOT THERE ROUGHLY I WOULD SAY 15 MINUTES AFTER THE
3 WALK-IN COMPLAINANT. I WOULD SAY I WAS THERE UNTIL
4 9:00 P.M. THAT NIGHT.

5 Q. ALL RIGHT. NOW, DID THE CORONER COME
6 WHILE YOU WERE THERE?

7 A. YES, SIR.

8 Q. ALL RIGHT. AND WHO WOULD HAVE BEEN
9 RESPONSIBLE FOR SENDING FOR HIM OR NOTIFYING HIM?

10 A. THE SHERIFF.

11 Q. THE SHERIFF. YOU WOULD HAVE NOTIFIED THE
12 SHERIFF ONCE YOU GOT THERE AND FOUND THINGS; IS THAT
13 CORRECT?

14 A. YES.

15 MR. WILSON: ALL RIGHT. BEAR WITH ME JUST
16 ONE SECOND. THANK YOU SO MUCH. ANSWER ANY QUESTIONS
17 THESE GENTLEMEN MIGHT HAVE FOR YOU.

18 MR. ERVIN: I DON'T HAVE ANY QUESTIONS,
19 JUDGE.

20 THE COURT: MR. PADGETT, MR. ROGERS?

21 MR. PADGETT: NO QUESTIONS, YOUR HONOR.

22 THE COURT: MR. REDMOND?

23 MR. REDMOND: NO QUESTIONS.

24 MR. MOORE: YES, SIR. I'VE GOT ONE.

25 C R O S S - E X A M I N A T I O N

1 BY MR. MOORE:

2 Q. HOW LONG DID YOU STAY AROUND THE WATER ON
3 THE OTHER SIDE OF THE BRIDGE AT THE BURNT FACTORY?

4 A. I DON'T UNDERSTAND YOUR QUESTION. I
5 CAN'T --

6 Q. ALL RIGHT. AS YOU COME ACROSS THE BURNT
7 FACTORY ROAD, ON ONE SIDE THERE'S A STREAM COMING OUT
8 OF THE BIG POND, THEN ON THE OTHER SIDE WHERE THE
9 BODY WAS FOUND, HOW LONG DID YOU STAY AROUND THERE
10 AND SECURE THE AREA?

11 A. FROM THE TIME I GOT THERE UNTIL THE TIME I
12 LEFT.

13 Q. ALL RIGHT. DURING THAT TIME, DID YOU SEE
14 ANY WHEELCHAIR PRINTS FROM A WHEELCHAIR, A WHEEL ON A
15 WHEELCHAIR?

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

17 Q. NOWHERE AROUND THERE?

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

19 THE COURT: MR. ROGERS.

20 MR. ROGERS: I DON'T HAVE ANY QUESTIONS.

21 THE COURT: MR. LAWSON.

22 MR. LAWSON: IF IT PLEASE THE COURT. MAY
23 IT PLEASE THE COURT, JUST A COUPLE.

24 C R O S S - E X A M I N A T I O N

25 BY MR. LAWSON:

1 Q. DID YOU DO A REPORT IN RELATION TO THIS?

2 A. I DID THE INCIDENT REPORT.

3 Q. YOU DID THE INCIDENT REPORT. AND YOU
4 FILED THAT?

5 A. THAT'S CORRECT.

6 Q. ALL RIGHT. WHAT WAS YOUR SPECIFIC JOB AT
7 THE POINT THAT YOU WENT DOWN THERE AND SAW WHAT YOU
8 SAW? WERE YOU SUPPOSED TO NOTIFY PEOPLE OF --

9 A. AS I STATED, COUNSEL, WHEN I GOT TO THE
10 SCENE, SAW WHAT I SAW AND FOUND WHAT I FOUND, I
11 IMMEDIATELY CLOSED ALL AREAS FOR TRAFFIC IN AND OUT.
12 THE OFFICERS THAT WERE ASSIGNED TO MY SHIFT, I HAD
13 THEM ON ONE END OF THE AREA TO KEEP THE TRAFFIC. I
14 STAYED EXACTLY TO THE SCENE. I NOTIFIED THE SHERIFF.
15 AT THAT POINT IN TIME, HE CAME, THE CORONER CAME AND
16 THE INVESTIGATORS CAME. AND FROM THERE, HE MADE THE
17 DECISION AND HE CALLED SLED FORENSIC TEAM.

18 Q. OKAY. YOU'RE A LIEUTENANT NOW?

19 A. YES, SIR.

20 Q. WERE YOU A LIEUTENANT THEN?

21 A. NO, SIR.

22 Q. ALL RIGHT. WHEN YOU INITIALLY ARRIVED AND
23 YOU WERE IN CHARGE OF THE CRIME SCENE, OR THE SCENE,
24 WHATEVER --

25 A. THAT'S CORRECT.

1 Q. AT WHAT POINT DID YOU SURRENDER THAT TO
2 SOME SUPERIOR OFFICER?

3 A. WHENEVER THE SHERIFF ARRIVED.

4 Q. WHEN WAS THAT? DO YOU RECALL?

5 A. I WOULD SAY AS A RESULT OF THE
6 CONVERSATION BETWEEN MY DISPATCHER AND ME, THE TIME
7 SHE CONTACTED HIM, I WOULD SAY ROUGHLY -- ROUGHLY 30
8 MINUTES, HE WAS ON THE SCENE.

9 Q. OKAY. AND -- BUT YOU STAYED AFTER HE GOT
10 THERE?

11 A. CERTAINLY.

12 Q. ALL RIGHT. YOU IDENTIFIED THE BODY
13 FLOATING IN THE WATER, DID YOU NOT? I MEAN, YOU SAW
14 IT AS A BODY, NOT AS AN INDIVIDUAL? YOU DIDN'T KNOW
15 WHO IT WAS?

16 A. I SAW IT.

17 Q. OKAY. YOU DIDN'T TAKE IT OUT BEFORE YOU
18 CALLED THE SHERIFF, DID YOU?

19 A. NO, SIR.

20 Q. OKAY. YOU DIDN'T DISTURB ANY OF THAT
21 EVIDENCE?

22 A. NONE OF THAT.

23 Q. OKAY. WAS ANYTHING FOUND IN OR AROUND THE
24 AREA BY YOU THAT COULD BE DETERMINED EVIDENCE OR THAT
25 YOU DETERMINED EVIDENCE?

1 A. NOTHING -- NO MORE THAN THAT WHICH WAS ON
2 HER.

3 Q. OKAY. YOU DIDN'T FIND ANYTHING THAT WAS
4 LAYING IN THE WOODS OR ANYTHING ELSE IN THE WATER
5 THAT YOU DETERMINED TO BE ANY EVIDENTIARY VALUE?

6 A. NOTHING AT ALL.

7 Q. ALL RIGHT. WHAT TIME DID THE CORONER GET
8 THERE? DO YOU REMEMBER?

9 A. I WOULD SAY FIVE MINUTE AFTER THE SHERIFF
10 GOT THERE. SO WE'RE TALKING MAYBE 35, 40 MINUTES.

11 Q. SO YOU THINK -- ARE YOU SURE ABOUT THAT?

12 A. I COULD BE OFF 10 OR 15 MINUTES, BUT HE
13 GOT THERE SHORTLY AFTER THE SHERIFF GOT THERE. AS I
14 STATED TO YOU, AS A RESULT OF A CONVERSATION BETWEEN
15 MYSELF AND THE DISPATCHER, SHE NOTIFIED THE SHERIFF,
16 AND THAT POINT IN TIME, HE INFORMED HER TO NOTIFY THE
17 CORONER, AND THEY GOT THERE SHORTLY FIVE TO TEN
18 MINUTES AFTER, BETWEEN EACH OTHER.

19 Q. AND YOU SAID I BELIEVE YOU GOT THERE
20 SHORTLY AFTER 12:00?

21 A. THAT'S CORRECT.

22 Q. SO YOU WOULD ASSUME BOTH OF THEM WOULD
23 HAVE BEEN ON THE SCENE BEFORE 3:00?

24 A. THAT'S CORRECT.

25 MR. LAWSON: ALL RIGHT. THANK YOU. NO

1 FURTHER QUESTIONS.

2 MR. WILSON: NO ADDITIONAL QUESTIONS.

3 THE COURT: YOU MAY COME DOWN. THANK YOU.

4 MR. WILSON: DAVID FREEMAN.

5 THE WITNESS: DAVID FREEMAN.

6 DAVID FREEMAN,

7 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,

8 TESTIFIED AS FOLLOWS:

9 D I R E C T E X A M I N A T I O N

10 BY MR. WILSON:

11 Q. OFFICER, YOU'RE WITH THE MARLBORO COUNTY
12 SHERIFF'S DEPARTMENT?

13 A. YES, I AM.

14 Q. AND HOW LONG HAVE YOU BEEN WITH THE COUNTY
15 SHERIFF'S DEPARTMENT?

16 A. APPROXIMATELY SEVEN YEARS TOTAL.

17 Q. ALL RIGHT. AND BACK IN NOVEMBER OF 1994,
18 YOU WERE WORKING AT THAT TIME?

19 A. YES, SIR, I WAS.

20 Q. ALL RIGHT. AND LET ME ASK YOU IF
21 SOMETIMES IN NOVEMBER OF '94 IF YOU HAD OCCASION TO
22 GO DOWN BURNT FACTORY ROAD TO LOOK FOR SOME ITEMS?

23 A. YES, I DID.

24 Q. ALL RIGHT. AND TELL US HOW YOU CAME TO GO
25 DOWN THERE. WHY DID YOU GO DOWN THERE?

1 A. IT WAS ON THANKSGIVING WEEK, GOT CALLED
2 OUT IN REFERENCE TO A BODY THAT WAS FOUND IN A BURNT
3 FACTORY?

4 Q. YES, SIR.

5 A. THAT WAS MY FIRST OCCASION GOING DOWN
6 THERE IN REFERENCE TO THAT.

7 Q. SO YOU WENT DOWN THERE ON THAT DAY TOO?

8 A. YES, I DID.

9 Q. GO AHEAD.

10 A. LATER ON, I THINK IT WAS APPROXIMATELY TWO
11 DAYS LATER, IT WAS ON A SATURDAY, I WENT DOWN WITH
12 THE SHERIFF FOLEY.

13 Q. ALL RIGHT.

14 A. OVER THERE LOOKING FOR SOME ITEMS THAT
15 POSSIBLY HAD BEEN LEFT DOWN THERE.

16 Q. OKAY. AND DID YOU FIND ANY ITEMS?

17 A. YES, SIR. I FOUND A WOMAN'S POCKETBOOK
18 THAT WAS IN THE CREEK. IT HAD BEEN HUNG UP ON A
19 LIMB.

20 Q. ALL RIGHT. I SHOW YOU THESE TWO ITEMS AND
21 I JUST ASK YOU IF YOU RECOGNIZE THOSE ITEMS?

22 A. YES, SIR. THOSE -- THIS IS THE POCKETBOOK
23 THAT I FOUND IN THE CREEK AND THESE WERE THE CONTENTS
24 OF THE POCKETBOOK.

25 Q. ALL RIGHT. NOW, AFTER RECEIVING THESE

1 ITEMS, WHAT IF ANYTHING DID YOU DO WITH THEM?

2 A. I BROUGHT THEM BACK TO THE SHERIFF'S
3 DEPARTMENT AT WHICH TIME INVESTIGATOR STARNES WAS
4 THERE AND TURNED THEM OVER TO HIM. AND AT THAT TIME,
5 THEY WERE TAKEN OUT AND AIR DRIED.

6 Q. OKAY. ALL RIGHT. AND DID YOU HAVE -- DID
7 YOU RECEIVE THEM IN EVIDENCE AFTER YOU -- AS EVIDENCE
8 AFTER YOU PUT THEM IN?

9 A. YES, SIR. THAT MONDAY -- THAT MONDAY, I
10 TOOK THEM TO COLUMBIA AND TURNED THEM OVER TO WARREN
11 OR DAVID BLACK WITH SLED.

12 MR. WILSON: OKAY. MARKED FOR I.D., YOUR
13 HONOR. I ASK THAT HE MARK THEM FOR IDENTIFICATION
14 PURPOSES AT THIS TIME.

15 THE COURT: ALL RIGHT.

16 (STATE'S EXHIBITS NUMBERS 7 AND 8
17 MARKED FOR IDENTIFICATION.)

18 BY MR. WILSON:

19 Q. NOW, JUST SO I UNDERSTAND, EXPLAIN TO US,
20 IF YOU WOULD, HOW WE'VE DISCUSSED THAT THERE'S SOME
21 WATER DOWN THERE, I ASSUME AT BURNT FACTORY. TELL US
22 HOW -- DESCRIBE THAT LOCATION TO US AND HOW IT'S SET
23 UP.

24 A. OKAY. THE POND, YOU COME OFF OF HIGHWAY
25 385, GOING DOWN TO BURNT FACTORY POND IS ON THE RIGHT

1 HAND SIDE. AS YOU GET DOWN TO THE OTHER SIDE OF THE
2 POND, THERE'S A BRIDGE THERE THAT RUNS WITH A RUN
3 THAT RUNS THROUGH IT. IT'S A CREEK APPROXIMATELY 40
4 FOOT WIDE. I'M NOT SURE ON THE WIDTH. IT RUNS ON
5 DOWN THROUGH THE WOODS.

6 Q. OKAY. AND IS THERE A BRIDGE THAT GOES
7 ACROSS THE POND?

8 A. YES, SIR. THAT'S THE BRIDGE THAT
9 CROSSES -- WHAT IT DOES, IT CROSSES THE RUN COMING
10 OUT OF THE POND.

11 Q. OKAY. AND NOW -- AND WOULD THERE BE
12 WATER, THEN, ON BOTH SIDES OF THE BRIDGE?

13 A. YES, SIR, THERE IS.

14 Q. OKAY. AND AS YOU'RE FACING -- IF YOU'RE
15 COMING FROM BENNETTSVILLE, GOING TO BURNT FACTORY,
16 GOING THROUGH THAT PLACE, THAT DIRT ROAD, WHICH SIDE
17 OF THE POND ARE WE TALKING? THE LEFT OR THE RIGHT?

18 A. IF YOU TURN OFF OF HIGHWAY 385 COMING OUT
19 OF BENNETTSVILLE GOING TOWARDS GIBSON, TURN OFF OF
20 HIGHWAY 385, IT WOULD HAVE BEEN ON THE LEFT-HAND SIDE
21 OF THE BRIDGE.

22 Q. OKAY. ALL RIGHT. NOW, IS THAT WHERE THE
23 BODY WAS FOUND, TOO, ON THE LEFT-HAND SIDE?

24 A. YES, THAT'S ALSO WHERE THE BODY WAS FOUND.

25 Q. AND IS THAT ALSO WHERE THE POCKETBOOK WAS

1 FOUND?

2 A. YES, SIR, IT IS.

3 Q. HOW FAR WOULD THE POCKETBOOK HAVE BEEN
4 FOUND FROM WHERE THE BODY WAS ACTUALLY FOUND?

5 A. I FOUND THE POCKETBOOK APPROXIMATELY 35,
6 30 FOOT UP CLOSER TO THE BRIDGE WHERE THE BODY WAS
7 ACTUALLY FOUND.

8 Q. AND WHERE WAS IT ACTUALLY LOCATED?

9 A. IT WAS -- IT WAS IN THE WATER. IT WOULD
10 HAVE BEEN -- IF YOU'RE SITTING ON THE BRIDGE AND YOU
11 LOOK OVER TO THE RUN WHERE THE BODY WAS FOUND, IT
12 WOULD HAVE BEEN ON THE LEFT-HAND SIDE OF THAT -- OF
13 THE RUN.

14 Q. OKAY.

15 A. IT'S SORT OF HUNG UP ON A LIMB. IT WAS
16 SORT OF HALFWAY DOWN IN THE WATER, BUT JUST BY
17 CHANCE, I SEEN THE STRAP HUNG ON THE LIMB.

18 MR. WILSON: COURT BEAR WITH ME JUST FOR
19 ONE SECOND, YOUR HONOR.

20 BY MR. WILSON:

21 Q. NOW, LET ME ASK YOU, YOU SAID THAT THESE
22 ITEMS WERE SENT TO SLED?

23 A. YES, SIR.

24 Q. ISN'T THAT CORRECT? DID YOU TAKE THEM
25 YOURSELVES?

1 A. YES, SIR, I DID.

2 Q. ALL RIGHT.

3 A. THEY WAS ALL IN A BOX.

4 Q. AND DID YOU GO BACK AND RETRIEVE THOSE
5 ITEMS?

6 A. YES, SIR.

7 Q. AND ALSO INCLUDED IN THAT BOX YOU SAID
8 THAT THERE WAS A BOX. DO YOU KNOW WHAT ALL WAS IN
9 THE BOX?

10 A. OFF THE TOP OF MY HEAD --

11 Q. LET ME ASK YOU -- MORE SPECIFICALLY, LET
12 ME ASK YOU, DID YOU TAKE SOME DUCT TAPE FROM THE
13 VICTIM TO -- UP THERE? WELL, LET ME HELP YOU EVEN
14 MORE.

15 A. YEAH.

16 Q. AND ASK YOU THIS WAY. THE BOX THAT YOU
17 TOOK --

18 A. RIGHT.

19 Q. -- WHO PREPARED THE BOX?

20 A. INVESTIGATOR STARNES.

21 Q. ALL RIGHT, SIR.

22 A. YES.

23 Q. AND THAT BOX WAS PREPARED AND SEALED AND
24 GIVEN TO YOU?

25 A. YES. YES.

1 Q. ALL RIGHT. SO WHEN YOU GOT IT, IT WAS
2 ALREADY SEALED?

3 A. YES, SIR.

4 Q. AND WHATEVER WAS IN THAT WAS BOX, YOU TOOK
5 IT TO SLED?

6 A. THAT'S RIGHT.

7 Q. AND WHATEVER SLED DID WITH THAT BOX, WHEN
8 YOU GOT IT, IT WAS SEALED AGAIN?

9 A. YES.

10 Q. AND YOU BROUGHT IT BACK AND GAVE IT TO
11 DETECTIVE STARNES?

12 A. YES, SIR. THAT'S WHY I COULDN'T --

13 MR. WILSON: THAT'S FINE. THAT'S ALL I
14 NEEDED TO KNOW. THANK YOU SO MUCH. NO OTHER
15 QUESTIONS.

16 MR. ERVIN: JUST A FEW OTHER QUESTIONS.

17 C R O S S - E X A M I N A T I O N

18 BY MR. ERVIN:

19 Q. AT WHOSE DIRECTION DID YOU GO BACK TO THE
20 BURNT FACTORY POND?

21 A. SHERIFF FOLEY.

22 Q. AND HOW MUCH LATER WAS THAT FROM WHEN
23 LIEUTENANT LEMMON SECURED THE SCENE?

24 A. THE BODY WAS FOUND ON THANKSGIVING DAY.
25 IT WOULD HAVE BEEN SATURDAY.

1 Q. OKAY. SO THAT WAS SATURDAY THE 26TH?

2 A. YES, SIR.

3 Q. SOME 48 HOURS LATER?

4 A. YES, SIR.

5 Q. DO YOU RECALL WHAT THE WEATHER WAS LIKE ON
6 THE 24TH WHEN THE SCENE WAS SECURED?

7 A. THE BEST THAT I CAN RECALL, IT WAS COLD.
8 YOU KNOW, IT WASN'T RAINING OR ANYTHING.

9 Q. IT WAS CLEAR?

10 A. YEAH.

11 Q. WERE YOU PRESENT WHEN THE SCENE WAS
12 SECURED?

13 A. NO. I WASN'T -- LATER ON, I CAME. YES,
14 SIR.

15 Q. OKAY. DO YOU HAVE ANY EXPLANATION FOR WHY
16 THIS POCKETBOOK WASN'T FOUND ON THAT DATE? WAS IT
17 PRETTY OBVIOUS TO YOU, THIS LOCATION?

18 A. NO, SIR. IT WAS DARK. YOU KNOW, IT HAD
19 GOTTEN DARK ON US.

20 Q. OKAY. SO ON THE DATE, YOU SAY IT HAD
21 GOTTEN DARK ON US, YOU WEREN'T THERE ON THE 24TH,
22 WERE YOU?

23 A. YEAH. I SAID I CAME EARLIER. I WASN'T
24 THERE WHEN THE ACTUAL SCENE WAS SECURED.

25 Q. WELL, ACCORDING TO LIEUTENANT LEMMON, IT

1 WAS AROUND 2:00, AND IT WOULD HAVE BEEN DARK

2 THANKSGIVING AROUND 5:50 OR 6:00?

3 A. YES, SIR.

4 Q. GETTING DARK?

5 A. YES, SIR.

6 Q. SO THIS WAS SOME FOUR HOURS IN WHICH LAW
7 ENFORCEMENT HAD THE OPPORTUNITY TO SECURE THE SCENE?

8 A. YES, SIR.

9 Q. AND IN SECURING THE SCENE, DO YOU, WHAT,
10 ROPE IT OFF?

11 A. TAPE IT OFF, YES, SIR.

12 Q. TAPE IT OFF?

13 A. RESTRICT PEOPLE ENTERING.

14 Q. TO THE BEST OF YOUR KNOWLEDGE, WAS IT
15 TAPED OFF?

16 A. YES, SIR. TO THE BEST OF MY KNOWLEDGE, IT
17 WAS.

18 Q. WHEN YOU LEFT THERE THAT EVENING?

19 A. YES.

20 Q. THANKSGIVING EVENING, IT WAS TAPED OFF?

21 A. YES.

22 Q. IN YOUR EXPERIENCE, WHAT ELSE WAS DONE TO
23 SECURE THE SCENE ON THE 24TH? OR WHAT SHOULD HAVE
24 BEEN DONE?

25 A. THERE WAS DEPUTIES ON BOTH ENDS OF THE

1 ROAD THAT RESTRICTED ANYBODY FROM COMING IN.

2 Q. OKAY. WAS THE AREA SEARCHED FOR EVIDENCE?

3 A. YES, SIR. JUST -- YES, SIR, THEY WERE.

4 Q. TO THE BEST OF YOUR KNOWLEDGE?

5 A. TO THE BEST OF MY KNOWLEDGE.

6 Q. DO YOU KNOW WHETHER ANY TIRE PRINTS OR
7 FOOT PRINT CASTS WERE MADE?

8 A. NOT TO MY KNOWLEDGE, THEY WERE NOT.

9 Q. ANY OTHER EVIDENCE COLLECTION OF THAT
10 NATURE?

11 A. NOT TO MY KNOWLEDGE. I -- LIKE I SAID.

12 Q. WELL, DID YOU SEE ANYTHING ON THE 24TH OR
13 THE 26TH WHEN YOU RETURNED TO DOUBLE CHECK, SO TO
14 SPEAK, THAT WOULD WARRANT EVIDENCE COLLECTIONS?

15 A. OTHER THAN THE POCKETBOOK ITSELF, ONCE I
16 FOUND IT IN THE CREEK, NO, SIR.

17 Q. OKAY. AND DO YOU KNOW WHAT THE WEATHER
18 WAS LIKE IN BETWEEN THE 24TH AND THE 26TH?

19 A. NO, SIR, I DO NOT. AND I REMEMBER IT WAS
20 RAINING ON THE 26TH BECAUSE I GOT WET. THAT'S HOW I
21 REMEMBER.

22 Q. SO ON THE 26TH, IF THERE HAD BEEN ANY
23 EVIDENCE OF THAT NATURE, SUCH AS FINGERPRINTS OR TIRE
24 TRACKS, TIRE IMPRESSIONS, THEY WOULDN'T HAVE BEEN
25 PRESENT AT THAT TIME BECAUSE THEY WOULD HAVE BEEN

1 WASHED AWAY?

2 A. RIGHT. CORRECT.

3 Q. IS THAT CORRECT?

4 A. YES, SIR.

5 Q. WHAT DID YOU DO IN TERMS OF THE POCKETBOOK
6 WHEN IT WAS PLACED IN YOUR CUSTODY?

7 A. WELL, I --

8 Q. HOW DID YOU SECURE IT?

9 A. I HAD TOOK A BOAT DOWN TO THE CREEK SO I
10 COULD GO DOWN TO THE CREEK OR THE RUN. AND AT THAT
11 TIME, I PUT THE POCKETBOOK IN THE BOAT, BROUGHT IT
12 BACK TO THE SHORE.

13 Q. UH-HUH.

14 A. AND PUT IT IN MY VEHICLE.

15 Q. OKAY.

16 A. AND AT THAT TIME, I LOADED MY BOAT AND IT
17 WAS BROUGHT UP TO THE SHERIFF'S OFFICE.

18 Q. AND WHO DID YOU SAY YOU BROUGHT IT TO AT
19 THE SHERIFF'S OFFICE?

20 A. INVESTIGATOR STARNES.

21 Q. INVESTIGATOR STARNES?

22 A. YES.

23 Q. AND OTHER THAN WHEN YOU TRANSPORTED THESE
24 ITEMS TO SLED, THAT WAS THE EXTENT OF YOUR
25 INVOLVEMENT IN THE CUSTODY OF THESE ITEMS?

1 A. YES, SIR. YES, SIR.

2 Q. YOU DIDN'T DO ANY OTHER TYPE OF TESTING OR
3 HANDLING OTHER THAN THAT?

4 A. NO, SIR. NO, SIR.

5 MR. ERVIN: I DON'T HAVE ANY FURTHER
6 QUESTIONS.

7 MR. PADGETT: NO QUESTIONS.

8 MR. REDMOND: JUST TWO QUICK QUESTIONS,
9 YOUR HONOR.

10 C R O S S - E X A M I N A T I O N

11 BY MR. REDMOND:

12 Q. DEPUTY FREEMAN?

13 A. YES, SIR.

14 Q. DO YOU RECALL WHAT THE WEATHER WAS LIKE IN
15 THE DAYS IMMEDIATELY PRIOR TO THE 24TH?

16 A. NO, I CAN'T.

17 Q. OKAY. AND A COUPLE OF OTHER QUESTIONS,
18 ACTUALLY. WHEN -- WHEN YOU SAY THAT THE POCKETBOOK
19 WAS FOUND AT ABOUT 25 FEET AWAY FROM THE BODY --

20 A. YES, SIR..

21 Q. -- WAS IT FOUND IN THE WATER? YOU SAID ON
22 A LIMB. WAS THIS A LIMB THAT WAS IN THE WATER?

23 A. YES, IT WAS SUBMERGED IN WATER.

24 Q. OKAY.

25 A. AND THE STRAP WAS HUNG KIND OF CAUGHT ON A

1 LIMB LIKE SOMETHING WOULD BE FLOATING. IT WAS
2 CATCHED.

3 Q. WHEN YOU SAY SUBMERGED, HOW FAR?

4 A. NOT FAR.

5 Q. BARELY ABOVE THE SURFACE?

6 A. YEAH.

7 Q. OKAY. COULD YOU DESCRIBE THAT EMBANK---

8 THE EMBANKMENTS GOING DOWN INTO THE POND OR THE CREEK
9 AS YOU CALL IT? ABOUT HOW STEEP IS IT?

10 A. OKAY. IT VARIES. SOME SIDES OF IT IS
11 STEEP. SOME SIDES JUST, YOU KNOW...

12 Q. OKAY. WHICH SIDE WAS IT THAT THE BODY WAS
13 FOUND AND THE POCKETBOOK? WHAT AREA OF THAT
14 EMBANKMENT?

15 A. OKAY. WHERE THE -- WHERE THE POCKETBOOK
16 WAS FOUND, IT WAS REAL BRUSHERY. YOU COULDN'T JUST
17 WALK UP TO IT, YOU KNOW. YOU COULDN'T GET TO IT.
18 WHERE THE BODY WAS FOUND WAS ABOUT THE SAME. YOU
19 KNOW, YOU CAN'T JUST WALK RIGHT UP TO IT. IT'S ALL
20 BRUSH, SORT OF SLOPES OFF.

21 MR. REDMOND: THANK YOU. I HAVE NOTHING
22 FURTHER.

23 MR. WILL ROGERS: ONE QUESTION.

24 C R O S S - E X A M I N A T I O N

25 BY MR. WILL ROGERS:

1 Q. YOU WENT OUT THERE ON THE 24TH?

2 A. YES.

3 Q. AND YOU WENT OUT ON THE 26TH?

4 A. YES.

5 Q. WAS IT SECURE FROM THE 24TH THROUGH THE
6 26TH?

7 A. IF YOU'RE TALKING ABOUT LAW ENFORCEMENT
8 BEING LEFT OUT THERE, NO, SIR.

9 MR. WILL ROGERS: THAT'S ALL I HAVE.

10 THE COURT: MR. LAWSON.

11 MR. LAWSON: PLEASE THE COURT.

12 C R O S S - E X A M I N A T I O N

13 BY MR. LAWSON:

14 Q. MR. FREEMAN, YOU'VE GOT A POND OUT THERE
15 IN ONE SIDE. RIGHT?

16 A. YES, SIR.

17 Q. AND TWO CREEKS ON THE OTHER SIDE?

18 A. YES, SIR.

19 Q. ARE BOTH OF THESE CREEKS ARE SPILLWAY
20 CREEKS? DO THEY RUN OFF SPILLWAYS?

21 A. NO. THE CREEK WHERE THE BODY WAS FOUND,
22 IT'S NOT LIKE A MAN-MADE CEMENT-TYPE SPILLWAY. NO,
23 SIR, IT'S JUST A ROCK AND SUCH.

24 Q. A NATURAL SPILLWAY?

25 A. YES, SIR.

1 Q. OFF THE POND?

2 A. YES, SIR.

3 Q. AND WHAT ABOUT THE OTHER CREEK? HOW -- IS
4 IT --

5 A. THE OTHER ONE I BELIEVE IS LIKE A
6 MAN-MADE -- I BELIEVE. NOW, I'M JUST GOING BY --

7 Q. OKAY. IS THIS -- HOW BIG IS THE POND?

8 A. I DON'T -- I COULDN'T -- IT'S A BIG POND.
9 I KNOW THAT. I COULDN'T TELL YOU THE EXACT SIZE.

10 Q. AND THE CREEK, THE CREEK WHERE YOU FOUND
11 THE POCKETBOOK, IS THAT A DEEP CREEK OR WOULD YOU SAY
12 A FAIR -- RELATIVELY SHALLOW CREEK?

13 A. I WOULD IMAGINE THAT SOME SPOTS ARE DEEP,
14 YES, SIR.

15 Q. SOME SPOTS ARE DEEP?

16 A. YEAH, I DIDN'T -- I DIDN'T HAVE -- YOU
17 KNOW, I DIDN'T GET DOWN, YOU KNOW, GET OUT IN IT.

18 Q. BUT YOU WERE DOWN THERE TWO DAYS?

19 A. YES, SIR.

20 Q. WITHIN TWO DAYS OF EACH OTHER AND YOU
21 WERE -- I ASSUME THE FIRST DAY YOU WERE DOWN THERE
22 YOU LOOKED AROUND?

23 A. YES, SIR. LIKE I SAY, SOME SPOTS ARE
24 DEEP. SOME SPOTS ARE NOT.

25 Q. IT'S PRETTY CLEAR, ISN'T IT, THAT WATER

1 DOWN THERE?

2 A. YES, FAIRLY.

3 Q. AND SO YOU CAN -- MOST PLACES YOU CAN SEE
4 THE BOTTOM FROM STANDING UP ON THE DAM?

5 A. NO.. ON THE SIDES, YES, SIR. ON THE
6 SIDES.

7 Q. AND THE CURRENT IS PRETTY QUICK?

8 A. YES, IT'S GOT A GOOD RUN TO IT.

9 Q. I GUESS THAT WOULD DEPEND ON HOW HIGH THE
10 POND IS, WOULDN'T IT?

11 A. YES, SIR.

12 MR. LAWSON: I DON'T HAVE ANYTHING
13 FURTHER.

14 THE COURT: YOU MAY COME DOWN. I THINK
15 IT'S THE APPROPRIATE TIME TO BREAK FOR LUNCH AT THIS
16 TIME.

17 MADAM FOREMAN, LADIES AND GENTLEMEN, IT'S NEARLY
18 1:00. WHEN YOU RETURN, I WILL ASK YOU TO RETURN TO
19 THE JURY ROOM. I'LL ASK YOU TO BE BACK PROMPTLY AT
20 2:30. PLEASE, NOW AND LATER, REMEMBER MY ADMONITION.
21 DO NOT DISCUSS THIS CASE WITH ANYONE. LET NO ONE
22 DISCUSS IT WITH YOU. DO NOT DISCUSS IT AMONG
23 YOURSELVES. AND IN THAT CONNECTION, I TELL YOU NOW
24 TOO DURING LUNCH AND EVEN TONIGHT, IF SOMETHING
25 HAPPENS TO COME ON THE TELEVISION, IT'S NOT LIKELY,

1 BUT IF IT DOES, PLEASE TURN AWAY FROM IT. IF YOU
2 HAPPEN TO SEE SOMETHING IN THE PAPER, NOT LIKELY YOU
3 WOULD, BUT IT MAY BE, PLEASE PUT IT ASIDE FOR THE
4 REASON THAT WHATEVER YOUR VERDICT IS IN THIS CASE, I
5 WANT IT BASED ON NOT WHAT YOU MAY HAVE SEEN OR HEARD
6 ON THE TELEVISION, NOT WHAT YOU MAY HAVE READ IN THE
7 NEWSPAPER, BUT WHAT YOU HEARD IN THIS COURTROOM. SO
8 PLEASE REMEMBER THAT. HAVE A NICE LUNCH. BE BACK AT
9 2:30.

10 (WHEREUPON, THE JURY WAS REMOVED
11 FROM THE COURTROOM AND THE
12 FOLLOWING PROCEEDINGS COMMENCED
13 IN OPEN COURT.)

14 THE COURT: WE ARE IN RECESS UNTIL 2:30.

15 (WHEREUPON, A BREAK WAS TAKEN.
16 FROM THE PROCEEDINGS.)

17 (END OF VOLUME 2.)
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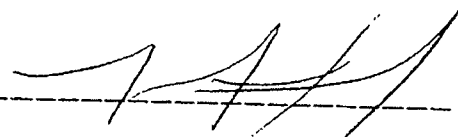
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

I, MARK W. HAGOOD, RPR, REGISTERED
PROFESSIONAL REPORTER AND NOTARY PUBLIC FOR THE STATE
OF SOUTH CAROLINA, FOURTH JUDICIAL CIRCUIT, DO HEREBY
CERTIFY THAT THE FOREGOING PROCEEDINGS IS A
STENOGRAPHIC REPORT AND WAS TRANSCRIBED THROUGH
COMPUTER-AIDED TRANSCRIPTION; THAT THE FOREGOING
TRANSCRIPT CONTAINS A TRUE RECORD OF THE
PROCEEDINGS.

I FURTHER CERTIFY THAT I AM NEITHER
ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED
BY ANY OF THE PARTIES CONNECTED TO THE ACTION, NOR AM
I FINANCIALLY INTERESTED IN THE ACTION.

WITNESS MY HAND AT FLORENCE, SOUTH
CAROLINA, THIS 14TH DAY OF FEBRUARY, 1998.


MARK W. HAGOOD, RPR

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STATE OF SOUTH CAROLINA
COUNTY OF MARLBORO

IN GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA

V.

96-GS-34-982

LEROY STATON, ET AL.

VOLUME THREE

- - -
THE TRIAL PROCEEDINGS HAD
IN THE ABOVE-STYLED CAUSE
- - -

MARCH 10, 1997 - MARCH 19, 1997
BENNETTSVILLE, SOUTH CAROLINA

BEFORE: HONORABLE EDWARD B. COTTINGHAM,
CIRCUIT COURT JUDGE

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FOR THE STATE: RALPH J. WILSON, SOLICITOR
15TH CIRCUIT

FOR THE DEFENDANT: MILTON M. MOORE, JR., ESQUIRE
LEROY STATON

FOR THE DEFENDANT: JOHN M. ERVIN, III, ESQUIRE
MARTIN MCINTOSH

FOR THE DEFENDANT: MAHLON E. PADGETT, IV, ESQUIRE
RICKY STUCKEY JAMES ROGERS, ESQUIRE

FOR THE DEFENDANT: K. EDWARD REDMOND, ESQUIRE
JEFFREY WALLS

FOR THE DEFENDANT: WILLIAM A. ROGERS, ESQUIRE
ALFONZO STATON

FOR THE DEFENDANT: JACK W. LAWSON, JR., ESQUIRE
ROBERT GRAHAM

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1 THE COURT: ALL RIGHT. ARE WE READY TO
2 PROCEED?

3 MR. WILSON: YES, SIR.

4 THE COURT: ALL RIGHT. BRING THE JURY,
5 PLEASE.

6 (WHEREUPON, THE JURY WAS RETURNED
7 TO THE COURTROOM AND THE FOLLOWING
8 PROCEEDINGS WERE COMMENCED IN
9 OPEN COURT.)

10 THE COURT: GOOD AFTERNOON, MADAM FOREMAN,
11 LADIES AND GENTLEMEN. I HAVE ONE FURTHER REQUEST OF
12 THE JURY. I WOULD REQUEST THIS MORNING THAT WHEN YOU
13 PUT YOUR JURY BADGE ON, THAT YOU LEAVE IT ON
14 THROUGHOUT THE DAY AND UNTIL YOU LEAVE THE COURTHOUSE
15 AT NIGHT, AND THAT WOULD INCLUDE LEAVING YOUR JURY
16 BADGE ON WHILE YOU ARE AT LUNCH. THIS IS A SMALL
17 COMMUNITY, AS WE ALL KNOW, AND SOMETIMES DURING LUNCH
18 SOMEBODY'S NOT LIKELY, BUT IT COULD HAPPEN, SOMEBODY
19 MIGHT NOT REALIZE THAT YOU ARE A JUROR AND MIGHT BE
20 DISCUSSING SOME ASPECT OF THE CASE. AND AS I
21 INDICATED BEFORE, WHATEVER YOUR VERDICT IS, I WANT IT
22 BASED ON THE LAW AND THE EVIDENCE HEARD IN THIS
23 COURTROOM. AND SO THAT WOULD EVADE THAT POSSIBILITY
24 OF SOMEBODY INADVERTENTLY AT A NEXT-DOOR TABLE OR
25 SOMETHING DISCUSSING SOME ISSUE WITH YOU. SO I

1 REQUEST -- I KNOW IT MIGHT BE AN INCONVENIENCE TO
 2 YOU, BUT WHEN YOU LEAVE THE COURTHOUSE AT LUNCH TIME,
 3 PLEASE KEEP THAT BADGE ON BECAUSE I WANT EVERYBODY TO
 4 UNDERSTAND FULLY THAT YOU ARE THE JURY AND THAT NO
 5 CONVERSATION SHOULD BE HAD WITH YOU ABOUT ANY ISSUE
 6 IN THIS CASE, NOR MUST ANY CONVERSATION BE HELD IN
 7 YOUR PRESENCE ABOUT ANY ISSUE IN THIS CASE.

8 ADDITIONALLY, THE CLERK OF COURT INDICATES TO ME
 9 THAT SOME OF YOU HAVE REQUESTED THAT I PROVIDE TO YOU
 10 A LIST OF EACH DEFENDANT AND THE CHARGE FOR WHICH HE
 11 STANDS INDICTED AND TO WHICH HE HAS PLED NOT GUILTY.
 12 I AM HAVING SUCH A LIST PREPARED IN ALPHABETICAL
 13 ORDER AS TO WHAT EACH INDICTMENT SAYS. YOU WILL HAVE
 14 THOSE INDICTMENTS, OF COURSE, IN THE JURY ROOM WITH
 15 YOU DURING YOUR DELIBERATIONS. JURORS HAVE INDICATED
 16 THAT THEY COULD FOLLOW THE TESTIMONY BETTER, GIVEN
 17 THE FACT THAT THERE ARE SIX DEFENDANTS, IF THEY HAD
 18 SUCH A LIST. THAT LIST IS BEING PREPARED FOR YOU IN
 19 ALPHABETICAL ORDER AS WE SPEAK.

20 FOR SOME YEARS, JURORS WERE NOT EVEN PERMITTED
 21 TO TAKE NOTES. JUDGES TOOK NOTES, LAWYERS TOOK
 22 NOTES, THE PRESS TOOK NOTES, EVERYBODY TOOK NOTES BUT
 23 THE JURY. OUR SUPREME COURT HAS SAID IN RECENT YEARS
 24 THAT IF A JUROR DECIDES TO TAKE NOTES, HE MAY DO SO.
 25 AND OBVIOUSLY, YOU WOULD BE ENTITLED TO TAKE NOTES

1 REGARDING EACH DEFENDANT IN THE INDICTMENT IF YOU HAD
 2 CHOSEN TO THIS MORNING. EQUALLY IMPORTANT, YOU ARE
 3 ENTITLED TO THAT INFORMATION AS WE SPEAK BECAUSE YOU
 4 WILL HAVE THAT INFORMATION WITH YOU IN THE JURY ROOM
 5 ANYWAY. SO AS SOON AS THOSE LISTS ARE PREPARED, THEY
 6 WILL BE PROVIDED TO YOU.

7 NOW, I TELL YOU THIS. YOU HAVE THEM IN THE
 8 COURTROOM WITH YOU. WHEN YOU DEPART, LEAVE THEM IN
 9 YOUR SEATS SO THAT THEY WILL BE HERE WHEN YOU GET
 10 BACK. DO NOT TAKE THEM TO THE JURY ROOM WITH YOU.
 11 DO NOT TAKE THEM HOME WITH YOU. JUST LEAVE THEM IN
 12 THE COURTROOM IN THE JURY BOX.

13 ALL RIGHT. CALL YOUR NEXT WITNESS.

14 MR. WILSON: TIM BROWN.

15 TIM BROWN,
 16 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
 17 TESTIFIED AS FOLLOWS:

18 THE WITNESS: TIMOTHY EARL BROWN.

19 THE COURT: LET ME CLARIFY FURTHER WHAT
 20 I'VE JUST TOLD TO THE JURY. YESTERDAY ON VOIR DIRE,
 21 EACH DEFENDANT'S NAME WAS READ TO YOU AND THE CHARGE
 22 FOR WHICH HE WAS INDICTED WAS TOLD TO YOU. THAT
 23 INFORMATION WAS AGAIN GIVEN TO YOU BY THE SOLICITOR
 24 THIS MORNING IN HIS OPENING STATEMENT. I TELL YOU
 25 AGAIN THAT WITH THE EXCEPTION OF ROBERT GRAHAM, ALL

1 DEFENDANTS HERE TODAY ARE CHARGED WITH MURDER,
2 KIDNAPPING, CRIMINAL SEXUAL CONDUCT IN THE FIRST
3 DEGREE AND CRIMINAL CONSPIRACY. THAT IS AS TO ALL
4 DEFENDANTS OTHER THAN ROBERT GRAHAM. ROBERT GRAHAM
5 IS CHARGED WITH KIDNAPPING, CRIMINAL SEXUAL CONDUCT
6 AND CRIMINAL CONSPIRACY. HE IS THE ONE DEFENDANT
7 THAT IS NOT CHARGED WITH MURDER. PERHAPS THAT WILL
8 CLARIFY IT FOR YOU. YOU MAY NOW PROCEED.

9 MR. WILSON: THANK YOU, YOUR HONOR.

10 D I R E C T E X A M I N A T I O N

11 BY MR. WILSON:

12 Q. MR. BROWN, WOULD YOU STATE YOUR FULL NAME
13 FOR THE RECORD?

14 A. TIMOTHY EARL BROWN.

15 Q. ALL RIGHT, SIR. AND WHERE ARE YOU
16 EMPLOYED?

17 A. MARLBORO.

18 Q. IN A PHYSICAL CAPACITY? IN WHAT PHYSICAL
19 CAPACITY ARE YOU EMPLOYED?

20 A. I'M THE MARLBORO COUNTY -- MARLBORO COUNTY
21 CORONER.

22 Q. AND HOW LONG HAVE YOU BEEN THE CORONER FOR
23 MARLBORO COUNTY?

24 A. TWELVE YEARS.

25 Q. AND WOULD YOU TELL US WHAT A CORONER DOES,

1 WHAT THEIR FUNCTION IS?

2 A. INVESTIGATE ANY UNNATURAL DEATHS WITHIN
3 THE BOUNDARIES OF THE COUNTY OF MARLBORO.

4 Q. LET ME ASK YOU IF BACK IN NOVEMBER OF
5 1994, AROUND THANKSGIVING DAY, IF YOU HAD AN OCCASION
6 TO INVESTIGATE SUCH A DEATH?

7 A. YES, SIR, I DID.

8 Q. AND WAS THAT THE DEATH OF DARLENE
9 PATTERSON?

10 A. YES, IT WAS.

11 Q. EXPLAIN TO US HOW YOU BECAME INVOLVED IN
12 THE INVESTIGATION OF THE DEATH OF DARLENE PATTERSON.

13 A. I WAS NOTIFIED BY -- BY 911 TO RESPOND TO
14 A SITE IN MARLBORO COUNTY, A LOCATION OF THE BURNT
15 FACTORY, THAT THERE WAS A BODY FOUND THERE.

16 Q. OKAY. AND DID YOU GO TO THAT SITE?

17 A. YES, SIR, I DID.

18 Q. ALL RIGHT. APPROXIMATELY WHAT TIME DID
19 YOU GO THERE?

20 A. I ARRIVED AROUND 3:30 THAT AFTERNOON.

21 Q. ALL RIGHT. AND WHEN YOU ARRIVED, WERE
22 THERE OFFICERS FROM THE SHERIFF'S DEPARTMENT AND
23 OTHER LAW ENFORCEMENT OFFICERS ALREADY PRESENT?

24 A. YES, SIR, THERE WERE.

25 Q. ALL RIGHT. AND -- AND WHEN YOU GOT THERE,

1 TELL US WHAT YOU DID AND -- AND WHAT IF ANY DECISIONS
2 YOU MADE.

3 A. UPON ARRIVAL, I SPOKE WITH SOME OF THE
4 SHERIFF'S DEPUTIES AS TO THE SITUATION THAT WAS --
5 THAT WAS THERE, WAS POINTED OUT THAT THE BODY WAS
6 ALMOST AT THE CREEK FROM THE SPILLWAY AREA AND THE --
7 WE DECIDED TO GET A RESCUE SQUAD TO PUT A BOAT IN THE
8 WATER. IT'S A SMALL POND AREA, I GUESS. AND THE
9 SHERIFF OF MARLBORO COUNTY AT THAT TIME AND MYSELF
10 AND ONE RESCUE SQUAD MEMBER GOT IN THE BOAT AND WENT
11 TO THE BODY.

12 Q. ALL RIGHT. AND WHAT WAS THE PURPOSE IN
13 GOING TO THE BODY?

14 A. TO EXAMINE THE BODY. AND WE ALSO
15 RETRIEVED, BROUGHT THE BODY BACK TO THE BANK AND
16 WAITED THERE FOR SLED TO COME.

17 Q. OKAY. SO YOU WERE ACTUALLY PRESENT WHEN
18 THE BODY WAS -- WAS REMOVED FROM THE RIVER AND
19 BROUGHT TO THE BANK?

20 A. YES, SIR.

21 Q. ALL RIGHT. WOULD YOU DESCRIBE GENERALLY
22 FOR US THE CONDITION THAT THE BODY WAS FOUND IN WHEN
23 YOU FIRST OBSERVED IT IN THE WATER?

24 A. IT WAS BLOATED AND IN A STATE OF
25 DECOMPOSITION.

1 Q. BLOATED AND IN A STATE OF DECOMPOSITION?

2 A. YES, SIR.

3 Q. AND I'M -- YOU KNOW, SO I DON'T SOUND
4 IGNORANT, EXPLAIN THAT TO US. WHEN YOU SAY STATE OF
5 DECOMPOSITION, WHAT ARE YOU TALKING ABOUT?

6 A. WELL, THE BODY APPEARED TO BE THERE FOR
7 SOME TIME.

8 Q. OKAY. MORE THAN A DAY?

9 A. YES, SIR.

10 Q. IN YOUR EXPERIENCE AS A CORONER?

11 A. YES, SIR.

12 Q. WHAT ABOUT MORE THAN TWO DAYS, OR DO YOU
13 HAVE AN OPINION?

14 A. WELL, FROM THE FIRST OBSERVANCE, IT WAS
15 HARD TO TELL, BUT ONCE THE BODY WAS REMOVED, YOU
16 COULD TELL THAT IT HAD BEEN THERE FOR A LENGTH OF
17 TIME; MORE THAN A DAY OR TWO, YES, SIR.

18 Q. MORE THAN A DAY OR TWO. ALL RIGHT, SIR.
19 NOW, LET ME ASK YOU, IF I MIGHT, ONCE YOU REMOVED THE
20 BODY FROM THE WATER, WHAT DID YOU DO AT THAT POINT?

21 A. I CONTACTED THE PALMETTO PROFESSIONAL
22 SERVICES, A PROFESSIONAL SERVICE THAT TRANSPORTS
23 BODIES FOR AUTOPSY FROM MARLBORO COUNTY TO AND FROM
24 CHARLESTON AND HAD THEM ARRIVE AT THE SCENE. WE
25 LOADED UP THE BODY AND HAD IT TRANSPORTED TO

1 CHARLESTON FOR THE AUTOPSY.

2 Q. OKAY. AND WERE YOU PRESENT WHEN THE BODY
3 WAS LOADED?

4 A. YES, SIR, I WAS.

5 Q. NOW, AFTER THE BODY WAS LOADED BY THE
6 TRANSPORT -- AND I ASSUME THAT WAS THROUGH SOME
7 CONTRACT YOU HAD THROUGH THE TRANSPORT SERVICE FOR
8 THE COUNTY?

9 A. YES, SIR.

10 Q. ONCE THAT BODY WAS TRANSPORTED, DID YOU
11 HAVE ANY FURTHER CONTACT WITH THE BODY?

12 A. NO, SIR.

13 Q. ALL RIGHT. AND AT THE TIME YOU OBSERVED
14 THE BODY, YOU SAID YOU ARRIVED AT BURNT FACTORY ROAD
15 PROBABLY AROUND 3:30 P.M. ON THE 12TH; IS THAT
16 CORRECT? I'M SORRY. ON THE 24TH?

17 A. 24TH. YES, SIR.

18 Q. AND ONCE YOU ARRIVED, WAS SHE -- WAS THE
19 VICTIM, DARLENE PATTERSON, OR THE BODY OF THE
20 DECEASED PERSON DEAD AT THE TIME YOU GOT THERE?

21 A. YES, SIR.

22 Q. ANY QUESTION ABOUT THAT?

23 A. NO, SIR.

24 Q. IS THERE ANY QUESTION IN YOUR MIND THAT
25 THAT PERSON HAD BEEN DEAD FOR AT LEAST A DAY OR TWO

1 OR MORE AT THE TIME THAT YOU ARRIVED THERE?

2 A. NO QUESTION IN MY MIND. YES, SIR.

3 Q. AND IT WAS YOUR DECISION, THEN, TO ORDER
4 THE AUTOPSY?

5 A. YES, SIR.

6 MR. WILSON: THANK YOU SO MUCH. ANSWER
7 ANY QUESTIONS THESE GENTLEMEN MIGHT HAVE FOR YOU.

8 MR. ERVIN: JUST A FEW QUESTIONS.

9 C R O S S - E X A M I N A T I O N

10 BY MR. ERVIN:

11 Q. YES, SIR. CORONER, WHAT WAS THE WEATHER
12 LIKE THAT DAY? DO YOU RECALL THE TEMPERATURE?

13 A. I DON'T RECALL THE EXACT TEMPERATURE, NO,
14 SIR.

15 Q. WELL, CAN YOU CHARACTERIZE IT AS COLD?

16 A. NO, IT WAS NOT A COLD DAY. MODERATE.

17 Q. WHEN YOU SAY MODERATE, 50 DEGREES, 40
18 DEGREES?

19 A. I THINK PEOPLE JUST WERE WEARING LONG
20 SLEEVE SHIRTS. IT WAS NOT A JACKET, THAT I REMEMBER.
21 I DIDN'T WEAR A JACKET THAT I BELIEVE.

22 Q. AND DO YOU RECALL WHAT THE WEATHER WAS
23 LIKE FOR SEVERAL DAYS PRIOR TO THAT?

24 A. NO, I DO NOT.

25 Q. WOULD THAT BE A FACTOR IN YOUR EXPERIENCE

1 AS CORONER IN MARLBORO COUNTY IN BODY DECOMPOSITION
2 IN THE WATER?

3 A. WELL, CERTAINLY IT WOULD PLAY A FACTOR,
4 YES, SIR.

5 Q. SO IN OTHER WORDS, IF THE WEATHER WAS HOT,
6 IT WOULD BE MORE LIKELY TO DECOMPOSE IT QUICKER OR AT
7 A MORE RAPID RATE?

8 A. YES, SIR, IT WOULD.

9 Q. AND IN NOVEMBER, AROUND THANKSGIVING, IT
10 WOULD PROBABLY DECOMPOSE AT A SLOWER RATE THAN, SAY,
11 IN THE MIDDLE OF THE SUMMER?

12 A. THE WATER TEMPERATURE WOULD ALSO HAVE A
13 BEARING ON THAT, SIR.

14 Q. AND WOULD YOU ASSUME THAT THE WATER
15 TEMPERATURE WOULD BE AT THE LOWER END OF THE SCALE IN
16 NOVEMBER?

17 A. YES, SIR, I WOULD.

18 Q. AS FAR AS YOUR PHYSICAL INSPECTION OF THE
19 BODY PRIOR TO TRANSPORT TO CHARLESTON FOR AUTOPSY,
20 WHAT EXACTLY DID YOU DO TO THE BODY?

21 A. I PUT A ROPE AROUND ONE OF THE ARMS IN
22 ORDER TO BRING IT BACK WITH THE BOAT ALONGSIDE THE
23 BOAT TO THE -- TO THE LANDING OR THE BANK.

24 Q. RIGHT.

25 A. THEN THE BODY WAS TAKEN AND PUT INTO A

1 WIRE BASKET AND THEN BROUGHT UP THE BANK AND SET
2 ACTUALLY ON TO THE ROAD AREA.

3 Q. OKAY. AND THEN SENT FOR AUTOPSY?

4 A. THERE WERE PHOTOGRAPHS TAKEN AND THEN SENT
5 FOR AUTOPSY.

6 MR. ERVIN: THAT'S ALL I HAVE, YOUR HONOR.

7 C R O S S - E X A M I N A T I O N

8 BY MR. PADGETT:

9 Q. MR. BROWN, WHEN THE BODY WAS ORIGINALLY
10 DISCOVERED, YOU COULD SEE IT FROM THE ROAD, COULDN'T
11 YOU?

12 A. I COULDN'T. OR MY INITIAL VIEW, THE
13 POLICE OFFICERS THERE POINTED OUT TO ME. IT WAS NOT
14 READILY VISIBLE.

15 Q. BUT YOU COULD SEE IT FROM THE BRIDGE,
16 COULDN'T YOU?

17 A. YES, SIR.

18 Q. AND BASED ON YOUR EXPERIENCE GROWING UP IN
19 MARLBORO COUNTY, DON'T A LOT OF CARS GO UP AND DOWN
20 BURNT FACTORY DAM EVERY DAY?

21 A. I DON'T KNOW. I COULDN'T ANSWER AS TO THE
22 NUMBER OF THE CARS.

23 Q. HOW LONG HAVE YOU LIVED HERE?

24 A. THIRTY YEARS, ROUGHLY.

25 Q. WOULDN'T YOU AGREE THAT SEVERAL CARS GO

1 DOWN THERE EVERY DAY?

2 A. IT'S NOT A ROAD THAT I TRAVEL FREQUENTLY.

3 MR. PADGETT: THANK YOU.

4 MR. REDMOND: NO QUESTIONS, YOUR HONOR.

5 THE COURT: MR. MOORE.

6 C R O S S - E X A M I N A T I O N

7 BY MR. MOORE:

8 Q. TIM, YOU ARE FAMILIAR WITH THE TERM RIGOR
9 MORTIS?

10 A. YES, SIR.

11 Q. TELL THE JURY WHAT THAT MEANS.

12 A. THAT'S THE MUSCLES IN THE BODY HAVE SET
13 INTO A STATE OF NON-MOVEMENT.

14 Q. OKAY. WAS THE BODY REAL STIFF WHEN YOU
15 FOUND IT?

16 A. YES, SIR, IT WAS.

17 Q. DOES TOTAL RIGOR MORTIS SET IN IN ABOUT 12
18 HOURS?

19 A. IT VARIES, BUT THAT'S I ASSUME A
20 REASONABLE TIME.

21 Q. SO THE BODY -- IF TOTAL RIGOR MORTIS HAD
22 SET IN, THE BODY COULD HAVE BEEN THERE FOR MUCH
23 LONGER THAN ONE DAY?

24 A. YES, SIR.

25 MR. WILL ROGERS: I DON'T HAVE ANY

1 QUESTIONS, YOUR HONOR.

2 THE COURT: MR. LAWSON.

3 MR. LAWSON: BEAR WITH ME ONE MINUTE,
4 JUDGE. MAY IT PLEASE THE COURT.

5 C R O S S - E X A M I N A T I O N

6 BY MR. LAWSON:

7 Q. MR. BROWN, WHEN YOU GOT THERE, DID YOU
8 TAKE OVER THE CRIME SCENE INVESTIGATION?

9 A. NO, SIR.

10 Q. WHO WAS IN CHARGE OF THAT?

11 A. SHERIFF FOLEY.

12 Q. ALL RIGHT. DID YOU TAKE CHARGE OF SOME
13 PART OF THE INVESTIGATION?

14 A. WELL, I ASSUMED RESPONSIBILITY OF THE BODY
15 AT THAT POINT, YES, SIR.

16 Q. ALL RIGHT. AND THE BODY WAS REMOVED FROM
17 THE WATER?

18 A. THAT'S CORRECT.

19 Q. AT YOUR DIRECTION?

20 A. YES, SIR.

21 Q. WAS THE BODY EXAMINED PRIOR TO BEING
22 REMOVED FROM THE WATER?

23 A. I VIEWED THE BODY FROM THE BOAT BEFORE IT
24 WAS REMOVED.

25 Q. ALL RIGHT. AND THE PURPOSE OF THAT WAS

1 WHAT?

2 A. JUST TO HAVE A FIRST-HAND LOOK OR FIRST
3 KNOWLEDGE OF IT.

4 Q. ALL RIGHT. WERE YOU ALSO OBSERVING FOR
5 ANY EVIDENCE THAT MAY BE AVAILABLE?

6 A. YES, SIR.

7 Q. ALL RIGHT. AND DID YOU FIND ANYTHING THAT
8 STICKS OUT IN YOUR MEMORY AS BEING OF ANY SUB--- OF
9 ANY CONSEQUENCE AT THAT TIME?

10 A. NO, SIR.

11 Q. ALL RIGHT. THE BODY WAS THEN REMOVED AND
12 YOU AGAIN EXAMINED IT, I WOULD ASSUME?

13 A. THAT'S CORRECT.

14 Q. ALL RIGHT. DID YOU DO ANYTHING OR MAKE
15 ANY ADJUSTMENTS TO ANYTHING THAT WAS ON OR AROUND THE
16 BODY?

17 A. NO, SIR.

18 Q. ALL RIGHT. DID YOU COLLECT THE TAPE THAT
19 WAS ON THE BODY?

20 A. I PHOTOGRAPHED IT, YES, SIR.

21 Q. ALL RIGHT. DID YOU -- DID YOU TRY TO TAKE
22 ANY OF IT OFF OR REMOVE ANY OF IT?

23 A. NO, SIR.

24 Q. DID YOU PULL ON IT AT ALL, THE TAPE?

25 A. NO, SIR, I DID NOT TOUCH IT AT ALL.

1 MR. LAWSON: I DON'T HAVE ANY OTHER
2 QUESTIONS.

3 MR. WILSON: NO ADDITIONAL QUESTIONS.

4 THE COURT: YOU MAY COME DOWN, CORONER.
5 THANK YOU.

6 MR. WILSON: TED SHEALY. YOUR HONOR, MAY
7 WE APPROACH THE BENCH?

8 THE COURT: YES, SIR.

9 (WHEREUPON, COUNSEL APPROACHED
10 THE BENCH FOR AN OFF-THE-RECORD
11 DISCUSSION.)

12 THE COURT: ALL RIGHT. MR. COURT
13 REPORTER, THIS IS THE DOCUMENT THAT I PREVIOUSLY
14 DESCRIBED THAT I WILL PROVIDE TO THE JURY. IT'S MADE
15 A COURT'S EXHIBIT. NOW, MADAM FOREMAN, AT YOUR
16 REQUEST, I HAVE PREPARED THESE FORMS. THERE'S
17 ABSOLUTELY NO INFERENCE TO BE DERIVED FROM IT. THE
18 ONLY THING IT SHOWS IN ALPHABETICAL ORDER IS THE
19 INDICTMENTS TO EACH DEFENDANT, EACH DEFENDANT HAVING
20 PLED NOT GUILTY. WHEN YOU LEAVE THE JURY BOX, PLEASE
21 LEAVE THEM IN THE JURY BOX UNTIL THE TIME I TELL YOU
22 TO BEGIN YOUR DELIBERATION AT WHICH TIME YOU WILL
23 ALSO HAVE THE INDICTMENTS. PLEASE PRESENT THOSE.

24 (COURT'S EXHIBIT NUMBER 1
25 MARKED FOR IDENTIFICATION.)

1 TED SHEALY,
2 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
3 TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION
5 BY MR. WILSON:

6 Q. AGENT SHEALY, BY WHOM ARE YOU EMPLOYED?

7 A. I'M EMPLOYED WITH THE SOUTH CAROLINA LAW
8 ENFORCEMENT DIVISION, OTHERWISE REFERRED TO AS SLED.

9 Q. ALL RIGHT. AND LET ME ASK YOU, SIR, BACK
10 IN NOVEMBER OF 1994, WERE YOU EMPLOYED WITH SLED AT
11 THAT TIME?

12 A. YES, SIR, I WAS.

13 Q. AND WHAT IS THE LENGTH OF SERVICE THAT YOU
14 HAVE WITH SLED?

15 A. I HAVE BEEN EMPLOYED WITH SLED FOR
16 APPROXIMATELY THREE YEARS AND SIX MONTHS.

17 Q. AND IN WHAT CAPACITY ARE YOU EMPLOYED
18 THERE?

19 A. I AM ASSIGNED TO THE LATENT PRINT AND
20 CRIME SCENE DIVISION WITH SLED.

21 Q. AND DO YOU HAVE SPECIAL TRAINING FOR CRIME
22 SCENE INVESTIGATION?

23 A. YES, SIR, I DO.

24 Q. AND WHAT EXPERIENCE AND TRAINING DO YOU
25 HAVE FOR THAT?

1 A. I HAVE COMPLETED A COMPREHENSIVE TWO-YEAR
2 TRAINING PROGRAM WITH SLED. THIS INCLUDES ASPECTS OF
3 LATENT FINGERPRINT TECHNIQUES, LATENT FINGERPRINT
4 COMPARISONS, CRIME SCENE PROCESSING AND THE
5 COLLECTION AND PRESERVATION OF THIS EVIDENCE ON THE
6 SCENE.

7 Q. SO YOU HAVE TRAINING IN HOW TO COLLECT AND
8 PRESERVE EVIDENCE FOR TRIAL AND FOR EXAMINATION AND
9 ANALYSIS?

10 A. YES, SIR. THAT IS CORRECT.

11 Q. VERY WELL. NOW, LET ME ASK YOU, SIR, IF
12 BACK IN NOVEMBER OF 1994, IF YOU ATTENDED -- WELL,
13 LET ME BACK UP AND ASK YOU THIS. DID YOU COME TO
14 MARLBORO COUNTY AND PARTICIPATE IN THE INVESTIGATION
15 OF THE CRIME SCENE HERE AT BURNT FACTORY ROAD?

16 A. YES, SIR, I DID.

17 Q. AND LET ME ASK YOU IF THE FOLLOWING DAY IF
18 YOU WENT TO THE MEDICAL UNIVERSITY TO PARTICIPATE IN
19 AN AUTOPSY OR AT LEAST BE PRESENT WHILE ONE WAS BEING
20 CONDUCTED?

21 A. YES, SIR, I WAS.

22 Q. ALL RIGHT. NOW, TAKE A LOOK AT THESE
23 ITEMS FROM ME, IF YOU WOULD, AND HOW THEY ARE MARKED
24 AND WHETHER THEY WERE IN A LARGER PACK OR NOT. ALL
25 RIGHT. NOW, THERE ARE THREE ITEMS I'VE SHOWN YOU.

1 CAN YOU IDENTIFY THOSE ITEMS?

2 A. YES, SIR, I CAN.

3 Q. AND FROM WHOM AND FROM WHERE DID YOU
4 RECEIVE THESE ITEMS?

5 A. I COLLECTED THOSE ITEMS FROM DR. CONRADI.

6 Q. ALL RIGHT. AND THAT'S AT THE MEDICAL
7 UNIVERSITY IN CHARLESTON?

8 A. YES, SIR.

9 Q. AND ON WHAT DATE WOULD THAT HAVE BEEN?

10 A. NOVEMBER 25TH, 1994.

11 Q. ALL RIGHT. NOW, LET ME ALSO SHOW YOU THIS
12 ITEM.

13 A. YES, SIR. I RECOGNIZE THAT ALSO.

14 Q. ALL RIGHT. AND WHERE DID YOU COLLECT THAT
15 ITEM FROM?

16 A. I ALSO COLLECTED IT FROM THE AUTOPSY.

17 Q. AND THAT'S FROM DR. CONRADI?

18 A. YES, SIR.

19 Q. AND THAT WOULD HAVE BEEN ON THE SAME DATE,
20 WHICH WOULD HAVE BEEN NOVEMBER 25, 1994?

21 A. YES, SIR.

22 Q. NOW, AFTER COLLECTING THESE ITEMS -- WELL,
23 LET ME BACK UP. WERE YOU PRESENT AT THE TIME THE
24 AUTOPSY WAS CONDUCTED?

25 A. YES, SIR, I WAS.

1 Q. ALL RIGHT. AND DID YOU RECEIVE THESE
2 ITEMS DIRECTLY FROM DR. CONRADI?

3 A. YES, SIR, I DID.

4 Q. AND YOU SAW HER REMOVE THESE ITEMS -- OR
5 DID YOU REMOVE THEM FROM THE BODY?

6 A. I OBSERVED HER REMOVE THESE ITEMS.

7 Q. AND YOU PRESERVED THOSE ITEMS AND TOOK
8 THEM TO SLED FOR FURTHER ANALYSIS AND EVALUATION?

9 A. SHE ACTUALLY PACKAGED THEM IN MY PRESENCE,
10 AND FROM HERE, I TURNED THESE ITEMS OVER TO SPECIAL
11 AGENT DAVID BLACK.

12 MR. WILSON: YOUR HONOR, I ASK THAT THESE
13 ITEMS BE MARKED FOR IDENTIFICATION PURPOSES AT THIS
14 TIME.

15 THE COURT: YES, SIR. THEY ARE SO MARKED.
16 (STATE'S EXHIBITS NUMBERS 9, 10, 11 AND 12
17 MARKED FOR IDENTIFICATION.)

18 BY MR. WILSON:

19 Q. LET ME SHOW YOU WHAT'S NOW BEEN MARKED
20 STATE'S NUMBER 12 FOR I.D. AND ASK YOU TO TELL ME
21 WHAT THAT IS JUST SO THERE'S A DESCRIPTION IN THE
22 RECORD OF WHAT IT IS.

23 A. STATE'S EXHIBIT NUMBER 12 IS SOME GRAY
24 DUCT TAPE WHICH WAS REMOVED FROM THE VICTIM'S ANKLES.

25 Q. FROM THE VICTIM'S ANKLES. ALL RIGHT. AND

1 LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
2 NUMBER 11 FOR IDENTIFICATION AND ASK YOU IF YOU WOULD
3 TELL ME WHAT THAT IS.

4 A. STATE'S EXHIBIT NUMBER 11 IS GRAY DUCT
5 TAPE TAKEN FROM THE VICTIM'S FACE.

6 Q. ALL RIGHT. AND LET ME SHOW YOU WHAT'S
7 BEEN MARKED AS STATE'S EXHIBIT NUMBER 10 FOR
8 IDENTIFICATION.

9 A. STATE'S EXHIBIT NUMBER 10 IS ALSO GRAY
10 DUCT TAPE REMOVED FROM THE VICTIM'S HANDS.

11 Q. OKAY. AND NOW LET ME SHOW YOU WHAT'S BEEN
12 MARKED AS STATE'S EXHIBIT NUMBER 9 FOR
13 IDENTIFICATION.

14 A. STATE'S EXHIBIT NUMBER 9 IS A GOLDENED
15 COLOR WIGGLY EARRING WHICH WAS REMOVED FROM HER LEFT
16 EAR.

17 Q. REMOVED FROM THE VICTIM'S LEFT EAR?

18 A. YES, SIR.

19 Q. ALL RIGHT. LET ME ASK YOU THIS. IN
20 REGARD TO STATE'S EXHIBIT NUMBER 9 FOR
21 IDENTIFICATION, IS THERE ANY QUESTION THAT THIS IS
22 THE EARRING THAT WAS IN HER EAR AT THE TIME HER BODY
23 WAS -- YOU FIRST SAW HER BODY AT THE SCENE? DID YOU
24 SEE HER BODY AT THE SCENE?

25 A. YES, SIR, I DID.

1 Q. WAS THIS EARRING IN HER EAR AT THE SCENE?

2 A. YES, SIR, IT WAS.

3 Q. AND WAS IT IN HER EAR WHEN YOU GOT TO THE
4 AUTOPSY?

5 A. YES, SIR, IT WAS.

6 Q. AND IT WAS REMOVED IN YOUR PRESENCE AND
7 SENT TO SLED?

8 A. YES, SIR, IT WAS.

9 Q. LET ME ASK YOU THIS. WHEN -- DID THEY
10 HAVE ONE EARRING ON OR TWO AT THE TIME YOU FIRST SAW
11 THE BODY?

12 A. WHEN I OBSERVED THE BODY, I ONLY OBSERVED
13 ONE EARRING.

14 Q. AND WHEN YOU GOT TO THE AUTOPSY, HOW MANY
15 DID SHE HAVE?

16 A. WHEN I GOT TO THE AUTOPSY, I AGAIN ONLY
17 OBSERVED ONE EARRING.

18 MR. WILSON: ALL RIGHT. THANK YOU SO
19 MUCH. ANSWER ANY QUESTIONS THESE GENTLEMEN MIGHT
20 HAVE FOR YOU.

21 MR. ERVIN: JUST A COUPLE OF QUESTIONS,
22 AGENT SHEALY.

23 C R O S S - E X A M I N A T I O N
24 BY MR. ERVIN:

25 Q. AGENT SHEALY, YOU RESPONDED TO THE CRIME

1 SCENE?

2 A. YES, SIR, I DID.

3 Q. ON BURNT FACTORY POND ROAD?

4 A. YES, SIR.

5 Q. AND WHAT ROLE DID YOU PLAY IN SECURING THE
6 CRIME SCENE? DID YOU HAVE ANYTHING WHATSOEVER TO DO
7 WITH THAT?

8 A. THE CRIME SCENE WAS ALREADY SECURE. MY
9 FUNCTION WAS SECONDARY TO SPECIAL AGENT DEPUTY BLACK
10 WHO WAS THE CRIME SCENE OFFICER. I WORKED AT HIS
11 DIRECTION AND I THINK AT THIS PARTICULAR SCENE I TOOK
12 THE PHOTOGRAPHS.

13 Q. OKAY. BUT WAS SPECIAL AGENT DAVID BLACK
14 IN CHARGE OF SECURING THE CRIME SCENE?

15 A. AS FAR AS WHO WAS IN CHARGE OF SECURITY OF
16 THE CRIME SCENE, I CAN'T TELL YOU. THE CRIME SCENE
17 WAS SECURE WHEN I ARRIVED.

18 Q. OKAY. AND WHEN YOU SAY IT WAS SECURE,
19 WHAT DO YOU MEAN BY THAT? TAPED OFF?

20 A. NO, SIR. I THINK THEY HAD THE ACTUAL
21 BRIDGE BLOCKED OFF ON BOTH SIDES.

22 Q. AND AS PART OF SECURING THE CRIME SCENE,
23 DOESN'T THAT MEAN A SWEEP FOR EVIDENCE, BASICALLY A
24 SEARCH FOR EVIDENCE TO MAKE SURE NOTHING IS
25 OVERLOOKED --

1 NOT?

2 A. NO, SIR, I DON'T REMEMBER IF IT WAS DARK.

3 Q. DO YOU REMEMBER HOW MANY SLED AGENTS CAME
4 WITH YOU?

5 A. ONLY TWO. MYSELF AND SPECIAL AGENT DAVID
6 BLACK.

7 Q. Y'ALL WERE THE ONLY SLED AGENTS DISPATCHED
8 TO THE SCENE?

9 A. THERE WAS SOME OTHER AGENTS AT THE SCENE,
10 BUT I DO NOT REMEMBER WHO ALL WAS PRESENT.

11 Q. DO YOU KNOW ABOUT HOW MANY?

12 A. NO, SIR, I DO NOT.

13 C R O S S - E X A M I N A T I O N

14 BY MR. REDMOND:

15 Q. JUST TO PIGGY BACK OFF THAT LAST QUESTION,
16 I MAY HAVE MISUNDERSTOOD. ARE YOU SAYING YOU DON'T
17 KNOW HOW MANY LAW ENFORCEMENT OFFICERS WERE AT THE
18 CRIME SCENE OR ARE YOU TALKING ABOUT SLED AGENTS?

19 A. I PERSONALLY DO NOT KNOW HOW MANY LAW
20 ENFORCEMENT OFFICERS WERE AT THE CRIME SCENE.

21 Q. WAS EVERYBODY AT THE CRIME SCENE PRETTY
22 MUCH DOING A SWEEP OF THE AREA IN ADDITION TO
23 SECURING THE AREA?

24 A. I'M NOT SURE WHAT ALL THEY WERE DOING,
25 SIR.

1 Q. OKAY. ABOUT WHAT TIME OF THE DAY DID YOU
2 ARRIVE?

3 A. AS I TESTIFIED EARLIER, I'M NOT SURE, BUT
4 IF YOU WISH ME TO LOOK BACK AT THE ACTUAL RUN SHEET,
5 I CAN.

6 Q. WELL, I MEAN, WAS IT DAY, NIGHT?

7 A. HERE AGAIN, SIR, THAT WAS TWO YEARS AGO
8 AND I WOULD HAVE TO LOOK BACK AT THE ACTUAL RUN SHEET
9 TO TELL YOU IF YOU WANT ME TO TO TELL YOU WHEN I
10 ARRIVED.

11 MR. REDMOND: I HAVE NO FURTHER QUESTIONS.

12 C R O S S - E X A M I N A T I O N

13 BY MR. MOORE:

14 Q. WAS THE DUCT TAPE DUSTED FOR FINGERPRINTS?

15 A. THE DUCT TAPE WAS TURNED OVER TO SPECIAL
16 AGENT DAVID BLACK, AND FROM THERE IT WAS TRANSPORTED
17 TO THE LATENT PRINT LAB FOR PROCESSING. WHAT
18 PROCESSES AGENT BLACK DID ON THE TAPE, I DO NOT KNOW.
19 I WOULD HAVE TO GO BACK, HERE AGAIN, TO LOOK ALSO.

20 C R O S S - E X A M I N A T I O N

21 BY MR. WILL ROGERS:

22 Q. DID YOU ACTUALLY TRAVEL -- I THINK YOU
23 SAID YOUR DUTY AT THE CRIME SCENE WAS TO GO DOWN TO
24 CHARLESTON AND SIT IN ON THE AUTOPSY?

25 A. YES, SIR.

1 TRANSPORT EVIDENCE FROM POINT A TO POINT B?

2 A. THAT IS CORRECT, SIR.

3 MR. LAWSON: I DON'T HAVE ANYTHING
4 FURTHER.

5 MR. WILSON: ONE FOLLOW-UP QUESTION.

6 R E D I R E C T E X A M I N A T I O N
7 BY MR. WILSON:

8 Q. AGENT SHEALY, YOU SAID IF YOU LOOKED AT
9 YOUR RUN SHEET, YOU COULD TELL US WHAT TIME YOU
10 ARRIVED HERE AND I ASSUME THEN WHAT TIME YOU LEFT THE
11 CRIME SCENE?

12 A. YES, SIR.

13 Q: WOULD YOU DO THAT FOR US, IF YOU HAVE IT
14 WITH YOU?

15 A. WE ARRIVED AT 5:00 P.M. ON THE 24TH. AND
16 WE LEFT THE SCENE AT 10:30 P.M.

17 Q. ALL RIGHT.

18 A. SO IT WAS AT NIGHT TIME.

19 Q. THANK YOU SO MUCH.

20 THE COURT: YOU MAY COME DOWN. THANK YOU.

21 MR. WILSON: SAM WALLS.

22 THE CLERK: STATE YOUR FULL NAME FOR THE
23 RECORD.

24 THE WITNESS: SAM WALLS.

25 SAM WALLS,

1 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
2 TESTIFIED AS FOLLOWS:

3 D I R E C T E X A M I N A T I O N

4 BY MR. WILSON:

5 Q. MR. WALLS, WHAT'S YOUR FIRST NAME?

6 A. DOUGLAS.

7 Q. DOUGLAS IS YOUR NAME?

8 A. YES, SIR.

9 Q. ALL RIGHT. AND ARE YOU RELATED TO ANY OF
10 THESE DEFENDANTS?

11 A. YES, SIR.

12 Q. WHICH ONES OR WHICH ONE?

13 A. JEFFREY WALLS.

14 Q. JEFFREY WALLS?

15 A. YES, SIR.

16 Q. ALL RIGHT. AND WHAT RELATIONSHIP ARE YOU
17 TO JEFFREY?

18 A. MY BROTHER.

19 Q. HE'S YOUR BROTHER. ALL RIGHT. NOW, WHERE
20 DO YOU LIVE?

21 A. I STAY AT 1616 BETSY STREET.

22 Q. BISHOP?

23 A. BETSY.

24 Q. BETSY?

25 A. BETSY.

1 A. WITH MY MOTHER.

2 Q. ALL RIGHT. NOW, AT SOME POINT IN TIME,
3 DID YOU HAVE A CONVERSATION WITH LAW ENFORCEMENT
4 ABOUT SOME GRAY DUCT TAPE?

5 A. YES, SIR.

6 Q. ALL RIGHT. TELL US HOW THAT CONVERSATION
7 OCCURRED.

8 A. OKAY. AT THIS PRESENT TIME, DURING THIS
9 INCIDENT WAS OCCURRING, MY CAR WAS BEING FIXED AND
10 STUFF. AND SO OKAY, WELL, ONE OF THEM CAME BY MY JOB
11 AND ASKED ME TO COME TALK TO THEM, SO I CAME TO THE
12 SHERIFF'S DEPARTMENT.

13 Q. WHO WAS FIXING YOUR CAR?

14 A. RINGO PEARSON AND --

15 Q. RINGO PEARSON WAS FIXING YOUR CAR?

16 A. YES, SIR.

17 Q. AND HOW DID YOU KNOW RINGO PEARSON?

18 A. WELL, I'VE BEEN KNOWING HIM SINCE I WAS
19 LITTLE.

20 Q. YOU HAD BEEN KNOWING HIM SINCE YOU WERE
21 LITTLE?

22 A. YES, SIR.

23 Q. DID YOUR LITTLE BROTHER JEFFREY ALSO KNOW
24 HIM?

25 A. YES, SIR.

1 BIT.

2 Q. A PARTIAL ROLL?

3 A. YES.

4 Q. ALL RIGHT. AND DID YOU GIVE THEM THE
5 PARTIAL ROLL?

6 A. I GAVE THEM PERMISSION TO GO IN MY CAR AND
7 GET IT OUT.

8 Q. AND THEY WENT AND GOT THE PARTIAL ROLL OUT
9 OF YOUR CAR?

10 A. YES, SIR.

11 Q. CORRECT?

12 A. YES, SIR.

13 Q. ALL RIGHT. AND WAS THE PARTIAL ROLL THAT
14 THEY GOT OUT OF YOUR CAR, WHAT COLOR WAS IT?

15 A. IT WAS GRAY.

16 Q. NOW, TELL US WHERE YOU GOT THAT TAPE FROM.

17 A. I GOT IT FROM MY MOTHER'S HOUSE.

18 Q. YOU GOT IT FROM YOUR MOTHER'S HOUSE. AND
19 THAT'S JANIE WALLS?

20 A. YES, SIR. THAT'S RIGHT.

21 Q. AND SHE LIVED AT 1616 BETSY STREET?

22 A. YES.

23 Q. AND THAT'S WHERE JEFFREY WALLS LIVED?

24 A. YES, SIR.

25 MR. WILSON: NO OTHER QUESTIONS. ANSWER

1 ANY OTHER QUESTIONS THESE GENTLEMEN MAY HAVE FOR YOU.

2 C R O S S - E X A M I N A T I O N

3 BY MR. ERVIN:

4 Q. WHEN DID YOU GET THE DUCT TAPE?

5 A. EXCUSE ME?

6 Q. WHEN DID YOU PUT THE DUCT TAPE IN YOUR
7 CAR?

8 A. I DON'T REMEMBER WHEN I PUT IT IN. SEE,
9 AT THE TIME WHEN THE CAR WAS BEING WORKED ON, I HAD A
10 SYSTEM IN MY CAR AND I DIDN'T HAVE NO ELECTRICAL TAPE
11 AT THAT TIME, AND SO I TOOK SOME DUCT TAPE TO WRAP
12 THE WIRES UNTIL I GOT SOME ELECTRICAL TAPE TO PUT ON
13 THE WIRES. SO WHEN I GOT IT FROM THE HOUSE, I DON'T
14 KNOW THE CORRECT DATE THAT I GOT IT FROM HER -- FROM
15 MY HOUSE.

16 Q. RIGHT. BUT YOU SAID IN YOUR STATEMENT TO
17 THE POLICE OFFICERS THAT YOU OBTAINED THE TAPE FROM
18 YOUR MOTHER'S HOUSE SOME TIME AROUND THE 19TH OF
19 NOVEMBER. DOES THAT SOUND RIGHT? OR DID YOU JUST --
20 WHERE DID YOU COME UP WITH THAT DAY?

21 A. I BELIEVE MY CAR WAS FINISHED IN
22 OCTOBER -- THE END OF OCTOBER, BEGINNING OF NOVEMBER,
23 WHEN IT WAS FINISHED BEING WORKED ON. SO I WOULD SAY
24 AROUND THAT TIME THERE.

25 Q. AROUND THE 19TH OF NOVEMBER?

1 A. YES, SIR.

2 Q. WAS THERE ANYTHING SIGNIFICANT ABOUT 19TH
3 OF NOVEMBER THAT MADE YOU REMEMBER THAT DAY?

4 A. NO, SIR.

5 Q. WHAT I'M TRYING TO ASK YOU IS WHY DID YOU
6 SAY NOVEMBER 19TH?

7 A. BECAUSE WHAT I'M SAYING, WHAT I'M SAYING,
8 THAT'S THE TIME MY CAR WAS FINISHED BEING WORKED ON.

9 Q. AND RINGO HAD DONE THE WORK ON YOUR CAR?

10 A. YES, SIR.

11 MR. ERVIN: NO FURTHER QUESTIONS.

12 C R O S S - E X A M I N A T I O N

13 BY MR. PADGETT:

14 Q. HOW LONG DID RINGO HAVE YOUR CAR?

15 A. I WOULD SAY ABOUT -- PROBABLY ABOUT A WEEK
16 AND A HALF AT THE MOST.

17 Q. WEEK AND A HALF?

18 A. YES, SIR.

19 Q. YOU WERE WITHOUT IT ALL OF THAT TIME?

20 A. SIR?

21 Q. YOU DIDN'T HAVE THAT CAR AVAILABLE DURING
22 THAT TIME?

23 A. NO, SIR.

24 Q. DID YOU GET THE DUCT TAPE FROM YOUR MAMA
25 BEFORE OR AFTER RINGO TOOK THE CAR?

1 A. AFTER.

2 Q. ALL RIGHT. AND YOU GOT YOUR CAR BACK FROM
3 RINGO NOVEMBER 19TH. RIGHT?

4 A. I DON'T BELIEVE IT WAS NOVEMBER 19TH. I
5 BELIEVE IT WAS BEFORE.

6 Q. WELL, I GUESS MR. ERVIN WAS ASKING IT A
7 DIFFERENT WAY. YOU SAID 19TH OF NOVEMBER?

8 A. HE ASKED ME WHEN DID I OBTAIN THE DUCT
9 TAPE FROM MY MOTHER'S HOUSE.

10 Q. WHEN WAS THAT?

11 A. I TOLD HIM A LITTLE BIT BEFORE -- I GOT IT
12 AFTER MY CAR WAS FIXED.

13 Q. OKAY. SO YOU GOT YOUR CAR BACK ABOUT THE
14 19TH. IS THAT WHAT YOU'RE SAYING?

15 A. NO, I DIDN'T GET IT BACK AT THE -- I MEAN,
16 I DIDN'T GET IT BACK THEN. I GOT IT BEFORE THE 19TH.
17 I SAID -- I WOULD SAY RIGHT AROUND THE LAST OF
18 OCTOBER IS WHEN THE CAR WAS FINISHED BEING FIXED ON.

19 Q. THE NUMBER 19, WHERE DID THE NUMBER 19
20 COME FROM?

21 A. WHAT DO YOU MEAN? LET ME GET IT RIGHT. I
22 MEAN...

23 Q. HUH?

24 A. I MEAN, WHAT YOU SAY, YOU SAY -- WHERE THE
25 19TH CAME FROM, WHAT I'M SAYING IS HERE, LET ME --

1 MR. PADGETT: THANK YOU.

2 C R O S S - E X A M I N A T I O N

3 BY MR. REDMOND:

4 Q. MR. WALLS, YOU VOLUNTARILY ALLOWED THEM TO
5 TAKE THE DUCT TAPE -- GET THE DUCT TAPE; CORRECT?

6 A. YES, SIR.

7 Q. NOW, YOU HAD INDICATED, ISN'T IT TRUE,
8 THAT RINGO WAS DOING SOME WORK ON YOUR CAR?

9 A. YES.

10 Q. COULD YOU ELABORATE ON THAT A LITTLE BIT,
11 PLEASE?

12 A. SIR?

13 Q. COULD YOU ELABORATE WHAT -- COULD YOU
14 EXPLAIN A LITTLE BIT MORE WHAT KIND OF WORK HE WAS
15 DOING?

16 A. MY CAR WAS TOTALED. I HAD MESSED UP THE
17 A-FRAME ON MY CAR. THEY HAD TO PUT A NEW HOOD BUMPER
18 ON THE CAR AND SIDE FENDER.

19 Q. AND WHY DID YOU TELL US AGAIN THAT HE
20 NEEDED DUCT TAPE?

21 A. I SAID I HAD NEEDED DUCK TAPE.

22 Q. YOU NEEDED IT. BUT WHY DID YOU GIVE IT TO
23 HIM?

24 A. I DIDN'T GIVE IT TO HIM. I SAID I HAD GOT
25 THE DUCT TAPE.

1 Q. OKAY. SO AT WHAT POINT IN TIME DID YOU
2 GIVE THIS STATEMENT? DO YOU RECALL? THE STATEMENTS
3 THAT YOU WERE JUST SHOWN, I'VE GOT ANOTHER COPY.
4 I'LL BE GLAD TO SHOW IT TO YOU.

5 MR. WILSON: YOUR HONOR, I HAVE NO
6 OBJECTION TO THE ADMISSION OF THE STATEMENTS.

7 THE COURT: SIR?

8 MR. WILSON: I HAVE NO OBJECTION TO THE
9 ADMISSION OF THE STATEMENTS.

10 MR. REDMOND: I'M NOT OFFERING IT. JUST
11 FOR HIM TO REVIEW, IF I COULD.

12 THE COURT: LET HIM REVIEW IT.

13 BY MR. REDMOND:

14 Q. AND WHAT DATE DID YOU GIVE THAT STATEMENT?

15 A. THIS SAYS 12 OF '94 HERE.

16 Q. WHAT DATE DID YOU GIVE THE STATEMENT, IF
17 YOU COULD, RIGHT DOWN THERE?

18 A. THE 27TH DAY OF MARCH OF '95.

19 MR. REDMOND: OKAY. THANK YOU. I HAVE
20 NOTHING FURTHER, YOUR HONOR.

21 MR. MOORE: I DON'T HAVE ANYTHING.

22 THE COURT: MR. ROGERS.

23 MR. WILL ROGERS: I DON'T HAVE ANY
24 QUESTIONS, YOUR HONOR.

25 THE COURT: MR. LAWSON.

1 MR. LAWSON: IF IT PLEASE THE COURT.

2 C R O S S - E X A M I N A T I O N

3 BY MR. LAWSON:

4 Q. MR. WALLS, YOU PUT -- YOU TOLD THE OFFICER
5 YOUR STATEMENT; IS THAT CORRECT?

6 A. YES, SIR.

7 Q. BUT THE ONE THAT YOU LOOKED AT, YOU DIDN'T
8 WRITE, THOUGH, DID YOU?

9 A. THE STATEMENT THAT JUST CAME BEFORE ME
10 JUST AWHILE AGO, I HAD CAME TO THEM. THEY WERE --
11 THEY HAD BEEN ASKING ABOUT THE TAPE AT THIS TIME, AND
12 WE WAS TALKING IN THE OFFICE. THEY WROTE IT DOWN.

13 Q. THEY WROTE IT DOWN?

14 A. YES, SIR.

15 Q. SO THEY WROTE IT DOWN AND THEN YOU SIGNED
16 IT?

17 A. YES, SIR.

18 Q. OKAY. AND FOR SOME REASON, AT THAT TIME,
19 YOU FELT LIKE NOVEMBER THE 19TH WAS THE DAY THAT YOU
20 RETRIEVED THAT DUCT TAPE FROM YOUR MOTHER'S HOUSE; IS
21 THAT CORRECT?

22 A. YES, SIR.

23 Q. AT THAT POINT, YOU HAD YOUR CAR BACK?

24 A. YES, SIR. I HAD GOTTEN IT THE LAST OF
25 OCTOBER, IF I'M NOT MISTAKEN.

1 Q. ALL RIGHT. NOW, COULD IT HAVE BEEN THE
2 18TH THAT YOU PICKED UP THE TAPE?

3 A. IT COULD HAVE BEEN. I MEAN, REALLY I
4 WASN'T TAKING INTO ACCOUNT WHAT DAY I TOOK IT OUT.
5 IT WAS IN NOVEMBER. I KNOW THAT.

6 Q. COULD IT HAVE BEEN AS MUCH AS A WEEK ONE
7 WAY OR THE OTHER FROM THE 19TH THAT YOU PICKED UP
8 THAT --

9 A. COULD HAVE BEEN.

10 Q. COULD HAVE BEEN? HOW ABOUT TWO WEEKS?

11 A. I'M NOT SURE. I MEAN, I KNOW IT WAS IN
12 NOVEMBER. LET'S PUT IT LIKE THAT.

13 Q. ALL RIGHT. THIS DUCT TAPE, JUST REGULAR
14 OLD DUCT TAPE LIKE YOU BUY ANYWHERE?

15 A. YES, SIR.

16 Q. PLAIN 'OL GRAY DUCT TAPE?

17 A. GRAY REGULAR TAPE.

18 MR. LAWSON: THANK YOU, SIR. NO FURTHER
19 QUESTIONS.

20 THE COURT: ANY REDIRECT, MR. WILSON.

21 MR. WILSON: YES, SIR. JUST A COUPLE.
22 ARE THEY FINISHED?

23 THE COURT: YES, SIR.

24 R E D I R E C T E X A M I N A T I O N
25 BY MR. WILSON:

1 Q. JUST A COUPLE. LET ME ASK YOU ABOUT THIS
2 DATE, THE 19TH, BECAUSE IT SEEMS TO BE IMPORTANT
3 HERE. YOU WENT OUT OF TOWN SOMETIME IN NOVEMBER,
4 DIDN'T YOU?

5 A. YES, SIR.

6 Q. AND WHERE DID YOU GO?

7 A. I WENT TO RICHMOND, VIRGINIA.

8 Q. RICHMOND, VIRGINIA?

9 A. YES, SIR.

10 Q. ALL RIGHT. DID YOU GET THE DUCT TAPE
11 BEFORE YOU WENT TO VIRGINIA OR DID YOU GET IT AFTER
12 YOU CAME BACK?

13 A. I CAME BACK.

14 Q. ALL RIGHT. YOU GOT THE DUCT TAPE WHEN YOU
15 CAME BACK FROM VIRGINIA?

16 A. YES, SIR.

17 Q. NOW --

18 A. EXCUSE ME, BECAUSE I AIN'T CUTTING YOU
19 OFF. AT THE TIME WHEN ALL OF THIS CAME ABOUT, SEE
20 THEY JUST KEPT, YOU KNOW, HARASSING ME.

21 Q. RIGHT.

22 A. SO REALLY, I MEAN, I WAS NERVOUS BECAUSE I
23 DIDN'T KNOW WHAT WAS GOING ON. I DIDN'T KNOW ABOUT
24 THIS CASE OR WHATNOT UNTIL THIS INCIDENT HERE. SO
25 THEY QUESTIONED ME ABOUT THE TAPE AND I SAID, YEAH,

1 THE TAPE IS IN MY CAR.

2 Q. THE POLICE KEPT TALKING TO YOU?

3 A. AND COMING TO MY JOB.

4 Q. NOW, YOU WENT TO VIRGINIA. DO YOU KNOW
5 WHAT WEEKEND IT WAS YOU WENT TO VIRGINIA?

6 A. WHEN I WAS GOING, I WAS BACK THAT SUNDAY.

7 Q. YOU DON'T KNOW WHAT DATE YOU WENT TO
8 VIRGINIA?

9 A. NO.

10 Q. LET ME ASK YOU THIS. WERE YOU HOME THE
11 DAY THAT DARLENE GOT MISSING? WERE YOU GONE TO
12 VIRGINIA THEN?

13 A. I DON'T KNOW WHEN SHE GOT MISSING. I
14 MEAN, I DON'T KNOW.

15 Q. SO YOU DON'T KNOW WHEN YOU WENT TO
16 VIRGINIA?

17 A. I MEAN, I KNOW -- I SAY I LEFT ON THAT
18 FRIDAY AND CAME BACK THAT SUNDAY NIGHT.

19 Q. YOU LEFT ON A FRIDAY AND CAME BACK ON A
20 SUNDAY, BUT YOU DON'T KNOW WHEN IT WAS?

21 A. YES, SIR.

22 Q. WAS THAT IN NOVEMBER?

23 A. YES, SIR.

24 Q. YOU'RE SURE IT WAS IN NOVEMBER?

25 A. YES, SIR.

1 Q. AND YOU GOT THE CAR BACK --

2 A. -- THE LAST OF OCTOBER.

3 Q. THE LAST OF OCTOBER?

4 A. YES, SIR.

5 Q. NOW, LET ME SHOW YOU THIS. IS THIS YOUR
6 STATEMENT THAT THEY'VE BEEN ASKING YOU ABOUT? TAKE A
7 LOOK AT THAT FOR ME. OKAY?

8 A. UH-HUH.

9 Q. NOW, IS THAT THE STATEMENT THAT YOU GAVE
10 TO LAW ENFORCEMENT?

11 A. YES, SIR.

12 Q. ALL RIGHT. NOW, LOOK -- HOLD IT FOR ME
13 JUST A MINUTE. LOOK AT THE BOTTOM DOWN THERE WHERE
14 IT SAYS SIGNATURE. IS THAT YOUR SIGNATURE DOWN
15 THERE?

16 A. YES, IT IS.

17 Q. NOW, LOOK BACK UP HERE. WHAT DATE --

18 A. 12/5/94.

19 Q. READ IT ALOUD.

20 A. 12TH MONTH, 5TH DAY OF '94.

21 Q. 12TH MONTH, 5TH DAY OF '94. THAT'S WHEN
22 YOU GAVE THE POLICE THE TAPE OUT OF YOUR CAR; IS THAT
23 RIGHT?

24 A. YES, SIR.

25 Q. AND THAT'S WHEN YOU TOLD THEM THAT IT WAS

1 AROUND THE 19TH THAT YOU GOT THE CAR?

2 A. OKAY. ON THE 12TH MONTH, THE 2ND, I WAS
3 IN VIRGINIA BECAUSE I REMEMBER THAT'S MY COUSIN'S
4 BIRTHDAY.

5 Q. 12TH MONTH OF 2ND, YOU WENT TO VIRGINIA?

6 A. YES, SIR.

7 Q. SO YOU WENT TO VIRGINIA THE 12TH OF
8 DECEMBER?

9 A. I HAD GONE BEFORE THAT THEN, BUT I WENT
10 BACK FOR THEN BECAUSE THAT WAS HIS BIRTHDAY, SO I
11 WENT BACK THEN.

12 Q. THE ONLY TIME WE'RE CONCERNED ABOUT IS
13 NOVEMBER.

14 A. OKAY.

15 Q. DO YOU KNOW WHEN YOU WENT TO THE --

16 A. THE FIRST OR SECOND WEEK OF NOVEMBER.

17 Q. THE FIRST OR SECOND WEEK OF NOVEMBER IS
18 WHEN YOU WENT TO VIRGINIA; IS THAT RIGHT?

19 A. YES, SIR.

20 Q. AND THEN WHEN YOU CAME BACK FROM VIRGINIA
21 IS WHEN YOU GOT THE TAPE FROM YOUR MOTHER'S HOUSE.
22 IS THAT WHAT YOU'RE SAYING?

23 A. YES, SIR.

24 Q. AND THEN ON DECEMBER 5TH, YOU GAVE THAT
25 STATEMENT TO THE POLICE?

1 A. YES, SIR, BECAUSE THEY CAME ON MY JOB THAT
2 FRIDAY AFTERNOON.

3 Q. ALL RIGHT.

4 A. AND THEN I CAME BACK THAT NIGHT.

5 Q. SO THAT WAS TWO OR THREE WEEKS AFTER YOU
6 CAME BACK FROM VIRGINIA THAT THE POLICE WAS TALKING
7 TO YOU ON DECEMBER 5TH; RIGHT?

8 A. YES, SIR.

9 Q. AND AT THAT TIME, YOU TOLD THEM THAT IT
10 WAS THE 19TH THAT YOU GOT THAT DUCT TAPE?

11 A. SOMEWHERE AROUND THEN.

12 Q. SOMEWHERE AROUND THE 19TH. AND THAT'S THE
13 BEST YOU CAN REMEMBER, ISN'T IT?

14 A. YES, SIR.

15 MR. WILSON: OKAY. GOOD ENOUGH. THANK
16 YOU SO MUCH.

17 R E C R O S S - E X A M I N A T I O N
18 BY MR. ERVIN:

19 Q. MR. WALLS, YOU SAID THAT THE POLICE, I
20 GUESS YOU WERE REFERRING TO, KEPT HARASSING YOU
21 COMING AROUND YOUR HOUSE?

22 A. MY JOB, YES, SIR.

23 Q. CAME BY THERE A LOT, DIDN'T THEY?

24 A. YES, SIR.

25 Q. AND YOU FINALLY ENDED UP MAKING THIS

1 STATEMENT ON MARCH THE 27TH OF 1995. RIGHT?

2 A. CORRECT. COULD HAVE BEEN.

3 Q. THAT'S THE DATE ON HERE. I MEAN, THAT
4 SOUNDS ABOUT RIGHT?

5 A. I DON'T KNOW. I MEAN, I DON'T KNOW
6 SPECIFICALLY WHAT THE DATE THEY WERE COMING AND
7 TALKING TO ME.

8 Q. YOU SIGNED IT AND THAT'S THE DATE ON IT?

9 A. YEAH.

10 Q. MARCH 27TH OF 1995. SOME APPROXIMATELY
11 FOUR MONTHS AFTER YOU SUPPOSEDLY GAVE THE DUCT TAPE,
12 GOT IT FROM THE HOUSE. RIGHT?

13 A. THAT'S TRUE.

14 Q. WAS THAT DUCT TAPE THAT SIGNIFICANT IN
15 YOUR MIND FOUR MONTHS LATER? COULD YOU REALLY
16 REMEMBER A DATE?

17 A. NO.

18 Q. DID THEY TELL YOU THAT DATE?

19 A. NO. IT CAME SO LONG TO ME. I MEAN, YOU
20 KNOW, I'M NOT FAMILIAR.

21 Q. WHAT I'M GOING TO ASK YOU IS DID SOMEBODY
22 SUGGEST TO YOU TO USE THAT DATE?

23 A. NO, NOBODY DIDN'T.

24 Q. YOU JUST CAME UP WITH THAT ON YOUR OWN?

25 A. YES, SIR.

1 Q. THAT MAGICAL NUMBER, 19?

2 A. I MEAN, I DIDN'T -- I'M SAYING AROUND THAT
3 TIME -- I'M -- YOU KNOW, DATING MYSELF, PICKING THE
4 DATE MYSELF, THAT TIME.

5 Q. HOW MANY TIMES DID THEY COME TO YOU TO SEE
6 YOU BEFORE THEN?

7 A. THREE OR FOUR TIMES. AND THEN MY BOSS OF
8 THE PLANT WAS SAYING THEY DIDN'T LIKE THEM COMING BY
9 THE JOB BECAUSE IT WAS INTERFERING WITH MY WORK AND
10 THEY WAS ABOUT TO LET ME GO BECAUSE OF WHAT THEY WERE
11 DOING. AND I TALKED TO THE LAWYER AND HE SAID HE WAS
12 HANDLING A CASE -- THIS INCIDENT HERE.

13 Q. SO WHAT YOU WERE SAYING --

14 A. I WAS BEING HARASSED.

15 Q. YOU WERE BEING HARASSED. YOU WERE UNDER
16 PRESSURE?

17 A. NO. THEY WAS COMING ON MY JOB AND --

18 Q. THEY WERE BOTHERING YOU?

19 A. YES, SIR. TRUE. I MEAN, I WAS BEING PUT
20 INTO A POSITION -- A SITUATION I DIDN'T KNOW NOTHING
21 ABOUT.

22 MR. ERVIN: THAT'S ALL I HAVE.

23 R E C R O S S - E X A M I N A T I O N

24 BY MR. PADGETT:

25 Q. MR. WALLS, WHAT KIND OF CAR WAS THIS?

1 A. 1985 HONDA ACCORD LX.

2 Q. AND WHAT COLOR?

3 A. IT WAS BLUE.

4 Q. ALL RIGHT. NOW, THIS STATEMENT THAT HAS
5 THE MAGIC NOVEMBER 19 DATE IN IT, WHO WROTE THAT
6 DOWN?

7 A. 19TH.

8 Q. WHO WROTE THIS STATEMENT DOWN?

9 A. ONE OF THE OFFICERS. I DON'T KNOW. FRED.

10 Q. ONE OF THE SLED AGENTS WROTE THIS THING
11 DOWN?

12 A. ONE OF THEM.

13 Q. ONE OF THESE POLICE OFFICERS HERE?

14 A. YES, SIR.

15 Q. THANK YOU.

16 THE COURT: WAIT JUST ONE MINUTE.

17 MR. PADGETT MAY HAVE ANOTHER QUESTION.

18 MR. PADGETT: IF I MAY, YOUR HONOR.

19 THE COURT: SURE.

20 BY MR. PADGETT:

21 Q. MR. WALLS, I HATE TO KEEP ASKING YOU
22 QUESTIONS, BUT THIS IS IMPORTANT. A FEW MINUTES AGO,
23 YOU SAID THESE POLICE OFFICERS WERE GETTING READY TO
24 PUT YOU IN A SITUATION YOU DIDN'T KNOW ANYTHING
25 ABOUT. WHAT DID YOU MEAN BY?

1 A. I MEAN, SEE, AT THIS TIME WHEN THIS CASE
2 WAS GOING ON, THAT'S WHEN THEY WAS -- THE PEOPLE ON
3 THE JOB DIDN'T KNOW -- THEY DIDN'T WANT THEM ON THE
4 JOB AND STUFF LIKE THAT, WHICH I DIDN'T KNOW THE LADY
5 THAT WAS BEING KILLED, AND THEY WAS COMING ON MY JOB,
6 PUTTING ME ON STUFF THAT -- SHOWING ME PAPERS THAT I
7 WAS GOING WITH THE GIRL. BUT I DIDN'T KNOW THE GIRL.
8 NEVER HEARD OF THE LADY UNTIL THIS THING HAPPENED.
9 THAT'S WHAT I WAS SAYING.

10 Q. WERE THESE POLICE OFFICERS TELLING PEOPLE
11 AT YOUR WORK THAT YOU WERE INVOLVED?

12 A. NO, SIR, THEY DIDN'T.

13 Q. WHAT DO YOU MEAN, THEY WERE PUTTING YOU IN
14 IT?

15 A. CALL ME UPSTAIRS, HAVING ME SIGN PAPERS
16 LIKE I WAS UNDER ARREST. AND I WAS LIKE, FOR WHAT?

17 Q. THEY TOLD YOU YOU WERE UNDER ARREST?

18 A. YOU KNOW, HOW YOU FILL PAPERS OUT
19 SAYING -- PAPERS SAYING -- AND I WAS LIKE, FOR WHAT?

20 Q. DID THEY TELL YOU YOU WERE IN BIG TROUBLE?

21 A. NO, THEY DIDN'T SAY ANYTHING LIKE THAT.

22 Q. WHY DID YOU FEEL YOU WERE IN TROUBLE?

23 A. I DIDN'T SAY FEEL I WAS IN TROUBLE. I
24 DIDN'T KNOW WHAT I WAS -- WHAT WAS GOING ON.

25 Q. DID THEY TELL YOU THEY THOUGHT YOU WERE

1 INVOLVED IN THE CASE?

2 A. YES, SIR.

3 Q. WHAT DID YOU TELL THEM?

4 A. I SAID FOR WHAT? SOMETHING I DIDN'T KNOW
5 ANYTHING ABOUT. I DIDN'T KNOW THE LADY. AND THEN
6 LATER, I WAS AT PIZZA HUT. I MEAN, PLEASE, I'M A
7 MARRIED MAN. I WAS OFF WITH ANOTHER WOMAN?

8 Q. WHERE WERE YOU WORKING AT THE TIME?

9 A. SOPACKO.

10 Q. WERE THEY COMING TO SOPACKO?

11 A. YES, SIR.

12 Q. HOW MANY TIMES DID THEY COME TO SOPACKO?

13 A. ABOUT THREE OR FOUR TIMES, SIR.

14 Q. AND THEY WERE TAKING YOU OFF YOUR MACHINE?

15 A. YES, SIR.

16 Q. WHERE WOULD THEY TAKE YOU?

17 A. UPSTAIRS. WE HAD A MEETING ROOM UP THERE
18 WHERE WE ALL HAVE MEETINGS AT. AND THAT'S WHERE WE
19 WOULD GO, UP THERE.

20 Q. SO YOUR BOSS WAS LETTING THEM DO THAT?

21 A. MY SUPERVISOR -- WELL, REALLY, IF IT'S AN
22 EMERGENCY, YOU CAN GO UP THERE AND TALK. AND I GUESS
23 BY BEING IN LAW ENFORCEMENT, THEY LET THEM DO IT.

24 Q. SO THAT WAS THREE OR FOUR TIMES, YOU SAY?

25 A. IF NOT -- YES, SIR.

1 THE COURT: BE CAREFUL. THERE'S FIVE
2 OTHER CO-DEFENDANTS HERE, NOW, AND I WANT TO PROTECT
3 THEIR RIGHTS. NOT JUST YOUR RIGHTS. I WOULD BE
4 CAREFUL ABOUT WHAT YOU TALK ABOUT TALK AROUND TOWN.
5 BE SPECIFIC.

6 MR. REDMOND: THIS QUESTION I'M ASKING HAS
7 NOTHING TO DO ABOUT IT.

8 THE COURT: LET ME HEAR IT.
9 BY MR. REDMOND:

10 Q. MR. WALLS, WHO WROTE THIS STATEMENT ON
11 MARCH 27, 1995 FOR YOU?

12 A. FRED KNIGHT.

13 Q. EXCUSE ME?

14 A. FRED KNIGHT.

15 MR. REDMOND: THANK YOU. I HAVE NOTHING
16 FURTHER.

17 THE COURT: THAT'S FINE.

18 MR. WILL ROGERS: I DON'T HAVE ANY
19 QUESTIONS, YOUR HONOR.

20 MR. LAWSON: NO QUESTIONS.

21 MR. WILSON: JUST -- JUST A COUPLE OF
22 THINGS.

23 (FURTHER) R E D I R E C T E X A M I N A T I O N
24 BY MR. WILSON:

25 Q. ONE, IS THERE ANYTHING IN THIS STATEMENT

1 THAT IS NOT TRUE? IS THERE ANYTHING IN HERE THAT IS
2 NOT TRUE? IF IT IS, TELL US.

3 MR. ERVIN: OBJECTION. BOLSTERING HIS OWN
4 WITNESS.

5 THE COURT: NO, SIR. THIS IS ABSOLUTELY
6 REDIRECT BASED ON THE LENGTHY CROSS-EXAMINATION OF
7 MR. PADGETT. IT'S CLEARLY ADMISSIBLE. IT'S FOR THE
8 JURY TO DECIDE.

9 MR. LAWSON: YOUR HONOR, THIS IS
10 RE-REDIRECT.

11 THE COURT: I UNDERSTAND, BUT I --
12 RE-REDIRECT BECAUSE OF HIS EXHAUSTIVE, BUT INTENSIVE
13 CROSS-EXAMINATION. HE'S ENTITLED TO ASK THESE
14 QUESTIONS.

15 BY MR. WILSON:

16 Q. IS THERE ANYTHING IN THIS DOCUMENT THAT IS
17 NOT CORRECT?

18 A. NO, IT ISN'T.

19 Q. ALL RIGHT. EVERYTHING IN HERE IS CORRECT?

20 A. YES, SIR.

21 Q. NOW, LET ME ASK YOU ONE OTHER QUESTION.
22 HE ASKED YOU ABOUT THE POLICE OFFICERS. THEY CAME TO
23 SEE YOU A NUMBER OF TIMES, DID THEY NOT?

24 A. YES, SIR.

25 Q. BECAUSE THEY THOUGHT YOU MIGHT BE

1 TO MISTREAT YOU?

2 A. NOTHING -- NOTHING I CAN THINK OF BESIDES
3 HARASSING ME. THAT WAS IT.

4 Q. HARASSING MEANING THEY KEPT COMING BACK?

5 A. YES, SIR.

6 Q. AND WHEN YOU SAY THEY KEPT COMING BACK,
7 HOW MANY TIMES DID THEY COME TO YOUR JOB IN THIS
8 TWO-AND-A-HALF YEAR PERIOD FROM 1994, NOVEMBER OF
9 1994 TO THIS DATE? HOW MANY TIMES DID THEY COME TO
10 YOUR JOB?

11 A. FROM '94, THEY WOULD HAVE COME DURING THAT
12 TIME PERIOD, '94, LIKE THREE TIMES.

13 Q. THREE TIMES?

14 A. YES, SIR. THAT WAS IT.

15 Q. SO 1994, THEY CAME THREE TIMES; IS THAT
16 RIGHT?

17 A. YES, SIR. THE LAST TIME, BUT THEN I WENT
18 TO THEM.

19 Q. AND THEN YOU WENT TO THEM ONLY ONE
20 OCCASION?

21 A. YES, SIR.

22 Q. SO THAT'S FOUR TIMES?

23 A. THE TIME I WENT TO THEM, THAT'S WHEN THEY
24 APPREHENDED THE DUCT TAPE FROM MY CAR.

25 Q. THAT'S THE FOURTH TIME. ALL RIGHT. AND

1 SO THEY CAME TO YOUR JOB A TOTAL OF THREE TIMES?

2 A. YES, SIR.

3 Q. AND THEN THE FOURTH TIME, YOU WENT TO
4 THEM, AND THAT'S WHEN YOU GAVE THEM THE DUCT TAPE?

5 A. YES, SIR.

6 Q. ALL RIGHT. ANY OTHER TIMES THAT THEY CAME
7 TO YOUR JOB?

8 A. THAT WAS IT AFTER THAT.

9 Q. ANY OTHER TIME THEY CAME TO YOUR HOME?

10 A. THAT WAS IT, SIR.

11 Q. AND THAT FINISH -- BUT THOSE THREE TIMES
12 YOU CONSIDERED TO BE HARASSING YOU; IS THAT RIGHT?

13 A. SEE, BECAUSE THEY WERE -- I DIDN'T SAY
14 HARASSING. THAT'S INVOLVING ME IN SOMETHING THAT I
15 DIDN'T KNOW NOTHING ABOUT. NAGGING ME ON SOMETHING I
16 DIDN'T -- I MEAN, THAT'S LIKE ME TELLING YOU
17 SOMETHING, PUT YOU IN SOMETHING YOU DON'T KNOW
18 NOTHING ABOUT.

19 Q. BUT YOU TOLD THEM YOU DIDN'T KNOW?

20 A. YES, SIR. AND I COOPERATED BECAUSE I
21 DIDN'T KNOW NOTHING ABOUT IT.

22 Q. AND AFTER THOSE THREE TIMES, THEY DIDN'T
23 COME BACK AND BOTHER YOU ANY MORE; IS THAT RIGHT?

24 A. RIGHT.

25 THE COURT: ANYBODY ELSE HAVE ANY FURTHER

1 QUESTIONS?

2 MR. ERVIN: I DON'T HAVE ANY.

3 THE COURT: ANYBODY ELSE? YOU MAY COME
4 DOWN. CALL YOUR NEXT WITNESS.

5 MR. WILSON: DAVID BLACK. SEND ME SHERIFF
6 FOLEY FIRST. SHERIFF FOLEY.

7 THE WITNESS: CHARLES E. FOLEY.

8 CHARLES E. FOLEY,
9 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
10 TESTIFIED AS FOLLOWS:

11 D I R E C T E X A M I N A T I O N
12 BY MR. WILSON:

13 Q. SHERIFF, YOU WERE THE FORMER SHERIFF OF
14 MARLBORO COUNTY?

15 A. YES, SIR.

16 Q. NOW IN RETIREMENT?

17 A. YES, SIR.

18 Q. ENJOYING THE GOOD LIFE?

19 A. YES, SIR.

20 Q. SHERIFF, LET ME ASK YOU A COUPLE OF
21 QUESTIONS IF I MIGHT. BACK IN 1994, MORE
22 SPECIFICALLY, IN NOVEMBER, A BODY WAS FOUND HERE. IS
23 THAT CORRECT?

24 A. YES, SIR.

25 Q. AND THAT BEING THE BODY OF DARLENE

1 PATTERSON?

2 A. YES, SIR.

3 Q. NOW, LET ME ASK YOU, HOW DID -- HOW WAS
4 THE DECISION MADE AS TO WHO WOULD INVESTIGATE THIS
5 CASE? WHO MADE THAT CALL?

6 A. I DID.

7 Q. ALL RIGHT. AND TELL US WHAT CALL YOU,
8 MADE AND WHY.

9 A. TO IMMEDIATELY CALL SLED, AND THEY ASSIST
10 US IN ALL OF OUR MAJOR CRIMES.

11 Q. AND YOUR VOICE IS BREAKING UP ON US. AND
12 I'M SORRY --

13 A. WE IMMEDIATELY CALLED SLED.

14 Q. AND WHY DID YOU IMMEDIATELY CALL SLED TO
15 COME IN AND HELP YOU WITH THIS INVESTIGATION?

16 A. I HAVE TWO AGENTS LIVING IN THIS COUNTY,
17 FRED KNIGHT, BUTCH KNIGHT, EDDIE GORDON, AND THEY ARE
18 ALWAYS AVAILABLE TO US WHEN WE CALL THEM.

19 Q. ALL RIGHT.

20 A. THEY ARE PROFESSIONAL AGENTS AND WE NEEDED
21 THEIR HELP.

22 Q. ALL RIGHT. AND YOU CALLED SLED. AND DID
23 THEY THEN SEND SOMEONE DOWN TO ASSIST YOU WITH THIS
24 INVESTIGATION?

25 A. YES, SIR.

1 Q. ALL RIGHT. NOW, ON THE 4TH OF NOVEMBER,
2 DID YOU GO DOWN TO BURNT FACTORY ROAD?

3 A. THANKSGIVING DAY, YES, SIR.

4 Q. ALL RIGHT. AND GENERALLY, IF YOU WOULD,
5 DESCRIBE TO US WHAT YOU FOUND WHEN YOU GOT DOWN
6 THERE.

7 A. IF YOU GO TO BURNT FACTORY FROM HIGHWAY
8 381, THAT'S THE GIBSON HIGHWAY, TURN LEFT AND GO TO
9 BURNT FACTORY. WHEN YOU APPROACH THE POND AND GET ON
10 THE LEVY OF THE POND, THERE'S A SPILLWAY. CONTINUE
11 FOR ANOTHER HALF, THREE QUARTERS OF A MILE. THERE'S
12 A SECOND SPILLWAY. AT A BRIDGE, I PULLED UP AND
13 PARKED, GOT OUT OF MY CAR, GOT ON THE BRIDGE AND
14 LOOKED DOWN, DOWNSTREAM. THERE'S A CROOKED CREEK
15 THAT ONCE RUNS THROUGH THERE. LOOK INTO THE AREA OUT
16 ON THE STREAM. THERE'S A LITTLE POND RIGHT BEHIND
17 THE SPILLWAY. THE WATER HAS FORMED A LITTLE POND.
18 MAYBE -- MAYBE 30 FEET WIDE BY 60 FEET LONG. AND IT
19 NARROWS DOWN AND BECOMES CROOKED AGAIN. JUST WHERE
20 IT NARROWED DOWN AND ON THE RIGHT AT THE MOUTH OF THE
21 CROOKED CREEK WE COULD SEE SOMETHING HUNG ON THE
22 BRANCH OF A TREE. THAT SOMETHING TURNED OUT TO BE
23 HER BODY.

24 Q. AND AT SOME POINT IN TIME, DID YOU GET A
25 CLOSER LOOK AT THE BODY?

1 A. YES, SIR.

2 Q. AND LET ME SHOW YOU THIS ITEM WHICH IS
3 MARKED NOW AS STATE'S EXHIBIT 9 FOR IDENTIFICATION
4 PURPOSES AND ASK YOU IF YOU RECOGNIZE THIS?

5 A. SHE WAS WEARING THAT.

6 Q. ALL RIGHT. THIS WAS IN ONE OF HER EARS?

7 A. YES, SIR.

8 Q. ALL RIGHT. NOW, LET ME ASK YOU, AT SOME
9 LATER TIME -- WELL, LET ME BACK UP. DID YOU CONTINUE
10 YOUR INVESTIGATION AFTER THE BODY WAS PULLED FROM THE
11 WATER? DID YOU CONTINUE YOUR INVESTIGATION INTO THIS
12 MATTER?

13 A. YES, SIR.

14 Q. ALL RIGHT. AND AS A RESULT OF BEING
15 INVOLVED, DID YOU PARTICIPATE PERSONALLY IN THIS
16 INVESTIGATION?

17 A. FROM TIME TO TIME, YES, SIR.

18 Q. AND AT SOME POINT IN TIME, DID YOU THEN GO
19 TO AN OLD ABANDONED HOUSE?

20 A. YES, SIR.

21 Q. TO SIFT THROUGH SOME TRASH?

22 A. YES, SIR.

23 Q. TELL US ABOUT THAT. DON'T TELL ME --
24 WELL, LET ME ASK YOU THIS. HOW DID YOU HAPPEN TO GO
25 TO THIS PARTICULAR PLACE? DON'T TELL ME WHAT ANYBODY

1 TOLD YOU, BUT JUST TELL ME AS A --

2 A. I WENT THERE AND SEARCHED FOR THE OTHER
3 EARRING.

4 Q. ALL RIGHT. YOU WENT TO A HOUSE TO SEARCH
5 FOR THIS OTHER EARRING?

6 A. YES, SIR.

7 Q. AND WHERE IS THIS HOUSE LOCATED AT THAT
8 YOU DECIDED TO GO AND SEARCH FOR THIS OTHER EARRING?

9 A. IT'S IN THE DIRECTION OF GIBSON FROM HERE
10 AND IT'S ON WHAT WE CALLED THE OLD HONEY SUCKLE FARM
11 OVER IN THE BOYKIN COMMUNITY.

12 Q. ALL RIGHT. HONEY SUCKLE FARM IN THE
13 BOYKIN COMMUNITY?

14 A. YES, SIR.

15 Q. AND YOU WENT THERE TO SEARCH; IS THAT
16 CORRECT?

17 A. YES, SIR.

18 Q. ALL RIGHT. AND DO YOU KNOW WHEN IT WAS
19 THAT YOU WENT THERE TO SEARCH?

20 A. YES, SIR. I HAVE THE DATE. I WAS THERE
21 ON TWO DIFFERENT OCCASIONS.

22 Q. ALL RIGHT. WHAT'S THE FIRST OCCASION THAT
23 YOU WENT THERE?

24 A. THE FIRST OCCASION WAS WHEN WE LOCATED THE
25 EYEGLASSES.

1 Q. ALL RIGHT. AND WHAT WAS --

2 A. THAT WAS ON JANUARY THE 5TH.

3 Q. OF WHAT YEAR?

4 A. 1994.

5 Q. JANUARY 5TH OF '94 OR '95?

6 A. '94. I'VE GOT THAT -- IT WOULD HAVE BEEN
7 '94, I'M THINKING. '95. IT WAS '95.

8 Q. ALL RIGHT.

9 A. WHEN YOU RETIRE, YOU LOSE A YEAR NOW AND
10 THEN.

11 Q. BUT JANUARY OF 1995, YOU WENT TO THIS
12 HOUSE; IS THAT CORRECT? AND AT THAT TIME, YOU FOUND
13 WHAT?

14 A. THE EYEGLASSES.

15 Q. ALL RIGHT. LET ME SHOW YOU WHAT'S --
16 WELL, IT'S NOT WHAT -- NOW WHAT'S NOW MARKED, THE
17 PHOTOGRAPH, AND ASK YOU IF YOU CAN IDENTIFY THE
18 CONTENTS OF THAT PHOTOGRAPH?

19 A. YES, SIR. THAT'S THE EYEGLASSES FOUND ON
20 THE LOG OR PIECE OF FIREWOOD, REALLY, I THINK.

21 Q. AND DOES THAT ACCURATELY DEPICT WHAT YOU
22 OBSERVED WHEN YOU ARRIVED AT THIS HOUSE THAT YOU HAVE
23 JUST DESCRIBED BACK IN 1995?

24 A. YES, SIR.

25 MR. WILSON: YOUR HONOR, I WOULD ASK THAT

1 THIS PICTURE BE ENTERED INTO EVIDENCE AT THIS TIME.
2 BY MR. WILSON:

3 Q. AND WHILE THEY ARE LOOKING AT THAT, IF I
4 MIGHT, LET ME SHOW YOU THESE TWO PHOTOGRAPHS AND ASK
5 YOU IF YOU CAN IDENTIFY THOSE PHOTOGRAPHS AND IF
6 THOSE PHOTOGRAPHS ACCURATELY DEPICT WHAT YOU WOULD
7 HAVE OBSERVED WHEN YOU MADE YOUR VISIT BACK IN
8 JANUARY OF 1995?

9 A. THIS IS THE HOUSE THAT WE WENT TO, AND
10 IT'S FAIRLY ACCURATE, YES, SIR.

11 Q. ALL RIGHT. AND WHEN WAS YOUR SECOND
12 VISIT?

13 A. ON JANUARY THE 10TH.

14 Q. JANUARY THE 10TH?

15 A. TENTH.

16 Q. ALL RIGHT. SO NOW ON JANUARY THE 5TH, YOU
17 WENT -- DID YOU SAY THE FIFTH?

18 A. YES, SIR. I SAID THE FIFTH.

19 Q. JANUARY THE FIFTH, YOU MADE YOUR FIRST
20 VISIT TO THIS HOUSE. THEN ON JANUARY 10TH, YOU MADE
21 A SECOND VISIT TO THIS HOUSE. IS THAT NOT CORRECT?

22 A. YES, SIR.

23 Q. AND ON THE 5TH, YOU FOUND A PAIR OF
24 EYEGLASSES?

25 A. THAT'S CORRECT.

1 Q. AND ON THE 10TH, WHAT IF ANYTHING DID YOU
2 FIND?

3 A. AN EARRING THAT MATCHED THE ONE THAT WAS
4 ON DARLENE PATTERSON'S BODY.

5 Q. FOUND AN EARRING THAT MATCHED THE ONE THAT
6 WAS FOUND ON THE BODY?

7 A. YES, SIR.

8 Q. WHICH IS NOW -- COMES MARKED AS STATE'S
9 EXHIBIT 9; IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. LET ME SHOW YOU THIS ITEM. TAKE A LOOK AT
12 THAT FOR ME. TELL ME IF YOU CAN IDENTIFY THAT ITEM.

13 A. THAT'S THE EARRING THAT I LOCATED ON THAT
14 DATE.

15 MR. WILSON: ALL RIGHT. I WOULD ASK THAT
16 THIS ITEM BE MARKED FOR IDENTIFICATION PURPOSES ONLY.

17 THE COURT: ALL RIGHT, SIR. HAVE ALL OF
18 YOU HAD AN OPPORTUNITY NOW TO REVIEW THAT PARTICULAR
19 PHOTOGRAPH?

20 SOLICITOR, AS I UNDERSTAND IT, YOU OFFER THAT
21 PARTICULAR PHOTOGRAPH ALLEGEDLY TO BE OF THE GLASSES?

22 MR. WILSON: YES, SIR.

23 THE COURT: CAN YOU IDENTIFY IT
24 SPECIFICALLY FOR THE RECORD AS A NUMBER?

25 MR. WILSON: YES, SIR. I WAS SHOWING IT

1 TO THEM BEFORE I HAD IT MARKED.

2 MR. ERVIN: YOUR HONOR, I DON'T HAVE ANY
3 OBJECTION TO THE PHOTOGRAPHS AS LONG AS THEY ARE
4 PROPERLY AUTHENTICATED.

5 MR. WILSON: HE JUST SAYS THAT IT
6 ACCURATELY DEPICTED WHAT HE OBSERVED WHEN HE WAS
7 THERE ON JANUARY 5TH OF 1995.

8 THE COURT: I NEED TO NOTE -- SPECIFICALLY
9 NOTE WHAT OBJECTION YOU HAVE FOR THE RECORD. OF
10 COURSE THE JURY IS THE FINDER OF THE FACTS AND THEY
11 HEARD WHAT THIS WITNESS SAID.

12 MR. ERVIN: NO, WHAT I WAS -- IF HE WAS
13 PRESENT WHEN THE PICTURES WERE TAKEN, OBVIOUSLY THEN
14 THEY ARE PROPERLY AUTHENTICATED.

15 MR. WILSON: HE DOESN'T HAVE TO BE PRESENT
16 WHEN THE PICTURES WERE TAKEN. THE QUESTION IS
17 WHETHER OR NOT THESE PICTURES ACCURATELY DEPICT WHAT
18 HE OBSERVED ON THAT DATE.

19 THE COURT: WHAT IS YOU SEEK?

20 MR. ERVIN: WELL, THE ONLY OTHER THING IS
21 WHEN WAS THE PICTURE TAKEN. IF IT ACCURATELY
22 PORTRAYS IT, IT SHOULD HAVE BEEN ON THE SAME DAY.

23 MR. WILSON: THAT'S A CROSS-EXAMINATION
24 MATTER, NOT A --

25 THE COURT: IT IS INTRODUCED INTO

1 EVIDENCE. YOU MAY CROSS-EXAMINE ON THAT ISSUE. GO
2 AHEAD. IDENTIFY IT FOR THE RECORD.

3 (STATE'S EXHIBIT NUMBER 13, 14 AND 15
4 MARKED FOR IDENTIFICATION.)

5 MR. WILSON: YOUR HONOR, SO THE RECORD IS
6 CLEAR, WHAT'S NOW MARKED IN THIS CASE IS STATE'S
7 EXHIBIT 13, WHICH IS A SIDE VIEW OF AN ABANDONED
8 HOUSE; STATE'S EXHIBIT 14, WHICH IS A PHOTOGRAPH OF A
9 PAIR OF GLASSES SITTING ON A LOG; AND THEN STATE'S
10 EXHIBIT NUMBER 15, WHICH IS AN AERIAL VIEW OF AN
11 ABANDONED HOUSE.

12 THE COURT: YOU DESIRE THAT THEY BE
13 INTRODUCED INTO THE RECORD?

14 MR. WILSON: SIR?

15 THE COURT: YOU MARKED THEM FOR EXHIBITS
16 OR --

17 MR. WILSON: NO, THEY ARE IN. THEY ARE
18 OFFERED INTO EVIDENCE.

19 THE COURT: I ACCEPT THEM.

20 (STATE'S EXHIBITS NUMBERS 13, 14 AND 15
21 ENTERED INTO EVIDENCE.)

22 BY MR. WILSON:

23 Q. NOW, I'LL COME BACK AND I'LL TRY TO CLEAR
24 THIS UP AGAIN. IN REGARDS TO THIS PARTICULAR ITEM,
25 ON THE 10TH OF JANUARY OF 1995, MY UNDERSTANDING IS

1 YOU WENT BACK TO THE HOUSE ON A SECOND OCCASION, THIS
2 SAME ABANDONED HOUSE THAT YOU HAD DESCRIBED EARLIER.
3 IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. AND AT THAT PARTICULAR TIME -- WELL, LET
6 ME BACK UP AND ASK YOU THIS. WHEN YOU WENT OUT THERE
7 ON THE 10TH, TELL US WHAT YOU DID. HOW DID YOU FIND
8 THIS ITEM, THIS OBJECT? TELL US WHAT YOU DID IN
9 ORDER TO FIND IT.

10 A. I HAD NOTICED A PILE OF ASHES, JUST A PILE
11 OF ASHES ON THE PRIOR TRIP. THERE HAD BEEN SOME
12 INDICATION THAT AN EARRING WAS SEEN IN THAT HOUSE.
13 THAT HOUSE WAS BEING CLEANED UP AND PURCHASED BY
14 SOMEONE ELSE. THAT HOUSE WAS BEING CLEANED UP AT
15 THAT TIME. SO I TOOK A LITTLE SCREEN WIRE SIFTER
16 WITH ME AND SHOVEL AND I SIFTED THE ASHES THAT WERE
17 IN THE YARD AND LOCATED THAT EARRING.

18 Q. OKAY. SO YOU SIFTED SOME ASHES THAT WERE
19 IN A PILE OF TRASH AND THAT'S HOW YOU FOUND THE
20 EARRING?

21 A. YES, SIR.

22 Q. AND THAT WAS ON THE 10TH?

23 A. YES, SIR.

24 Q. AND THIS WAS THE EARRING THAT YOU FOUND?

25 A. YES, SIR.

1 Q. I WOULD ASK THAT THIS BE MARKED FOR
2 IDENTIFICATION PURPOSES ONLY AT THIS NAME.

3 THE COURT: MARKED FOR IDENTIFICATION.

4 (STATE'S EXHIBIT NUMBER 16
5 MARKED FOR IDENTIFICATION.)

6 BY MR. WILSON:

7 Q. AFTER FINDING THIS ITEM ON THE 10TH OF
8 JANUARY, WHAT IF ANYTHING DID YOU DO WITH THE
9 EARRING?

10 A. I IMMEDIATELY CALLED THE CHIEF DEPUTY
11 STARNES. HE WAS THE OFFICER THAT WAS PUT IN CHARGE
12 OF OUR EVIDENCE AND I DIDN'T WANT TO MOVE IT FROM
13 THAT SCENE. I JUST CALLED HIM THERE AND HANDED IT TO
14 HIM AT THE SCENE.

15 Q. ALL RIGHT. AND THAT'S CHIEF DEPUTY
16 STARNES SITTING OVER THERE IN THE CORNER?

17 A. THAT'S CORRECT.

18 Q. AND YOU GAVE HIM THIS EARRING?

19 A. YES, SIR.

20 Q. LET ME ASK YOU, ON THE 5TH, DID YOU ALSO
21 GIVE HIM THE GLASSES?

22 A. RIGHT.

23 Q. AND AFTER TURNING THOSE THINGS OVER TO
24 HIM, AGAIN, DID YOU HAVE ANY FURTHER CONTACT WITH
25 THOSE THINGS?

1 A. NO, SIR.

2 Q. PERSONAL CONTACT?

3 A. NO, SIR.

4 MR. WILSON: THANK YOU SO MUCH, SHERIFF.
5 IF YOU WOULD, ANSWER ANY QUESTIONS THESE GENTLEMEN
6 MIGHT HAVE FOR YOU.

7 THE COURT: MR. ERVIN.

8 C R O S S - E X A M I N A T I O N

9 BY MR. ERVIN:

10 Q. REGARDING THESE PICTURES, DO YOU KNOW WHEN
11 THEY WERE TAKEN, STATE'S --

12 A. NO, SIR. I DON'T KNOW WHEN THEY WERE
13 TAKEN.

14 Q. -- 14, 15 AND 13?

15 A. NO, SIR. WE CALLED THE SEARCH PEOPLE TO
16 THE CRIME SCENE OUT THERE, BUT I CAN'T TELL YOU WHEN
17 I TOOK THEM -- WHEN THEY WERE TAKEN.

18 Q. STATE'S EXHIBIT NUMBER 14 IN EVIDENCE, THE
19 PICTURE OF THE EYEGLASSES, DOES THAT FAIRLY AND
20 ACCURATELY PORTRAY THE POSITION OF THE GLASSES WHEN
21 YOU ARRIVED ON THAT DATE ON JANUARY THE 5TH?

22 A. THAT'S MY RECOLLECTION. THAT'S THE WAY
23 THEY LOOKED WHEN I FIRST SAW THEM. THEY WERE LAYING
24 LIKE ON THAT.

25 Q. LIKE THEY HAD BEEN PLACED ON THERE?

1 A. THEY WERE LAYING UP THERE IN PLAIN SIGHT.

2 Q. AND BASED ON INFORMATION YOU HAD RECEIVED,
3 YOU DECIDED TO SIFT THROUGH THE ASHES AT A BURNED
4 PILE AT THE SITE?

5 A. SOME DAYS LATER, YES, SIR.

6 Q. AND THAT WAS ON JANUARY 10TH THAT YOU --

7 A. YES, SIR.

8 Q. FIVE DAYS LATER?

9 A. YES, SIR.

10 Q. YOU SAID THERE WAS SOME CLEANING GOING ON.
11 WHEN WAS THE CLEANING GOING ON? ON THE FIFTH?

12 A. THOSE HOUSES WERE VACANT. I THINK HAD
13 BEEN FOR SOME TIME. AND MR. GEORGE STEEN HAD BOUGHT
14 TWO OF THEM. A NEIGHBOR OF THEM MAYBE A MILE OF EACH
15 OTHER, ONE FOR HIMSELF, AND THIS PARTICULAR HOUSE HE
16 WAS GOING TO MOVE HIS FATHER INTO.

17 Q. AND WERE THERE PEOPLE OUT THERE CLEANING
18 WHEN YOU WERE OUT THERE?

19 A. AT VARIOUS TIMES, YES, SIR. NOT ON -- ON
20 THE 10TH WHEN I WAS THERE. NO ONE WAS THERE THAT DAY
21 EXCEPT ME. BUT PRIOR TO THAT, THERE HAD BEEN PEOPLE
22 THERE WHEN WE WERE THERE.

23 Q. PEOPLE WORKING AND SWEEPING OUT THE HOME?

24 A. YES.

25 Q. AND WAS THIS BURNED PILE PRODUCTS OF THEIR

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THE COURT: MR. REDMOND.

MR. REDMOND: A COUPLE OF QUESTIONS, YOUR HONOR.

THE COURT: ALL RIGHT.

C R O S S - E X A M I N A T I O N

BY MR. REDMOND:

Q. WAS DAVIS STANDING BY THE BURNED PILE? DO YOU RECALL HIM STANDING BY THE BURNED PILE OR NEAR THE BURNED PILE?

A. NO, THAT FIRE WASN'T BURNING THE DAY I WAS THERE. IT WAS -- IT HAD BURNED SOMEDAY PRIOR TO THAT. IT WAS A PILE OF ASHES ON --

Q. OKAY. I'M SORRY. GO AHEAD, SHERIFF. I'M SORRY.

A. ON THE DAY I FOUND THE EARRING, NO ONE BUT ME WAS OUT THERE THAT DAY.

Q. HOW ABOUT ON THE 5TH?

A. I THINK THE DAY WE FOUND THE GLASSES THERE WAS A BUNCH OF US OUT THERE; THE SLED AGENTS, MYSELF, COUNTY OFFICERS. I KNOW THAT DANNY DAVIS WAS THERE ON -- ON TWO OCCASIONS. I DON'T KNOW ABOUT THE 5TH, BUT I THINK HE WAS OUT THERE ON ONE OF THOSE OCCASIONS.

Q. DO YOU RECALL WHETHER OR NOT DANNY DAVIS EVER WENT INSIDE THE HOUSE, IF YOU SAW HIM INSIDE THE

1 HOUSE OR --

2 A. OH, YEAH. HE WAS CLEANING THE HOUSE UP.

3 MR. REDMOND: THANK YOU. NOTHING FURTHER.

4 THE COURT: MR. MOORE. MR. WILL ROGERS.

5 C R O S S - E X A M I N A T I O N

6 BY MR. WILL ROGERS:

7 Q. JUST TO CLARIFY, WHAT WAS THE SECOND TIME
8 YOU WENT OUT TO THE HOUSE? WHAT WAS THAT DATE?

9 A. I DON'T KNOW THE SECOND TIME I WAS OUT
10 THERE, BUT I THINK YOU'RE REFERRING TO THE EARRING,
11 THE DAY I FOUND THE EARRING.

12 Q. YES, SIR.

13 A. THAT WAS THE 10TH.

14 MR. WILL ROGERS: OKAY. THANK YOU.

15 THE COURT: MR. LAWSON.

16 MR. LAWSON: MAY IT PLEASE THE COURT.

17 C R O S S - E X A M I N A T I O N

18 BY MR. LAWSON:

19 Q. SHERIFF -- YOU GO BY SHERIFF FOLEY OR
20 WHAT?

21 A. WHATEVER YOU WANT TO CALL ME NOW.

22 Q. DON'T GIVE ME THAT MUCH LEEWAY. WHEN YOU
23 WERE OUT THERE, YOU WERE OUT THERE BY YOURSELF ON THE
24 FIFTH; IS THAT RIGHT?

25 A. NO, SIR. ON THE 10TH.

1 Q. ON THE 10TH. ON THE 5TH --

2 A. THE EARRING.

3 Q. OKAY. ON THE 5TH, YOU HAD SOMEBODY ELSE
4 WITH YOU?

5 A. THERE WERE OTHERS, YES, SIR.

6 Q. OTHER INVESTIGATORS?

7 A. YES, SIR.

8 Q. ALL RIGHT. WHO TOOK THE PICTURE?

9 A. I HAVE NO IDEA.

10 Q. DID THEY TAKE IT WHILE YOU WERE THERE THAT
11 DAY?

12 A. I CAN'T TELL YOU THAT EITHER. I DON'T
13 REMEMBER.

14 Q. OKAY. BUT THE GLASSES WERE DEFINITELY
15 TAKEN THAT DAY. YOU DIDN'T LEAVE THEM THERE?

16 A. NO, NO.

17 Q. NO. YOU TOOK THEM WITH YOU THAT DAY?

18 A. YES. SOMEONE COLLECTED AND TOOK THEM WITH
19 THEM. I PROBABLY PICKED THEM UP AND HANDED THEM TO
20 STARNES.

21 Q. SO IF THIS PICTURE WAS TAKEN OTHER THAN
22 THAT DAY, THEN THE GLASSES WOULD HAVE BEEN TAKEN BACK
23 OUT THERE AND A PICTURE TAKEN OF THEM; IS THAT
24 CORRECT?

25 A. I WOULD ASSUME SO, YES, SIR.

1 Q. AND WERE THERE ANY SLED PHOTOGRAPH
2 OFFICERS WITH YOU THAT DAY?

3 A. FROM THE DAY THAT WE LOCATED THAT HOUSE,
4 WE -- I DON'T KNOW ABOUT PHOTOGRAPHY. THERE WERE
5 SLED AGENTS INVOLVED WITH US.

6 Q. OKAY.

7 A. WELL, FROM THE BEGINNING OF THE CRIME,
8 ACTUALLY.

9 Q. BUT AS FAR AS SLED CRIME SCENE PEOPLE, THE
10 GUYS THAT COME OUT AND TAKE PHOTOGRAPHS, THEY DIDN'T
11 STAY THERE THE WHOLE TIME?

12 A. NO, BUT WE HAD THEM BACK ON THAT HOUSE.

13 Q. OKAY. LATER. IS THAT CORRECT?

14 A. I'M THINKING THAT HOUSE -- LET ME CHECK
15 WITH MY NOTES JUST A MOMENT. WE LOCATED THAT HOUSE
16 ON JANUARY THE 4TH. I BELIEVE THAT WAS LATE IN THE
17 AFTERNOON.

18 Q. OKAY.

19 A. SO THE NEXT DAY, BEING THE 5TH, I FEEL
20 SURE WAS THE DAY WE HAD THE CRIME SCENE PEOPLE UP
21 THERE.

22 Q. OKAY. SO THE CRIME SCENE PEOPLE DIDN'T
23 FIND THE EARRING?

24 A. NO, SIR.

25 Q. OR THE -- WHAT -- THE -- THE THING THAT

1 WAS BURNED?

2 A. NO, SIR. IT WAS IN THE TRASH.

3 Q. OKAY.

4 A. ASHES.

5 Q. AND NOBODY CHECKED THAT WHEN Y'ALL
6 PROCESSED THAT SCENE?

7 A. NOT WITH A SIFTER. I TOOK A LITTLE
8 HOMEMADE SIFTER WITH ME AND RAN ALL OF THE ASHES
9 THROUGH IT. THAT'S THE WAY I LOCATED IT.

10 Q. WELL, BY PROCESSING THE SCENE, THEN,
11 BASICALLY WHAT YOU DID WAS TOOK PHOTOGRAPHS -- OR
12 WHAT THEY DID WAS TOOK PHOTOGRAPHS?

13 A. DID SEARCH -- YOU SEARCH FOR ANYTHING
14 UNUSUAL, ANYTHING YOU THOUGHT MIGHT PERTAIN TO THIS
15 CRIME.

16 Q. OKAY. WELL, I THOUGHT THAT THE WAY YOU
17 FOUND THESE GLASSES WAS THAT SOMEBODY WORKING OUT
18 THERE FOUND THEM AND SAW THEM AND CALLED Y'ALL AND
19 SAID THERE'S SOME GLASSES OUT HERE.

20 A. I DON'T UNDERSTAND THAT BEING THAT WAY. I
21 THINK THAT WE WERE TOLD THAT SOMEONE HAD SEEN SOME
22 GLASSES AND AN EARRING IN AND AROUND THAT HOUSE, BUT
23 IT TURNS OUT THAT WHEN YOU SAY WHERE ARE THEY, THEY
24 DON'T POP UP RIGHT AWAY. BUT THOSE GLASSES, WE GOT
25 TO LOOKING AROUND THAT LOG OR THAT STICK OF FIREWOOD.

1 Q. OKAY. SO YOU'RE ASSUMING YOU FOUND THEM
2 THE FIRST TIME YOU WENT OUT THERE AND LOOKED?

3 A. THAT'S MY ASSUMPTION.

4 Q. NOW, YOU'RE TESTIFYING FROM NOTES?

5 A. THESE THAT WAS ON THE FIFTH.

6 Q. WHEN DID YOU MAKE THOSE NOTES THAT YOU ARE
7 TESTIFYING?

8 A. I MADE THESE NOTES ABOUT TWO HOURS AGO
9 FROM THE RECORDS THAT WE HAVE ON THIS CASE.

10 Q. SO YOU HAVE USED -- DID YOU MAKE NOTES
11 THROUGHOUT THE INVESTIGATION?

12 A. NO, I DIDN'T.

13 Q. YOU DIDN'T TAKE ANY NOTES?

14 A. NO, SIR. I'VE GOT -- I HAVE A CAPTAIN AND
15 LIEUTENANTS AND SLED AT --

16 Q. BUT YOU WERE ACTIVELY INVOLVED IN THIS
17 INVESTIGATION, WEREN'T YOU?

18 A. I WAS -- I WAS WORKING WITH THEM. I WAS
19 THE SHERIFF AND GETTING PAID TO BE THE SHERIFF, SO I
20 WAS WITH THEM, YES, SIR.

21 Q. BUT YOU WEREN'T TAKING ANY NOTES OF YOUR
22 INVESTIGATION?

23 A. NO, SIR. EVERYTHING I DONE, SOMEBODY ELSE
24 WAS THERE WITH ME TO DO IT.

25 Q. AND THEY TOOK NOTES?

1 A. THEY TOOK THEM.

2 Q. AND YOU REVIEWED THOSE NOTES?

3 A. I REVIEWED THOSE NOTES.

4 Q. AND YOU'VE REVIEWED THEM FOR YOUR

5 TESTIMONY TODAY?

6 A. ABOUT TWO HOURS AGO. THE ONLY THING I WAS

7 INTERESTED IN IS THE DATES. AS YOU SEE, I GOT 1994

8 WRONG.

9 Q. YOU WEREN'T INTERESTED IN THE INTERVIEWS

10 THAT YOU MAY HAVE CONDUCTED OR ANYTHING ELSE?

11 A. THEY KEPT ME AWARE OF WHAT WAS GOING ON.

12 Q. DID YOU YOURSELF CONDUCT --

13 A. I SAT IN AND LISTENED.

14 Q. DID YOU YOURSELF ASK --

15 A. I ASKED QUESTIONS.

16 Q. DID YOU YOURSELF GO AND CONDUCT INTERVIEWS

17 AND INTERROGATION?

18 A. ALONG WITH OTHER OFFICERS.

19 Q. YOU NEVER WENT ON YOUR OWN?

20 A. NOT BY MYSELF.

21 Q. YOU ALWAYS HAD SOMEBODY ELSE WITH YOU?

22 A. SOMEBODY WITH ME.

23 Q. AND IT WAS ALWAYS THEIR JOB TO TAKE YOUR

24 NOTES?

25 A. TO TAKE THEIR NOTES.

1 Q. SO YOU DIDN'T TAKE ANY OF YOUR OWN?

2 A. NO, SIR.

3 Q. ON ANY OF THE INVESTIGATION?

4 A. I'M NOT GOING TO TELL YOU THAT I DIDN'T
5 SIT DOWN THERE AND SCRIBBLE SOMETHING DOWN. I CAN'T
6 TELL YOU THAT.

7 Q. DID YOU KEEP IT?

8 A. I THINK IN THE RECORDS WE HAVE A NOTE
9 THAT'S BEEN PROBABLY ON THE GLASSES THAT WAS TYPED UP
10 FOR ME. OBVIOUSLY, IT'S SOMETHING I SCRIBBLED DOWN
11 WHEN I FOUND THE GLASS AND MAYBE THE EARRING TOO.

12 Q. ALL RIGHT.

13 A. BUT AS FAR AS RETAINING AND KEEPING THE
14 NOTES, NO, SIR.

15 Q. ALL RIGHT. SO ON A REGULAR BASIS, DURING
16 THE COURSE OF THIS INVESTIGATION, IT IS YOUR
17 TESTIMONY, AS I UNDERSTAND IT, THAT YOU TOOK NO NOTES
18 NOR DOCUMENTED ANY OF THE THINGS YOU DID OTHER THAN
19 HAVING ANOTHER OFFICER WITH YOU TO DO THAT?

20 A. I DIDN'T SAY THAT. I SAID I MAY HAVE
21 SCRIBBLED DOWN SOME NOTES, SOMETHING I SAID,
22 SOMETHING I DID, PUT A DATE ON IT, BUT I THINK IN OUR
23 RECORDS YOU WILL FIND SOMETHING LIKE THAT. I DID NOT
24 SIT DOWN AND TAKE DETAILED NOTES TO BRING TO THIS
25 WITNESS STAND TO TESTIFY TO BECAUSE THERE WAS

1 SOMEBODY WITH ME WHO COULD DO THAT JOB FOR ME.

2 Q. ALL RIGHT, SIR. AND DID YOU INSTRUCT,
3 WHEN YOU WERE SHERIFF OF MARLBORO COUNTY, OR DID YOU
4 EXPRESS TO THEM A CONCERN WHEN THEY INVESTIGATED
5 CASES THAT THEY TAKE NOTES AND KEEP RECORDS OF WHAT
6 THEY ARE DOING DURING AN INVESTIGATION?

7 A. THESE PEOPLE ARE PROFESSIONAL
8 INVESTIGATORS. YOU DIDN'T HAVE TO INSTRUCT THEM.
9 THEY KNOW TO TAKE NOTES. THEY KNOW TO PRESERVE.
10 THEY KNOW WHAT THEY ARE DOING.

11 Q. SO YOU DIDN'T HAVE TO USE ANY INSTRUCTION
12 DURING THE TIME THAT YOU WERE SHERIFF WITH ANY OF
13 YOUR AGENTS AS FAR AS HOW TO INVESTIGATE?

14 A. IT WASN'T NECESSARY TO TELL THESE GUYS TO
15 TAKE NOTES. THEY'VE BEEN IN THIS BUSINESS A LONG
16 TIME. ALL OF THEM ARE VETERANS.

17 Q. SO THEN, YOU ASSUME THAT THERE WERE DETAIL
18 NOTES TAKEN BY THE INVESTIGATORS INVOLVED IN EVERY
19 DETAIL OF THIS INVESTIGATION FROM NOVEMBER 24TH, 1994
20 UNTIL THE CASE WAS COMPLETED, IF IT IS COMPLETED?

21 A. YES, SIR.

22 Q. AND YOU HAVE IN FACT REVIEWED SOME OF
23 THOSE FOR YOUR TESTIMONY TODAY?

24 A. JUST THE ONES THAT I'M INVOLVED IN.

25 MR. LAWSON: YOUR HONOR, WE WOULD LIKE THE

1 OPPORTUNITY TO LOOK AT THE NOTES THAT WERE TAKEN
2 DURING THE INVESTIGATION.

3 THE COURT: WHAT'S THE POSITION OF THE
4 SOLICITOR AS TO THAT?

5 MR. WILSON: MY UNDERSTANDING, HE SAYS HE
6 DIDN'T TAKE ANY NOTES. I DON'T KNOW WHAT NOTES HE'S
7 TALKING ABOUT. HE SAYS HE DIDN'T TAKE ANY. IF HE
8 TOOK ANY, I'LL BE MORE THAN HAPPY TO HAVE HIM GIVE
9 THEM, BUT HE SAID HE DIDN'T TAKE ANYBODY.

10 MR. LAWSON: YOUR HONOR, HE JUST SAID HE
11 REVIEWED NOTES THAT THE OTHER PEOPLE WITH HIM --

12 THE COURT: YOU ASKED -- AS I UNDERSTAND,
13 I HEARD YOU ASK FOR HIS NOTES.

14 MR. LAWSON: I'M ASKING FOR ANY NOTES THAT
15 WERE TAKEN IN THE INVESTIGATION. IT'S GOING TO COME
16 UP SOONER OR LATER, AND WE SHOULD GO AHEAD AND GET
17 THEM NOW AND GET IT OVER WITH.

18 THE COURT: WHAT'S THE POSITION OF THE
19 STATE?

20 MR. LAWSON: WE HAVEN'T BEEN PROVIDED ANY
21 NOTES FROM LAW ENFORCEMENT, YOUR HONOR.

22 MR. WILSON: THEY HAVE NOT BEEN PROVIDED
23 ANY NOTES, YOUR HONOR, BUT THEY HAVE BEEN PROVIDED A
24 DETAILED COPY OF THIS INVESTIGATIVE REPORT, WHICH IS
25 MADE FROM THE NOTES. THEY HAVE THAT; HAD IT FROM DAY

1 ONE.

2 THE COURT: I'M NOT GOING TO REQUIRE HIM
3 TO PRODUCE THE NOTES. ALL RIGHT. ANY OTHER
4 EXAMINATION?

5 MR. WILL ROGERS: YOUR HONOR, WE WOULD
6 LIKE TO RECEIVE A COPY OF THE NOTES THAT WERE USED
7 FOR HIM IN REFRESHING HIS RECOLLECTION BEFORE HE GAVE
8 HIS TESTIMONY.

9 THE COURT: SHERIFF, WOULD YOU PROVIDE FOR
10 THEM A COPY OF THE NOTES THAT YOU USED IN REFRESHING
11 YOUR RECOLLECTION? THE RULE PROVIDES THAT IF YOU
12 HAVE USED NOTES TO REFRESH YOUR RECOLLECTION, THEY
13 MAY SEE THE NOTES. CAN YOU DO THAT FOR ME?

14 THE WITNESS: YES, SIR. LIEUTENANT KNIGHT
15 OF SLED HAS THOSE.

16 THE COURT: THEY WILL BE PROVIDED.

17 MR. LAWSON: WOULD IT BE APPROPRIATE TO
18 TAKE OUR RECESS AT THIS POINT, YOUR HONOR, SO THAT WE
19 COULD LOOK AT THOSE AND THEN --

20 THE COURT: WELL, LET'S DO THIS. WE'LL
21 TAKE A RECESS. I'LL GIVE YOU AN OPPORTUNITY TO LOOK
22 AT THE NOTES. AND WE WILL RECALL HIM FOR SUCH
23 FURTHER CROSS-EXAMINATION AS YOU DESIRE. WOULDN'T
24 THAT BE BETTER?

25 MR. WILSON: YOUR HONOR, BEFORE YOU DO

1 THAT, LET ME -- BECAUSE I WANT THIS RECORD TO BE
2 CLEAR. THEY WERE GIVEN -- AND THIS IS A COPY OF THE
3 INVESTIGATIVE REPORT WHICH IS 33 PAGES IN LENGTH.
4 THEY WERE PROVIDED THIS AT THE OUTSET OF THIS
5 PROCESS. THEY ALSO HAVE THE ONLY NOTE THAT I'M AWARE
6 OF THAT --

7 MR. WILL ROGERS: YOUR HONOR, MAY I
8 APPROACH THE BENCH?

9 MR. ERVIN: I THINK THIS IS A GOOD TIME
10 FOR A RECESS, YOUR HONOR.

11 THE COURT: NO, SIR. I'LL DECIDE THAT
12 MYSELF. LET'S SEE WHAT -- YOU'RE INTERRUPTING THE
13 SOLICITOR HERE, WHICH IS IMPROPER.

14 (WHEREUPON, COUNSEL APPROACHED
15 THE BENCH FOR AN OFF-THE-RECORD
16 DISCUSSION.)

17 MR. WILSON: YOUR HONOR, JUST SO THE
18 RECORD IS CLEAR, WE GAVE THEM THIS 33-PAGE DOCUMENT
19 WHICH CONTAINED -- WHICH WAS MADE FROM THE NOTES,
20 WHICH IS THE OFFICIAL INVESTIGATIVE REPORT FROM THIS
21 CASE AND WAS GIVEN TO EVERY LAWYER IN THIS CASE. THE
22 ONLY NOTE THAT I'M AWARE OF, THE ONLY NOTE THAT I'M
23 AWARE OF FOR THE SHERIFF HERE IS THIS ONE-HALF PAGE
24 NOTE, WHICH THEY HAVE, WHICH THEY WERE GIVEN AT THE
25 VERY INCEPTION WHERE HE MAKES A TYPED STATEMENT WHICH

1 HE'S ALREADY TOLD THEM THAT HE HAD MADE. THAT IS THE
 2 ONLY NOTE THAT I KNOW OF THAT HE MADE WITH HIS
 3 SIGNATURE ON IT. THEY HAVE THAT, HAVE HAD IT FROM
 4 THE OUTSET.

5 THE COURT: I UNDERSTAND THAT. I WILL ASK
 6 THE SHERIFF TO GET THE DOCUMENTS THAT -- FROM WHICH
 7 YOU SAY YOU REFRESHED YOUR MEMORY.

8 THE WITNESS: THAT WAS IT, YOUR HONOR.

9 THE COURT: IS THAT IT?

10 THE WITNESS: THAT'S IT. I ASKED
 11 LIEUTENANT KNIGHT ABOUT CERTAIN DATES. OTHER THAN
 12 THAT, THAT'S IT.

13 THE COURT: GENTLEMEN, HE SAYS THAT THAT'S
 14 THE DOCUMENT THAT YOU HAVE FROM WHICH HE REFRESHED
 15 HIS NOTES -- HIS MEMORY FOR TESTIMONY. ALL RIGHT.
 16 I'LL LET THEM -- WE'LL TAKE A BREAK AT THIS TIME.
 17 YOU MAY REVIEW THOSE NOTES AND IF YOU CARE TO
 18 CROSS-EXAMINE HIM THEN, WE'LL PUT HIM BACK ON THE
 19 STAND. LET'S TAKE A BREAK AT THIS TIME.

20 (WHEREUPON, THE JURY WAS REMOVED
 21 FROM THE COURTROOM AND THE
 22 FOLLOWING PROCEEDINGS COMMENCED
 23 IN OPEN COURT.)

24 (WHEREUPON, A BREAK WAS TAKEN
 25 FROM THE PROCEEDINGS.)

1 THE COURT: ALL RIGHT. GENTLEMEN, I'M
2 GOING TO LEAVE THIS WITNESS ON THE STAND FOR ANY
3 FURTHER CROSS-EXAMINATION AND I'LL ASK IF YOU'VE GOT
4 ANY, YOU MAY HAVE IT. BRING THE JURY IN, PLEASE.

5 SOLICITOR, WERE YOU THROUGH WITH YOUR REDIRECT?

6 MR. WILSON: SIR, I REALLY DON'T KNOW.

7 MR. ROGERS: JUDGE, CAN WE STOP THE JURY
8 JUST A MOMENT AND LET ME PUT ONE MORE MATTER ON THE
9 RECORD?

10 THE COURT: STOP THE JURY. YES.

11 MR. ROGERS: JUST SO THE RECORD IS CLEAR,
12 AND I DON'T THINK IT IS, THE SHERIFF TESTIFIED THAT
13 WHEN HE WENT OUT TO THE SCENE, THERE WAS A DEPUTY
14 WITH HIM MAKING NOTES AND THEN THE SOLICITOR HAS
15 PROVIDED US WITH THIS TYPEWRITTEN TRANSCRIPT AND
16 CALLED THOSE THE NOTES. I THINK -- I THINK WHAT OUR
17 OBJECTION IS, WE WANTED TO SEE THE HANDWRITTEN NOTES
18 BEFORE THEY WERE TRANSCRIBED INTO THIS 13-PAGE
19 DOCUMENT. I THINK WE ARE ENTITLED TO SEE THAT TO
20 DETERMINE IF THE TRANSCRIPTION WAS CORRECT. THERE
21 MAY BE THINGS IN THE NOTES THAT WERE LEFT OUT OF THE
22 TRANSCRIBED PORTION.

23 AND THAT -- I THINK THAT'S WHAT OUR OBJECTION
24 WENT TO, THAT WE WANTED TO SEE --

25 THE COURT: OKAY. I'VE GOT YOU. WILL YOU

1 SEARCH THE RECORD AND SEE IF THE NOTE -- WHAT'S YOUR
2 RESPONSE IS A BETTER WAY TO GET TO THIS.

3 MR. WILSON: AGAIN, I'M NOT SURE WHAT THEY
4 ARE ASKING. ARE THEY -- AND MAYBE I'M CONFUSED. ARE
5 THEY ASKING FOR THE NOTES OF SOME OTHER OFFICER? IS
6 WHAT THEY ARE ASKING? OR ARE THEY ASKING FOR THE
7 NOTES OF THE SHERIFF? THE SHERIFF IS THE PERSON WHO
8 IS TESTIFYING AND HIS CREDIBILITY IS THE ONE THAT IS
9 IN ISSUE, NOT SOME OTHER OFFICER WHO MAY HAVE TAKEN
10 DOWN SOMETHING THAT THE SHERIFF DID NOT KNOW ABOUT.

11 THE COURT: THE SHERIFF HAS TESTIFIED HE
12 TESTIFIED FROM HIS NOTES, DIDN'T HE?

13 MR. ROGERS: NO, SIR.

14 MR. WILSON: NO, SIR. HE TESTIFIED THAT
15 HE MADE THE NOTES THAT HE JUST TESTIFIED FROM FROM
16 THIS DOCUMENT. THAT'S WHAT HE SAID.

17 THE COURT: YEAH.

18 MR. ROGERS: BUT HE ALSO --

19 THE COURT: YOU WANT THE NOTES THAT GAVE
20 RISE TO THE ISSUANCE OF THIS DOCUMENT?

21 MR. ROGERS: YES, SIR. THAT'S CORRECT,
22 BECAUSE THERE'S NO WAY FOR US TO DETERMINE IF WHAT'S
23 IN THIS TRANSCRIBED DOCUMENT IS THE SAME THING THAT'S
24 IN THE HANDWRITTEN NOTE. THEY MAY HAVE DECIDED TO
25 LEAVE OUT PORTIONS THAT DIDN'T HELP THEM. WE DON'T

1 KNOW AND THAT'S WHAT THE OBJECTION GOES TO.

2 THE COURT: I UNDERSTAND. WHAT DO YOU SAY
3 TO THAT?

4 MR. WILSON: THE PROBLEM I HAVE WITH THAT,
5 JUDGE, ONE, I DON'T THINK THE RULES ENTITLE THEM TO
6 IT. I WOULD CERTAINLY AGREE THAT THEY ARE ENTITLED
7 TO IT IF AN OFFICER IS ON THIS STAND AND HE IS
8 TESTIFYING THAT HE USED THOSE ORIGINAL NOTES TO
9 TESTIFY FROM AND THEY ASKED HIM QUESTIONS ABOUT IT.
10 THEY HAVE EVERY RIGHT TO SEE THOSE NOTES AND TO
11 ATTACK HIS CREDIBILITY.

12 THE COURT: SEE, THE PROBLEM IS HE'S
13 SAYING -- YOU ARE ENTITLED UNDER THE RULE -- IF A
14 WITNESS TESTIFIES FROM A DOCUMENT, YOU ARE ENTITLED
15 TO REVIEW THAT DOCUMENT. THIS SHERIFF TESTIFIED FROM
16 THAT DOCUMENT THAT YOU HAVE A COPY OF.

17 MR. ROGERS: YES, BUT HE ALSO TESTIFIED
18 THAT THAT DOCUMENT WAS MADE PURSUANT TO HANDWRITTEN
19 NOTES THAT SOMEBODY MADE WHILE WALKING ALONG WITH
20 HIM.

21 THE COURT: I KNOW, BUT HE DIDN'T TESTIFY
22 PURSUANT TO THE HANDWRITTEN NOTES. HE REFRESHED HIS
23 MEMORY BY THOSE NOTES.

24 MR. ROGERS: BUT HOW DID -- HOW DID -- WE
25 GOT TO THOSE NOTES BECAUSE OF THE HANDWRITTEN NOTES.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Marlboro County
Thomas Russo, Circuit Court Judge

ALFONSO STATON,

PETITIONER,

V.

THE STATE,

RESPONDENT.

Appellate Case No. 2015-000460

Appendix Volume 2

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1 THE COURT: YES, SIR.

2 MR. ROGERS: AND THAT'S ALL WE'RE SAYING.

3 THE COURT: YES, SIR. BUT HE DIDN'T
4 TESTIFY PURSUANT TO THE HANDWRITTEN NOTES. HE
5 TESTIFIED PURSUANT TO THIS DOCUMENT.

6 MR. WILSON: NOT ONLY DID HE NOT TESTIFY
7 FROM THEM, JUDGE, HE DIDN'T MAKE THEM. SO EVEN IF
8 THEY ARE WRONG, HE DIDN'T MAKE THEM. THEY CAN'T
9 CROSS-EXAMINE THIS WITNESS BASED ON SOMEBODY ELSE'S
10 NOTES.

11 THE COURT: I UNDERSTAND. I RESPECT THAT
12 POSITION, BUT I AM GOING TO DENY THAT. I WOULD
13 CONCLUDE THAT THIS SHERIFF HAS SAID THAT HE TESTIFIED
14 FROM A DOCUMENT THAT YOU HAD IN YOUR POSSESSION AND
15 HAVE EXAMINED. I UNDERSTAND THAT YOU NOW WANT THE
16 NOTES THAT GAVE RISE TO THIS. I DECLINE TO DO THAT
17 AT THIS TIME. IT MAY BECOME AN ISSUE LATER AND WE'LL
18 REVISIT IT. BRING THE JURY IN.

19 MR. ROGERS: THANK YOU, YOUR HONOR, FOR
20 ALLOWING ME TO CLEAR UP THE RECORD.

21 THE COURT: YES, SIR. LET'S SEE. IN THE
22 PRESENCE OF THE JURY, WE'LL ASK IF THERE'S ANY
23 FURTHER CROSS-EXAMINATION. MR. ROGERS, DO YOU HAVE
24 ANY MORE?

25 MR. ROGERS: NO, YOUR HONOR.

(WHEREUPON, THE JURY WAS RETURNED TO THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE COMMENCED IN OPEN COURT.)

THE COURT: ALL RIGHT. THE JURY IS PRESENT. THE SHERIFF IS STILL ON THE STAND. IS THERE ANY FURTHER DIRECT OR REDIRECT EXAMINATION BY THE STATE?

MR. WILSON: NOTHING FROM THE STATE.

THE COURT: ANY FURTHER CROSS-EXAMINATION BY ANY OF THE DEFENDANTS?

MR. ERVIN: NOTHING FROM ME, YOUR HONOR.

THE COURT: ALL RIGHT. SHERIFF, YOU MAY COME DOWN. CALL YOUR NEXT WITNESS.

MR. WILSON: JAMES STEEN.

THE WITNESS: JAMES EDWARD STEEN.

JAMES STEEN,
HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
TESTIFIED AS FOLLOWS:

D I R E C T E X A M I N A T I O N

BY MR. WILSON:

Q. MR. STEEN, IF YOU WOULD, STATE YOUR FULL NAME.

A. JAMES EDWARD STEEN.

Q. AND LET ME ASK YOU, SIR, IF YOU OWN SOME

1 PROPERTY HERE IN BENNETTSVILLE?

2 A. MARLBORO COUNTY, YES, SIR.

3 Q. ALL RIGHT. IN MARLBORO COUNTY. I'M
4 SORRY.

5 A. YES, SIR.

6 Q. AND LET ME SHOW YOU NOW WHAT'S MARKED AS
7 STATE'S EXHIBIT NUMBER 15. TAKE A LOOK AT THAT. DO
8 YOU RECOGNIZE THAT?

9 A. YES, SIR.

10 Q. ALL RIGHT. AND THAT'S A HOUSE THAT
11 BELONGS TO YOU?

12 A. YES, SIR.

13 Q. ALL RIGHT. AND THIS IS JUST ANOTHER VIEW
14 OF THAT SAME HOUSE, IS IT NOT?

15 A. YES, SIR.

16 Q. WHICH IS STATE'S EXHIBIT 13?

17 A. YES, SIR.

18 Q. OKAY. NOW, LET ME ASK YOU IF BACK IN
19 NOVEMBER OF 1994, DID YOU OWN THIS PARTICULAR
20 PROPERTY?

21 A. NO, SIR.

22 Q. YOU DID NOT OWN IT IN NOVEMBER OF 1994?

23 A. NO, SIR.

24 Q. WHEN DID YOU PURCHASE THIS PROPERTY?

25 A. JANUARY OF '95.

1 Q. JANUARY OF '95. AND AT SOMETIME SHORTLY
2 AFTER YOU PURCHASED THIS PROPERTY, DID LAW
3 ENFORCEMENT COME OUT THERE TO TALK TO YOU ABOUT IT OR
4 LOOK OUT THERE OR WANT TO GO THROUGH THE HOUSE?

5 A. YES, SIR.

6 Q. ALL RIGHT. AND DID YOU AGREE TO ALLOW
7 THEM TO DO THAT?

8 A. YES, SIR.

9 Q. ALL RIGHT. DID THEY ASK YOUR PERMISSION
10 TO DO THAT?

11 A. YES, SIR.

12 Q. THANK YOU. YOU CONSENTED TO LETTING THEM
13 DO THAT?

14 A. YES.

15 Q. AND WAS THAT CONSENT ON YOUR PART FREELY
16 AND VOLUNTARY ON YOUR PART?

17 A. YES, SIR.

18 Q. AND THEREAFTER, ON HOW MANY OCCASIONS DO
19 YOU KNOW THAT THEY CAME OUT TO THE HOUSE TO LOOK
20 AROUND?

21 A. SEVERAL DIFFERENT TIMES.

22 Q. AND AT SOME POINT IN TIME, DID YOU TRY TO
23 CLEAN UP THIS OLD HOUSE OR CLEAN IT OUT OR ANYTHING
24 IN JANUARY?

25 A. YES, SIR. YES, SIR.

1 Q. ALL RIGHT. AND WHEN WAS THAT?

2 A. I DON'T KNOW THE EXACT DATE.

3 Q. ALL RIGHT. OKAY.

4 A. BUT --

5 Q. BUT IT WAS IN JANUARY?

6 A. YES, SIR. JANUARY -- WELL, NO, SIR. IT

7 WASN'T IN JANUARY.

8 Q. ALL RIGHT. WHEN WAS IT?

9 A. IT WAS IN -- I THINK IT WAS IN FEBRUARY WE

10 STARTED CLEANING THIS OLD HOUSE.

11 Q. YOU THINK CLEANING THE OLD HOUSE OUT IN

12 JANUARY?

13 A. FIRST OF JANUARY -- LAST OF JANUARY, FIRST

14 OF FEBRUARY. SOMEWHERE IN THAT NEIGHBORHOOD.

15 Q. DID YOU CLEAN IT OUT YOURSELF?

16 A. ME AND MY FATHER AND DANNY DAVIS.

17 Q. WAS YOUR FATHER -- IS YOUR FATHER STILL

18 LIVING?

19 A. NO, SIR.

20 Q. HE WAS LIVING BACK AT THAT TIME?

21 A. YES, SIR.

22 Q. DID HE PURCHASE IT IN HIS NAME OR DID YOU

23 PURCHASE IT OR DID Y'ALL PURCHASE IT TOGETHER OR HOW

24 WHAT IS DONE?

25 A. I PURCHASED IT IN MY NAME.

1 Q. ALL RIGHT. AND DID I UNDERSTAND YOU TO
2 SAY THAT YOU HIRED DANNY DAVIS TO HELP YOU CLEAN OUT
3 THIS HOUSE?

4 A. YES, SIR.

5 Q. ALL RIGHT. AND HOW DO YOU KNOW DANNY
6 DAVIS?

7 A. WELL, I'VE BEEN KNOWING HIM A PRETTY GOOD
8 WHILE AND HE WOULD -- JUST WANTED A LITTLE JOB TO DO,
9 AND JUST A HANDY MAN, YOU KNOW, JUST HELP ME DO
10 LITTLE ODDS AND ENDS.

11 Q. AND DID HE COME TO YOU OR DID YOU GO TO
12 HIM AND ASK HIM TO HELP YOU CLEAN THIS HOUSE OUT?

13 A. I THINK -- I WENT TO DANNY.

14 Q. YOU WENT TO HIM?

15 A. YES, SIR. I WOULD SEE HIM AROUND GIBSON,
16 YOU KNOW, FROM TIME TO TIME, AND HE WAS FRIENDS OF MY
17 GIRLFRIEND'S FAMILY.

18 Q. AND HAD HE DONE OTHER ODD JOBS FOR YOU IN
19 THE PAST?

20 A. YES, SIR.

21 Q. SO BEFORE YOU HAD HIM CLEAN THIS HOUSE
22 OUT, HE HAD DONE OTHER WORK FOR YOU?

23 A. YES.

24 Q. SO ON THIS PARTICULAR OCCASION, YOU ASKED
25 HIM TO COME OVER AND HELP YOU CLEAN OUT THE HOUSE.

1 AND EXACTLY WHAT WERE Y'ALL DOING IN TERMS OF
2 CLEANING THE INSIDE OR OUTSIDE OF THE HOUSE?

3 A. WELL, THERE WAS A LOT OF WHAT I CALL JUNK
4 IN IT.

5 Q. OKAY.

6 A. YOU KNOW, OLD CLOTHES AND CUPS AND CANS
7 AND MATCHES AND ODDS AND ENDS IN IT. AND WE WERE
8 JUST TAKING THEM OUT AND BURNING THEM.

9 Q. OKAY. AND DURING THE TIME THAT Y'ALL WERE
10 DOING THIS CLEANING, DID YOU FIND ANYTHING OF ANY
11 VALUE IN THE HOUSE?

12 A. NO, SIR.

13 Q. ALL RIGHT. DID DANNY BRING ANYTHING TO
14 YOUR ATTENTION THAT HE HAD FOUND IN THE HOUSE?

15 A. NOT REALLY.

16 Q. OKAY. NOW, AT SOME POINT -- AT SOME POINT
17 IN TIME, WERE YOU -- WELL, LET ME BACK UP AND ASK YOU
18 THIS WAY. WERE YOU PRESENT ON JANUARY 5TH WHEN THE
19 SHERIFF CAME OUT TO THE HOUSE?

20 A. YES, SIR.

21 Q. ALL RIGHT. AND WHAT DID HE DO OUT THERE
22 ON THE 5TH, THE BEST YOU REMEMBER?

23 A. WELL, I DON'T KNOW WHAT DAY IT WAS, BUT
24 ONE DAY HE CAME OUT AND SIFTED THROUGH SOME STUFF AND
25 SAID HE FOUND SOMETHING.

1 Q. DID YOU SEE WHATEVER IT WAS HE FOUND?

2 A. AN EARRING.

3 Q. AN EARRING?

4 A. YES, SIR.

5 Q. OKAY.

6 A. AND THERE WAS A PAIR OF GLASSES LAYING
7 OVER ON A -- A PIECE OF WOOD OR A CINDER BLOCK OR
8 SOMETHING.

9 Q. ALL RIGHT. LET ME SHOW YOU THIS. TAKE A
10 LOOK AT THAT, WHICH IS STATE'S EXHIBIT NUMBER 14.

11 A. YES, SIR.

12 Q. DOES THAT KIND OF LOOK LIKE WHAT YOU SAW?

13 A. YES, SIR.

14 Q. ALL RIGHT. AND A PAIR OF GLASSES. AND
15 THE SHERIFF SAW THAT THERE ON THAT DAY?

16 A. YES, SIR.

17 Q. ALL RIGHT. DID YOU SEE IT ON THAT DAY
18 TOO?

19 A. YES, SIR.

20 Q. ALL RIGHT. AND DID THE SHERIFF TAKE THAT
21 WITH HIM?

22 A. YES, SIR.

23 Q. ALL RIGHT. NOW, DID YOU PUT THESE GLASSES
24 THERE?

25 A. I DON'T KNOW WHO PUT THEM THERE. WE WAS

1 ALL -- LIKE I SAY, WE WAS ALL CLEANING OUT. I DON'T
2 KNOW WHETHER I PUT THEM THERE, MY FATHER OR DANNY.

3 Q. ALL RIGHT.

4 A. BUT YOU KNOW, I HAD LOOKED AT THE GLASSES
5 LAYING THERE BEFORE THEN. THEY WERE FOUND IN THE
6 HOUSE.

7 Q. SO THE GLASSES WERE FOUND IN THE HOUSE?

8 A. YES, SIR.

9 Q. ALL RIGHT. AND ONE OF THE THREE OF Y'ALL
10 PUT THEM ON THAT LOG?

11 A. YES, SIR.

12 Q. BUT YOU DON'T KNOW WHICH ONE?

13 A. I DON'T KNOW WHICH ONE.

14 Q. DO YOU KNOW HOW MANY DAYS BEFORE THE
15 SHERIFF CAME OUT THERE THAT Y'ALL HAD FOUND THOSE
16 GLASSES?

17 A. I SURE DON'T.

18 Q. ALL RIGHT. WHAT ABOUT THE EARRING? HAD
19 YOU SEEN THE EARRING BEFORE THE SHERIFF CAME OUT
20 THERE SIFTING THROUGH THE ASHES?

21 A. IF I HAD SAW IT, I DON'T RECALL SEEING IT.

22 Q. OKAY.

23 A. YOU KNOW.

24 Q. NOW, IN TERMS OF CLEANING OUT THE HOUSE,
25 WERE Y'ALL SWEEPING?

1 A. WELL, MOSTLY TAKING A RAKE -- THERE WAS SO
2 MUCH IN THERE YOU COULD JUST RAKE IT UP AND THROW IT
3 OUT IN PILES. MOST OF WHAT WE WERE DOING IS THROWING
4 OUT IN PILES AND BURNING.

5 Q. AND WHOSE DECISION WAS IT TO BURN THE JUNK
6 THAT YOU WERE TAKING OUT OF THE HOUSE?

7 A. MY FATHER WAS BAD ABOUT BURNING ODD STUFF
8 THAT DIDN'T HAVE ANY VALUE.

9 Q. SO IT WAS YOU AND YOUR FATHER'S DECISION
10 TO BURN IT?

11 A. YEAH. WELL, MY MINE AND MY FATHER. I
12 THINK SO.

13 Q. OKAY. YOU HAD NO OBJECTIONS TO LAW
14 ENFORCEMENT COMING OUT TO THE HOUSE AND RETRIEVING
15 THE GLASSES OR THE EARRING, DID YOU?

16 A. NO, SIR.

17 Q. ALL RIGHT. YOU SAID THAT YOU DIDN'T --
18 THAT YOU BOUGHT THE HOUSE SOMETIME IN JANUARY OR THE
19 FIRST OF '95?

20 A. YES, SIR.

21 Q. IS THAT CORRECT?

22 A. SOMEWHERE IN THAT NEIGHBORHOOD.

23 Q. ALL RIGHT. WHO OWNED THE HOUSE BEFORE YOU
24 DID?

25 A. DOUGIE HUNSUCKER.

1 Q. DOUGIE HUNSUCKER?
2 A. YES, SIR.
3 Q. HOW FAR IS THIS HOUSE THAT WE'RE SPEAKING
4 OF, WHICH IS IN STATE'S EXHIBIT NUMBER 13 AND 14 --
5 13 AND 15 -- HOW FAR ARE THOSE TWO HOUSES -- HOW FAR
6 IS THAT HOUSE FROM WHERE YOU ACTUALLY LIVE,
7 MR. STEEN?
8 A. NOW?
9 Q. YES, SIR?
10 A. 250 YARDS.
11 Q. 250 YARDS. WHAT ABOUT BACK THEN IN 1994?
12 A. I WAS STAYING UP IN GIBSON THEN.
13 Q. YOU WERE IN GIBSON THEN?
14 A. THREE MILES.
15 Q. BUT NOW IT'S 200 YARDS. AND WHO WAS
16 LIVING WHERE YOU ARE LIVING NOW?
17 A. THERE WASN'T ANYONE LIVING BACK -- I DON'T
18 KNOW.
19 Q. WHAT ABOUT YOUR FATHER? WHERE WAS HE
20 LIVING?
21 A. HE WAS STILL UP IN GIBSON TOO.
22 Q. HE WAS IN GIBSON TOO?
23 A. YES, SIR.
24 Q. DID Y'ALL OWN SOME OTHER PROPERTY UP
25 THERE?

1 Q. AND MACK STUCKEY STAYED IN THE HOUSE THAT
2 YOU NOW LIVE IN?

3 A. YES, THE ONE I REMODELLED.

4 Q. WHAT KIND OF THINGS -- YOU SAID THAT Y'ALL
5 HAD MOVED A LOT OF STUFF OUT AND WAS THROWING A BUNCH
6 OF STUFF OUT AND BURNING IT. WHAT KIND OF THINGS
7 WERE YOU THROWING OUT AND BURNING?

8 A. OLD MATTRESS IN THERE. AND MIGHT HAVE
9 BEEN OLD COUCH OR SO IN THERE.

10 Q. OKAY.

11 A. AND CUPS AND CANS AND THINGS LIKE THAT, WE
12 WERE JUST RAKING THEM OUT.

13 Q. SO YOU FOUND SOME MATTRESSES. HOW MANY
14 MATTRESSES WERE IN THERE?

15 A. TWO OR THREE OLD MATTRESSES.

16 Q. AND YOU SAID THERE WAS A COUCH?

17 A. I THINK THERE WAS A COUCH IN THERE. I'M
18 NOT POSITIVE, BUT I THINK A GOLD COUCH.

19 Q. YOU BURNED ALL OF THOSE THINGS UP?

20 A. YES, SIR.

21 Q. ALL RIGHT. LET ME ASK YOU TO TAKE A LOOK
22 AT WHAT'S MARKED AS STATE'S EXHIBIT NUMBER 10. DID
23 YOU SEE ANY TAPE LIKE THAT IN THERE?

24 A. NOT AS I CAN RECALL.

25 Q. ALL RIGHT. LET ME SHOW YOU THESE PICTURES

1 HERE AND ASK YOU IF YOU CAN IDENTIFY THE INSIDE OF
2 THIS, PLEASE. IF YOU CAN'T, THAT'S ALL RIGHT. DON'T
3 WORRY ABOUT IT.

4 A. THAT'S THE OLD HOUSE. I THINK -- YEAH,
5 THAT'S THE OLD HOUSE, I THINK.

6 Q. WELL, IF YOU DON'T KNOW, THAT'S OKAY.
7 DON'T WORRY ABOUT IT. OKAY. IS THE PROPERTY STILL
8 ABANDONED? I MEAN, IS ANYBODY LIVING IN IT OR HAS IT
9 BEEN FIXED UP OR ANYTHING?

10 A. WELL, WE HAD STARTED FIXING IT UP, AND
11 I'VE GOT A FELLOW THERE, A HANDYMAN HELPS ME OUT A
12 LITTLE BIT AND HE STAYS IN IT NOW.

13 Q. OKAY.

14 A. YOU KNOW, AT TIMES.

15 MR. WILSON: COURT BEAR WITH US ONE
16 SECOND, PLEASE. I DON'T HAVE ANY OTHER QUESTIONS.
17 THAT'S ALL RIGHT.

18 THE COURT: ALL RIGHT MR. ERVIN.

19 C R O S S - E X A M I N A T I O N

20 BY MR. ERVIN:

21 Q. MR. STEEN, YOU STATED THAT DANNY DAVIS WAS
22 HELPING YOU CLEAN OUT THE BUILDING, THE HOUSE?

23 A. YES, SIR.

24 Q. AND SO HE WAS PRESENT WHEN THE ITEMS WERE
25 REMOVED FROM THE HOME THAT WERE BEING PLACED IN THE

1 FIRE TO BE BURNED?

2 A. YES, SIR.

3 Q. WAS HE ACTUALLY DOING THAT HIMSELF?

4 A. WELL, WE WERE ALL DOING IT, YOU KNOW.

5 Q. OKAY. SO AS FAR AS WHAT YOU CALLED AN
6 EARRING -- AND I'M NOT SURE WHERE THAT IS, YOUR
7 HONOR -- SO YOU WERE WITH SHERIFF FOLEY WHEN HE
8 REMOVED THAT FROM THE FIRE?

9 A. I WEREN'T WITH HIM, NOW.

10 Q. OKAY.

11 A. I WAS OUT THERE, BUT HE SAID HE HAD FOUND
12 AN EARRING.

13 Q. SO THAT'S WHY YOU REFER TO IT AS AN
14 EARRING BECAUSE SOMEBODY HAD TOLD YOU THAT THAT WAS
15 FOUND THERE? IS THAT CORRECT?

16 A. YES, SIR.

17 Q. AND THE GLASSES, DID YOU PLACE THEM ON THE
18 LOG OR YOU REALLY DON'T RECALL?

19 A. I DON'T KNOW WHO PLACED THEM ON THE LOG,
20 ME OR DANNY OR MY FATHER.

21 Q. WOULD THERE HAVE BEEN ANY REASON YOU WOULD
22 HAVE PLACED THEM ON THE LOG?

23 A. WELL, I FIGURED THEY WERE NO GOOD. IT WAS
24 JUST LIKE PICKING UP A PIECE OF TRASH LAYING OVER
25 THERE, YOU KNOW -- KNOW.

1 Q. UNLESS YOU WERE GOING TO SAVE THEM?

2 A. SIR?

3 Q. UNLESS YOU WERE GOING TO SAVE THEM?

4 A. YES, SIR.

5 MR. ERVIN: THAT'S ALL I HAVE.

6 C R O S S - E X A M I N A T I O N

7 BY MR. PADGETT:

8 Q. MR. STEEN, WHEN Y'ALL FOUND THE GLASSES,
9 IT WAS YOU AND DANNY, AND WHO ELSE WAS WITH YOU?

10 A. MY FATHER.

11 Q. WAS ANY EFFORT MADE TO HIDE OR CONCEAL
12 THESE GLASSES?

13 A. NO, SIR.

14 Q. THEY WERE SWEEPED OUT THE DOOR?

15 A. YES, SIR.

16 Q. NOBODY TRIED TO RUN OFF WITH THEM OR
17 ANYTHING LIKE THAT?

18 A. NO.

19 Q. IF SOMEBODY DID, THEY COULD HAVE DONE
20 THAT, COULDN'T THEY?

21 A. YEAH.

22 Q. YOU WEREN'T INTERESTED IN THOSE GLASSES AT
23 THE TIME, WERE YOU?

24 A. NOT AT ALL. I DIDN'T HAVE ANYTHING --

25 Q. WERE MENTIONED A HOUSE THAT RICKY STUCKEY

1 BY MR. LAWSON:

2 Q. MR. STEEN, JUST A COUPLE OF THINGS. NOW,
3 YOU BOUGHT THE HOUSE THE FIRST OF JANUARY OF '95?

4 A. YES, SIR.

5 Q. ALL RIGHT. AND WOULD IT BE FAIR TO ASSUME
6 THAT THE DAY THAT THE -- WHAT YOU WERE TOLD WAS AN
7 EARRING WAS FOUND WAS AFTER Y'ALL STARTED CLEANING
8 OUT THE HOUSE. ISN'T THAT CORRECT?

9 A. YES, SIR.

10 Q. BECAUSE IT WAS FOUND IN A PILE OF TRASH
11 THAT Y'ALL HAD BURNED?

12 A. YES, SIR.

13 Q. AND AT THAT POINT, DANNY DAVIS WAS ALREADY
14 HELPING YOU CLEAN OUT THAT PLACE, WASN'T HE?

15 A. YES, SIR.

16 Q. SO HE HAD ACCESS IN AND OUT OF THAT PLACE,
17 DIDN'T HE?

18 A. YES, SIR.

19 Q. AND HE COULD VIEW IT AND HE COULD LOOK AT
20 IT AND SEE WHAT WAS THERE AND WHAT WASN'T THERE,
21 COULDN'T HE?

22 A. YES, SIR.

23 Q. AND AS A MATTER OF FACT, THAT WAS HIS JOB?

24 A. YES, SIR.

25 Q. AND IF THERE WAS SOMETHING VALUABLE, YOU

1 THE COURT: YOU MAY COME DOWN. THANK YOU.

2 MR. WILSON: JERRY STARNES.

3 JERRY STARNES,

4 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
5 TESTIFIED AS FOLLOWS:

6 D I R E C T E X A M I N A T I O N

7 BY MR. WILSON:

8 Q. OFFICER STARNES, YOU'RE WITH THE SHERIFF
9 DEPARTMENT IN MARLBORO COUNTY?

10 A. YES.

11 Q. AND LET ME ASK YOU BACK IN NOVEMBER OF
12 1994, IN NOVEMBER AND DECEMBER, AND JANUARY OF '95,
13 WERE YOU ALSO WITH THE SHERIFF'S DEPARTMENT?

14 A. YES, SIR.

15 Q. NOW, LET ME ASK YOU IF AT SOME POINT IN
16 TIME YOU HAD OCCASION IN JANUARY OF '95 TO GO TO THE
17 HOUSE AT HUNSUCKER ROAD I THINK IT IS?

18 A. PEARSON ROAD, HONEYSUCKLE AREA.

19 Q. OKAY. AND LET ME SHOW YOU WHAT'S BEEN
20 MARKED STATE'S EXHIBIT 16 FOR IDENTIFICATION AND ASK
21 YOU IF -- I'M SORRY, IT'S 16 NOT FOR IDENTIFICATION.
22 IT'S 16. IT'S 16. LET ME SHOW YOU WHAT'S BEEN
23 MARKED AS STATE'S EXHIBIT 16 AND ASK YOU IF YOU
24 RECOGNIZE THAT OBJECT?

25 A. YES, SIR.

1 Q. ALL RIGHT. TELL US HOW YOU CAME INTO
2 POSSESSION OF IT.

3 A. STATE'S EXHIBIT 16, ON JANUARY THE 10TH OF
4 '95, SHERIFF FOLEY CALLED ME OUT TO PEARSON ROAD TO
5 THE ABANDONED HOUSE THERE ON PEARSON ROAD WHERE HE
6 HAD SIFTED THROUGH SOME TRASH AND FOUND THIS, WHICH
7 APPEARED TO BE AN EARRING.

8 Q. ALL RIGHT. AND WHEN YOU ARRIVED, WHERE
9 WAS ITEM 16, STATE'S EXHIBIT 16? WHERE WAS THAT
10 LOCATED WHEN YOU ARRIVED?

11 A. IT WAS LAYING THERE IN HIS SIFTER.

12 Q. AND WAS HE PRESENT AT THAT TIME?

13 A. YES, SIR.

14 Q. AND DID HE TURN IT OVER TO YOU AT THAT
15 TIME?

16 A. YES, SIR. I TOOK IT AND PLACED IT IN THIS
17 BAG.

18 Q. ALL RIGHT. AND AFTER THAT, DID YOU PLACE
19 IT IN YOUR CARE, CUSTODY AND CONTROL?

20 A. YES, SIR. I PLACED IT IN OUR EVIDENCE
21 ROOM AND THAT'S WHERE IT HAS BEEN UNTIL TODAY.

22 Q. ALL RIGHT, SIR. DID YOU CHANGE OR ALTER
23 STATE'S EXHIBIT 16 IN ANY FASHION WHATSOEVER AFTER IT
24 CAME INTO YOUR POSSESSION PRIOR TO YOUR BRINGING IT
25 IN HERE TODAY?

1 A. NO, SIR.

2 Q. ALL RIGHT. NOW, LET ME SHOW YOU WHAT'S
3 BEEN MARKED AS STATE'S EXHIBIT NUMBER 7 AND STATE'S
4 EXHIBIT NUMBER 8. TAKE A LOOK AT THOSE ITEMS FOR ME
5 WHICH HAVE BEEN MARKED FOR IDENTIFICATION.

6 A. YES, SIR.

7 Q. AND CAN YOU TELL ME HOW YOU CAME INTO
8 POSSESSION OF THOSE PARTICULAR ITEMS?

9 A. THIS POCKETBOOK WAS FOUND BY DAVID FREEMAN
10 IN THE CREEK AREA UP THERE WHERE THE BODY WAS FOUND
11 AND HE TURNED IT OVER TO ME AT THE SHERIFF'S OFFICE.

12 Q. ALL RIGHT. AND WHAT ABOUT STATE'S EXHIBIT
13 NUMBER 8 FOR I.D.?

14 A. STATE'S EXHIBIT NUMBER 8 WAS THE CONTENTS
15 WHICH WAS IN THIS POCKETBOOK, WHICH IS STATE'S
16 EXHIBIT NUMBER 7.

17 Q. OKAY. AND AFTER HAVING RECEIVED BOTH OF
18 THOSE ITEMS FROM OFFICER FREEMAN, WHAT IF ANYTHING
19 DID YOU DO WITH THEM?

20 A. THEY WERE PLACED INTO OUR EVIDENCE ROOM
21 AND STAYED THERE UNTIL THEY WERE SENT TO SLED.

22 Q. ALL RIGHT. AND AT SOME POINT IN TIME, DID
23 YOU RECEIVE THEM BACK FROM SLED?

24 A. YES, SIR.

25 Q. AND WHO BROUGHT THEM BACK FROM SLED?

1 A. DAVID FREEMAN.

2 Q. ALL RIGHT. AND SINCE HE BROUGHT THEM
3 BACK, HAVE THEY REMAINED IN YOUR CARE, CUSTODY AND
4 CONTROL?

5 A. THEY WERE PLACED IN OUR EVIDENCE ROOM BY
6 ME. RIGHT.

7 Q. NOW, LET ME SHOW YOU WHAT'S MARKED AS
8 STATE'S EXHIBIT NUMBER 14 AND ASK YOU IF YOU CAN
9 IDENTIFY THAT?

10 A. THAT LOOKS LIKE THE GLASSES THAT I
11 RETRIEVED THE DAY THE SHERIFF CALLED ME OUT THERE.
12 THE GLASSES WERE LAYING ON THIS LOG AND I TOOK THEM
13 INTO MY CUSTODY.

14 Q. ALL RIGHT. WHEN YOU WENT OUT TO THIS
15 HOUSE THIS DAY, THE GLASSES WERE ON THE LOG?

16 A. YES, SIR. I WENT OUT TO THE HOUSE.

17 Q. AND DID YOU RETRIEVE THEM YOURSELF FROM
18 THE LOG?

19 A. YES, SIR.

20 Q. AND DID YOU THEN TAKE THEM INTO YOUR CARE,
21 CUSTODY AND CONTROL?

22 A. YES, SIR.

23 Q. ALL RIGHT. AFTER TAKING THESE GLASSES
24 INTO YOUR CARE, CUSTODY AND CONTROL, WHAT IF ANYTHING
25 DID YOU DO WITH THEM?

1 A. I TOOK THEM TO DR. BEATTY'S OFFICE, WHICH
2 I HAD INFORMATION THAT HER EYE DOCTOR WAS DR. BEATTY.
3 AND I TOOK THESE GLASSES TO DR. BEATTY TO SEE IF THEY
4 COULD TELL ME AS FAR AS BY PRESCRIPTION WERE THESE --
5 WERE THESE PRESCRIPTION GLASSES AND MAYBE WHO THEY
6 BELONGED TO.

7 Q. OKAY. AND WHO -- YOU TOOK THOSE ITEMS --
8 YOU TOOK THE GLASSES THEN TO DR. BEATTY'S OFFICE TO
9 HAVE THEM EXAMINE THEM. IS THAT CORRECT?

10 A. YES.

11 Q. AND DID THEY IN FACT EXAMINE THOSE GLASSES
12 FOR YOU?

13 A. YES, SIR.

14 Q. AND DID THEY THEN GIVE YOU THEIR OPINION?

15 A. THEIR OPINION WAS --

16 Q. DON'T TELL ME WHAT THEIR OPINION WAS, BUT
17 JUST DID THEY GIVE YOU THEIR OPINION?

18 A. YES, SIR.

19 Q. ALL RIGHT. PRIOR TO TAKING THOSE GLASSES
20 TO DR. BEATTY'S OFFICE, DID YOU CHANGE THE CONTENTS
21 OF THOSE GLASSES IN ANY FASHION BEFORE DELIVERING
22 THEM?

23 A. NO, SIR.

24 Q. DID YOU RECEIVE THEM BACK AFTER THEY MADE
25 WHATEVER ANALYSIS THAT THEY NEEDED TO MAKE?

1 A. I STAYED RIGHT THERE WITH THEM WHILE THEY
2 DONE IT.

3 Q. SO WHATEVER WAS DONE WAS DONE IN YOUR
4 PRESENCE?

5 A. YES, SIR.

6 Q. LET ME SHOW YOU WHAT'S MARKED AS STATE'S
7 EXHIBIT NUMBER 10, 11 AND 12, WHICH IS PIECES OF GRAY
8 DUCT TAPE AND ASK YOU IF YOU HAVE EVER RECEIVED
9 CUSTODY AND CONTROL OF THOSE ITEMS?

10 A. YES, SIR. STATE'S EXHIBIT 10, 11 AND
11 12 --

12 Q. ALL FOR I.D. I'M SORRY.

13 A. -- WERE BROUGHT BACK FROM SLED AND TURNED
14 OVER TO ME TO PUT INTO THE EVIDENCE ROOM.

15 Q. ALL RIGHT. AND SINCE THEY WERE RETURNED
16 TO YOU FROM SLED, HAVE YOU MAINTAINED THEM IN YOUR
17 CARE, CUSTODY AND CONTROL?

18 A. YES, SIR.

19 Q. AND HAVE YOU CHANGED OR ALTERED THE
20 CONTENTS OF THOSE ITEMS IN ANY FASHION WHATSOEVER?

21 A. NONE WHATSOEVER.

22 Q. AND ARE THEY STILL SEALED IN THE SAME
23 PACKAGE THAT THEY WERE SEALED IN AT THE TIME YOU
24 RECEIVED THEM?

25 A. RIGHT.

1 Q. LET ME ALSO ASK YOU IF AT SOME POINT IN
2 TIME YOU RECEIVED A ROLL OF TAPE FROM SAM WALLS'
3 VEHICLE?

4 A. YES, SIR.

5 Q. AND TELL US WHAT IF ANYTHING YOU DID WITH
6 THAT ROLL OF TAPE THAT YOU RECEIVED FROM SAM WALLS'
7 VEHICLE.

8 A. I TOOK THE TAPE, REMOVED IT FROM SAM
9 WALLS' VEHICLE AND PLACED IT INTO A BAG AND PUT IT IN
10 THE EVIDENCE ROOM UNTIL IT WAS SENT TO SLED.

11 Q. ALL RIGHT. AND DID YOU REMOVE THE ROLL OF
12 TAPE FROM SAM WALLS' VEHICLE YOURSELF?

13 A. YES, SIR.

14 Q. ALL RIGHT. AND YOU THEREAFTER PACKAGED IT
15 AND SENT THAT TO SLED?

16 A. YES, SIR.

17 Q. BY WHOM DID YOU SEND IT TO SLED?

18 A. BY DAVID FREEMAN.

19 Q. BY DAVID FREEMAN. AND HE'S ALREADY
20 TESTIFIED HERE?

21 A. EITHER DAVID FREEMAN OR MYSELF EITHER ONE
22 WOULD HAVE TAKEN IT TO SLED.

23 Q. HAVE YOU RECEIVED THAT BACK AT THIS TIME?

24 A. NO, SIR, I HAVE NOT.

25 Q. SO SLED STILL HAS THAT?

1 A. TO MY KNOWLEDGE, SLED STILL HAS IT.

2 Q. STATE'S EXHIBIT 16, IF I MIGHT, WOULD YOU
3 TAKE A LOOK AT THAT FOR ME?

4 A. YES, SIR.

5 Q. COULD YOU TELL ME WHERE YOU RECEIVED THAT
6 ITEM, IF IN FACT YOU DID?

7 A. WELL, WHERE I RECEIVED IT?

8 Q. YES, SIR.

9 A. I RECEIVED IT FROM SHERIFF FOLEY. SHERIFF
10 FOLEY CALLED ME UP THERE AND I GOT IT FROM THE HOUSE
11 UP THERE ON PEARSON ROAD.

12 Q. ALL RIGHT. AND AFTER RECEIVING THAT ITEM,
13 DID YOU KEEP IT IN YOUR CARE, CUSTODY AND CONTROL?

14 A. YES, SIR.

15 Q. AND DID YOU CHANGE OR ALTER THAT ITEM IN
16 ANY FASHION WHATSOEVER PRIOR TO BRINGING IT TO THIS
17 COURT TODAY?

18 A. NO, SIR. NONE WHATSOEVER.

19 MR. WILSON: YOUR HONOR, THE STATE WOULD
20 MOVE FOR WHAT HAS BEEN PREVIOUSLY BEEN MARKED STATE'S
21 EXHIBIT 16 INTO EVIDENCE.

22 THE COURT: YES, SIR. I WILL ADMIT IT.

23 (STATE'S EXHIBIT NUMBER 16
24 ENTERED INTO EVIDENCE.)

25 MR. WILSON: NO OTHER QUESTIONS.

1 THE COURT: MR. ERVIN, YOU MAY
2 CROSS-EXAMINE.

3 C R O S S - E X A M I N A T I O N

4 BY MR. ERVIN:

5 Q. INVESTIGATOR STARNES, A FEW QUESTIONS. SO
6 YOU WERE OUT AT MR. STEEN'S HOME WHEN THIS EVIDENCE
7 WAS COLLECTED?

8 A. YES, SIR.

9 Q. AND YOU WERE OUT THERE APPARENTLY WHEN
10 DANNY DAVIS WAS WORKING, THEN, SOME OF THE TIME?

11 A. NO, SIR.

12 Q. HE WASN'T THERE THEN?

13 A. NO, SIR.

14 Q. WELL, THERE'S BEEN SOME TESTIMONY THAT
15 WHEN THE SHERIFF WAS OUT THERE ON THE 5TH AND THE EYE
16 GLASSES WERE FOUND -- YOU WERE SAYING YOU WERE OUT
17 THERE THEN, WEREN'T YOU?

18 A. I COME OUT THERE. I WAS CALLED OUT THERE,
19 YES.

20 Q. WELL, TWO PEOPLE HAVE SAID THAT DANNY
21 DAVIS WAS THERE THAT DAY. DID YOU SEE HIM?

22 A. I DON'T RECALL SEEING HIM, NO, SIR.

23 Q. OKAY. YOU DIDN'T GO OUT THERE TO TALK TO
24 HIM AT ANY TIME?

25 A. AT THAT HOUSE?

1 LET THE JURY GO TO THE JURY ROOM JUST A MOMENT, ALL
2 OF YOU. WE'LL CALL YOU RIGHT BACK OUT IN JUST A
3 MINUTE.

4 (WHEREUPON, THE JURY WAS REMOVED
5 FROM THE COURTROOM AND THE
6 FOLLOWING PROCEEDINGS COMMENCED
7 IN OPEN COURT.)

8 THE COURT: ALL RIGHT. WE'LL BE AT EASE
9 UNTIL JUST AS SOON AS THE JURY RETURNS.

10 (WHEREUPON, A BREAK WAS TAKEN
11 FROM THE PROCEEDINGS.)

12 (WHEREUPON, THE JURY WAS RETURNED
13 TO THE COURTROOM AND THE FOLLOWING
14 PROCEEDINGS WERE COMMENCED IN
15 OPEN COURT.)

16 THE COURT: ALL RIGHT. THE DEFENDANT AND
17 EVERYONE IS PRESENT. CALL YOUR NEXT WITNESS,
18 SOLICITOR.

19 MR. WILSON: MS. BEATTY.

20 THE COURT: WAIT A MINUTE. HOLD IT A
21 MINUTE.

22 MR. WILSON: THEY ARE ALL HERE.

23 THE COURT: I THOUGHT EVERYBODY WAS HERE.

24 THE CLERK: STATE YOUR FULL NAME.

25 THE WITNESS: PATRICIA KNIGHT BEATTY.

1 A. YES.

2 Q. AND HOW LONG HAS HE BEEN IN BUSINESS HERE?

3 A. FORTY-THREE -- FORTY-THREE YEARS.

4 Q. OKAY. NOW, LET ME ASK YOU, MA'AM, IN

5 TERMS OF -- IN TERMS OF DARLENE PATTERSON, DID YOU

6 CHECK YOUR RECORDS AT SOME POINT TO SEE IF SHE WAS A

7 PATIENT OF YOUR HUSBAND'S?

8 A. YOU MEAN, THE GLASSES?

9 Q. WELL, WHAT I'M ASKING YOU FIRST IS WAS SHE

10 A PATIENT OF YOUR HUSBAND'S?

11 A. YES, SHE WAS. YES, SHE WAS.

12 Q. AND DID YOUR HUSBAND AT SOME POINT

13 PRESCRIBE GLASSES FOR HER?

14 A. YES, HE DID.

15 Q. AND YOU ARE THE PERSON WHO WOULD BE

16 RESPONSIBLE FOR KEEPING THE RECORDS OF THAT?

17 A. YES.

18 Q. FOR HIS OFFICE; IS THAT CORRECT?

19 A. YES, SIR.

20 Q. AND WOULD YOU HAVE BEEN THAT PERSON BACK

21 IN 1994?

22 A. YES, SIR.

23 Q. ALL RIGHT. NOW, LET ME SHOW YOU THIS ITEM

24 AND ASK YOU TO TAKE A LOOK AT IT FOR ME. HAVE YOU

25 SEEN THOSE ITEMS BEFORE?

1 A. YES, SIR, I HAVE.

2 Q. AND WHEN WAS -- WHEN IS THE LAST TIME THAT
3 YOU'VE SEEN THAT ITEM PRIOR TO TODAY?

4 A. JANUARY 5, 1995.

5 Q. AND UNDER WHAT CIRCUMSTANCES DID YOU SEE
6 THOSE GLASSES BACK THEN?

7 A. JERRY STARNES BROUGHT THEM INTO MY
8 HUSBAND'S OFFICE AND ASKED ME IF I WOULD PULL HER
9 RECORD.

10 Q. IF YOU WOULD, JUST TAKE THAT OUT AND HOLD
11 IT -- YOUR VOICE IS SOFT AND IT DOESN'T CARRY REAL
12 WELL. AND WE'LL START BACK.

13 A. OKAY.

14 Q. BACK IN -- TELL US WHEN THE LAST TIME WAS
15 THAT YOU SAW THOSE GLASSES BEFORE TODAY.

16 A. JANUARY THE 5TH, 1995.

17 Q. OKAY. AND WHERE WAS THAT?

18 A. IN MY HUSBAND'S OFFICE.

19 Q. ALL RIGHT. AND UNDER WHAT CIRCUMSTANCES?

20 A. JERRY STARNES CAME IN OUR OFFICE ABOUT
21 12:25 AND GAVE ME A PAIR OF GLASSES AND ASKED ME IF I
22 WOULD PULL A PATIENT'S RECORD AND IF I WOULD VERIFY
23 THAT THEY WERE HER GLASSES.

24 Q. OKAY. AND MR. STARNES CAME -- OFFICER
25 STARNES CAME IN AND ASKED IF YOU WOULD PULL THOSE

1 RECORDS AND VERIFY WHO THOSE GLASSES BELONGED TO; IS
2 THAT RIGHT?

3 A. YES, SIR.

4 Q. AND DID YOU AGREE TO DO THAT?

5 A. YES, SIR, I DID.

6 Q. AND HOW WOULD YOU DO THAT? EXPLAIN TO THE
7 JURY WHAT PROCESS YOU WOULD USE IN ORDER TO IDENTIFY
8 THESE GLASSES AS BELONGING TO A CERTAIN INDIVIDUAL.

9 A. OKAY. THIS ONE WAS EASY BECAUSE I HAD A
10 PRESCRIPTION TO READ. I TOOK THE GLASSES TO THE LAB
11 AND I HAVE A LENSOPTEK WHICH IS LIKE A -- I CALL IT A
12 SPECIALIZED TELESCOPE THAT YOU CAN LAY THE GLASSES IN
13 AND YOU CAN CHECK TO SEE IF THE PRESCRIPTION HAS A
14 SPHERE CYLINDER. AND AS I SAY, THIS PARTICULAR
15 PRESCRIPTION DID HAVE THOSE, AND SO I WAS ABLE TO
16 VERIFY THAT IT WAS AN IDENTICAL PRESCRIPTION TO HERS.

17 Q. OKAY. AND WHAT ABOUT THE FRAMES? DID
18 YOUR OFFICE SELL HER THOSE FRAMES ALSO?

19 A. NO, SIR. AT THE TIME, SHE HAD TWO PAIR OF
20 GLASSES. SHE HAD A PAIR OF SAFETY GLASSES WHEN SHE
21 WAS WORKING AT ESSEX AND SHE HAD A PAIR OF DRESS
22 GLASSES.

23 Q. OKAY.

24 A. AND THIS IS THE FRAME WHERE WE HAD WRITTEN
25 UP A FRAME FOR HER RX GLASSES.

1 Q. WHAT DOES THAT MEAN?

2 A. A FORM FOR A COMPANY THAT WILL WRITE --
3 THAT WILL PRESCRIBE SAFETY GLASSES.

4 Q. SO Y'ALL BASICALLY WROTE HER A
5 PRESCRIPTION FOR THOSE SAFETY GLASSES?

6 A. YES, SIR.

7 Q. AND AS A RESULT OF THAT PRESCRIPTION, SHE
8 COULD GO AND HAVE IT FILLED AND GET THEM?

9 A. YES, SIR. WE WROTE DOWN THE FRAME OF --
10 THE FRAME STYLE, THE SIZE AND EVERYTHING FOR HER.

11 Q. ALL RIGHT. AND ARE THOSE THERE THE
12 GLASSES AND FRAMES THAT YOU PRESCRIBED OR YOUR
13 HUSBAND PRESCRIBED FOR HER?

14 A. YES, SIR. THEY ARE.

15 Q. ALL RIGHT. AND DID YOU TELL THAT TO
16 DEPUTY STARNES AT THAT TIME BACK IN JANUARY OF '94?

17 A. YES, SIR.

18 Q. '95, I'M SORRY?

19 A. '95. YES, SIR.

20 Q. I WOULD ASK THAT THESE BE MARKED FOR
21 IDENTIFICATION PURPOSES ONLY.

22 (STATE'S EXHIBIT NUMBER 17
23 MARKED FOR IDENTIFICATION.)

24 MR. WILSON: NO OTHER QUESTIONS. THANK
25 YOU VERY MUCH. ANSWER ANY QUESTIONS THAT THESE

1 GENTLEMEN MAY HAVE FOR YOU.

2 MR. ERVIN: NO QUESTIONS, YOUR HONOR.

3 C R O S S - E X A M I N A T I O N

4 BY MR. PADGETT:

5 Q. ARE THESE SAFETY GLASS?

6 A. THE FRAME OF A SAFETY FRAME, YES, SIR.

7 MR. REDMOND: NO QUESTIONS YOUR HONOR.

8 MR. MOORE: NO QUESTIONS.

9 MR. WILL ROGERS: NO QUESTIONS, YOUR

10 HONOR.

11 THE COURT: MR. LAWSON.

12 MR. LAWSON: NO QUESTIONS.

13 THE COURT: YOU MAY COME DOWN. THANK YOU.

14 MAY THIS WITNESS NOW BE EXCUSED?

15 MR. WILSON: YES, SIR, PLEASE. THANK YOU.

16 JOHN BARRON.

17 THE CLERK: PLEASE COME AROUND AND PLACE

18 YOUR LEFT HAND ON THE BIBLE. RAISE YOUR RIGHT HAND

19 AND BE SWORN. PLEASE STATE YOUR FULL NAME FOR THE

20 RECORD.

21 THE WITNESS: JOHN C. BARRON.

22 JOHN BARRON,

23 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,

24 TESTIFIED AS FOLLOWS:

25 D I R E C T E X A M I N A T I O N

1 A. WELL, FIRST OF ALL, HAVE A BACHELOR OF
2 SCIENCE DEGREE IN MICROBIOLOGY FROM CLEMSON
3 UNIVERSITY. SINCE MY EMPLOYMENT AT SLED, I HAVE
4 CONSTANTLY RECEIVED TRAINING IN VARIOUS AREAS
5 DEPENDING UPON THE TYPE OF ANALYSIS. I'VE ALSO
6 RECEIVED TRAINING FROM PREVIOUSLY COURT-QUALIFIED
7 ANALYSTS. IN ADDITION TO THAT, I WOULD RECEIVE
8 ADDITIONAL TRAINING AT QUALIFIED INSTITUTES OF HIGHER
9 LEARNING SUCH AS UNIVERSITIES OR RESEARCH INSTITUTES
10 OR THE FEDERAL BUREAU OF INVESTIGATION OR THROUGH
11 PROFESSIONAL ORGANIZATIONS SUCH AS SOUTHERN
12 ASSOCIATION OF FORENSIC SCIENCE. ONCE I'M QUALIFIED
13 TO DO AN EXAMINATION, THEN I PROCEED TO THEN, YOU
14 KNOW, DO THE ANALYSIS AND TESTIFY ON THE RESULTS.

15 Q. ALL RIGHT. AND HOW LONG HAVE YOU BEEN
16 DOING TRACE ANALYSIS?

17 A. WELL, CERTAIN PARTS OF THE TRACE ANALYSIS
18 I'VE BEEN DOING A LOT LONGER THAN OTHERS.

19 Q. OKAY.

20 A. THE TRACE DEPARTMENT ITSELF AT SLED HAS
21 ONLY BEEN IN EXISTENCE FOR EIGHT YEARS. HOWEVER,
22 VARIOUS TYPES OF ANALYSIS HAS ALWAYS BEEN -- THAT
23 HAVE BEEN PERFORMED AT SLED HAVE BEEN PERFORMED
24 LONGER THAN THAT. I'VE BEEN PERFORMING, FOR
25 INSTANCE, HAIR EXAMINATIONS FOR 20 YEARS, BUT

1 PERFORMING FIBER AND THINGS ASSOCIATED WITH FIBERS
2 FOR APPROXIMATELY SIX YEARS.

3 Q. OKAY. AND LET'S JUST RIGHT NOW JUST TALK
4 ABOUT FIBERS AND THINGS LIKE THAT. HOW LONG? YOU
5 SAID ABOUT FIVE YEARS?

6 A. YES, SIR.

7 Q. AND HOW MANY TIMES WOULD YOU THINK THAT
8 YOU HAVE TESTIFIED IN COURT PERTAINING TO FIBERS AND
9 OTHER KIND OF MATERIALS?

10 A. I WOULD SAY APPROXIMATELY 20 TIMES.

11 Q. ALL RIGHT. AND HAVE YOU BEEN QUALIFIED AS
12 AN EXPERT WITNESS IN THOSE 20 TIMES?

13 A. YES, SIR.

14 Q. IN FIELDS OF TRACE ANALYSIS?

15 A. THAT'S CORRECT.

16 Q. ALL RIGHT. AND HOW MANY DIFFERENT PIECES
17 OF TRACE EVIDENCE WOULD YOU THINK YOU HAVE EXAMINED
18 IN YOUR 22-PLUS YEARS AT SLED?

19 A. OH, I WOULD SAY TENS OF THOUSANDS,
20 PROBABLY.

21 MR. WILSON: YOUR HONOR, AT THIS TIME THE
22 STATE WOULD OFFER THIS WITNESS AS AN EXPERT IN THE
23 FIELD OF TRACE ANALYSIS.

24 THE COURT: YES, SIR. I QUALIFY HIM
25 THUSLY.

1 BY MR. WILSON:

2 Q. NOW, LET ME ASK YOU IN REGARDS TO THIS
3 PARTICULAR CASE IF AT SOME POINT IN TIME YOU RECEIVED
4 SOME EVIDENCE OR ITEMS OF EVIDENCE FROM THE MARLBORO
5 COUNTY SHERIFF'S DEPARTMENT AND/OR FROM OTHER SLED
6 AGENTS IN THIS CASE?

7 A. YES, SIR. I RECEIVED NUMEROUS ITEMS.

8 Q. ALL RIGHT. LET ME SHOW YOU MORE
9 SPECIFICALLY WHAT'S BEEN MARKED AS STATE'S EXHIBIT 17
10 FOR IDENTIFICATION.

11 A. YES. THIS ITEM WAS A PART OF A CONTAINER
12 THAT CONTAINED NUMEROUS ITEMS OF EVIDENCE THAT I
13 BROUGHT TO THE COURTHOUSE WITH ME THIS MORNING.

14 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED
15 AS STATE'S EXHIBIT NUMBER 12 FOR IDENTIFICATION?

16 A. YES. I RECEIVED AND EXAMINED THIS ITEM AS
17 A SAMPLE OF DUCT TAPE.

18 Q. OKAY. AND LET ME SHOW YOU WHAT'S BEEN
19 MARKED AS STATE'S EXHIBIT NUMBER 11 FOR
20 IDENTIFICATION.

21 A. OKAY. I HAVE ALSO EXAMINED THIS.

22 Q. ALL RIGHT. AND LET ME SHOW YOU WHAT'S
23 BEEN MARKED AS STATE'S EXHIBIT NUMBER 10 FOR
24 IDENTIFICATION.

25 A. I'VE ALSO EXAMINED THAT PIECE OF EVIDENCE

1 AS WELL.

2 Q. ALL RIGHT. HAVING CONDUCTED WHATEVER
3 EXAMINATIONS YOU DID ON THESE ITEMS, DID YOU THEN
4 THEREAFTER REPACKAGE THESE ITEMS AND SEND THEM BACK
5 TO MARLBORO COUNTY SHERIFF'S DEPARTMENT?

6 A. THEY WERE EVENTUALLY SENT BACK TO MARLBORO
7 COUNTY SHERIFF'S DEPARTMENT THROUGH OUR EVIDENCE
8 DEPARTMENT AT SLED.

9 Q. AND DID YOU SEAL THEM IN SEALED BAGS
10 BEFORE YOU SENT THEM BACK?

11 A. YES, I DID.

12 Q. AND IS THAT THE WAY THAT YOU NORMALLY DO
13 IT AT SLED?

14 A. THAT IS THE WAY THAT WE DO IT AT SLED.

15 Q. ALL RIGHT. DID YOU CHANGE OR ALTER THE
16 CONTENTS OF ANY OF THOSE ITEMS OTHER THAN FOR THE
17 PURPOSES OF ANALYSIS WHILE THEY WERE IN YOUR CARE,
18 CUSTODY AND CONTROL?

19 A. I DID REMOVE SOME OF THE TAPE FOR
20 ANALYSIS. OTHER THAN THAT, NO, SIR.

21 MR. WILSON: ALL RIGHT. YOUR HONOR, THE
22 STATE WOULD OFFER NOW WHAT HAS PREVIOUSLY BEEN MARKED
23 IN THE TRIAL OF THIS CASE AS STATE'S EXHIBIT NUMBER
24 10, 11 AND 12 FOR I.D. AS STATE'S EXHIBITS.

25 THE COURT: YES, SIR. I'LL PERMIT THE

1 INTRODUCTION OF THEM.

2 (STATE'S EXHIBITS NUMBERS 10, 11 AND 12
3 ENTERED INTO EVIDENCE.)

4 THE COURT: ALL RIGHT. LADIES AND
5 GENTLEMEN, LET ME EXPLAIN THAT THESE ITEMS THAT I
6 HAVE PERMITTED TO BE INTRODUCED INTO EVIDENCE WILL BE
7 WITH YOU IN YOUR JURY ROOM IN YOUR DELIBERATION.

8 YOU MAY PROCEED. AND OF COURSE YOU MAY PUBLISH
9 THESE AT A TIME THAT YOU CHOOSE.

10 MR. WILSON: THANK YOU.

11 THE COURT: YOU MAY PROCEED.

12 BY MR. WILSON:

13 Q. IN REGARD TO THESE ITEMS, LET ME ASK YOU
14 -- WELL, BEFORE I DO THAT, LET ME COMPLETE THIS.
15 NOW, STATE'S EXHIBIT NUMBER 17 FOR I.D. WAS ALSO IN
16 YOUR CARE, CUSTODY AND CONTROL; IS THAT CORRECT?

17 A. IT WAS FOR A TIME, YES, SIR.

18 Q. AND WHAT IF ANYTHING DID YOU DO WITH IT?

19 A. I DID NOTHING WITH THAT.

20 Q. ALL RIGHT. AND DID YOU AT SOME POINT THEN
21 SEND IT BACK TO THE MARLBORO COUNTY SHERIFF'S
22 DEPARTMENT?

23 A. IT WAS PART OF THE EVIDENCE I BROUGHT THIS
24 MORNING.

25 Q. OKAY. SO YOU BROUGHT IT FROM SLED THIS

1 MORNING?

2 A. I SURE DID.

3 Q. IN THIS BOX HERE?

4 A. THAT'S CORRECT.

5 MR. WILSON: STATE WOULD OFFER WHAT'S
6 PREVIOUSLY BEEN MARKED AS STATE'S EXHIBIT NUMBER 17
7 AS NOW STATE'S EXHIBIT 17.

8 THE COURT: YES, SIR. I WILL PERMIT THE
9 INTRODUCTION.

10 (STATE'S EXHIBIT NUMBER 17
11 ENTERED INTO EVIDENCE.)

12 BY MR. WILSON:

13 Q. NOW, LET ME ASK YOU IN REGARDS TO STATE'S
14 EXHIBITS 11, 10 AND 12, THOSE ARE ITEMS OF -- OF TAPE
15 THAT YOU WERE GIVEN TO PERFORM SOME ANALYSIS ON. IS
16 THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. WERE YOU SENT A SOURCE MATERIAL TO COMPARE
19 THESE ITEMS TO?

20 A. I WAS. I WAS SENT SEVERAL DIFFERENT DUCT
21 TAPE STANDARDS, IF YOU WILL, OR SOURCE MATERIALS TO
22 COMPARE THEM TO.

23 Q. ALL RIGHT. WERE YOU SENT A ROLL OF TAPE
24 LABELED FROM SAM WALLS' VEHICLE?

25 A. I WAS SENT A ROLL OF TAPE STAMPED IDENDEN.

1 AND AS TO WHERE IT CAME FROM, I'M NOT SURE.

2 Q. DO YOU HAVE THAT ROLL OF TAPE WITH YOU?

3 A. YES, SIR.

4 Q. WOULD YOU TAKE IT OUT FOR US, PLEASE?

5 A. YES.

6 Q. AND FROM WHOM DID YOU RECEIVE THIS ROLL OF
7 TAPE?

8 A. IT CAME INTO SLED FROM DAVID BLACK. AND I
9 RECEIVED IT OF COURSE THROUGH OUR NORMAL EVIDENCE
10 TRANSFER POLICY.

11 Q. DID YOU CHANGE OR ALTER THE CONTENT OF
12 THIS ITEM IN ANY WAY WHATSOEVER OTHER THAN FOR THE
13 PURPOSES OF YOUR ANALYSIS?

14 A. NO, SIR, NOT OTHER THAN JUST REMOVING
15 SAMPLES FOR ANALYSIS.

16 Q. AND DID YOU THEN BRING THIS ITEM HERE
17 TODAY?

18 A. I DID.

19 MR. WILSON: YOUR HONOR, THE STATE WOULD
20 OFFER INTO EVIDENCE WHAT HAS NOT PREVIOUSLY BEEN
21 MARKED, AND THIS WOULD BE STATE'S EXHIBIT NUMBER 18.

22 THE COURT: YES, SIR. I'LL PERMIT IT.

23 (STATE'S EXHIBIT NUMBER 18
24 MARKED FOR IDENTIFICATION AND
25 ENTERED INTO EVIDENCE.)

1 BY MR. WILSON:

2 Q. NOW, LET ME ASK YOU IF YOU WERE SENT -- IF
3 YOU RECEIVED SOME ITEMS OF TAPE FROM AN OLD ABANDONED
4 HOUSE?

5 A. I DID.

6 Q. ALL RIGHT. AND WHO BROUGHT YOU THOSE
7 ITEMS?

8 A. DAVID BLACK.

9 Q. ALL RIGHT. AND DID HE TURN THEM OVER TO
10 YOUR EVIDENCE CUSTODIAN THERE AT SLED?

11 A. THAT'S CORRECT.

12 Q. ALL RIGHT. AND DID YOU RECEIVE THOSE
13 ITEMS?

14 A. I DID.

15 Q. AND WHEN YOU RECEIVED THOSE ITEMS, WERE
16 THEY IN A SEALED CONTAINER?

17 A. THEY WERE.

18 Q. AND DID YOU OPEN THE SEALED CONTAINER?

19 A. YES, SIR.

20 Q. DID YOU PERFORM WHATEVER ANALYSIS WERE
21 APPROPRIATE ON THOSE ITEMS?

22 A. I DID.

23 Q. AFTER DOING THAT, DID YOU RESEAL THOSE
24 ITEMS?

25 A. I DID.

1 Q. DID YOU BRING THOSE ITEMS WITH YOU HERE
2 TODAY?

3 A. I DID.

4 Q. WOULD YOU GIVE THEM TO ME, PLEASE?

5 A. THAT'S IT.

6 Q. THAT'S IT?

7 A. YEAH.

8 MR. WILSON: ALL RIGHT. THE STATE WOULD
9 OFFER WHAT HAS NOT PREVIOUSLY BEEN MARKED, THE GRAY
10 TAPE FROM THE FLOOR OF THE OLD ABANDONED HOUSE.

11 THE COURT: YES, SIR. I WILL PERMIT IT.
12 (STATE'S EXHIBIT NUMBER 19
13 MARKED FOR IDENTIFICATION AND
14 ENTERED INTO EVIDENCE.)

15 BY MR. WILSON:

16 Q. NOW, STATE'S EXHIBIT NUMBER 18, WHICH IS
17 THE ROLL OF TAPE FROM THE VEHICLE OF SAM WALLS, AND
18 LET ME ASK YOU IN REGARDS TO WHAT'S BEEN MARKED AS
19 STATE'S EXHIBIT 19, WHICH IS A PIECE OF TAPE FROM THE
20 FLOOR OF THE OLD ABANDONED HOUSE, AND STATE'S EXHIBIT
21 NUMBER 10, 11 AND 12, WHICH ARE PIECES OF TAPE FROM
22 VARIOUS PARTS OF THE BODY OF THE VICTIM WHICH WAS
23 RECOVERED FROM HICKORY -- OR BURNT FACTORY, WHAT IF
24 ANYTHING DID YOU FIND IN REGARD TO THE COMMONALITY OF
25 THESE TAPES, IF ANYTHING?

1 A. I FOUND THAT THE STRUCTURE AND THE
2 COMPOSITION OF THE TAPES WERE IDENTICAL.

3 Q. THE STRUCTURE AND THE COMPOSITION OF THIS
4 TAPE, WHICH IS STATE'S EXHIBIT 16, AND THE
5 COMPOSITION OF THE TAPE FOUND ON THE FLOOR AT THE OLD
6 ABANDONED HOUSE AND THE TAPE ON THE BODY OF THE
7 VICTIM ARE WHAT?

8 A. THEY ARE IDENTICAL.

9 Q. IDENTICAL. IS THERE ANY QUESTION IN YOUR
10 MIND ABOUT THAT?

11 A. AS FAR AS STRUCTURE AND COMPOSITION, NO,
12 THERE IS NOT.

13 Q. LET ME ASK YOU, THIS TAPE, IS THIS AN
14 UNUSUAL TYPE OF TAPE?

15 A. IT'S AN UNUSUAL TYPE OF TAPE HERE IN THE
16 UNITED STATES.

17 Q. THIS TYPE, THIS BRAND IS UNUSUAL IN THE
18 UNITED STATES?

19 A. YES, IT IS.

20 Q. ALL RIGHT. IS IT SOLD ANYWHERE IN THE
21 UNITED STATES, TO YOUR KNOWLEDGE?

22 A. UPON MY INVESTIGATION, IT IS NOT MARKETED
23 IN THE UNITED STATES.

24 MR. LAWSON: OBJECTION.

25 MR. ROGERS: OBJECTION, YOUR HONOR.

1 THE COURT: NO, SIR. HE CAN TESTIFY TO
2 THAT. HE'S AN EXPERT AND HE'S ENTITLED TO RELY ON
3 DOCUMENTS OUTSIDE OF THIS COURTROOM FOR AN EXPERT
4 OPINION. YOU KNOW THAT, MR. LAWSON.

5 MR. LAWSON: I UNDERSTAND THAT, YOUR
6 HONOR. BUT HE'S NOT TESTIFYING AS TO HIS EXPERTISE.
7 HE'S TESTIFYING ABOUT WHERE THE DUCT TAPE CAN BE
8 BOUGHT.

9 THE COURT: HE'S AN EXPERT IN THIS AREA
10 AND YOU CAN CROSS-EXAMINE HIM ON THAT AND THE WEIGHT
11 OF IT GOES TO THE JURY. THEY ARE THE FINDERS OF THE
12 FACTS AND THEY WILL MAKE THE ULTIMATE DECISION ON
13 THAT ISSUE. GO AHEAD.

14 BY MR. WILSON:

15 Q. THIS BRAND OF TAPE IS NOT SOLD IN THE
16 UNITED STATES?

17 A. IT IS NOT DIRECTLY MARKETED TO THE UNITED
18 STATES. IF IT IS SOLD IN THE UNITED STATES, IT HAS
19 TO BE THROUGH AN UNDER MARKET.

20 Q. WHERE IS IT MARKETED AND SOLD?

21 A. IN ENGLAND.

22 Q. IN ENGLAND?

23 A. THAT'S CORRECT.

24 MR. WILSON: I HAVE NO OTHER QUESTIONS.

25 THE COURT: ALL RIGHT. MR. ERVIN.

C R O S S - E X A M I N A T I O N

BY MR. ERVIN:

Q. AGENT BARRON, I'M A BIT CONFUSED ABOUT SOME OF THE TESTIMONY REGARDING DUCT TAPE. ACCORDING TO THIS DOCUMENT WHICH YOU PREPARED, ITEMS 8 THROUGH 10 WERE TAKEN FROM THE VICTIM'S FACE, HAND AND ANKLES?

A. THAT'S CORRECT.

Q. AND ITEM 13 -- EXCUSE ME, THAT DOESN'T HAVE ANYTHING TO DO WITH THE DUCT TAPE?

A. 37.

Q. THAT'S THE ROLL OF TAPE. NOW, WHERE DID YOU -- ITEM 13 COME FROM?

A. ITEM 13 IS, IF I CAN SEE THE ROLL OF DUCT TAPE OVER THERE, IT'S STATE'S EXHIBIT 18, I BELIEVE.

Q. OKAY. DO YOU KNOW WHERE IT CAME FROM?

A. PERSONALLY, I DO NOT.

Q. OKAY.

A. IT WAS SUBMITTED TO OUR DEPARTMENT FOR A COMPARISON. IT WAS NOT THOROUGHLY IDENTIFIED AS TO WHERE IT CAME FROM. IT WAS SUBMITTED AS ONE ROLL OF DUCT TAPE STAMPED ADDENDUM, WHICH IS THE --

Q. BRAND ON THE --

A. THE PARTICULAR COMPANY ON THE INSIDE OF IT. THAT'S CORRECT.

1 Q. WHO SUBMITTED IT TO YOU?

2 A. IT CAME THROUGH DAVID BLACK.

3 Q. DAVID BLACK?

4 A. THAT'S CORRECT.

5 Q. HOW MANY DIFFERENT MANUFACTURERS OF DUCT
6 TAPE ARE THERE IN THE UNITED STATES? YOU'VE
7 OBVIOUSLY DONE A LOT OF RESEARCH ON THAT.

8 A. THERE ARE FIVE MAJOR MANUFACTURERS OF DUCT
9 TAPE.

10 Q. MAJOR?

11 A. THAT'S CORRECT.

12 Q. HOW MANY OTHER MANUFACTURERS ARE THERE?

13 A. MY RESEARCH SHOWS THAT THOSE -- BASICALLY
14 ALL DUCT TAPE MARKETED IN THE UNITED STATES WOULD
15 COME FROM THOSE FIVE COMPANIES.

16 Q. FROM THOSE FIVE MAJOR MANUFACTURERS. AND
17 HOW SIMILAR ARE THEIR BRANDS?

18 A. WELL, THERE ARE MANY DIFFERENT TYPES OF
19 DUCT TAPE THAT ARE MANUFACTURED. DUCT TAPE HAS A LOT
20 OF VARIABILITY IN ITS CONSTRUCTION AND COMPOSITION.

21 Q. UH-HUH.

22 A. THE BACKING GRAY PART IS VARIABLE IN THE
23 SENSE THAT IT COULD BE THICK OR THIN. THE FIBER THAT
24 IS USED TO CONSTRUCT THE STRENGTH OF THE DUCT TAPE
25 VARIES IN THE TYPE OF FIBERS THAT ARE USED, THE TYPE

1 OF WEAVE THAT IS USED AND THE GLUE THAT IS USED TO
2 MAKE THE STICKY PART VARIES SOMEWHAT DEPENDING UPON
3 THE TYPE OF APPLICATION THAT THE DUCT TAPE IS MADE
4 FOR. EVEN WITHIN ONE COMPANY, THERE CAN BE A LOT OF
5 VARIABILITY.

6 Q. VARIOUS TYPES?

7 A. RIGHT.

8 Q. AND AMONG THOSE FIVE DIFFERENT
9 MANUFACTURERS, YOU'RE SAYING THERE COULD BE NUMEROUS
10 DIFFERENT TYPES OF DUCT TAPE. ISN'T THAT RIGHT?

11 A. THAT'S RIGHT.

12 Q. IN ENGLAND, THIS MANUFACTURER IS ONE OF
13 HOW MANY?

14 A. I HAVE NO IDEA.

15 Q. WELL, YOU SEEM TO EXPRESSED SOME
16 FAMILIARITY WITH THE ORIGIN OF THIS DUCT TAPE, DIDN'T
17 YOU?

18 A. I DID. I TRACED THE MANUFACTURER OF THE
19 DUCT TAPE TO ENGLAND, BUT I DID NOT RESEARCH AS TO
20 HOW MANY OTHER DUCT TAPES WERE MANUFACTURED IN
21 ENGLAND.

22 Q. HOW MANY DIFFERENT TYPES DOES THIS
23 PARTICULAR MANUFACTURER PRODUCE? DID YOU FIND THAT
24 OUT TOO?

25 A. I DID NOT GET ANY TYPE OF REPORT AS TO HOW

1 MANY DIFFERENT TYPES OF TAPE THEY MAKE, BUT THIS
2 PARTICULAR BRAND HERE IS -- IS THEIR LOWER END,
3 CHEAP, IF YOU WILL, DUCT TAPE THAT WOULD BE SOLD FOR
4 JUST COMMON EVERYDAY PURPOSES.

5 Q. FOR COMMON EVERYDAY PURPOSES?

6 A. YES, SIR.

7 Q. IT'S THE KIND OF DUCT TAPE YOU WOULD USE
8 FOR WHAT PURPOSE, IF YOU -- IN YOUR RESEARCH, WHAT
9 HAVE YOU FOUND IT USED FOR?

10 A. WELL, IT WOULD BE EQUIVALENT TO GOING TO
11 WAL-MART AND BUYING A ROLL OF TAPE FOR A COUPLE OF
12 DOLLARS.

13 Q. GOING TO WAL-MART. I GUESS IN ENGLAND IN
14 WAL-MART?

15 A. JUST TRYING TO GIVE A SIMILARITY. I DON'T
16 KNOW WHAT THEY CALL A CONVENIENCE STORE IN ENGLAND.

17 Q. BUT OBVIOUSLY SOME OF IT --

18 A. IT'S A CHEAP TAPE THAT WOULD BE SOLD FOR
19 VERY CHEAP PURPOSES, NOT ANY PARTICULAR PURPOSE LIKE
20 FOR AN APPLICATION THAT WOULD REQUIRE A DUCT TAPE
21 WITH A LOT OF STRENGTH TO IT BECAUSE THAT IS NOT A
22 VERY STRONG TAPE.

23 Q. AS FAR AS THE STATEMENT YOU MADE THAT IT'S
24 NOT DIRECTLY MARKETED HERE, OBVIOUSLY, THERE'S SOME
25 IN THIS COUNTRY. YOU DON'T HAVE ANY IDEA HOW MUCH

1 DUCT TAPE OF THIS PARTICULAR BRAND IS IN THIS AREA,
2 FOR THAT MATTER, DO YOU?

3 A. WELL, I KNOW THAT THIS MANUFACTURER
4 MARKETS THIS TAPE, 99 PERCENT OF IT, IN ENGLAND,
5 EXPORTS 1 PERCENT TO OTHER PARTS OF EUROPE AND DOES
6 NOT EXPORT IT OR MARKET IT IN THE UNITED STATES. SO
7 IT WOULD HAVE TO COME OVER HERE THROUGH SOME OTHER
8 TYPE OF MEANS OTHER THAN DIRECT SALES FROM THE
9 COMPANY.

10 Q. YOU REACHED SOME CONCLUSION IN THE RESULTS
11 EXAMINATION PORTION ON PAGE TWO OF YOUR REPORT IN
12 WHICH YOU STATED ITEMS EIGHT THROUGH TEN COULD HAVE
13 ORIGINATED FROM ITEM THIRTEEN?

14 A. THAT'S CORRECT.

15 Q. AND I BELIEVE IN SECTION 58, YOU ALSO
16 STATED THAT THE COMPOSITION AND CONSTRUCTION OF THE
17 DUCT TAPE FROM THE HOUSE IN QUESTION MATCHES THAT
18 FROM THE DUCT TAPE IN ITEM 58 AND COULD HAVE
19 ORIGINATED FROM OR SHARED THE SAME ORIGIN AS ITEMS
20 EIGHT THROUGH TEN AND ALSO COULD HAVE ORIGINATED FROM
21 ITEM THIRTY-SEVEN; IS THAT CORRECT?

22 A. THAT'S CORRECT. THIS DUCT TAPE HERE COULD
23 BE THE SOURCE OF THIS DUCT TAPE BECAUSE IT IS
24 IDENTICAL IN STRUCTURE AND COMPOSITION.

25 Q. WELL, COULD HAVE DOESN'T MEAN THE SAME

1 THING AS IDENTICAL, DOES IT? I MEAN, YOU SOUND LIKE
2 YOU'RE QUALIFYING THE RESULTS OF YOUR EXAMINATION.

3 A. I STATED THAT IT WAS IDENTICAL IN
4 STRUCTURE AND COMPOSITION. ANOTHER ROLL OF DUCT TAPE
5 WITH THE SAME STRUCTURE AND COMPOSITION COULD ALSO
6 HAVE CONTRIBUTED TO THIS TAPE.

7 Q. SO YOU DON'T KNOW IF IT'S THE SAME DUCT
8 TAPE IS WHAT YOU'RE SAYING?

9 A. IT IS THE SAME DUCT TAPE. IT MAY OR MAY
10 NOT BE FROM THE SAME ROLL.

11 Q. YOU'RE SAYING IT'S THE SAME TYPE IS WHAT
12 YOU'RE SAYING?

13 A. EXACTLY THAT.

14 MR. ERVIN: I DON'T HAVE ANY FURTHER
15 QUESTIONS, YOUR HONOR.

16 C R O S S - E X A M I N A T I O N

17 BY MR. ROGERS:

18 Q. AGENT BARRON, YOU WERE GIVEN MANY OTHER
19 ITEMS TO COMPARE OTHER THAN DUCT TAPE?

20 A. YES, I WAS.

21 Q. IS THAT TRUE? YOU WERE GIVEN VACUUMINGS
22 FROM THE TRUNK AREA OF A CAR, VACUUMINGS FROM THE
23 BACK SEAT AREA OF A CAR AND FROM THE FRONT SEAT AREA?

24 A. YES, I COLLECTED THESE VACUUMINGS FROM A
25 GRAY MAZDA 626.

1 Q. AND YOU WERE NOT ABLE TO IDENTIFY ANYTHING
2 FROM THOSE AREAS?

3 A. I WAS NOT ABLE TO IDENTIFY ANYTHING AS FAR
4 AS EVIDENTIARY VALUE AS FAR AS TYING THE VICTIM TO
5 THAT AUTOMOBILE.

6 Q. OR ANYONE ELSE?

7 A. WELL, I WOULD HAVE TO RECEIVE -- AS FAR AS
8 HAIR SAMPLES THAT WERE COLLECTED, I WOULD HAVE TO
9 RECEIVE HAIR SAMPLES FROM EVERYONE INVOLVED, WHICH I
10 DID NOT.

11 Q. AND YOU ONLY RECEIVED HAIR SAMPLES FROM
12 THE VICTIM IN THE CASE?

13 A. I RECEIVED HAIR SAMPLES FROM THE VICTIM AS
14 A RESULT THAT A NUMEROUS AMOUNT WAS STUCK TO THE DUCT
15 TAPE.

16 Q. SO NOT A SEPARATE BATCH PROVIDED TO YOU?

17 A. THAT'S CORRECT.

18 Q. AND THIS IS YOUR REPORT, I TAKE IT?

19 A. THAT IS A COPY OF IT, YES, SIR.

20 Q. A COPY OF YOUR REPORT DATED JUNE 29TH,
21 1995?

22 A. YES, SIR.

23 Q. AND THE VEHICLE -- THE INCIDENT DATE IS
24 11/24/94?

25 A. THAT'S CORRECT.

1 Q. VICTIM, DARLENE MCRAE PATTERSON?

2 A. RIGHT.

3 Q. AND SUBJECT, JOHNNY RINGO PEARSON?

4 A. THAT'S CORRECT.

5 Q. OKAY. AND YOU WERE PROVIDED -- IF YOU
6 TURN TO PAGE TWO. 60, 66, 71 THROUGH 75 AND 80,
7 OTHER STANDARD DUCT TAPE?

8 A. YES, I WAS.

9 Q. AND WHO PROVIDED THAT DUCT TAPE TO YOU?

10 A. ULTIMATELY I THINK IT CAME FROM DAVID
11 BLACK OR THE MARLBORO COUNTY SHERIFF'S DEPARTMENT.

12 Q. AND YOU DON'T KNOW WHERE THEY GOT IT FROM?
13 NOTHING IN YOUR NOTES OR RECORDS REFLECTS WHERE THE
14 TAPE YOU COMPARED CAME FROM?

15 A. SOME OF THEM ARE IDENTIFIED AS FROM A
16 HOUSE, FROM THE BACKYARD OF A HOUSE, FROM A BICYCLE,
17 A FRONT DOOR, FRONT YARD, TELEPHONE IN THE KITCHEN,
18 CB RADIO UNDER A KITCHEN TABLE, CARDBOARD BOX IN THE
19 MIDDLE BEDROOM. AND I DO NOT KNOW FROM WHAT
20 RESIDENCE THIS WAS TAKEN.

21 Q. RIGHT. YOU DON'T KNOW WHAT HOUSE OR
22 ANYTHING. YOU WERE JUST GIVEN A BATCH OF TAPE?

23 A. THAT'S RIGHT.

24 Q. NOW, YOU TALKED ABOUT THIS TAPE COMING
25 FROM ENGLAND AND THAT YOU DID RESEARCH. IS THAT WHAT

1 YOUR TESTIMONY WAS?

2 A. THAT WAS MY TESTIMONY.

3 Q. AND THAT RESEARCH CONSISTED OF WHAT?

4 CALLING ENGLAND?

5 A. ULTIMATELY, IT DID. FIRST OF ALL I WENT
6 TO A MAJOR MANUFACTURER OF DUCT TAPE IN COLUMBIA,
7 SOUTH CAROLINA, WHICH IS ANCHOR-CONTINENTAL. THEY
8 HAVE RECORDS OF DUCT TAPE THAT IS MANUFACTURED
9 THROUGHOUT THE UNITED STATES AND EVIDENTLY THEY AND
10 THEIR COMPETITION'S TAPE. IMMEDIATELY, THEY
11 RECOGNIZED IT AS A TAPE THAT WAS VERY UNUSUAL. AND
12 THE STAMP ON THE INSIDE OF THE TAPE IS A CLUE, IF YOU
13 WILL, TO THE MANUFACTURER OF THE TAPE BECAUSE EACH
14 MANUFACTURER WOULD THEN -- WOULD USE A STAMP OR --
15 THAT THEY KNOW ABOUT INSIDE THE TAPE.

16 Q. SO YOU DID ALL OF THAT OVER THE PHONE BY
17 TALKING TO THE PEOPLE IN ENGLAND?

18 A. WELL, ANCHOR-CONTINENTAL I DID IN PERSON.

19 Q. SO YOU WENT --

20 A. YES --

21 Q. I'M SORRY.

22 A. I WENT TO ANCHOR CONTINENTAL.

23 Q. TALKED TO SOMEONE THERE?

24 A. SHOWED THEM THE TAPE. THEY TESTED PART OF
25 THE TAPE TO SEE ITS CHARACTERISTIC BECAUSE EVIDENTLY,

1 THE DUCT TAPE INDUSTRY CAN MAKE A FEW EXAMINATIONS
2 THEMSELVES BASED UPON THE TENSILE STRENGTH OF THE
3 TAPE.

4 Q. WELL, WHERE IS THE -- DO YOU HAVE THE
5 REPORT OF THAT?

6 A. NO. I WAS THERE WHEN THEY CONDUCTED THE
7 TEST AND WAS TOLD THAT THIS TAPE DOES NOT MATCH
8 ANYTHING AS FAR AS THAT --

9 MR. ROGERS: YOUR HONOR, AGAIN, I WOULD
10 RENEW MY OBJECTION ABOUT HEARSAY. THIS IS NOT PART
11 OF -- MAY I APPROACH THE BENCH?

12 THE COURT: NO, SIR. YOU ASKED HIM THE
13 QUESTION.

14 MR. ROGERS: YES, SIR.

15 THE COURT: NOW, THERE'S AN OLD RULE, IF
16 YOU GO FISHING, YOU GET WHAT YOU CATCH. AND YOU'RE
17 ASKING THE QUESTIONS.

18 MR. ROGERS: YES, SIR, BUT YOUR RULING
19 WAS -- WHEN I OBJECTED EARLIER TO THE HEARSAY NATURE
20 OF HIS TESTIMONY, YOUR RULING -- YOUR HONOR, CAN WE
21 DO THIS OUT OF THE PRESENCE OF THE JURY?

22 THE COURT: NO. IT'S CLEAR TO ME THAT THE
23 RULE OF THE TESTIMONY OF AN EXPERT IS AN EXCEPTION TO
24 THE HEARSAY RULE IN THAT IT PERMITS AN EXPERT TO
25 TESTIFY FROM KNOWLEDGE GLEANED FROM OTHER SOURCES

1 SUCH AS TESTS, ENCYCLOPEDIAS, BOOKS, WHATNOT. HE CAN
2 TESTIFY TO THAT EVEN UNDER THE HEARSAY EXCEPTION AND
3 THAT'S WHAT I'VE SAID.

4 MR. ROGERS: YES, SIR, YOUR HONOR. VERY
5 WELL, YOUR HONOR.

6 THE COURT: ALL RIGHT.
7 BY MR. ROGERS:

8 Q. AGENT BARRON, SO YOU TALKED TO THE PEOPLE
9 FROM ANCHOR-CONTINENTAL. THEY RAN A TEST AND YOU
10 WATCHED THEM?

11 A. YES, I DID.

12 Q. AND THEN YOU TALKED --

13 A. AND THEN THEY DETERMINED, LOOKING AT THE
14 SPECS ON THE TAPE -- WELL, I THINK THEY RECOGNIZED
15 RIGHT OFF THE BAT THAT IT WAS NOT THEIR TAPE, AND
16 WHAT THEY WERE TRYING TO DO IS HELP ME TRACK DOWN THE
17 SOURCE OF THE TAPE. AND ULTIMATELY, WE INVESTIGATED
18 THE -- WELL, FIRST OF ALL, LET ME MENTION THIS. THE
19 INSIDE OF THE TAPE HAS TWO IDENTIFYING MARKS. ONE IS
20 IDENDEN. THE OTHER IS EVOKE -- EVOKE INDUSTRIAL
21 DIVISION. WELL, IT TURNS OUT THAT EVOKE INDUSTRIAL
22 DIVISION HAS PLANTS IN SOUTH CAROLINA. AS A MATTER
23 OF FACT, ONE OF THEM IS IN GREENVILLE, SOUTH
24 CAROLINA. BUT THEY DO NOT MANUFACTURE DUCT TAPE.
25 BUT THEY ARE ASSOCIATED WITH THE SAME ORGANIZATION.

1 AND UPON A CONVERSATION WITH THAT COMPANY AND SHOWING
2 THEM THE IDENDEN -- REVEALING TO THEM THE IDENDEN
3 MARK ON THE TAPE, THEY THEN DID AN INVESTIGATION AND
4 FOUND OUT THAT THEIR EVODE INDUSTRIAL DIVISION DOES
5 MANUFACTURE DUCT TAPE UNDER THE IDENTIFY OF IDENDEN
6 IN ENGLAND; STRATFORD, ENGLAND.

7 Q. AND THEN YOU CALLED ENGLAND AND THEY
8 CONFIRMED IT?

9 A. THEY CONFIRMED IT.

10 Q. NOW, LET ME CLARIFY ONE OTHER POINT. WHEN
11 YOUR TESTIMONY WAS THAT THIS TAPE IS IDENTICAL TO
12 THIS TAPE, YOU'RE NOT REALLY SAYING IT'S IDENTICAL.
13 YOU'RE SAYING IT'S OF SIMILAR CHARACTER; THE SAME
14 TYPE OF DUCT TAPE, BUT NOT THE SAME --

15 A. IT'S IDENTICAL IN STRUCTURE AND
16 COMPOSITION. IN OTHER WORDS, HOW THAT TAPE IS MADE,
17 HOW IT'S PUT TOGETHER, THE COMPONENTS OF IT ARE ALL
18 IDENTICAL.

19 Q. BUT YOU WOULD HAVE OTHER TAPES
20 MANUFACTURED BY DIFFERENT COMPANIES THAT WOULD HAVE
21 SIMILAR COMPONENTS?

22 A. NOT IN THE UNITED STATES. IT WOULD HAVE
23 TO BE TAPE MANUFACTURED BY IDENDEN IN ENGLAND. IT
24 WOULD HAVE TO BE TAPE LIKE THIS.

25 Q. IT WOULD HAVE TO BE A TAPE MANUFACTURED IN

1 ENGLAND?

2 A. IT WOULD HAVE TO BE -- THIS ROLL OF TAPE
3 OR ANOTHER ROLL OF TAPE JUST LIKE THIS.

4 MR. ROGERS: ALL RIGHT. THANK YOU. NO
5 FURTHER QUESTIONS.

6 THE COURT: THANK YOU.

7 MR. REDMOND: YOUR HONOR, A COUPLE OF
8 QUICK QUESTIONS.

9 C R O S S - E X A M I N A T I O N

10 BY MR. REDMOND:

11 Q. YOU HAD INDICATED EARLIER THAT
12 APPROXIMATELY 1 PERCENT OF THE DUCT TAPE IN ENGLAND
13 CAME TO THE U.S.?

14 A. NO, I DID NOT.

15 Q. OKAY. COULD YOU CLARIFY THAT FOR ME?

16 A. I SAID 1 PERCENT OF THE DUCT TAPE WAS
17 ACTUALLY EXPORTED IN EUROPE, BUT NOT THE UNITED
18 STATES. ZERO IS EXPORTED TO THE UNITED STATES.

19 Q. OKAY. SO IN OTHER WORDS, AND AGAIN, I
20 HATE TO BE REPETITIOUS HERE, BUT DESPITE THAT, YOU
21 CAN'T SAY HERE TODAY UNDER OATH THAT THAT IS THE
22 EXACT SAME DUCT TAPE, IN OTHER WORDS, THE -- THAT
23 ROLL OF DUCT TAPE IS NOT THE EXACT SAME DUCT TAPE AS
24 THE DUCT TAPE THAT YOU EXAMINED FROM THE VICTIM'S
25 ANKLES, HAND AND FACE. IS THAT CORRECT?

1 A. I BELIEVE I HAVE TESTIFIED THAT IT'S
2 EITHER FROM THIS ROLL OF DUCT TAPE OR ANOTHER ROLL OF
3 DUCT TAPE JUST LIKE IT.

4 Q. IT WAS A SIMPLE -- LONG QUESTION, BUT IT'S
5 A SIMPLE QUESTION. CAN YOU SAY THAT IT IS -- THAT
6 THIS DUCT TAPE FROM THE FACE, HANDS AND ANKLES CAME
7 FROM THAT ROLL?

8 A. FROM THIS ROLL?

9 Q. CAN YOU SAY THAT?

10 A. I CANNOT SAY IT CAME FROM THIS PARTICULAR
11 ROLL ABSOLUTELY.

12 Q. THANK YOU.

13 A. HOWEVER, THERE'S A STRONG INDICATION THAT
14 IT IS.

15 THE COURT: DID YOU FINISH YOUR
16 QUESTION -- YOUR ANSWER?

17 THE WITNESS: I SAID HOWEVER, THERE'S A
18 STRONG INDICATION THAT IT DID.

19 MR. REDMOND: YOUR HONOR, IF I MAY
20 CONTINUE.

21 BY MR. REDMOND:

22 Q. WHAT INDICATION MIGHT THAT BE?

23 A. THE INDICATION IS THAT THIS ROLL OF DUCT
24 TAPE IS NOT A COMMON ROLL OF DUCT TAPE. IT'S NOT
25 SOMETHING THAT SOMEONE WOULD GO DOWN TO WAL-MART AND

1 PICK UP. IT'S NOT MANUFACTURED OR MARKETED IN THE
2 UNITED STATES. THEREFORE, IT MAKES IT UNUSUAL.

3 Q. SO ARE YOU SAYING THAT IT'S IMPOSSIBLE FOR
4 THAT DUCT TAPE TO HAVE FOUND ITS WAY TO THE UNITED
5 STATES?

6 A. I'M NOT SAYING THAT, NO.

7 Q. WELL, OBVIOUSLY IT DID. BUT LET ME ASK
8 YOU THIS. AND I PROMISE TO BE BRIEF WITH THIS. MY
9 QUESTION AGAIN, YOU SAID STRONGLY LIKELY. I'M NOT
10 ASKING FOR STRONGLY LIKELY. I'M ASKING FOR
11 CONCLUSIVELY. CAN YOU SAY THAT THAT ROLL OF DUCT
12 TAPE IS THE ORIGIN FOR THE DUCT TAPE FROM THE FACE,
13 HAND AND ANKLES OF THE VICTIM? YES OR NO?

14 A. I CANNOT SAY ABSOLUTELY THAT IT IS.

15 MR. REDMOND: THANK YOU. I HAVE NOTHING
16 FURTHER.

17 THE COURT: WOULD YOU LIKE TO --

18 MR. MOORE: I'VE GOT ONE QUESTION.

19 THE COURT: YES, SIR.

20 C R O S S - E X A M I N A T I O N

21 BY MR. MOORE:

22 Q. I NOTICE ON THE REPORT THAT THE SUBJECT IS
23 JOHNNY RINGO PEARSON. CAN YOU TELL US WHY THIS
24 REPORT IS DIRECTED TOWARD THAT PARTICULAR SUBJECT?

25 A. THAT'S BECAUSE WHEN THE -- THE EVIDENCE IS

1 LOGGED IN TO SLED, A SUBJECT IS ASKED TO BE
2 IDENTIFIED BY THE PERSON LOGGING IT IN, AND THAT'S
3 WHAT'S ON THE PAPERWORK.

4 MR. MOORE: THANK YOU.

5 MR. WILL ROGERS: I DON'T HAVE ANY
6 QUESTIONS, YOUR HONOR.

7 THE COURT: MR. LAWSON.

8 MR. LAWSON: IF IT PLEASE THE COURT.

9 C R O S S - E X A M I N A T I O N

10 BY MR. LAWSON:

11 Q. I'M JUST A LITTLE BIT CONFUSED. AND THAT
12 AIN'T HARD TO DO, BELIEVE ME. NOW, WHERE DID THIS
13 TAPE -- HOW DID YOU GET IT? HOW DID YOU GET THIS
14 ROLL OF DUCT TAPE?

15 A. IT WAS BROUGHT INTO SLED FROM DAVID BLACK.

16 Q. WHERE DID DAVID BLACK GET IT FROM?

17 A. YOU WILL HAVE TO ASK DAVID BLACK.

18 Q. OKAY. NOW, THAT DUCT TAPE IS NOT
19 MARKETED, YOU SAID, DIRECTLY INTO THE UNITED STATES.
20 CORRECT?

21 A. THAT IS CORRECT.

22 Q. BUT YOU ARE NOT ALLOWING FOR SECONDARY
23 MARKETS AT ALL, ARE YOU?

24 A. I BELIEVE I DID MENTION THAT.

25 Q. THAT IS A POSSIBILITY, ISN'T IT?

1 A. I SAID IT WOULD NOT BE MARKETED DIRECTLY
2 FROM THE MANUFACTURER. IF IT WAS MARKETED, IT WOULD
3 HAVE TO BE THROUGH A SECONDARY MARKET.

4 Q. AND THAT IS A VERY REAL POSSIBILITY IN
5 TODAY'S WORLD, IS IT NOT?

6 A. IT'S CERTAINLY A POSSIBILITY, YES, SIR.

7 Q. BECAUSE THERE ARE MANY, MANY PEOPLE
8 INVOLVED IN BUSINESS WHO BUY AND SELL GOODS, DO THEY
9 NOT?

10 A. THAT'S A TRUE STATEMENT.

11 Q. AND THEY ARE CALLED MIDDLEMEN, AREN'T
12 THEY?

13 A. THAT'S CORRECT.

14 Q. AND THEY BUY FROM A MANUFACTURER AND THEY
15 SELL TO WHOLESALE OR RETAIL OUTLETS, DO THEY NOT?

16 A. THAT'S CORRECT.

17 Q. AND IN THIS COUNTRY, BEING THE ECONOMIC
18 CAPITAL OF THE WORLD, THIS IS A SOUGHT-AFTER MARKET,
19 IS IT NOT? WOULD YOU ASSUME THAT?

20 A. I WOULD ASSUME THAT, BUT I'M NOT AN
21 ECONOMICS EXPERT.

22 Q. ALL RIGHT, SIR. BUT YOU APPARENTLY HAVE
23 SOME EXPERTISE IN THE AREA OF DUCT TAPE MARKETING.
24 DO YOU?

25 A. TO THE EXTENT THAT I'VE RESEARCHED THIS

1 PARTICULAR TAPE, YES, SIR.

2 Q. TO THE EXTENT THAT YOU'VE RESEARCHED THE
3 EXTENT TO WHICH THE PRIMARY MANUFACTURER ITSELF
4 EXPORTS TO THIS COUNTRY, YOU ARE TESTIFYING AS AN
5 EXPERT. CORRECT?

6 A. THAT'S WHAT MY RESEARCH REVEALED, THAT THE
7 PRIMARY MANUFACTURER OF THIS TAPE DOES NOT EXPORT TO
8 THE UNITED STATES.

9 Q. BUT AS TO ANY SECONDARY MARKETS, YOU'RE
10 NOT AN EXPERT IN THAT AREA?

11 A. I DON'T THINK SECONDARY WOULD BE VERY WELL
12 DOCUMENTED.

13 Q. SUPPOSE IF -- WHAT'S THE PRIMARY -- HOW
14 MUCH DUCT TAPE DOES THIS COMPANY IN ENGLAND MAKE IN A
15 MONTH?

16 A. I DON'T KNOW.

17 Q. HOW MUCH DO THEY MAKE IN A WEEK?

18 A. I DON'T KNOW.

19 Q. IF -- SO YOU HAVE NO IDEA HOW MUCH THEIR
20 PRODUCTION IS?

21 A. NO, I DO NOT.

22 Q. SO YOU HAVE NO IDEA HOW MUCH THEIR
23 SECONDARY MARKETS MAY PRODUCE?

24 A. NO, I DO NOT. NO, SIR.

25 Q. ALL RIGHT, SIR. AND IS IT TRUE, AS A

1 GENERAL RULE, THAT PEOPLE EXPORT WITH A PARTICULAR
2 EMPHASIS TO THE UNITED STATES. IS THAT NOT TRUE?

3 A. I DO NOT KNOW THE ANSWER TO THAT QUESTION.

4 Q. YOU DON'T KNOW. OKAY. NOW, HOW MUCH OF
5 THE SECONDARY MARKET OF THIS DUCT TAPE WOULD COME TO
6 SOUTH CAROLINA?

7 A. I DON'T KNOW THE ANSWER TO THAT QUESTION
8 EITHER.

9 MR. LAWSON: THANK YOU. NO FURTHER
10 QUESTIONS.

11 THE COURT: DO YOU HAVE ANY REDIRECT?

12 MR. WILSON: YES, SIR. JUST ONE QUESTION.

13 R E D I R E C T E X A M I N A T I O N
14 BY MR. WILSON:

15 Q. MY UNDERSTANDING IS THAT YOU HAVE BEEN
16 DOING TRACE ANALYSIS FOR 22 YEARS?

17 A. YES, SIR.

18 Q. AND YOU'VE HANDLED THOUSANDS OF PIECES OF
19 EVIDENCE?

20 A. YES, SIR.

21 Q. HOW MANY TIMES IN THOSE 22 YEARS HAVE YOU
22 RUN INTO IDENDEN BRAND DUCT TAPE?

23 A. THIS IS THE FIRST TIME.

24 MR. WILSON: NO OTHER QUESTIONS.

25 THE COURT: DOES THAT CONCLUDE THE

1 EXAMINATION OF ALL PARTIES?

2 MR. ERVIN: EXCUSE ME, YOUR HONOR. BEG
3 THE COURT'S INDULGENCE.

4 R E C R O S S - E X A M I N A T I O N
5 BY MR. ERVIN:

6 Q. YOU'VE TESTIFIED AS A TRACE EXPERT, AND
7 FURTHER, IN THE AREA OF DUCT TAPE?

8 A. THAT'S PART OF IT, YES, SIR.

9 Q. THAT'S PART OF IT. HOW MANY OTHER
10 CRIMINAL TRIALS HAVE YOU MADE COMPARISONS OF DUCT
11 TAPE IN, BEEN A DUCT TAPE EXPERT?

12 A. THAT HAVE ACTUALLY GONE TO TRIAL, THIS
13 WOULD BE THE FIRST ONE.

14 MR. ERVIN: FIRST ONE. THAT'S ALL I HAVE.

15 THE COURT: ANYBODY ELSE?

16 MR. LAWSON: NO, SIR.

17 (FURTHER) R E D I R E C T E X A M I N A T I O N
18 BY MR. WILSON:

19 Q. HOW MANY CASES HAVE YOU EXAMINED DUCT OR
20 OTHERWISE?

21 THE WITNESS: I OBJECT, YOUR HONOR.

22 THAT'S NOT --

23 MR. WILSON: IT'S DIRECTLY IN RESPONSE.

24 THE COURT: YES, SIR. YOU KNOW, BOTH
25 SIDES GET TO ASK QUESTIONS, NOW. GO AHEAD.

1 BY MR. WILSON:

2 Q. HOW MANY? JUST GIVE ME AN APPROXIMATION
3 IF YOU DON'T KNOW EXACTLY.

4 A. OH, I WOULD SAY 50.

5 MR. WILSON: I DON'T HAVE ANY OTHER
6 QUESTIONS.

7 MR. ERVIN: I DON'T HAVE ANYTHING FURTHER.

8 THE COURT: ANYONE ELSE? I'LL AFFORD YOU
9 THE SAME OPPORTUNITY, MR. LAWSON, OR ANYBODY ELSE WHO
10 HAS ANY QUESTIONS.

11 MR. ERVIN: I DON'T HAVE ANY ON BEHALF OF
12 MARTIN MCINTOSH.

13 THE COURT: COME DOWN.

14 LADIES AND GENTLEMEN, IT'S 6:00, THE APPROPRIATE
15 TIME TO RETIRE FOR THE EVENING. PLEASE REMEMBER MY
16 ADMONITIONS EARLIER, NOW. DISCUSS THE CASE WITH NO
17 ONE, PERMIT NO ONE TO DISCUSS IT WITH YOU. IT'S NOT
18 LIKELY THAT ANYTHING WOULD BE ON T.V. BUT IF IT IS,
19 PLEASE TURN AWAY FROM IT. DO NOT READ ANY PRESS
20 ACCOUNTS OF IT. DO NOT DISCUSS IT AMONG YOURSELVES.

21 AND YOU OF COURSE KNOW THE REASON WHY, AND THAT
22 IS THAT YOU 12 ARE THE SOLE AND ONLY FINDERS OF THE
23 FACTS AND JUDGES OF THE CREDIBILITY OF THE WITNESSES
24 AND YOU MUST MAKE YOUR DETERMINATION AFTER HEARING
25 THE WITNESSES AND TESTIMONY IN THIS COURT AND FROM NO

1 OTHER PLACE.

2 REMEMBER TOO, NOW, ONCE YOU ARRIVE AT THE
3 COURTHOUSE, PLEASE LEAVE YOUR JURY BADGES ON AND
4 LEAVE THEM ON THROUGHOUT THE DAY, EVEN DURING THE
5 LUNCH HOUR SO THAT EVERYBODY WILL FULLY UNDERSTAND
6 THAT YOU ARE A JUROR AND THAT NO PART OF THIS CASE
7 MUST BE DISCUSSED IN YOUR PRESENCE. I -- I KNOW THAT
8 YOU WILL UNDERSTAND THE IMPORTANCE OF THAT AND THE
9 SIGNIFICANCE OF IT.

10 I WANT TO THANK YOU FOR YOUR SERVICE TODAY.
11 I'VE OBSERVED YOU THROUGHOUT THE DAY AND ALL OF YOU
12 HAVE BEEN VERY ATTENTIVE AND THAT IS THE REAL SIGN OF
13 A GOOD JURY AND THIS COURT AND THE PARTICIPANTS HERE
14 FOR THE STATE AND THE DEFENDANT ARE DEEPLY
15 APPRECIATIVE OF YOUR SERVICE.

16 SO I'LL LET YOU GO NOW. I THINK THIS MORNING --
17 WE ALWAYS GET STARTED A LITTLE LATER. SOMETIMES WE
18 HAVE MOTIONS AND FOR THE STATE HAVING TO COME FROM
19 CONWAY, SOUTH CAROLINA EACH MORNING, SO TOMORROW,
20 RATHER THAN 9:30, WE'LL START AT 10:00.

21 IS THAT SATISFACTORY TO EVERYBODY? THAT WILL
22 GIVE YOU A LITTLE MORE TIME BE HERE IN THE MORNING AT
23 10:00. THANK YOU. WE ARE IN RECESS UNTIL 10:00 A.M.
24 IN THE MORNING.

25 (WHEREUPON, THE FOREGOING

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PROCEEDINGS WERE ADJOURNED
FOR THE EVENING.)
(END OF VOLUME 3.)

CERTIFICATE OF REPORTER

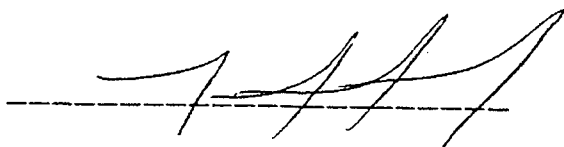
STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

I, MARK W. HAGOOD, RPR, REGISTERED PROFESSIONAL REPORTER AND NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, FOURTH JUDICIAL CIRCUIT, DO HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IS A STENOGRAPHIC REPORT AND WAS TRANSCRIBED THROUGH COMPUTER-AIDED TRANSCRIPTION; THAT THE FOREGOING TRANSCRIPT CONTAINS A TRUE RECORD OF THE PROCEEDINGS.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED TO THE ACTION, NOR AM I FINANCIALLY INTERESTED IN THE ACTION.

WITNESS MY HAND AT FLORENCE, SOUTH CAROLINA, THIS 14TH DAY OF FEBRUARY, 1998.



MARK W. HAGOOD, RPR

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STATE OF SOUTH CAROLINA
COUNTY OF MARLBORO

IN GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA
V.
LERROY STATON, ET AL.

96-GS-34-982

VOLUME FOUR

THE TRIAL PROCEEDINGS HAD
IN THE ABOVE-STYLED CAUSE

MARCH 10, 1997 - MARCH 19, 1997
BENNETTSVILLE, SOUTH CAROLINA

BEFORE: HONORABLE EDWARD B. COTTINGHAM,
CIRCUIT COURT JUDGE

A P P E A R A N C E S

FOR THE STATE: RALPH J. WILSON, SOLICITOR
15TH CIRCUIT

FOR THE DEFENDANT: MILTON M. MOORE, JR., ESQUIRE
LEROY STATON

FOR THE DEFENDANT: JOHN M. ERVIN, III, ESQUIRE
MARTIN MCINTOSH

FOR THE DEFENDANT: MAHLON E. PADGETT, IV, ESQUIRE
RICKY STUCKEY JAMES ROGERS, ESQUIRE

FOR THE DEFENDANT: K. EDWARD REDMOND, ESQUIRE
JEFFREY WALLS

FOR THE DEFENDANT: WILLIAM A. ROGERS, ESQUIRE
ALFONZO STATON

FOR THE DEFENDANT: JACK W. LAWSON, JR., ESQUIRE
ROBERT GRAHAM

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1 THE COURT: GOOD MORNING. PLEASE BE
2 SEATED. WHERE IS THE SOLICITOR? I THOUGHT YOU TOLD
3 ME EVERYBODY WAS HERE.

4 (WHEREUPON, THE JURY WAS RETURNED
5 TO THE COURTROOM AND THE FOLLOWING
6 PROCEEDINGS WERE COMMENCED IN
7 OPEN COURT.)

8 THE COURT: MADAM FOREMAN, LADIES AND
9 GENTLEMEN, GOOD MORNING TO YOU.

10 MR. WILSON: YOUR HONOR, I'M SORRY. I
11 APOLOGIZE FOR BEING LATE.

12 THE COURT: IS THE STATE READY TO PROCEED?

13 MR. WILSON: STATE'S READY.

14 THE COURT: DEFENSE READY?

15 MR. PADGETT: YES, SIR.

16 MR. ERVIN: YES, SIR.

17 MR. WILL ROGERS: YES, SIR.

18 MR. LAWSON: YES, SIR.

19 MR. MOORE: YES, SIR.

20 THE COURT: LET THE RECORD NOW REFLECT
21 THAT ALL DEFENDANTS AND DEFENSE ATTORNEYS ARE NOW IN
22 COURT. CALL YOUR NEXT WITNESS.

23 MR. WILSON: DAVID BLACK.

24 THE CLERK: PLEASE COME AROUND AND PLACE
25 YOUR LEFT HAND ON THE BIBLE. RAISE YOUR RIGHT HAND

1 AND BE SWORN. PLEASE STATE YOUR FULL NAME FOR THE
2 RECORD.

3 THE WITNESS: DAVID BLACK.

4 DAVID BLACK,
5 HAVING BEEN FIRST DULY SWORN BY THE CLERK OF COURT,
6 TESTIFIED AS FOLLOWS:

7 D I R E C T E X A M I N A T I O N
8 BY MR. WILSON:

9 Q. AGENT BLACK, YOU'RE WITH THE SOUTH
10 CAROLINA LAW ENFORCEMENT DIVISION; IS THAT CORRECT?

11 A. YES, SIR, I AM.

12 Q. AND IN WHAT CAPACITY ARE YOU EMPLOYED WITH
13 THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION?

14 A. I'M A SPECIAL AGENT ASSIGNED TO THE LATENT
15 PRINT CRIME SCENE DEPARTMENT.

16 Q. NOW, YOU SAY LATENT PRINT CRIME SCENE
17 DEPARTMENT. EXPLAIN TO US WHAT LATENT PRINTS ARE AND
18 WHAT A LATENT PRINT ANALYST DOES.

19 A. ON A DAILY BASIS, I RECEIVE LATENT PRINTS
20 WHICH ARE USUALLY PRINTS DEVELOPED AT A CRIME SCENE
21 OR EVIDENCE ASSOCIATED WITH THAT CRIME SCENE AND
22 COMPARE THOSE LATENTS TO KNOWN INK STANDARDS. THESE
23 INK PRINTS CAN BE FROM VICTIMS, THEY CAN BE FROM
24 SUSPECTS, OR THEY CAN BE FROM WITNESSES FOR
25 ELIMINATION PURPOSES. A LATENT PRINT MAY COME IN THE

1 FORM OF A LATENT LIFT. A LATENT LIFT IS USUALLY ON A
2 WHITE CARD, IT HAS FLAT ON ONE SIDE, A GLOSSY FINISH
3 ON THE OTHER SIDE. A PERSON MAY TAKE A FINGERPRINT
4 BRUSH WITH SOME POWDER, DUST A SURFACE, TAKE
5 TRANSPARENT LIFT TAPE, PLACE IT OVER THE DEVELOPED
6 PRINT, LIFT IT AND PUT IT ON THE GLOSSY SIDE. THE
7 REASON WHY IT'S PUT ON THE GLOSSY SIDE, IT HELPS
8 BETTER WITH THE CONTRAST WHEN YOU'RE DOING A
9 COMPARISON WHERE YOU'RE LOOKING AT A LATENT TO AN INK
10 FINGERPRINT CARD.

11 THE LATENT PRINT MAY ALSO COME IN THE FORM OF A
12 PHOTOGRAPH OR A PHOTOGRAPH NEGATIVE. IF YOU LOOK AT
13 YOUR HANDS, FROM THE TIPS OF YOUR FINGERS TO THE BASE
14 OF YOUR PALMS, YOU'VE GOT LINES. THESE ARE RAISED
15 PORTIONS OF SKIN. THESE RAISED PORTIONS OF SKIN WILL
16 PROBABLY REMIND YOU OF A FARMER PLOWING A FIELD WITH
17 A DISK. AS THE DISK IS CUTTING INTO THE GROUND, IT
18 CREATES ROWS. AND IT'S LIKE MOUNTAINS WITH VALLEYS
19 AND PEAKS. AT THE PEAK, WHICH IS THE TOP OF THE
20 RIDGE, AND IT GOES DOWN INTO THE VALLEY, WHICH IS
21 THE -- IT CREATES THE MOUNTAINS AND VALLEYS. AT THE
22 TOP OF THESE RIDGES ARE MINUTE SWEAT PORES. AND
23 THESE SMALL SWEAT PORES ARE CONSTANTLY EXUDING
24 PERSPIRATION. PERSPIRATION, 99 PERCENT OF IT IS
25 WATER. THE OTHER 1 PERCENT IS USUALLY INORGANIC OR

1 ORGANIC COMPOUNDS AND SALTS. WHEN THIS WATER ADHERES
2 TO SKIN AND ADHERES TO THE RIDGES AND YOU TOUCH
3 SOMETHING, IT MAY TRANSFER THAT FINGERPRINT ONTO THAT
4 SURFACE.

5 LATENT IN LATIN MEANS INVISIBLE, SO YOU HAVE TO
6 USE SOMETHING TO MAKE IT VISIBLE TO THE EYE. IT
7 COULD BE FINGERPRINT POWDER OR OTHER CHEMICALS. ALSO
8 IN CRIME SCENES WHERE YOU DO CRIME SCENE PROCESSING
9 WHERE WE'RE REQUESTED TO COME TO THE SCENE OR
10 DOCUMENT THE SCENE TO BE USED IN PHOTOGRAPHS, WE
11 COULD SKETCH OR USE DIAGRAMS, IDENTIFY ANY EVIDENCE
12 AND BRING THAT EVIDENCE BACK TO SLED FOR ANALYSIS.

13 Q. ALL RIGHT. NOW, WHAT TRAINING DO YOU
14 HAVE, THEN, IN LATENT ANALYSIS?

15 A. IN LATENT PRINT TRAINING, I'VE BEEN
16 COMPARING AND EXAMINING LATENT PRINTS FOR EIGHT
17 YEARS. THE FIRST SEVERAL YEARS I WAS UNDER THE
18 APPRENTICESHIP OF SENIOR QUALIFIED LATENT PRINT
19 EXAMINERS SUCH AS SPECIAL AGENT LARRY GAINNEY, SPECIAL
20 AGENT STEVE DERRICK AND SPECIAL AGENT STEVE CHRISTY,
21 ALL OF WHOM HAVE QUALIFIED AS EXPERTS IN THAT FIELD.
22 I'VE ALSO ATTENDED THE SOUTH CAROLINA CRIMINAL
23 JUSTICE ACADEMY WHERE I RECEIVED MY TRAINING IN BASIC
24 FINGERPRINT EXAMINATION FROM INSTRUCTOR BRUCE
25 JERNIGAN. I'VE ALSO BEEN TRAINED BY THE FEDERAL

1 BUREAU OF INVESTIGATION, SPECIAL AGENT WAYNE JOHNSON
2 IN ADVANCED LATENT TECHNIQUES, AND ALSO I'VE BEEN
3 TRAINED BY MR. RON SMITH WHO IS THE ASSISTANT
4 DIRECTOR OF THE MISSISSIPPI CRIME LAB IN ADVANCED
5 PALM PRINT IDENTIFICATION. AND I MYSELF HAVE
6 TESTIFIED IN THIS AREA DURING THE EIGHT-YEAR PERIOD.

7 Q. DO YOU HAVE ANY IDEA HOW MANY TIMES YOU'VE
8 TESTIFIED AS AN EXPERT IN THE FIELD OF LATENTS?

9 A. IN THE FIELD OF LATENT PRINTS ONLY,
10 APPROXIMATELY 60, 65 TIMES IN EIGHT YEARS.

11 MR. WILSON: ALL RIGHT. YOUR HONOR, AT
12 THIS TIME THE STATE WOULD OFFER THIS WITNESS AS AN
13 EXPERT IN THE FIELD OF LATENT PRINT EXAMINATION AND
14 IDENTIFICATION.

15 THE COURT: YES, SIR. I FIND HE'S AN
16 EXPERT IN THIS FIELD.

17 BY MR. WILSON:

18 Q. NOW, LET ME ASK YOU IF AT SOME POINT IN
19 TIME YOU BECAME INVOLVED IN THE INVESTIGATION OF THE
20 HOMICIDE OF DARLENE PATTERSON?

21 A. YES, I DID.

22 Q. ALL RIGHT. AND WHEN DID YOU BECOME
23 INVOLVED?

24 A. ON NOVEMBER THE 24TH, 1994, APPROXIMATELY
25 3:00 IN THE AFTERNOON, I WAS CONTACTED BY THE SLED

1 HEADQUARTERS, O.D. HEADQUARTERS, THAT'S OUR
2 COMMUNICATION SECTION, AND THEY DID A THREE-WAY
3 CONFERENCE CALL WITH INVESTIGATOR JERRY STARNES WITH
4 THE MARLBORO COUNTY SHERIFF'S OFFICE. INVESTIGATOR
5 STARNES INFORMED ME --

6 MR. LAWSON: OBJECTION, YOUR HONOR.
7 HEARSAY.

8 MR. WILSON: THAT'S OKAY. DON'T TELL
9 ME --

10 THE COURT: SUSTAINED.

11 MR. WILSON: -- WHAT HE TOLD YOU. AS A
12 RESULT OF HAVING A CONVERSATION WITH INVESTIGATOR
13 STARNES, WHAT IF ANYTHING DID YOU DO?

14 THE WITNESS: UPON REQUEST OF INVESTIGATOR
15 STARNES WITH THE SHERIFF'S OFFICE, I RESPONDED TO
16 MARLBORO COUNTY TO THE BURNT FACTORY MILL POND AREA
17 TO PROCESS A SCENE INVOLVING A DECEASED SUBJECT.
18 BY MR. WILSON:

19 Q. ALL RIGHT. AND WHAT TIME WOULD YOU THINK
20 THAT YOU ARRIVED THERE ON BURNT FACTORY POND ROAD?

21 A. I RESPONDED ON THE SCENE AND ARRIVED ON
22 THE SCENE AT 5:00 IN THE AFTERNOON, APPROXIMATELY TWO
23 HOURS AFTER I WAS NOTIFIED.

24 Q. OKAY. AT THE TIME YOU ARRIVED, WAS IT
25 DARK?

1 A. THE SUN WAS STARTING TO SET. IT WAS
2 STARTING TO BECOME DARK, YES, SIR.

3 Q. OKAY. NOW, AT THE TIME THAT YOU ARRIVED,
4 WERE THERE OTHER OFFICERS ALREADY THERE AND DOING
5 THINGS?

6 A. YES, SIR. THE SCENE HAD BEEN SECURED BY
7 THE MARLBORO COUNTY SHERIFF'S OFFICE. THEY ACTUALLY
8 HAD THE ROADS BLOCKED ON BOTH SIDES TO GET IN. THEY
9 HAD AN OUTER PERIMETER AND AN INNER PERIMETER. AND
10 WHEN WE ARRIVED ON THE INNER PERIMETER WHICH IS ON
11 THE BRIDGE AT THE SPILLWAY, THERE WERE INVESTIGATORS
12 AND DEPUTIES OF THE SHERIFF'S OFFICE PRESENT. AND
13 ALSO SPECIAL AGENT TOMMY FRAZIER WITH OUR SLED FIELD
14 OFFICE.

15 Q. OKAY. NOW, ONCE YOU ARRIVED, WHAT WOULD
16 HAVE BEEN YOUR RESPONSIBILITY THERE AT THE SCENE?

17 A. ONCE I ARRIVED ON THE SCENE, I SPOKE WITH
18 THE INVESTIGATORS PRESENT. THEY HAD ADVISED ME OF
19 SOME INFORMATION THAT THEY THOUGHT THE VICTIM MAY
20 HAVE BEEN -- WE WEREN'T ABSOLUTELY SURE AT THAT POINT
21 AND WE BEGAN DOCUMENTING THE SCENE. SPECIAL AGENT
22 TED SHEALY, WHO WAS MY BACK-UP, TOOK PHOTOGRAPHS
23 UNDER MY DIRECTION AND SUPERVISION. AND AT THAT
24 POINT IN TIME, WE JUST DOCUMENTED THE SCENE AS WE SAW
25 IT.

1 Q. ALL RIGHT. AT THE TIME YOU ARRIVED, HAD
2 THE VICTIM BEEN IDENTIFIED AS DARLENE PATTERSON AT
3 THAT TIME?

4 A. A PRELIMINARY IDENTIFICATION BASED
5 STRICTLY ON WHAT SHE WAS LAST SEEN WEARING AND HER
6 PHYSICAL DESCRIPTION, BUT DUE TOO THE CONDITION OF
7 THE BODY, YOU COULD NOT FROM VISUAL EXAMINATION
8 IDENTIFY HER.

9 Q. ALL RIGHT. SO WHAT IF ANYTHING DID YOU DO
10 THEN TO CONFIRM THE IDENTIFICATION PROCESS?

11 A. IN OUR TALKING WITH THE LOCAL
12 INVESTIGATORS, WE FOUND OUT THAT SHE DID HAVE A
13 FINGERPRINT CARD AND PHOTOGRAPHS ON FILE AT SLED
14 HEADQUARTERS. AT THE AUTOPSY THE NEXT DAY, MAJOR
15 CASE PRINTS -- THIS IS WHERE WE TAKE ACTUAL
16 FINGERPRINTS AND PALM PRINTS OF THE VICTIM -- WERE
17 DONE AT THE AUTOPSY AND I COMPARED THE KNOWN INK
18 PRINT CARD OF DARLENE MCRAE PATTERSON TO OUR UNKNOWN
19 DECEASED AND I FOUND IT WAS THE SAME PERSON.

20 Q. SO THE PERSON THAT YOU FOUND WAS DARLENE
21 PATTERSON?

22 A. THAT IS CORRECT, SIR.

23 Q. AND YOU VERIFIED THAT THROUGH PRINT
24 ANALYSIS?

25 A. THAT IS CORRECT, SIR.

1 Q. NOW, LET ME ASK YOU IF AT SOME POINT IN
2 TIME YOU RECEIVED SOME OTHER ITEMS FROM MARLBORO
3 COUNTY POLICE DEPARTMENT FOR EXAMINATION. LET ME
4 SHOW YOU WHAT'S MARKED STATE'S EXHIBIT 17 AND ASK YOU
5 IF YOU WOULD YOU TAKE A LOOK AT THAT?

6 A. YES, SIR. STATE'S EXHIBIT 17 BEARS THE
7 SLED LAB NUMBER, AN ITEM NUMBER PUT ON THE EVIDENCE
8 AND MY INITIALS, D.W.B.

9 Q. DID YOU HAVE OCCASION TO EXAMINE THAT
10 ITEM, AND IF SO, FOR WHAT PURPOSE?

11 A. YES, SIR. THIS ITEM WAS SHOWN IN ON ONE
12 OF THE SEARCH WARRANT SEARCHES THAT I PARTICIPATED IN
13 DURING THE COURSE OF THE EXAMINATION, AND I PROCESSED
14 THESE GLASSES FOR LATENT PRINTS AND NO LATENT PRINTS
15 WERE DEVELOPED.

16 Q. OKAY. NO LATENT PRINTS WERE DEVELOPED.
17 THAT MEANS THERE WAS NO RIDGE DETAIL THAT YOU COULD
18 MATCH?

19 A. THAT IS CORRECT.

20 Q. LET ME SHOW YOU WHAT IS MARKED AS STATE'S
21 EXHIBIT NUMBER 8.

2 A. YES, SIR. I RECEIVED FROM DEPUTY DAVID
3 FREEMAN WITH THE MARLBORO COUNTY SHERIFF'S OFFICE --
4 I THINK IT'S TWO OR THREE DAYS AFTER THE INITIAL
5 SCENE -- I RECEIVED FROM HIM SOME EVIDENCE AND SOME

1 DRINK CANS, AND INCLUDING THE VICTIM'S PURSE. AND
2 THIS IS THE CONTENTS OF THAT PURSE. AND THESE WERE
3 ALSO PROCESSED FOR LATENT PRINTS. THEY WERE STILL
4 DAMP. I HAD TO ALLOW THEM TO AIR DRY COMPLETELY
5 BEFORE I COULD PROCESS THEM, BUT I DID PROCESS THE
6 ITEMS FOR PRINTS USING VARIOUS CHEMICALS AND AN
7 ALTERNATE LIGHT SOURCE. NO RIDGE DETAIL WAS
8 DEVELOPED. HOWEVER, I DID DEVELOP A LOT OF WATER
9 SPOTS INDICATING TO ME THAT IT HAD BEEN SATURATED
10 WITH WATER, AND THAT WOULD HAVE PLAYED A PART IN NOT
11 DEVELOPING LATENT PRINTS ON THE ITEM.

12 Q. EXPLAIN THAT TO ME. WHEN YOU SAY THAT
13 WATER WOULD PLAY A PART IN NOT BEING ABLE TO DEVELOP
14 ANY PRINTS THAT MAY HAVE BEEN PRESENT ON THE ITEM,
15 HOW WOULD WATER DISTURB OR DISTORT THOSE PRINTS THAT
16 MAY BE THERE?

17 A. WATER IS SIMPLY LIKE WASHING YOUR HANDS.
18 IF YOU TAKE SOAP AND WATER AND WASH YOUR HANDS, THE
19 PURPOSE IS TO CLEAN YOUR HANDS, TO WIPE AWAY ANY
20 DIRT, ANY SCUM, WHATEVER MAY BE THERE. WATER IS
21 GOING TO PLAY THE SAME THING. IT IS A CLEANSING
22 AGENT. WHATEVER IS THERE, ONCE IT'S -- IF IT'S BEEN
23 THOROUGHLY DRENCHED WITH WATER, IT'S GOING TO
24 GENERALLY JUST CLEAN IT COMPLETELY SO NO PRINT -- NO
25 RESIDUE WILL BE LEFT.

1 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS
2 STATE'S EXHIBIT NUMBER 7, WHICH IS A PURSE, AND ASK
3 YOU IF YOU HAD AN OCCASION TO EXAMINE THAT ITEM ALSO
4 ALONG WITH THE CONTENTS WHICH YOU'VE ALREADY
5 IDENTIFIED IN STATE'S EXHIBIT 8?

6 A. YES, SIR. THIS IS THE PURSE THAT THESE
7 ITEMS WERE LOCATED IN. THIS WAS ALSO WHAT WAS
8 BROUGHT TO ME BY DEPUTY FREEMAN FROM THE SHERIFF'S
9 OFFICE. AND AGAIN, THE SAME THING. IT WAS PROCESSED
10 IN VARIOUS CHEMICALS AND POWDER, INCLUDING THE
11 ALTERNATE LIGHT SOURCE. IT'S LIKE A LASER, INTENSE
12 LIGHT. AND THE ONLY THING THAT IT DID SHOW ME WAS IT
13 HAD SEVERAL WATER SPOTS ON IT, THAT AGAIN, HAD BEEN
14 EXPOSED TO THE WATER.

15 Q. NOW, LET ME SHOW YOU WHAT'S MARKED AS
16 STATE'S EXHIBIT NUMBERS 10, 11 AND 12, WHICH ARE ALL
17 PIECES OF GRAY DUCT TAPE REMOVED FROM THE BODY OF THE
18 VICTIM AND ASK YOU IF YOU EXAMINED THOSE ITEMS?

19 A. STATE'S EXHIBIT 10 IS THE DUCT TAPE THAT
20 WAS REMOVED FROM THE VICTIM'S HANDS. WHEN WE FOUND
21 HER AT THE POND, SHE HAD DUCT TAPE ACROSS HER FACE,
22 HER HANDS. HER HANDS WERE BEHIND HER BACK AND HER
23 ANKLES WERE BOUND. AND THIS PARTICULAR TAPE, STATE'S
24 EXHIBIT 10, WAS FROM HER HANDS AND WRIST AREA.
25 STATE'S EXHIBIT 11 WAS THE DUCT TAPE FROM THE

1 VICTIM'S FACE. STATE'S EXHIBIT 12 -- PARDON ME --
2 WAS THE DUCT TAPE FROM THE VICTIM'S ANKLES. THIS --
3 AGAIN, THIS WAS LEFT ON THE DECEASED AT THE SCENE.
4 SO SHE WOULD BE TRANSPORTED FOR AUTOPSY AT M.U.S.C.
5 IN CHARLESTON. AT M.U.S.C., THIS TAPE WAS REMOVED BY
6 THE PATHOLOGIST AND SENT TO SLED FOR ANALYSIS,
7 INCLUDING LATENT PRINTS. I DID PROCESS THE TAPE FOR
8 LATENT PRINTS USING DIFFERENT CHEMICALS.

9 AGAIN, THERE WAS BODY HAIR, TISSUE, THINGS OF
10 THAT NATURE STILL ON THE TAPE. ALSO, THE TAPE WAS SO
11 BOUND THAT I COULD NOT WORK IT COMPLETELY FREE, SO
12 THERE WAS ONLY CERTAIN AREAS THAT I COULD PROCESS FOR
13 PRINTS. THE SHINY SIDE OF THE TAPE, THE GRAY SIDE OF
14 THE TAPE IS A NON-POROUS, MEANING THAT IT WON'T LET
15 THINGS PENETRATE. IT'S LIKE A PLASTIC LAMINATE.
16 THIS AREA JUST DEVELOPED WATER SPOTS.

17 ON THE OTHER SIDE OF THE TAPE, THE ADHESIVE SIDE
18 OF THE TAPE, IT'S KNOWN AS A POROUS, MEANING THAT IT
19 WILL ALLOW THINGS TO PENETRATE LIKE PAPER OR
20 CARDBOARD WHEN IT GETS WET. IT'S A DIFFERENT
21 CHEMICAL THAT'S USED THAT REACTS WITH SKIN CELLS, BUT
22 NO PRINTS WERE DEVELOPED ON THE TAPE AT ALL.

23 Q. SO YOU SEARCHED THE STICKY SIDE OF THE
24 TAPE TO DETERMINE IF THERE WERE PRINTS ON THAT STICKY
25 SIDE?

1 A. THAT'S CORRECT.

2 Q. AND YOU WERE NOT ABLE TO DETECT ANY?

3 A. NOT ONLY ON THE STICKY SIDE. BUT ALSO ON
4 THE NON-STICKY SIDE, IT WAS PROCESSED FOR PRINTS TOO
5 AND NO PRINTS WERE DEVELOPED ON THE TAPE.

6 Q. OKAY. WOULD THAT BE UNUSUAL, FINDING THE
7 BODY IN THE WATER, NOT FINDING PRINTS ON THE TAPE --
8 WOULD THAT -- WOULD THE FACT THAT THE BODY WAS IN
9 WATER FOR A PERIOD OF TIME DISTORT OR CAUSE LOSS OF
0 ANY PRINTS THAT MAY HAVE BEEN ON THE TAPE?

1 A. THAT IS CORRECT, SIR. LATENT PRINTS ARE
2 FRAGILE. LATENT PRINTS ARE RANDOM. WHEN YOU TOUCH
3 SOMETHING, NUMBER ONE, THERE'S NO GUARANTEE THAT
4 YOU'RE GOING TO LEAVE PRINTS BECAUSE IT IS A FREQUENT
5 TOUCHING; IT'S A SWIPING MOTION. WHEREAS AN INK
6 PRINT, YOU ACTUALLY TAKE CONTROL OF THE PRINT. YOU
7 PUT IT ON THE INK AND ROLL IT ONTO A CARD. YOU HAVE
8 CONTROL. YOU HAVE IDEAL CONDITIONS.

9 IN A CASE LIKE THIS, YOU HAVE NOT ONLY INCLIMATE
0 WEATHER, BUT THE BODY AND ALL OF THE CONTENTS WERE
1 EXPOSED TO WATER OVER A PERIOD OF TIME. THAT IS NOT
2 UNUSUAL.

3 AND ALSO, ON THE TAPE, LIKE I SAID, THERE WAS
4 HAIR, TISSUE AND OTHER THINGS THAT WERE PRESENT
5 THAT'S ALSO GOING TO DEGRADE DEVELOPING PRINTS ON

1 THOSE ITEMS.

2 Q. NOW, LET ME SHOW YOU WHAT'S BEEN MARKED AS
3 STATE'S EXHIBIT 18, WHICH IS A ROLL OF DUCT TAPE
4 TAKEN FROM THE VEHICLE OF SAM WALLS AND ASK YOU IF
5 YOU WOULD TAKE A LOOK AT THAT FOR ME AND TELL ME IF
6 IN FACT YOU HAD AN OCCASION TO EXAMINE THAT ITEM?

7 A. YES, SIR, I DID. I RECEIVED THIS FROM
8 INVESTIGATOR JERRY STARNES FROM THE SHERIFF'S OFFICE,
9 AND I TRANSPORTED THIS ITEM TO SLED AND FOR AGENT
10 BARRON WITH THE TRACE DEPARTMENT TO COMPARE THIS
11 KNOWN TAPE SAMPLE TO THE TAPE THAT WAS RECOVERED OFF
12 THE VICTIM'S BODY.

13 Q. OKAY. AND WERE YOU ABLE TO -- WERE YOU
14 ABLE TO FIND ANY PRINT -- DID YOU EXAMINE THIS FOR
15 ANY LATENT PRINTS?

16 A. IF I MAY, LET ME CHECK MY REPORT. NO,
17 SIR, I DID NOT. AND THE REASON WHY I WANTED TO
18 CHECK, I HAD A LOT OF DUCT TAPE IN THE CASE. I --
19 WE -- IN DISCUSSION WITH INVESTIGATOR STARNES, IT WAS
20 FELT THAT IT WAS MORE PROBATIVE TO DETERMINE IF THIS
21 ROLL OF TAPE WAS RESPONSIBLE FOR BINDING THE VICTIM.
22 THAT CARRIED PRECEDENCE OVER DEVELOPING PRINTS ON THE
23 ITEM. SO IT WAS STRICTLY DONE FOR THE ANALYSIS OF
24 THE TAPE. IN MY -- IT'S POSSIBLE IN SOME OF OUR
25 LATENT PROCESSES THE CHEMICALS CAN DESTROY OR DISTORT

1 SOMETHING, AND I DID NOT WANT TO RUN THE RISK OF
2 DESTROYING OR DISTORTING THIS TAPE IN ANY WAY, SHAPE
3 OR FORM.

4 Q. LET ME SHOW YOU THIS PHOTOGRAPH AND ASK
5 YOU IF YOU RECOGNIZE THAT?

6 A. YES, SIR. THIS IS A PHOTOGRAPH THAT
7 DEPICTS A GOLD EARRING THAT WAS IN THE LEFT EAR OF
8 THE VICTIM WHEN WE FOUND HER THAT EVENING -- THAT
9 NIGHT AT BURNT FACTORY MILL POND. ONE OF THE THINGS
10 THAT WE DID, ONCE WE GOT HER -- RETRIEVED HER FROM
11 THE WATER, WE MADE VARIOUS PHOTOGRAPHS OF HER, WHAT
12 HER CONDITION WAS, WHAT SHE WAS WEARING, ANY JEWELRY,
13 THINGS OF THAT NATURE, THAT MAY BE ON HER. AND IN
14 THIS ONE IN PARTICULAR, IT SHOWS A CLOSE-UP
15 PHOTOGRAPH OR A NEAR CLOSE-UP PHOTOGRAPH OF THE LEFT
16 EARRING.

17 Q. ALL RIGHT. AND WAS THIS -- WAS THIS
18 EARRING --

19 THE COURT: YES, SIR.

20 MR. ERVIN: YOUR HONOR, I THINK THIS WOULD
21 BE AN APPROPRIATE TIME IF THE COURT DEEMS PROPER TO
22 DISCUSS THE PHOTOGRAPHS.

23 THE COURT: HE'S NOT INTRODUCING THE
24 PHOTOGRAPHS.

25 MR. WILSON: I'M NOT --

1 MR. ERVIN: WELL, HE JUST SHOWED IT.

2 MR. WILSON: NO, I DIDN'T SHOW IT.

3 MR. ERVIN: I'M TALKING ABOUT THE AGENT
4 DID.

5 THE COURT: NO, SIR. I DON'T THINK -- HE
6 HADN'T SHOWED THAT PHOTOGRAPH, THAT I'M AWARE OF.
7 DID HE?

8 MR. WILSON: NO, SIR. HE DID NOT SHOW THE
9 PHOTOGRAPH.

10 MR. ERVIN: IT LOOKED LIKE HE DID FROM
11 HERE.

12 MR. WILSON: NO. HE HELD IT TO HIMSELF
13 LIKE THIS LOOKING AT IT.

14 THE COURT: NO, SIR. HE DIDN'T. AT AN
15 APPROPRIATE TIME, I'LL CERTAINLY AVAIL YOU OF ANY --
16 BY MR. WILSON:

17 Q. LET ME -- DID YOU TAKE A LOOK AT WHAT'S
18 STATE'S EXHIBIT NUMBER 9? TELL ME WHETHER OR NOT
19 THAT'S ONE IN THE SAME EARRING THAT YOU SAW ON THE
20 DECEASED DARLENE PATTERSON ON NOVEMBER 24TH, 1994,
21 WHEN YOU FIRST OBSERVED HER BODY DOWN THERE AT THE
22 BURNT POND FACTORY ROAD.

23 A. YES, SIR. THIS IS THE EARRING. THE
24 REASON WHY I KNOW IT'S THE EARRING, IT WAS COLLECTED
25 AT THE AUTOPSY. IT STAYED WITH THE BODY ALL THE WAY

1 TO THE AUTOPSY AND AT THE AUTOPSY IT WAS COLLECTED.
2 BESIDES HAT, IT IS IN A SEALED ENVELOPE. THE SEAL
3 HAS NOT BEEN BROKEN. I SEALED THIS ENVELOPE. IT
4 BEARS THE SLED LAB NUMBER, THE SLED ITEM NUMBER AND
5 MY INITIALS, D.W.B.

6 Q. ALL RIGHT. SO THIS IS ONE IN THE SAME
7 EARRING THAT WAS IN HER EAR ON THAT DAY WHEN YOU
8 FIRST SAW HER BEING DRUG OUT OF THAT RIVER?

9 A. YES, SIR, IT IS.

10 MR. WILSON: THE STATE WOULD OFFER WHAT'S
11 PREVIOUSLY BEEN MARKED AS STATE'S EXHIBIT NUMBER 7
12 FOR IDENTIFICATION AND NUMBER 8 FOR IDENTIFICATION AS
13 STATE'S EXHIBIT NUMBERS 7 AND 8, WHICH ARE THE PURSE
14 AND ITS CONTENTS.

15 THE COURT: WHAT IS THE POSITION OF ANY
16 DEFENDANTS FOR THE RECORD?

17 MR. ERVIN: NO OBJECTION.

18 MR. PADGETT: NO OBJECTION.

19 MR. REDMOND: WITHOUT OBJECTION.

20 MR. MOORE: NO OBJECTION.

21 MR. WILL ROGERS: NO OBJECTION.

22 MR. LAWSON: NO OBJECTION.

23 THE COURT: THEY ARE ADMITTED WITHOUT
24 OBJECTION.

25 (STATE'S EXHIBITS NUMBERS 7 AND 8

1 ENTERED INTO EVIDENCE.)

2 MR. WILSON: STATE WOULD OFFER INTO
3 EVIDENCE WHAT HAS PREVIOUSLY BEEN MARKED AS STATE'S
4 EXHIBIT NUMBER 9 AS STATE'S EXHIBIT FOR
5 IDENTIFICATION AS STATE'S EXHIBIT 9, WHICH IS THIS
6 EARRING.

7 MR. ERVIN: NO OBJECTION.

8 MR. REDMOND: NO OBJECTION.

9 MR. PADGETT: WITHOUT OBJECTION.

10 MR. MOORE: NO OBJECTION.

11 MR. WILL ROGERS: NO OBJECTION.

12 MR. LAWSON: NO OBJECTION.

13 (STATE'S EXHIBIT NUMBER 9

14 ENTERED INTO EVIDENCE.)

15 MR. WILSON: COURT BEAR WITH ME FOR JUST
16 ONE SECOND. I'M JUST TRYING TO GET SOMETHING CLEAR.
17 BY MR. WILSON:

18 Q. LET ME SHOW YOU WHAT HAS BEEN MARKED AS
19 STATE'S EXHIBIT NUMBER 19 AND ASK YOU IF YOU CAN
20 IDENTIFY THAT PARTICULAR ITEM?

21 A. YES, SIR, I CAN. THIS SECTION OF TAPE --
22 AND I HAD TO CHECK MY REPORT TO BE ABSOLUTELY SURE.
23 THIS DUCT TAPE WAS RECOVERED FROM THE HOUSE THAT WE
24 HAD A SEARCH ON AT AN ABANDONED HOUSE, SAME PLACE
25 THAT THE GLASSES WERE FOUND. AND THIS WAS AT THE

1 HOUSE.

2 Q. OKAY. AND DID YOU REMOVE THAT OR WERE YOU
3 PRESENT WHEN IT WAS REMOVED?

4 A. I -- YES, SIR, I COLLECTED THIS. I
5 REMOVED THIS MYSELF.

6 Q. ALL RIGHT. LET ME SHOW YOU THIS
7 PHOTOGRAPH AND ASK IF YOU WOULD TAKE A LOOK AT THAT
8 PHOTOGRAPH.

9 A. YES, SIR.

10 Q. IS THAT A PHOTOGRAPH OF THE TAPE THAT YOU
11 HOLD IN YOUR HAND, WHICH IS STATE'S EXHIBIT NUMBER
12 19?

13 A. IT APPEARS TO BE.

14 Q. IF YOU DON'T KNOW, THAT'S OKAY.

15 A. WELL, WHAT I -- IT APPEARS TO BE. WHAT I
16 WAS GOING TO SAY, IF THESE -- THERE WERE SO MANY
17 PHOTOGRAPHS TAKEN. IF THIS IS FROM THE PHOTOGRAPHS
18 THAT I TOOK AT THE ABANDONED HOUSE THAT I'M REFERRING
19 TO, YES, IT LOOKS LIKE IT. BUT TO BE ABSOLUTELY
0 SURE, I WOULD HAVE TO SEE OTHER PHOTOGRAPHS WITH IT.

1 Q. THAT'S ALL RIGHT. WE'LL DO IT LATER.
2 THAT'S OKAY.

3 A. YES, SIR.

4 Q. BUT THIS IS THE TAPE THAT YOU REMOVED FROM
5 THE ABANDONED HOUSE. ON WHAT DAY DID YOU REMOVE THIS

1 TAPE, IF YOU REMEMBER?

2 A. ONE MOMENT, PLEASE. I WAS NOTIFIED BY
3 LIEUTENANT FRED KNIGHT WITH THE SLED FIELD OFFICE IN
4 THE PEE DEE REGION ON JANUARY THE 4TH, 1995, BUT THE
5 ACTUAL SEARCH WAS DONE ON JANUARY THE 5TH, 1995. AND
6 IT WAS ON PEARSON ROAD IN MARLBORO COUNTY.

7 Q. NOW, LET ME ASK YOU ABOUT THAT. ON THE
8 5TH WHEN YOU WENT TO THIS ABANDONED HOUSE, TELL ME
9 WHAT ELSE YOU DID THERE AT THE HOUSE, WHAT YOU DID
10 AND WHAT YOUR PURPOSE WAS FOR BEING THERE.

11 A. AGAIN, SPECIAL AGENT SHEALY ACCOMPANIED ME
12 ON THE SCENE; ALSO A SLED SEROLOGIST, SPECIAL AGENT
13 DAVID MCCLURE. WE DID A COMPLETE SEARCH OF THE HOME
14 AND AS MUCH OF THE EXTERIOR AS POSSIBLE, INCLUDING
15 CLIMBING AND GOING UNDER THE HOME -- THERE WAS SOME
16 CRACKS IN THE FLOOR -- JUST TO SEE IF ANYTHING MAY
17 HAVE FELL THROUGH. WE WERE PRINCIPALLY LOOKING FOR
18 ANY PROPERTY THAT MAY HAVE BEEN THAT OF THE DECEASED,
19 MRS. PATTERSON, AND ANY OTHER EVIDENCE THAT WE MAY
20 HAVE FOUND.

21 AS FAR AS LATENT PRINTS, OUR PRINCIPAL CONCERN
22 WAS TO SEE IF WE COULD DEVELOP ANY PRINTS OF THE
23 VICTIM AT THAT LOCATION. WE WERE NOT SUCCESSFUL IN
24 DOING THAT. WE ALSO LOOKED FOR ANY HAIR OR FIBERS.
25 ALSO SPECIAL AGENT MCCLURE BROUGHT THE LUMI-LIGHT

1 WITH HIM. THIS IS A MACHINE THAT WHEN THE AREA IS
2 DARK IN THE AREA, IT CAN SHINE A LIGHT AND IT MAKES
3 SEMEN FLUORESCE. HE TOOK SOME SAMPLES FROM THE
4 SCENE, BUT THOSE SAMPLES WERE NEGATIVE FOR SEMEN.
5 AND WE JUST -- ESSENTIALLY JUST ALONG WITH THE
6 DEPUTIES AND THE SHERIFF'S OFFICE AND SEVERAL OF OUR
7 FIELD AGENTS CANVASSED THE AREA TO SEE IF WE COULD
8 FIND ANYTHING.

9 Q. DO YOU KNOW WHETHER OR NOT THE HOUSE HAD
10 BEEN CLEANED PRIOR TO YOU GOING THERE ON THE 5TH BY
11 THE NEW OWNER?

12 A. I PERSONALLY HAVE NO IDEA IF IT WAS OR
13 NOT.

14 MR. WILSON: ALL RIGHT. THANK YOU.
15 ANSWER ANY QUESTIONS THESE GENTLEMEN MIGHT HAVE FOR
16 YOU.

17 THE WITNESS: YES, SIR.

18 C R O S S - E X A M I N A T I O N

19 BY MR. ERVIN:

20 Q. AGENT BLACK, I JUST WANT TO MAKE SURE I
21 UNDERSTAND YOU. THE DUCT TAPE THAT YOU TOOK FROM THE
22 ABANDONED HOUSE WAS COMPARED WITH THIS PARTICULAR
23 ROLL; IS THAT CORRECT?

24 A. THAT IS MY UNDERSTANDING, YES, SIR.

25 Q. AND THAT WAS SUBMITTED TO YOUR TRACE

1 ANALYST, AGENT BARRON?

2 A. YES, SIR.

3 Q. WHO TESTIFIED?

4 A. YES, I TOOK IT TO SLED FOR THAT PURPOSE.

5 Q. BUT YOU INDICATED THAT YOU DIDN'T WANT TO
6 PERFORM ANY ADDITIONAL TESTS ON THIS PARTICULAR ROLL
7 BECAUSE IT MIGHT DESTROY THE SAMPLE?

8 A. IT COULD POSSIBLY -- I DON'T KNOW IF IT
9 COULD OR NOT. I USE MORE -- I ERRED IN THE FAVOR OF
10 CAUTION IN THIS CASE.

11 Q. UH-HUH.

12 A. I DIDN'T KNOW IF THE LATENT PROCESSING
13 WITH SOME OF THE CHEMICALS THAT WE USE WOULD DESTROY
14 THE KNOWN TAPE OR NOT, OR ALTER IT IN ANY WAY, SHAPE
15 OR FORM. AND BECAUSE OF THAT, I DIDN'T WANT TO RUN
16 THAT RISK.

17 Q. OKAY.

18 A. AND FURTHER, IF I'M NOT IN THIS CASE, THE
19 TAPE WAS TURNED OVER BY SOMEONE TO INVESTIGATOR
20 STARNES. SO I KNEW THAT DUE TO -- IT BELONGED TO
21 SOMEBODY. TAKING THAT INTO CONSIDERATION, TOO, IT
22 WAS TURNED IN, I BELIEVE, OR FOUND -- I'M NOT SURE
23 WHICH --

24 Q. WHAT WAS SIGNIFICANT ABOUT THAT TO YOU?
25 THE FACT THAT SOMEBODY ELSE MIGHT HAVE TOUCHED IT?

1 A. IT'S POSSIBLE, YES, SIR.

2 Q. BUT YOU WILL -- YOU WILL ADMIT THAT YOU
3 COULD HAVE TAKEN THIS TAPE, REMOVED THE OUTER LAYER,
4 RUN SOME TYPE OF FINGERPRINT ANALYSIS ON IT AND
5 POSSIBLY GOTTEN A RESULT FROM IT?

6 A. YES, SIR. THAT IS POSSIBLE.

7 Q. AND THEN YOU WOULD HAVE STILL HAD A KNOWN
8 COMPARISON FOR CHEMICAL COMPARISON.

9 A. THE CHEMICALS THAT WE USE ARE ABSORBING.
10 I CAN'T GUARANTEE THAT IT WOULD ONLY STOP AT THAT ONE
11 LAYER. IT MAY HAVE GONE THROUGH EVERY SINGLE INCH
12 AND SPACE OF THAT TAPE, SO I DIDN'T WANT TO RUN THAT
13 RISK, BUT YES, SIR, I COULD HAVE.

14 Q. WHAT IF SOMEBODY WERE TO TAKE THIS TAPE
15 WITHOUT PUTTING THEIR FINGERTIPS ON IT OR DAMAGING IT
16 IN ANY WAY AND REMOVE THE OUTER LAYER -- WHICH IS
17 WHERE THERE WOULD HAVE BEEN SOME HUMAN CONTACT
18 POSSIBLE. RIGHT?

19 A. YES.

20 Q. THEN YOU COULD ANALYZE IT FOR
21 FINGERPRINTS. YOU'VE GOT THE REMAINDER OF THE ROLL
22 FOR CHEMICAL COMPARISON THAT AGENT BARRON WAS TALKING
23 ABOUT YESTERDAY. YOU COULD THEN SAY, WELL, IT'S THE
24 SAME TYPE, WHATEVER. THE SAME THING HE SAID
25 YESTERDAY.

1 A. THAT IS POSSIBLE. AS I STATED EARLIER,
2 WITH THE CHEMICALS WE USE, THEY WILL COMPLETELY
3 ABSORB -- THERE'S A POSSIBILITY OF IT GOING
4 COMPLETELY THROUGH. IT MAY DAMAGE ALL OF THE TAPE,
5 EVERYTHING THAT'S ON THE ROLL. I DIDN'T WANT TO RUN
6 THAT CHANCE.

7 Q. NOT IF YOU TOOK THE OUTER LAYER OFF, WOULD
8 IT? IT WOULDN'T HAVE DAMAGED THE OUTER LAYER THEN.

9 A. WHEN YOU'RE SAYING THE OUTER LAYER, WHAT
10 ARE YOU REFERRING TO?

11 Q. THE PORTION OF THE TAPE THAT SOMEBODY
12 COULD TOUCH.

13 A. NOT KNOWING HOW MUCH TAPE TO TAKE OFF, I
14 WOULDN'T RUN THAT RISK.

15 Q. YOU ALSO STATED THAT YOU WERE AT THE
16 ABANDONED HOUSE WHEN YOU SECURED THE SCENE OR
17 CONDUCTED A SEARCH FOR FURTHER EVIDENCE. RIGHT?

18 A. YES, SIR.

19 Q. WHEN WAS THAT DONE?

20 A. THAT WAS DONE ON -- THE ABANDONED HOUSE?

21 Q. RIGHT.

22 A. THAT WAS ON PEARSON ROAD. THAT WAS DONE
23 ON JANUARY THAN 5TH, 1995.

24 Q. AND YOU FEEL LIKE YOU DID A PRETTY
25 THOROUGH JOB ON THAT DAY?