

STATE OF SOUTH CAROLINA
In The Supreme Court

CERTIORARI TO BAMBERG COUNTY
Court of Common Pleas

The Honorable James R. Barber, III, Circuit Court Judge
Case No. 2009-CP-05-0208

FRANKIE LEE BRYANT, ...RESPONDENT,

v.

STATE OF SOUTH CAROLINA, ... PETITIONER.

APPENDIX

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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BAMBERG COUNTY

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FRANKIE LEE BRYANT, III,

APPELLANT

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STATE OF SOUTH CAROLINA
COUNTY OF BAMBERG

) COURT OF GENERAL SESSIONS
) 2004-GS-05-085

State of South Carolina)
)

vs.)

) TRANSCRIPT OF RECORD
) (Trial)

Frankie Lee Bryant, III)
)

Defendant.)

November 9, 2005
Bamberg, South Carolina

BEFORE:

THE HONORABLE DUVET A. EARLY, III, JUDGE; and a jury

APPEARANCES:

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Wednesday, November 9, 2005

THE COURT: As I understand, you all are ready to proceed in the case of The State vs. Frankie Lee Bryant, 05-085. Mr. Kirkland, you have a motion to continue. Is that my understanding?

MR. KIRKLAND: Yes, sir, your honor.

THE COURT: I'll be glad to hear from you.

MR. KIRKLAND: Your honor, the --

THE COURT: Yes, sir.

MR. KIRKLAND: -- general nature of this taking place at this time with the number of issues, I'd like to ask for a continuance. I received a letter from the Solicitor's Office, if I can hand this up, on the 17th. I actually received it on the 19th which is telling me we're going to have a trial.

In the interim period of that, Ms. Oliver, for one, was not available to the State or anybody else. And of course they were diligently looking for her. We had an interview with her last night, both Solicitor Moore and I. She gave us various pieces of information. One of them in particular that I found to be very interesting, which was not something that was new, was the issue of how long her and the deceased were together and engaging in activities that could turn out to be a part of a self-defense

1 strategy, most specifically intoxication of various
2 substances. Without having had the opportunity to go
3 out and research this, look behind it and --

4 THE COURT: What kind of research do you want to
5 do?

6 MR. KIRKLAND: Well, I want to go out -- as an
7 example, she said she was under a tree for a couple
8 of hours with various people. These folks could
9 testify as to what substances were consumed, how
10 much.

11 THE COURT: Where was the tree and who are the
12 people?

13 MR. KIRKLAND: I cannot tell you that without
14 looking at it. I mean, that's one of the things.

15 THE COURT: Where is the tree alleged to be?

16 MR. KIRKLAND: I believe it's in Ehrhardt, Your
17 Honor. She did not --

18 THE COURT: Which is 13 miles away.

19 MR. KIRKLAND: She did not know exactly where it
20 was. She also alluded to having engaged in smoking
21 crack over a 24-hour period before he got there,
22 turning this to just virtually a 36-hour binge. This
23 could turn out to be something that's fairly
24 critical --

25 THE COURT: Such as?

1 MR. KIRKLAND: -- in a self-defense -- well, if
2 I could come up with people who say, you know, doing
3 crack repetitively, lack of sleep, gross intoxication
4 with alcohol, that is an element that we would want
5 to pursue and argue.

6 THE COURT: Well, you knew that there was some
7 intoxication going into this thing, didn't you?

8 MR. KIRKLAND: Yes, sir. But I never spoke with
9 anybody. My client was never with Mr. Wright 'til
10 the morning of Saturday. He is saying they got
11 together on Friday.

12 THE COURT: Well, you've known Ms. Oliver was a
13 potential witness for how long?

14 MR. KIRKLAND: Since probably the 19th, give or
15 take.

16 THE COURT: What efforts have you made to locate
17 her?

18 MR. KIRKLAND: Well, I have been in constant
19 contact with them knowing they were looking for her.
20 I mean, if the State can't find her with billions of
21 dollars of resources, Your Honor, I am not going to
22 be able to.

23 THE COURT: Well, did you make any effort?

24 MR. KIRKLAND: No, sir. I did not go to where
25 she was supposed to be because they already had

1 officers who worked for the City of Aiken looking. I
2 was aware of that.

3 THE COURT: All right. She was available
4 yesterday afternoon; is that correct, about 5:00? I
5 think I talked to her at 5 yesterday and made her
6 available for both of you all last night for as long
7 as you wanted, and I assume you both interviewed her.

8 MR. KIRKLAND: Yes, sir, Your Honor.

9 THE COURT: Anything else?

10 MR. KIRKLAND: No, sir. Well, --

11 THE COURT: On the continuance?

12 MR. KIRKLAND: No, sir, Your Honor.

13 THE COURT: All right. How long have you been
14 in the Public Defender's Office?

15 MR. KIRKLAND: Approximately six months.

16 THE COURT: All right, sir. And this case is
17 one of the ones you inherited?

18 MR. KIRKLAND: Yes, sir, Your Honor.

19 THE COURT: And you knew that it was going to be
20 a trial almost from day one, didn't you?

21 MR. KIRKLAND: Yes, sir; along with
22 approximately 600 other total cases. But I didn't --

23 THE COURT: I understand that.

24 MR. KIRKLAND: I didn't have the opportunity to
25 investigate each and every one of these cases. Every

1 time we've had court in either county, we've done a
2 virtual full week of court.

3 THE COURT: I have commented to a number of
4 people what I think, you're doing an admirable job.
5 You've been prepared on all of your cases. You've
6 been meeting with all of these people. I can't thank
7 you enough for the job you're doing. I publicly
8 state that around the state, that we've got a
9 situation in Bamberg that's making everything work a
10 lot better because you're working hard.

11 But, on the other side of the coin is, you know,
12 we have to move these cases. And this has been on
13 the docket. You were given notice in October. This
14 is now --

15 MR. KIRKLAND: Eighteen days.

16 THE COURT: -- eighteen days. And obviously
17 this case has been on the docket, and we've been
18 talking about this case back and forth for a number
19 of terms of court. So I am going to respectfully
20 deny your motion. Anything else? Make this a part
21 of the record.

22 MR. KIRKLAND: Yes, sir, Your Honor. My client
23 asked me last night to inform the Court that he
24 wishes to have a different attorney. He wishes to
25 hire an attorney.

1 THE COURT: All right. How long has your client
2 been in jail?

3 MR. KIRKLAND: Well, he is not in jail.

4 THE COURT: How long has this been -- this
5 allegedly took place on February 22 of 2004?

6 MR. KIRKLAND: Yes, sir, Your Honor.

7 THE COURT: And did he have Mr. Wilson prior to
8 you?

9 MR. KIRKLAND: Yes, sir, Your Honor.

10 THE COURT: Mr. Wilson was appointed right off
11 the bat I assume.

12 MR. KIRKLAND: I would think so, Your Honor.

13 THE COURT: Which he is just now telling you
14 last night he wants to hire a lawyer?

15 MR. KIRKLAND: Yes, sir.

16 THE COURT: Denied.

17 MR. KIRKLAND: He actually told me that he
18 wanted to hire Mr. Wilson.

19 THE COURT: He's had ample opportunity to do so.
20 What else?

21 MR. KIRKLAND: Thank you, Your Honor. We would
22 also ask that any witnesses would be sequestered
23 during this trial.

24 THE COURT: Granted. May I hear from the State
25 on that? I assume you've got an investigator,

1 somebody like that.

2 MR. MOORE: We have Miranda and we have another
3 investigator come, and we can handle that. I do have
4 a witness crime scene guy from SLED. I have a
5 forensic pathologist. I don't see a need -- I don't
6 see any -- I don't think he'd have any objection --

7 THE COURT: Let's do this. Tell me what you
8 want, Mr. Kirkland. Everybody sequestered?

9 MR. KIRKLAND: Yes, sir, Your Honor.

10 THE COURT: I'll sequester everybody except
11 Miranda who is the victim's coordinator. She's not
12 going to testify, is she?

13 MR. MOORE: No, sir. Well, there are people I
14 interviewed. And she would be a witness if they said
15 something different on the stand.

16 THE COURT: All right. We'll sequester her. I
17 am going to let your investigator stay with you.

18 MR. KIRKLAND: May I approach? I think I did
19 not write something in here.

20 THE COURT: Well, let's finish doing this. All
21 right. Let's sequester the witnesses. All right.
22 We got a Jackson v. Denno?

23 MR. MOORE: Yes, sir.

24 THE COURT: All right. Let's do it real quick.
25

1 (WHEREUPON, State's Exhibit No. 1 is marked for
2 identification.)

3 (WHEREUPON, State's Exhibit No. 2 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 3 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 4 is marked for
8 identification.)

9 (WHEREUPON, State's Exhibit No. 5 is marked for
10 identification.)

11 (WHEREUPON, State's Exhibit No. 6 is marked for
12 identification.)

13 J. D. MATHIS, after being duly sworn, testifies
14 as follows:

15 DIRECT EXAMINATION

16 BY MR. MOORE:

17 Q Officer Mathis, you had occasion to interview Frankie
18 Bryant, Frankie Lee Bryant, in regards to the
19 stabbing of Willie Wright?

20 A I did.

21 Q Can you tell us when you did this and under what
22 circumstances you came into contact with Mr. White
23 through Mr. Bryant?

24 A Can I refer to the time and date on the -- I believe
25 it was the early morning hours of the 22nd.

1 Q All right. Look at your report.

2 A Thank you. February the 22nd, early morning hours,
3 Mr. Bryant was brought to the Bamberg Police
4 Department for me to interview. I had had a warrant
5 for him for homicide. And he was at that time placed
6 under arrest pursuant to that warrant.

7 Q And isn't it true that he actually turned himself in
8 to you before then?

9 A He actually turned himself in to Deputy Chief Bamberg
10 at his residence shortly before that.

11 Q And Deputy Chief Bamberg brought him to the police
12 department?

13 A That's correct.

14 Q And that's where the interview took place?

15 A Yes, sir.

16 Q Did you advise him of his Miranda warnings?

17 A I did. That was witnessed by Deputy Chief Bamberg
18 and Sergeant James.

19 Q Okay. Take me through how you did it and if you used
20 any form to do that?

21 A Well, we were in the office, again with Mr. Bryant
22 and Deputy Chief Bamberg, myself and Sergeant James.
23 We have these rights forms that we read to the
24 individuals and they sign as having understood their
25 rights. And then there is a waiver of rights that we

1 read to them. And they sign that if they decide to
2 waive their rights and speak to us. And then it's
3 witnessed and the time put on the form.

4 Q Did you explain each right to him?

5 A I did.

6 Q Can you go through what you explained to him?

7 A You want me to read it?

8 Q As far as the rights themselves.

9 A "Before we ask you any questions, you must understand
10 your rights. You have the right to remain silent.
11 Anything that you say can be used against you in
12 court. You have the right to talk to a lawyer for
13 advice before we ask you any questions and to have
14 him with you during questioning. If you can not
15 afford a lawyer, one will be appointed for you before
16 any questioning if you wish. If you decide to answer
17 questions now without a lawyer present, you will
18 still have the right to stop answering at any time.
19 You also have the right to stop answering at any time
20 until you talk to a lawyer."

21 Then there is a statement under that. It says: "I
22 understand my rights", and it has a place for him to sign.

23 Q And did he understand that?

24 A He indicated he did.

25 Q And he signed that paper?

- 1 A And he signed the form; yes, sir.
- 2 Q And that form you have there, that is State's
- 3 Exhibit 1?
- 4 A No. 3.
- 5 Q 3. State's Exhibit 3. Did he appear to be under the
- 6 influence?
- 7 A He did not appear to be under the influence at the
- 8 time I spoke with him, no.
- 9 Q Did he seem to have any trouble understanding you in
- 10 any way?
- 11 A No, sir.
- 12 Q Did he seem clear headed?
- 13 A Yes.
- 14 Q He knew what he was doing from what you could tell?
- 15 A Yes, sir.
- 16 Q Did you promise him anything?
- 17 A No, sir, I did not.
- 18 Q Did you threaten him in any way?
- 19 A No, sir.
- 20 Q Offer him any kind of reward?
- 21 A No, sir.
- 22 Q Tell me how the statement was actually taken. Did he
- 23 write it? Did you write it? How did -- what
- 24 happened?
- 25 A I actually wrote it for him. I asked his permission

1 to do that, and he did give it. And that is included
2 in the written statement.

3 Q And did he sign that statement as being his
4 statement?

5 A He did.

6 Q At any time did he ever ask to stop or change his
7 mind or anything like that about giving the
8 statement?

9 A He did not. When he came in he said he wanted to
10 clear things up, which indicated to me that he wanted
11 to talk to me about what happened.

12 Q Thank you, Officer Mathis. I have no further
13 questions at this time.

14 THE COURT: Cross.

15 MR. KIRKLAND: May it please the Court.

16 THE COURT: Yes, sir.

17 CROSS EXAMINATION

18 BY MR. KIRKLAND:

19 Q Good morning, Officer.

20 A Good morning.

21 Q Did he have the handcuffs on him when you asked him
22 if it was all right if you did this?

23 A I don't recall specifically if he had one or both
24 handcuffs on.

25 Q How many officers were there?

1 A Myself, Deputy Chief Bamberg and Sargeant James.

2 Q Were your guns exposed, all three of you?

3 A Yes, sir. It's part of our uniform.

4 Q Can you tell me where you were standing, where all
5 three of you were standing at the time you read those
6 rights to him and asked him to sign that? Both?

7 A I can tell you I was seated at a desk normally
8 assigned to Deputy Chief Bamberg. And if memory
9 serves, Mr. Bryant was seated in a chair in close
10 proximity to the desk. As far as where Sargeant
11 James and Deputy Chief Bamberg were standing, I can't
12 testify to exact positions. They were in the same
13 room.

14 Q Did Mr. Bryant ask to leave, smoke a cigarette or
15 anything like that at that time?

16 A Not that I recall, no.

17 Q Go to the bathroom?

18 A No, sir.

19 Q Did he ever ask for an attorney?

20 A No, sir. Had he asked for an attorney, we would have
21 stopped talking to him.

22 MR. KIRKLAND: That is all, Your Honor.

23 THE COURT: Redirect?

24 MR. MOORE: Nothing further, Your Honor.

25 THE COURT: All right. I find that the State

1 has shown by a preponderance of the evidence that
2 initially there is a showing that the statement was
3 voluntary. Obviously it would be admitted during the
4 trial of the case. Then I would instruct the jury
5 that they have to make a decision and the State has
6 to prove beyond a reasonable doubt that the statement
7 was made by the defendant and was made voluntarily
8 and on of his own free will and accord.

9 Under the tests as outlined in Jackson v. Denno,
10 I deem the statement to have passed that, and the
11 State can use it in the trial of the case for
12 whatever reasons they deem necessary or try to have
13 it admitted as long as it complies with all of the
14 other rules of evidence.

15 You may step down, sir. Anything else?
16 Anything else?

17 MR. MOORE: Nothing further.

18 THE COURT: Anything else?

19 MR. KIRKLAND: No, sir, Your Honor.

20 THE COURT: All right. We're going to start
21 right at 10:00. So, let the jurors start filing in.
22 When they all get in, let's get started at 10:00.

23 (WHEREUPON, a break is taken.).

24 (WHEREUPON, Defendant's Exhibit No. 1 is marked
25 for identification.)

1 (WHEREUPON, Defendant's Exhibit No. 2 is marked
2 for identification.)

3 (WHEREUPON, State's Exhibit No. 7 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 8 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 9 is marked for
8 identification.)

9 (WHEREUPON, State's Exhibit No. 10 is marked for
10 identification.)

11 (WHEREUPON, State's Exhibit No. 11 is marked for
12 identification.)

13 (WHEREUPON, State's Exhibit No. 12 is marked for
14 identification.)

15 MR. MOORE: Your Honor, the State calls the case
16 of State of South Carolina vs. Frankie Lee Bryant.
17 It is indictment 2004-GS-05-085.

18 THE COURT: Pass up the indictment. Good
19 morning, Ladies and Gentlemen. I remind that you're
20 still under oath from yesterday. I have a few
21 questions to ask you today in regards to this case
22 that we're starting this morning. Frankie Lee
23 Bryant, good morning. Sir, how are you?

24 MR. BRYANT: Good morning, sir. How are you
25 doing?

1 THE COURT: Fine, sir. Would you please stand
2 and face the jury panel. Thank you. You may be
3 seated. Any member of the jury panel ever been
4 related by blood or marriage to Frankie Lee Bryant?
5 If so, please stand.

6 Any member of the jury panel ever had a close
7 personal or social relationship with Frankie Lee
8 Bryant? If so, please stand.

9 Any member of the jury panel related by blood or
10 marriage to one Willie James Wright, W-R-I-G-H-T? If
11 so, please stand.

12 Any member of the jury panel ever had a close
13 personal or social relationship with one Willie James
14 Wright? If so, please stand.

15 The following is a list of potential witnesses
16 in the trial of this case. Shelia Oliver, Joyce --
17 thank you, ma'am. Joyce Grimes. Pam Hughes,
18 Dr. Laura Knight, J. D. Mathis, Bamberg Police
19 Department, Robert Thompson, Bamberg Police
20 Department. Thank you. Alex Simpson, Anthony
21 Gordon, Antoinette Jenkins, Jeff Parrott with State
22 Law Enforcement Division. Thank you all.

23 Has anybody ever been related by blood or
24 marriage to any of the people I have just listed, or
25 has anyone had a close personal or social

1 relationship with any of these people? If so, please
2 stand.

3 All right. Ma'am, in the brown blouse on the
4 front row.

5 THE JUROR: I know Robert Thompson.

6 THE COURT: All right. Your name, please.

7 THE JUROR: Marlow Holmes, number 64. Robert
8 Thompson he is a deacon at our church.

9 THE COURT: Deacon in your church. Is the fact
10 that Deacon Thompson, also Robert Thompson with the
11 police department in that capacity in your church,
12 ma'am, would that preclude or keep you from being a
13 fair and impartial juror in the trial of this case?

14 THE JUROR: No.

15 THE COURT: Thank you. You may be seated. Yes,
16 ma'am. Your name?

17 THE JUROR: Delicia Sanders.

18 THE COURT: Ms. Sanders, Your number?

19 THE JUROR: 123. And I know Deacon Robert
20 Thompson from my church.

21 THE COURT: And he is also a deacon in your
22 church. And when I ask you the same question, the
23 fact that he is a deacon in your church, would that
24 in any way preclude or keep you from being a fair and
25 impartial juror in the trial of this case?

1 THE JUROR: No, sir.

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

3 Ms. Davis, your number?

4 THE JUROR: Lindsay Davis. His mother is our
5 co-worker.

6 THE COURT: His mother being?

7 THE JUROR: Ms. Martha Bryant.

8 THE COURT: Ms. Martha.

9 THE JUROR: Bryant.

10 THE COURT: Bryant. All right. His mother, the
11 defendant's mother, is a co-worker at school with
12 you?

13 THE JUROR: Yes, sir.

14 THE COURT: Do you see her and work with her
15 every day?

16 THE JUROR: In and out; yes, sir.

17 THE COURT: All right. I am going to set you
18 aside for the trial of this case. Ms. Lindsay Davis.

19 THE CLERK: Number 25.

20 THE COURT: Yes, ma'am. In the black and white
21 and I can't tell.

22 THE JUROR: Mary Grimes.

23 THE COURT: Ms. Grimes, how are you this
24 morning?

25 THE JUROR: I am fine. And you?

1 THE COURT: Fine. Thank you.

2 THE JUROR: His mother is -- Martha Bryant is my
3 co-worker. Anthony Gordon is my nephew.

4 THE COURT: Okay. Well, since you've got a
5 nephew that's a potential witness and you're also the
6 co-worker of the defendant's mother, I am not going
7 to put you in this trial. Okay? Set her aside.

8 THE CLERK: Number 48.

9 THE COURT: Yes, ma'am, in the black blouse.

10 THE JUROR: My name is Abigail Crosby. I know
11 Frankie Bryant, and I know his mother, Martha Bryant.

12 THE COURT: How do you know them, ma'am?

13 THE JUROR: I've known them ever since about
14 1972.

15 THE COURT: Very close family?

16 THE JUROR: Well, we've been close.

17 THE COURT: And you feel uncomfortable trying
18 this case?

19 THE JUROR: I sure do.

20 THE COURT: Thank you, ma'am. I will set you
21 aside.

22 THE CLERK: Number 23.

23 THE COURT: Over here in the red striped shirt.

24 THE JUROR: Yes, sir. My name is Ransom.

25 THE COURT: Mr. Ransom.

1 THE JUROR: Yes, sir. I was a classmate of
2 Mr. Bryant.

3 THE COURT: A classmate of who?

4 THE JUROR: Mr. Bryant. And I am real close
5 with both sides.

6 THE COURT: All right. Do you feel
7 uncomfortable serving as a juror?

8 THE JUROR: Yes, sir.

9 THE COURT: Release him. Yes, sir, in the red
10 in the back.

11 THE JUROR: Jake Gordon.

12 THE COURT: Mr. Gordon.

13 THE JUROR: My son is a witness.

14 THE COURT: Sir? I can't hear you.

15 THE JUROR: Jake Gordon.

16 THE COURT: That's your son?

17 THE JUROR: My son is a witness.

18 THE COURT: All right. I will release you. You
19 all look puzzled. Is that not true? All right.
20 Thank you. You got all of those, Mr. Hires?

21 THE CLERK: That was Jake Gordon. We got it.

22 THE COURT: I knew you would.

23 All right. Once again, the lawyers who are
24 involved in this case are Mr. Ben Moore, Mr. Paul
25 Timmerman, Mr. Grant Gibbons; for the defendant,

1 Mr. Kent Kirkland. The same question as yesterday,
2 has anybody ever been represented by these lawyers or
3 are currently being represented, or do you have a
4 close social or personal relationship with any of the
5 lawyers? If so, please stand.

6 As I told you yesterday in all these cases, the
7 fact that the defendant has been indicted, the
8 indictment is simply a charging document by which it
9 comes into the courtroom, and it is not evidence of
10 any of the allegations whatsoever. He's pled not
11 guilty, and the State has the burden of proving him
12 guilty beyond a reasonable doubt.

13 But I must tell you a little bit about the
14 allegations which are not evidence to see if anybody
15 knows anything at all about the case. It says that
16 in Bamberg County, on or about February 21, 2004,
17 that the defendant did with malice aforethought kill
18 one Willie James Wright by means of stabbing him. So
19 it's an alleged stabbing which resulted in a death
20 which occurred on February 21st, 2004.

21 Now, does any member of the jury panel know
22 anything at all about this case or expressed an
23 opinion about any issue or matter involved in the
24 case? Those who have already stood and are released
25 do not need to stand. Does anybody else know

1 anything at all about the case, the facts of the
2 case, formed any opinion, read anything about it,
3 heard anything about it that would keep you from
4 being a fair and impartial juror? If so, please
5 stand.

6 Any member of the jury panel aware of any bias
7 or prejudice towards either The State of South
8 Carolina or the defendant Frankie Lee Bryant which
9 would preclude you from being a fair and impartial
10 juror in the trial of this case? If so, please
11 stand.

12 Any member of the jury panel a member of the
13 Bamberg County Grand Jury which returned a true bill
14 of indictment on May 27, 2004? If so, please stand.

15 Does any member of the jury panel know of any
16 reason whatsoever why he or she should not serve as a
17 juror in this case, with particular emphasis being
18 placed on your ability to be fair and impartial both
19 to the State and to the defendant? If so, please
20 stand.

21 Any additional questions on behalf of the State?

22 MR. MOORE: No, sir, Your Honor.

23 THE COURT: On behalf of the defendant?

24 MR. KIRKLAND: No, sir, Your Honor. Thank you.

25 All right. The same procedure we had yesterday,

1 except it is a little bit different today, in that
2 the State has ten strikes as opposed to five. I'm
3 sorry. The defendant has ten strikes as opposed to
4 five, and the State has five. So as your name is
5 called, please come forward.

6 THE CLERK: Number 62, Harry G. Hiott. What say
7 ye for the State?

8 MR. MOORE: Please present Mr. Hiott.

9 THE CLERK: What say ye for the defense?

10 MR. KIRKLAND: Please excuse Mr. Hiott.

11 THE CLERK: Number 3, Jacqueline Atterbury.
12 What say ye for the State?

13 MR. MOORE: Please excuse Ms. Atterbury.

14 THE CLERK: Have a seat back in the jury pool,
15 please, ma'am. Number 5, Janie L. Banks. What say
16 ye for the State?

17 MR. MOORE: Please excuse Ms. Banks.

18 THE CLERK: Have a seat back in the jury pool,
19 please, ma'am. Number 79, Michael P. Johnson. What
20 say ye for the State?

21 MR. MOORE: Please excuse Mr. Johnson.

22 THE CLERK: Have a seat back in the jury pool,
23 please, sir. Number 128, Cleveland Sellers, Jr.
24 What say ye for the State?

25 MR. MOORE: Please present Mr. Sellers.

1 THE CLERK: What say ye for the defense?

2 MR. KIRKLAND: Please seat Mr. Sellers.

3 THE CLERK: Have a seat in the jury box please

4 sir. Number 81, Betty J. Jones. What say ye for the
5 State?

6 MR. MOORE: Please present Ms. Jones.

7 THE CLERK: What say ye for the defense?

8 MR. KIRKLAND: Please seat Ms. Jones.

9 THE CLERK: Have a seat in the jury box, please,
10 ma'am. Number 143, Markiesha S. White. What say ye
11 for the State?

12 MR. MOORE: Please present Ms. White.

13 THE CLERK: What say ye for the defense?

14 MR. KIRKLAND: Please seat Ms. White.

15 THE CLERK: Have a seat in the jury box, please.
16 Number 98, Joanne Meeks. What say ye for the State?

17 MR. MOORE: Please present Ms. Meeks.

18 THE CLERK: What say ye for the defense?

19 MR. KIRKLAND: Please seat Ms. Meeks.

20 THE CLERK: Have a seat in the jury box, please,
21 ma'am. Number 124, Mary M. Sanders. What say ye for
22 the State?

23 MR. MOORE: Please present Ms. Sanders.

24 THE CLERK: What say ye for the defense?

25 MR. KIRKLAND: Please seat Ms. Sanders.

1 THE CLERK: Have a seat in the jury box, please,
2 ma'am. Number 75, Johnny J. Jennings, Sr. What say
3 ye for the State?

4 MR. MOORE: Please present Mr. Jennings.

5 THE CLERK: What say ye for the defense?

6 MR. KIRKLAND: Please seat Mr. Jennings.

7 THE CLERK: Have a seat in the jury box, please,
8 sir. Number 92, Brenda A. Lott. What say ye for the
9 State?

10 MR. MOORE: Please present Ms. Lott.

11 THE CLERK: What say ye for the defense?

12 MR. KIRKLAND: Please seat Ms. Lott.

13 THE CLERK: Have a seat in the jury box, please,
14 ma'am. Number 19, Patsy Coker. What say ye for the
15 State?

16 MR. MOORE: Please present Ms. Coker.

17 THE CLERK: What say ye for the defense?

18 MR. KIRKLAND: Please excuse Ms. Coker.

19 THE CLERK: Have a seat in the jury pool,
20 please, ma'am. Number 55, Linda E. Hibler. What say
21 ye for the State?

22 MR. MOORE: Please present Ms. Hibler.

23 THE CLERK: What say ye for the defense?

24 MR. KIRKLAND: Please seat Ms. Hibler.

25 THE CLERK: Have a seat in the jury box, please,

1 ma'am. Number 93, Bonnie L. Love. What say ye for
2 the State?

3 MR. MOORE: Please present Ms. Love.

4 THE CLERK: What say ye for the defense?

5 MR. KIRKLAND: Please seat Ms. Love.

6 THE CLERK: Have a seat in the jury box, please,
7 ma'am. Number 148, Crystal E. Wright. Crystal E.
8 Wright.

9 THE COURT: Is it Wright, W-R-I-G-H-T?

10 THE CLERK: Yes. 148.

11 THE COURT: All right. We'll find her. 148,
12 Crystal Wright. Hold on a second. Get the name to
13 the sheriff. And the address?

14 THE CLERK: 69 Cox Avenue, Bamberg.

15 THE COURT: What number was she? 148?

16 THE CLERK: 148.

17 THE COURT: She was here yesterday?

18 THE CLERK: Yes, sir. Let me double check and
19 see. Yes, sir, she was.

20 THE COURT: All right. Bring her to me. Let me
21 find out what the problem is.

22 THE CLERK: Ready?

23 THE COURT: Yes.

24 THE CLERK: Number 77, Herman L. Johnson. What
25 say ye for the State?

1 MR. MOORE: Please excuse Mr. Johnson.

2 THE CLERK: Have a seat back in the jury pool,
3 please, sir. Number 10, Alex Boykin, Jr. What say
4 ye for the State?

5 MR. MOORE: Please present Mr. Boykin.

6 THE CLERK: What say ye for the defense?

7 MR. KIRKLAND: Please excuse Mr. Boykin.

8 THE CLERK: Have a seat back in the jury pool,
9 please, sir. Number 145 Suzanne A. Williams. What
10 say ye for the State?

11 MR. MOORE: Please present Ms. Williams.

12 THE CLERK: What say ye for the defense?

13 MR. KIRKLAND: Please seat Ms. Williams.

14 THE CLERK: Have a seat in the jury box, please,
15 ma'am. Number 31, Anthony D. Dykes. What say ye for
16 the State?

17 MR. MOORE: Please present Mr. Dykes.

18 THE CLERK: What say ye for the defense?

19 MR. KIRKLAND: Please seat Mr. Dykes.

20 THE CLERK: Have a seat in the jury box, please,
21 sir. Number 37, Sharon Garrick. 37.

22 THE JUROR: It's Spellman now.

23 THE CLERK: It's Spellman now I think.

24 THE COURT: It now is Ms. Spellman? Is that
25 correct?

1 THE JUROR: Yes, sir.

2 THE CLERK: What say ye for the State?

3 MR. MOORE: Please excuse Ms. Spellman.

4 THE CLERK: Have a seat back in the jury pool.

5 Number 102, Hannah B. Moore. What say ye for the
6 State?

7 MR. MOORE: Please present Ms. Moore.

8 THE CLERK: What say ye for the defense?

9 MR. KIRKLAND: Please seat Ms. Moore.

10 THE CLERK: Have a seat in the jury box, please,
11 ma'am.

12 THE COURT: All right, gentlemen. Two
13 alternates? Two and one.

14 THE CLERK: Number 129, Sharon Smalls. Shannon
15 Smalls.

16 THE COURT: Ms. Smalls, Shannon Smalls. They
17 are not going to like this when they come back. She
18 was here yesterday, wasn't she? Mr. Folk, I want a
19 report on this immediately. It's a male.

20 (off-the-record discussion about Juror Smalls)

21 THE CLERK: Number 7, Elijah Bessinger.

22 THE COURT: 7?

23 THE CLERK: 7. What say ye for the State?

24 MR. MOORE: Please present Mr. Bessinger.

25 THE CLERK: What say ye for the defense?

1 MR. KIRKLAND: Please excuse Mr. Bessinger.

2 THE CLERK: Have a seat back in the jury pool.
3 Number 149, Ian T. Wright. What say ye for the
4 State?

5 MR. MOORE: Please excuse Mr. Wright.

6 THE CLERK: Have a seat back in the jury pool.
7 Number 41, Mozelle D. Glover. What say ye for the
8 State?

9 MR. MOORE: Please present Ms. Glover.

10 THE CLERK: What say ye for the defense?

11 MR. KIRKLAND: Please seat Ms. Glover.

12 THE CLERK: Have a seat in the back chair,
13 please, ma'am.

14 THE COURT: All right. One more.

15 THE CLERK: Number 12, Jeffrey M. Brown. What
16 say ye for the State?

17 MR. MOORE: Please present Mr. Brown.

18 THE CLERK: What say ye for the defense?

19 MR. KIRKLAND: Please seat Mr. Brown.

20 THE CLERK: Have a seat in the second back
21 chair, please, sir.

22 THE COURT: All right. Let me see you fellows
23 over here.

24 (WHEREUPON, the jury exits the courtroom at
25 10:35 a.m.)

1 THE COURT: All right, gentlemen. I'll bring
2 the jury back in and get them sworn, and we'll do
3 opening statements and opening remarks. Do you all
4 have anything for the record before we start?

5 MR. MOORE: Nothing for the record, Your Honor.

6 THE COURT: Let me put on the record -- what?

7 MR. MOORE: Nothing for the record, Your Honor.

8

9 THE COURT: All right. Let me put on the record
10 that at the conclusion of drawing the jury I inquired
11 of both defense and the Solicitor's Office concerning
12 the selection of the jury and as to whether or not
13 they had any motions, and both advised that they did
14 not. Is that that correct, gentlemen?

15 MR. MOORE: That is correct, Your Honor.

16 MR. KIRKLAND: That's correct, Your Honor.

17 THE COURT: Let's take about another five
18 minutes. And I told the jury ten minutes. So
19 stretch your legs. We'll get started in jury a few
20 minutes. The defendant is in custody.

21 (WHEREUPON, a break is taken.)

22 (WHEREUPON, State's Exhibit No. 13 is marked for
23 identification.)

24 (WHEREUPON, State's Exhibit No. 14 is marked for
25 identification.)

1 THE COURT: Mr. Grimes, go get me juror number
2 143, Markiesha S. White. Have a seat, Ms. White.
3 How are you doing? Just right there is fine.
4 Someone advised me that you were seen yesterday
5 talking to the defendant, Mr. Bryant. Is that
6 correct?

7 THE JUROR: Uh-huh.

8 THE COURT: Ma'am?

9 THE JUROR: Yes, sir.

10 THE COURT: And what were you all talking about?

11 THE JUROR: What was we talking about? He asked
12 me where I was from, and that's it.

13 THE COURT: Do you know him?

14 THE JUROR: No.

15 THE COURT: Have you ever seen him before?

16 THE JUROR: Not up until yesterday.

17 THE COURT: Well, how long did you all talk?

18 THE JUROR: I talked to him for about five
19 minutes.

20 THE COURT: It took him five minutes to ask you
21 where you were from?

22 THE JUROR: No. I mean, it was just little
23 questions and stuff.

24 THE COURT: Well, tell me all the questions that
25 were asked. Did he know that you were on the jury?

1 THE JUROR: He asked me, well, did I get picked
2 for jury duty and was that my first time on jury
3 duty. I said yes, that was my first time on jury
4 duty.

5 THE COURT: Okay. I am going to dismiss her
6 from the trial of the case. You should have told me
7 that this morning that you had a conversation with
8 him. You're free to go. Hold on a second. Any
9 objections by the State?

10 MR. MOORE: No, sir.

11 THE COURT: By the defendant?

12 MR. KIRKLAND: No, sir, Your Honor.

13 THE COURT: Thank you. You're free to go. This
14 way. All right. Mr. Hires, put Mr. Brown and
15 Ms. Glover in the hat and drawn me one out.

16 THE CLERK: Mozelle Glover.

17 THE COURT: All right. I am going to elevate
18 Ms. Glover to juror. Now, Mr. Kirkland, I want you
19 to ask your client if he has talked to anybody else
20 on this jury. I want to know that. Ask his mother.
21 The mother said she broke the conversation up
22 yesterday because she knew the juror shouldn't have
23 been talking to him. That is exactly correct, ma'am.

24 THE MOTHER: She not only talked to Frankie.
25 She talked to the other guy, too, that was a sex

1 offender. She talked to him. It was two of them.

2 THE COURT: All right. You got any of your
3 witnesses in the courtroom. Mr. Kirkland?

4 MR. KIRKLAND: No, sir, I do not.

5 THE COURT: I just want to know if anybody else
6 has talked to any jurors. Okay. All right. We're
7 going to sequester the witnesses. Don't you have one
8 right here?

9 MR. MOORE: Yes, Your Honor. You want her out
10 for openings as well? She'll be my first witness.

11 THE COURT: I want her out. Let me warn
12 everybody in this courtroom. This is not meant as a
13 threat. This is As a matter of fact. Anybody I hear
14 talking to any juror, I promise you you will go to
15 jail.

16 All right. Anything else for the record,
17 gentlemen, before we start?

18 MR. MOORE: Nothing from the State, Your Honor.

19 MR. KIRKLAND: Nothing from the defense, Your
20 Honor.

21 THE COURT: Thank you. Would you ask the jury
22 if they're ready to go? Get the bailiff to ask them.

23 (WHEREUPON, the jury enters the courtroom at
24 11:00 a.m.)

25 THE COURT: Ms. Mozelle Glover, how about move

1 down to the front. I have just elevated you to the
2 jury. Thank you. Everybody okay? Are you all
3 right? You looked like your eye was bothering you.
4 It is?

5 THE JUROR: It is running water.

6 THE COURT: Are you ready to start? Okay. What
7 I'd like for you to do at this time, please, if
8 you'll stand and raise your right hand, Mr. Hires
9 will swear you in.

10 (WHEREUPON, the jury was sworn at 11:01 a.m)

11 THE COURT: Ms. Mary Sanders, you're a school
12 teacher, aren't you?

13 THE JUROR: Yes.

14 THE COURT: Would you act as the forelady for
15 this jury? Would you feel comfortable doing that?
16 You just have to ask as the spokesperson and be in
17 charge of the deliberations.

18 THE JUROR: That's fine.

19 THE COURT: I am sure you can do it, being a
20 school teacher. If you would switch with
21 Mr. Jennings down here. I'll give you your
22 instruction as you go along. I would ask that you
23 always take that seat as we come and go. The rest of
24 you can sit where you'd like. Except for Mr. Brown,
25 if you would sit back there unless we lose somebody

1 else.

2 What I'd like to do now, I apologize -- how many
3 sat yesterday? Mr. Jennings? Anybody? Two of you.
4 You all need to buy lottery tickets you're so lucky.
5 Well, I apologize. What I am going to tell you is
6 the opening remarks will be redundant or repeating
7 what I did yesterday but obviously I've got some
8 jurors who were not here yesterday. So what I'd like
9 to do is give you some opening remarks and tell you
10 what your responsibilities are and what my
11 responsibilities are. And then at the conclusion of
12 that the lawyers will make some opening statements
13 and we'll get started right into the trial of the
14 case.

15 As I told you when I was qualifying the jury,
16 the defendant in this case, Mr. Frankie Lee Bryant,
17 has been charged by an indictment filed with this
18 court for the crime of murder. Of course at the end
19 of the case when I charge you on the law I'll explain
20 to you what the elements of murder are. But this
21 indictment is simply the means or the document by
22 which the charge is brought into the court, and it is
23 not in any sense evidence in the case. It's just the
24 allegations of the indictment.

25 He has pled not guilty to the indictment, and

1 under the constitution of our state and the United
2 States he is presumed to be innocent until proven
3 guilty by the State beyond a reasonable doubt. And
4 of course it is your duty, ladies and gentlemen, to
5 determine whether or not at the conclusion of
6 everything that the State has met the burden of
7 proving him guilty beyond a reasonable doubt.

8 I have a role to play in the case and you have a
9 role to play. When I say "you", collectively 12
10 people. You are to determine what the facts are in
11 the case. You are the sole judges of the facts in
12 the case. You determine that from the testimony that
13 is given from this witness stand and any evidence
14 which may be introduced during the trial of the case.

15 I am the judge of the fact -- I mean, I am the
16 judge of the law. You are the judge of the facts. I
17 am the judge of the law. I can't tell you what the
18 facts are, and you can't tell, not me but my
19 position, what the law is. So if you think the law
20 is something other than what I tell you or it ought
21 to be something other than what I tell you, you've
22 been sworn that you would accept the law as I give it
23 to you and just put aside any ideas that you may have
24 that it's any different from what I tell you.

25 Your job is pretty simple. I will determine

1 whether or not testimony is admissible. 90 percent
2 or 99 percent, 95 percent of the testimony that you
3 hear will be admissible. Every now and then they may
4 object, and I may sustain the objection and tell you
5 to disregard that testimony, it's not part of the
6 record. But most of it is going to be admissible. I
7 determine what's admissible. That's my job as the
8 judge.

9 But once it is admissible, then it's up to the
10 12 of you acting together to determine whether or not
11 you believe it. So, you all are the determiners of
12 who you believe, what you believe, and you determine
13 the facts.

14 I will tell you every time that we break or go
15 to lunch or have to break for the evening if we don't
16 get through; and, Ms. Forelady, this is one of your
17 responsibilities, but I'll tell you do not discuss
18 the case at all in the jury room. Don't start any
19 deliberations. Don't talk about anything that's
20 going on out here until all of the testimony has come
21 in, all of the exhibits are in, the lawyers have had
22 a chance to make their closing arguments and I've had
23 a chance to instruct you on the law.

24 In other words, that last witness may be the key
25 witness. So you all talk about whatever you want to.

1 Shrimping, fishing, hunting, football, the weather,
2 whatever, politics; but don't talk about the case
3 until I tell you to start your deliberations.

4 I doubt very seriously that there be anything on
5 the radio, t.v. or newspaper about this case; but if
6 there is, disregard it. Don't talk about the case
7 with family members, friends or anyone else involved.
8 It is important that you keep an open mind and
9 obviously not decide any issues in the case until all
10 the evidence has been presented.

11 It's your solemn duty to determine the guilt or
12 innocence of the defendant, and your verdict must be
13 based solely on the evidence as it is presented in
14 this courtroom and from absolutely no outside source.
15 You take the facts as you find them to be and apply
16 it to the law, and then you're in a position to
17 determine whether or not the State has met its burden
18 of proof.

19 In just a few minutes the solicitor will make
20 what's called an opening statement which is basically
21 he will tell you what his case is about. It will be
22 followed by an opening statement by the defendant.
23 The opening statements are not evidence. That is
24 simply the State's contention and the defendant's
25 contention. The only evidence that you can consider

1 comes from sworn testimony from the witness stand.

2 Now, in determining what the true facts are in
3 the case you must decide whether or not the testimony
4 of a witness is believable or credible. As I told
5 you before I determine whether it's admissible but
6 once it comes into evidence, then it's up to you to
7 determine whether you believe it or not. You give it
8 whatever credibility, whatever weight the 12 of you
9 deem is proper.

10 In deciding whether to believe a witness, you
11 have the right to consider the interest of any
12 witness, the bias of any witness, the prejudice of
13 any witness, the opportunity for the witness to have
14 seen the matters and things about which the witness
15 may testify and even the way the witness acts on the
16 stand. You have a right to consider anything that is
17 in the record that will help you make your decision
18 in this case.

19 So, I ask that you pay close attention to the
20 lawyers, to the Court, to the witnesses. And at the
21 conclusion obviously you will be in a position to
22 judge the credibility of the testimony and make the
23 decision at the appropriate time after I instruct you
24 on the law.

25 Any objections to my opening remarks by the

1 State?

2 MR. MOORE: No, sir.

3 THE COURT: By the defendant?

4 MR. KIRKLAND: No, sir, Your Honor.

5 THE COURT: All right. It is now 10 after 11.

6 I am going to try to go 'til about 12:30. If anybody
7 gets uncomfortable, if you need a break, you raise
8 your hand. The more we can get done this morning
9 obviously the less we have to do this afternoon.
10 We'll talk about a lunch break. I have a 2:00
11 hearing that I've got to take care of, and I don't
12 want you all sitting around while I'm doing that. So
13 we'll probably not come back until 2:15 or 2:30.
14 We'll look at all of that at the appropriate time.

15 Like I say, if any of you get uncomfortable, you
16 need a bathroom break, if you need to stand up and
17 stretch your legs, raise your hand. Because I look
18 after you all before I look after the lawyers and
19 bailiffs and everybody else. You're my main people.

20 Okay. Mr. Moore.

21 MR. MOORE: Thank you, Your Honor. May it
22 please the Court.

23 THE COURT: Yes, sir.

24 MR. MOORE: May it please Mr. Kirkland. May it
25 please you, Ladies and Gentlemen of the Jury. We're

1 here today because Mr. Frankie Lee Bryant sitting
2 right there stabbed and killed Willie Wright back on
3 February 21st, 2004. We're going to have a witness
4 come up here and tell you about what happened that
5 day, and I am going to start off by telling you that
6 this case is kind of like a puzzle, because you're
7 going to have a lot of witnesses but none of them saw
8 everything or knows everything about what happened.
9 But they each have their piece.

10 And what you're going to do today as you listen
11 to the evidence, see what exhibits we have and take
12 it all in collectively, you all are going to put that
13 puzzle together and determine the truth about what
14 happened to Willie Wright back on February the 21st
15 of 2004.

16 And to give you a little overview, it's going to
17 start with a lady by the name of Shelia Oliver who
18 was with Mr. Wright that day. They were riding
19 around in Mr. Wright's pickup truck, the general
20 Bamberg county area. She is not from Bamberg. She's
21 not going to be able to tell you exactly where they
22 went because she's not really familiar with it. But
23 she's going to tell you about what they did and what
24 she knows about them riding around that day.

25 At some point they both pick up Frankie Lee

1 Bryant, and he starts to ride with them. And it's
2 going to come out right from the beginning that
3 Mr. Bryant and Mr. Wright earlier that day fought
4 with each other, a fist fight. And you'll get to
5 hear Ms. Oliver. But basically, according to her,
6 several times they had fist fights. And then they
7 get back in the truck and, strange as it sounds, and
8 ride around some more.

9 There is an old saying, I think the way it
10 really goes is that you don't take a knife to a gun
11 fight. Well, this case is about somebody taking a
12 knife to a fist fight. And that old saying about
13 don't take a knife to a gun fight is kind of like,
14 the person taking the lesser weapon or no weapon is
15 the person who made the mistake. But I am here to
16 tell you that in a just society, the person who does
17 bring the weapon is really the one who made the
18 mistake. Because when you bring a knife into a
19 situation, things change.

20 And that's why we're here today, because a knife
21 is a dangerous weapon. And clearly everyone knows
22 what a knife can do to a human body and ultimately
23 lead to someone's death.

24 Ms. Oliver is going to tell you that they pulled
25 up to a trailer here in the city of Bamberg. And

1 when they got out of the trailer, that's when the
2 stabbing occurred. There are going to be a number of
3 witnesses. There is going to be a fellow, Tony
4 Gordon, that they picked up even after they picked up
5 Mr. Bryant who went to the trailer with them. There
6 is going to be some people from the trailer,
7 Ms. Antoinette Jenkins in particular, who saw what
8 happened in the yard out there.

9 So this is really where I am getting with the
10 puzzle. Nobody is going to be able to say they saw
11 the whole thing. But you're going to have to put the
12 pieces together from what they all saw to arrive at
13 the truth.

14 The other pieces of the puzzle are going to be
15 what law enforcement and the crime scene investigator
16 from SLED and the forensic pathology that did
17 Mr. Wright's autopsy, they are going to put together
18 the rest of the puzzle for you.

19 You're going to find that the truck actually
20 left the scene. Mr. Wright was not deceased after he
21 was stabbed. They took him to the Bamberg Hospital,
22 tried to save his life. That's important to this
23 case, because it's kind of like we have two crime
24 scenes, and it really makes the crime scene situation
25 hard because the truck that you'll find that's very

1 involved in this case was removed. So nobody can
2 say, well, when the stabbing happened where exactly
3 was the truck. We couldn't block it off and leave
4 the truck right where it was because obviously they
5 did the right thing. They tried to save the man's
6 life.

7 But you're going to have the SLED people that
8 analyzed the truck. You'll have the picture from the
9 yard to give you a general idea of what folks can
10 tell you what they saw and what that yard looked like
11 and, you know, maybe tell you about where they
12 believed the truck was. But it was moved.

13 The crime scene investigator from SLED, he took
14 fingerprints and also found some blood. And the
15 blood I believe is going to be very important because
16 you're going to find blood was on the driver's side.
17 It is a Ford Ranger, just one cab, not one of these
18 extended cab deals like the trucks all used to be.
19 But on the driver's side door, down at where you put
20 your foot I guess to get out, but right there where
21 the little Ranger emblem is, there is a bunch of
22 blood. And the State intends to show that blood
23 shows that Mr. Wright was right in the entrance of
24 his truck when he got stabbed.

25 Finally, you'll hear from the forensic

1 pathologist who is going to tell you about his two
2 stab wounds, one is to his chest and one to his thigh
3 area. And it is actually the one in the thigh area
4 that hits an artery, and that's what kills Willie
5 James Wright. He bleeds to death from that stab
6 wound.

7 That's an overview. Listen to the evidence.
8 Use your good common sense. The judge gave you good
9 instructions on what your role is here. Don't forget
10 about that. Don't think that because somehow you
11 came to court and got picked on a jury and you've
12 never been on a jury before that you can't use the
13 good sense that you use in your everyday life.
14 Because that's why we have you collectively in every
15 case to decide this because we've got collective
16 wisdom of 12 people. And the judge can take care of
17 the legal about what you all should -- what is proper
18 for you all to consider, but once he does that, it's
19 all about common sense and facts that you all use in
20 your everyday life. So you are the perfect people
21 equipped to put the puzzle together.

22 Ladies and gentlemen, at the end of the day I am
23 going to ask you to find Mr. Frankie Lee Bryant
24 guilty for stabbing Mr. Willie James Wright. Thank
25 you.

1 MR. KIRKLAND: Your Honor, may it please the
2 Court. Mr. Moore. Good morning, Ladies and
3 Gentlemen of the Jury. My name is Kent Kirkland,
4 Public Defender for Barnwell and Bamberg Counties.
5 That's my client, Mr. Frankie Lee Bryant.

6 We're here today, as the solicitor told you, on
7 a very important case. Murder. It doesn't get any
8 more serious. I agree with the solicitor; this case
9 is a puzzle. I don't think there is any question
10 about that. There is a little bit more to something
11 being a puzzle when there is a prosecution. It is
12 absolutely 100 percent the responsibility of the
13 State of South Carolina to put the pieces to the
14 puzzle together.

15 It is not at any time the person who is accused
16 of a crime's responsibility. The State has to do
17 that. They have to put it together. If there is
18 parts of the puzzle missing, I ask you to look very
19 hard at these parts of the puzzle. Let's determine
20 just how important they are. We'll talk more about
21 the puzzle and some other issues at the end, but
22 again, he is accused of as serious a crime as
23 possible: Murder. I ask for you all to listen.
24 Listen very closely to some things. Listen to each
25 witness that testifies. See if they know exactly

1 what took place prior to the actual incident. See if
2 they know what took place at the incident. Please
3 don't assume that anybody does. Very critically look
4 at everybody who talks. Look to see how credible
5 they are. Look to see if they seem like they know
6 what it takes for a murder to be committed in terms
7 of did they see what it took.

8 When people who are witnesses are talking,
9 that's one thing; they can tell you something about
10 the actual incident. You're also going to hear from
11 people who were not there. They are people who
12 analyze evidence after it's over. Please allow me to
13 stress they were not there. Please look and see,
14 does what they tell you add to taking the puzzle
15 itself and filling it in? Does what they actually
16 tell you really show you what happened that day, or
17 is it all just issues about what's after the fact?

18 There is no question there is a death. That's
19 not in dispute. The events are -- listen, please, to
20 see if any of the witnesses tell you about any words
21 that took place at the actual time of the incident
22 between Mr. Wright and Mr. Bryant. Please look to
23 see if there is any differences between what people
24 say. Are their stories the same? Are they
25 different? Are they substantially different?

1 Please look at any evidence concerning the two
2 individuals involved here, everything about them as a
3 person, anything to do with how they conducted
4 themselves that day, how they look, how they are
5 built, any evidence like that.

6 You know, any two people can fight. The
7 question, is it fair? If my wife and I get in a
8 fight, is that a fair fight? You know, there is an
9 old west saying that "God created men, Sam Colt made
10 them equal." It's not always fair just because two
11 people take the licks. Sometimes there's substantial
12 differences.

13 We just ask that you listen closely, remember
14 what Paul Harvey says: "As the rest of the story".
15 There is more to the story. You haven't heard the
16 story yet. And at the end we will ask you all for a
17 guilty -- a not guilty verdict, a verdict of not
18 guilty on behalf of Mr. Frankie Lee Bryant. Thank
19 you all.

20 THE COURT: You may call your first witness.

21 MR. MOORE: The State calls Shelia Oliver.

22 SHEILA M. OLIVER, after being duly sworn,
23 testified as follows:

24 THE COURT: Good morning. How are you? Pull up
25 a little closer to the microphone, please, ma'am.

1 Thank you. Your witness.

2 DIRECT EXAMINATION

3 BY MR. MOORE:

4 Q Ms. Oliver, could you state your name for the record?

5 A Shelia Mary Oliver.

6 THE COURT: All right. Scoot up a little
7 closer.

8 THE WITNESS: Shelia Oliver.

9 THE COURT: Speak into that mike.

10 Q Ms. Oliver, were you with Willie Wright the night
11 that he was stabbed?

12 A Yes.

13 Q Can you take us back to how you first got with Willie
14 Wright before this happened?

15 A I was going to my house toting some clothes.

16 Q Where is your house?

17 A I was staying in Allendale at the time. I had seen
18 Willie. It's like a hotel. It was a hotel but they
19 turned it into apartments. He was in and out in the
20 back, and I had seen him. Anyway, so I was toting
21 some clothes to my house, and he said, "Well, put the
22 clothes on the back of the truck and come around
23 here." We pretty much had hung out for like two
24 days; well, a day and a half.

25 Q How well did you know Willie Wright?

1 A Not that well. I mean, well enough that when we saw
2 each other we would have drinks and stuff together.
3 It's not like I saw him every day.

4 Q And you said you all hung out there in Allendale for
5 a while?

6 A Well, actually, when I put the clothes on the back,
7 we left Allendale. He took me to several different
8 towns way out in the country and took me out by his
9 mother's house. Of course I didn't get out and
10 stuff. But he took me to all kind of different
11 towns. We was just riding.

12 Q And you all were riding in what?

13 A His truck.

14 Q What kind of truck was that?

15 A I don't know what kind.

16 Q A pickup truck?

17 A Yes, a pickup truck.

18 Q And what were you all doing?

19 A Drinking and smoking, getting high. Meeting people.
20 Mainly just drinking around.

21 Q Do you remember people that you met?

22 A Not really. I didn't get out the truck much. He
23 would get out the truck and sit and talk and like
24 bring me a drink and I would sit and drink it. And
25 then we'd ride off to someplace else.

- 1 Q Did you know these people?
- 2 A No. I didn't even know the towns we were going to.
- 3 Q Okay. At some point did you meet up with Frankie Lee
- 4 Bryant?
- 5 A Yes. We was riding down the road. He said, "Oh,
- 6 there goes my cousin. I am going to give him a
- 7 ride." And he stopped and picked him up.
- 8 Q And Mr. Bryant got in the truck with you all?
- 9 A Uh-huh.
- 10 Q How were you all riding around? What was the seating
- 11 arrangement?
- 12 A Willie was driving. I was sitting in the middle.
- 13 Frankie was sitting on the passenger's side.
- 14 Q Okay. And what did you all do with Mr. Bryant?
- 15 A Pretty much was riding again. We would stop. They
- 16 would tussle a little bit and then get back in the
- 17 truck, ride some more, the same thing.
- 18 Q You say tussle?
- 19 A Yeah. Well, Willie like --
- 20 Q What were they tussling about?
- 21 A Nothing in particular. Like Willie would say like he
- 22 is tougher or stronger or something, just talking
- 23 about how strong he was, something like that.
- 24 Q Did you see them tussle?
- 25 A I seen him punch him a couple of times. And then

1 they would get back in the truck like ain't nothing
2 happened.

3 Q So they just were like --

4 A Well, they was family. So I guess that's just how
5 they got along.

6 Q Did you notice any weapons involved or anything like
7 that in these tussles?

8 A No, not at first. They were just, you know,
9 wrestling.

10 Q And get back in the truck and ride around some more?

11 A Ride around like there ain't nothing happened. Yeah.

12 Q What was their demeanor like, each one of them, while
13 you all were riding around inbetween these tussles,
14 as you call them?

15 A Oh, trying to go to the store to get another drink
16 basically.

17 Q I mean, were they happy? Sad? Mad? Glad? How were
18 they acting?

19 A Tipsy I would say. Kind of happy. They wasn't upset
20 or anything. Nobody was upset.

21 Q Okay. And at any point did you all pick anybody else
22 up?

23 A Yes. I guess someone got on the back of the truck.
24 And then that's when we ended up going I guess to
25 that trailer.

1 Q And do you know where you were when you picked this
2 individual up?

3 A I have no idea. I don't even know who the man is.

4 Q Ma'am?

5 A I don't even know who he is.

6 Q But you weren't familiar with the area either?

7 A No.

8 Q And so you all picked this fellow up and you all ride
9 to a trailer?

10 A Yeah. And then at this point I was telling them I
11 had to go to the bathroom because we were drinking
12 beer. And --

13 Q Had you been to this trailer before?

14 A I had never even been to the town before.

15 Q And what happened when you got to the trailer?

16 A Okay. Frank got out to let me out because I was
17 sitting in the middle. He parked right in front of
18 the door because I told him I had to hurry up and go.
19 That's when they started fussing I reckon. And on my
20 way going to the house, whoever was in the house, it
21 was a man and a woman, I saw the knife in Frankie's
22 hand. I said, "They're out here with, you know,
23 weapons and stuff." You know, before they never had
24 no weapon. And I said, "You all need to get them",
25 because, you know, I thought they was acting stupid

1 like they were acting before. I go to the bathroom
2 and come back and he is on the ground.

3 Q Tell me about the knife?

4 A Uh-huh.

5 Q You saw Mr. Bryant with a knife?

6 A Yeah.

7 Q Can you describe the knife?

8 A No. He just had it in his hand.

9 Q Can you show me how he had it? Do you recall?

10 A I just remember it was on his -- he just had it by
11 his side.

12 Q Did you ever see Mr. Wright with a weapon?

13 A I don't recall a weapon.

14 Q At the time you saw Mr. Bryant with a knife, had they
15 started fighting or tussling yet?

16 A No. Willie was coming around to his side to punch
17 him again or whatever, like they was doing.

18 Q And you went in the house to use the bathroom?

19 A Before he got around the truck.

20 Q Okay.

21 A Before he got around the truck.

22 Q And turned your back to the situation I assume?

23 A They was doing it all night long.

24 Q But could you -- were you looking at it?

25 A No, no. I immediately went to the house. I told the

1 people they was out there fussing and had weapons.
2 They wasn't necessarily fussing, but, you know,
3 Willie is like, he was always like, "I am stronger
4 than you. That don't mean nothing to me" or
5 whatever. That is just how he talked because he was
6 really proud of his muscles I guess. And I told the
7 people in the house, I said, "well, you know, they
8 got weapons out there. That ain't nothing to be
9 playing with." So the man and the woman, whoever,
10 went to the door.
11 Q You keep saying they had weapons?
12 A Well, I am saying -- well, he had a weapon. I was
13 just talking.
14 Q But again, did you see Mr. Wright with any kind of
15 weapon?
16 A No.
17 Q Did you actually go to the bathroom?
18 A Yes. I went to the bathroom.
19 Q And --
20 A As soon as I came back out, Willie was on the ground.
21 I went and grabbed him by the head. He was trying to
22 say something. He couldn't say nothing. I said,
23 "You all help me put him in the truck." He and the
24 other dude helped me put in the back of the truck.
25 We tried to stop the bleeding, but then I knew he had

1 to go to the hospital. And I didn't know where I
2 was. So I said, "Man, somebody show me how to get to
3 the hospital." So, whoever the other dude was, he
4 showed them how to get to the hospital and then he
5 left. Everybody left and I stayed there until his
6 mama came. And then I walked from there home.

7 Q Where was Mr. Wright bleeding at?

8 A On his side.

9 Q What do you mean by side?

10 A In the stomach area.

11 Q How much blood was there?

12 A It was blood everywhere. I mean, I was soaked in
13 blood. The whole back of the truck was covered in
14 blood.

15 Q When you got to the hospital, did you tell the folks
16 there what happened?

17 A I think an officer did speak to me. Yeah. I told
18 his mother when his mother came, I stayed 'til, you
19 know, the family showed up, and I told his mother
20 what happened.

21 Q Did you tell them who was involved?

22 A Yeah, I told them. She said she knew who he was.
23 That's her nephew.

24 Q And how well do you know Mr. Bryant? I mean, did you
25 know who he was?

1 A Not really. I mean, just seeing people; you know how
2 people hang around when they're drinking and stuff,
3 seeing him in certain places? That's it.

4 Q So you know who he was but you didn't know him that
5 well?

6 A Right. Right. Just like Willie.

7 Q In those previous fights or tussles, as you call
8 them, was either one of them seriously injured?

9 A Oh, Willie was punching him pretty hard. But, yes.
10 Still they got back in the truck and acted like --

11 Q Was there any situation with Mr. Bryant or Mr. Wright
12 I need to go to the hospital, I need medical
13 treatment?

14 A I don't recall that. I didn't pay them too much
15 attention after the second or third time.

16 Q But you didn't notice anybody having a serious
17 injury?

18 A (Witness shakes head.)

19 THE COURT: That's a yes or no, ma'am?

20 THE WITNESS: No, sir.

21 MR. MOORE: Nothing else.

22 THE COURT: Cross.

23 CROSS-EXAMINATION

24 BY MR. KIRKLAND:

25 Q Good morning, Ms. Wright.

1 THE COURT: Oliver.

2 Q I mean Ms. Oliver. How are you doing today.

3 A All right.

4 Q Let me ask you some questions about how and when you
5 and Mr. Wright got together. What day was it that
6 you and him hooked up with each other?

7 A I can't recall the exact day.

8 Q Well, I mean, was it the day that Mr. Wright died --

9 A No.

10 Q -- or was it the day before?

11 A It was the day before.

12 Q And were you all drinking that day?

13 A Yes.

14 Q Did you all drink that night?

15 A Yes.

16 Q All night?

17 A Most of the whole time. There was drinks in the
18 truck even when they got the truck.

19 Q Did you drink the next morning?

20 A Not too much.

21 Q But you all were drinking the next morning?

22 A Yeah. We had beer. The officers got all the beer.

23 Q I believe you said you all were getting high?

24 A Uh-huh.

25 Q Tell me who was getting high?

1 A Everybody that was in the truck.

2 Q Mr. Bryant was getting high? Did you see him get
3 high?

4 A I can't necessarily remember that. I guess that
5 might be why they was going the way they was going.

6 Q Going to where?

7 A Going where they was going to. Because we had just
8 picked him up. He wasn't with us all night.

9 Q You talking about to the trailer?

10 A I guess. I don't know what was at the trailer. I
11 have never been there before.

12 Q When you were getting high, what were you getting
13 high with?

14 A He had some crack cocaine.

15 Q And --

16 A Liquor, Hennessee.

17 THE COURT: Speak into the mike, please.

18 A Hennessey, liquor, beer.

19 Q Did you say Hennessey?

20 A Liquor.

21 Q Did you smoke crack cocaine?

22 A Yes, I did.

23 Q Did Willie smoke crack cocaine?

24 A Yeah.

25 THE COURT: Speak into the mike, please.

1 A Yes. Yes.

2 Q You said you all went to some houses at different
3 places?

4 A Yeah. He took me out to the country and stuff.

5 Q When you went out to the country, did you all get
6 high when you went out to the country and smoke more
7 crack?

8 A That was that night previously. By that morning --

9 Q You're talking about Saturday night, Friday night?

10 A That next morning he was -- we was on our way home
11 because he didn't have any money. So he was taking
12 me back to Allendale and he happened to see his
13 cousin and said, "Oh, that's my cousin" and stopped
14 to pick him up.

15 Q This hotel that you saw Willie at, do you know the
16 name of that hotel?

17 A It's right there in Allendale on Main Street. It's
18 where we stayed -- well, I lived there.

19 Q A lot of drugs at that hotel?

20 A In the back. That's how come -- in the back. In the
21 back part.

22 Q Which is where you knew Willie from?

23 A Which is where I saw him.

24 Q How about describe Willie for me physically?

25 A He's very muscular. Well, he was in good shape.

1 Q Big guy?

2 A Uh-huh.

3 Q To the tussling or such, let me ask you a couple of
4 questions about that. Did you ever see Mr. Bryant
5 haul off and hit Willie?

6 A They was hitting each other.

7 Q Mr. -- hitting equal amounts? Was one of them
8 hitting the other one more?

9 A Willie punched him, you know. He was much stronger
10 than he was from what I could see.

11 Q Did Mr. Bryant ever hit Willie first during any of
12 those episodes?

13 A No, Willie was just -- he would say, "Boy, I am
14 stronger than you" and punch him or whatever. Then
15 they'd get back in the truck and act like nothing was
16 happening.

17 Q Who was driving?

18 A Willie was driving.

19 Q The whole time?

20 A The whole time.

21 Q Did Mr. Bryant ever come over to Willie's side and
22 punch him?

23 A No.

24 Q Where was all of this taking place? Which side of
25 the vehicle?

- 1 A On the passenger's side. He would come around.
- 2 Q Willie went around to where Frankie was?
- 3 A Yes.
- 4 Q Every time?
- 5 A Yeah.
- 6 Q And threw the first lick?
- 7 A Yeah.
- 8 Q Every time?
- 9 A That's just how he was.
- 10 Q Do you know what was in Mr. Willie Wright's pockets?
- 11 A No.
- 12 Q You don't know if he had a knife or not, do you?
- 13 A I have no idea.
- 14 Q I believe you said he helped put Willie in the truck.
- 15 Who were you talking about?
- 16 A Frankie and whoever that other dude was.
- 17 Q So Frankie assisted you in putting Willie in the
- 18 truck?
- 19 A Yes. Yes.
- 20 Q When you came out of the trailer where Willie was
- 21 stabbed, let me ask you a question. Where was Willie
- 22 when you walked out of the trailer?
- 23 A On the passenger's side on the ground.
- 24 Q On which side?
- 25 A On the passenger's side.

1 Q When you walked out of the trailer, which side of the
2 vehicle, of the pickup, was towards the door of the
3 trailer?

4 A The passenger's side.

5 Q So you walked straight out to where he was on the
6 ground?

7 A Yeah. Because he pulled up close because I had to
8 hurry up and go to the bathroom.

9 Q So there is no question about where he was in your
10 mind?

11 A No, because I walked straight to him.

12 Q When they stopped the vehicle and the punching took
13 place, was this in a town where it occurred or out in
14 the country?

15 A Beside the road wherever he decided to stop, maybe
16 two or three times.

17 Q Was it always though beside the road?

18 A They had like someplace like where a tree was or
19 something. I don't know the town. It kind of looks
20 like country but then it's city, too.

21 Q How much bigger was Willie than Frankie?

22 A I don't know about height wise, but muscle wise
23 Willie was built.

24 Q Was he a lot bigger?

25 A Muscular wise, yeah.

1 Q You testified that you talked to Willie's mother at
2 the hospital?

3 A Yeah.

4 Q Did you tell her that Willie had been smoking crack?

5 A Uh-huh.

6 Q Did she ask you that?

7 A Yeah.

8 MR. MOORE: Objection, Your Honor. I think that
9 we're getting into hearsay.

10 THE COURT: Did she -- what was the question?
11 Did she tell the mother what?

12 MR. KIRKLAND: Did she tell the mother Willie
13 was --

14 THE COURT: Overruled. Go ahead. What did you
15 tell the mother?

16 A I told her what happened as far as who did it, who
17 stabbed him, who it was.

18 THE COURT: Move along.

19 MR. KIRKLAND: That's all, Your Honor.

20 THE COURT: Redirect, if any.

21 REDIRECT EXAMINATION

22 BY MR. MOORE:

23 Q Did Mr. Bryant ever ask for Mr. Wright to take him
24 home?

25 A They would get out and when they would be out of the

1 truck, they would talk out there. They would talk in
2 private to each other.

3 Q Did he ever act like he wanted to leave the
4 situation?

5 A Seemed like they had plans to do something. They was
6 on their way to do something. That's how come he
7 didn't take me directly on home. They had made
8 plans. I don't know what the plans was because they
9 spoke in private.

10 Q Thank you, Ms. Oliver.

11 THE COURT: Thank you. You may step down. Next
12 witness.

13 MR. MOORE: The State calls Antoinette Jenkins.

14 THE COURT: She is under subpoena. Is that
15 correct? Hold on a second, ma'am. You all want her
16 to remain under subpoena?

17 MR. KIRKLAND: That might be advisable.

18 THE COURT: You just stick with us out there.
19 You're still under subpoena.

20 MR. KIRKLAND: Your Honor, would you admonish
21 her not to talk to anybody else?

22 THE COURT: No, I am not going to remind her of
23 that. Come around, ma'am.

24 ANTOINETTE JENKINS, after being duly sworn,
25 testified as follows:

DIRECT EXAMINATION

1
2 BY MR. MOORE:

3 Q Ms. Jenkins, could you state your name for the
4 record?

5 A Antoinette Jenkins.

6 Q Ms. Jenkins, where do you live?

7 A I live in Beaufort County.

8 THE COURT: Ms. Jenkins, pull up a little bit to
9 that mike.

10 A Beaufort County.

11 Q Back in February of 2004, where were you living?

12 A Bamberg Job Corp Center.

13 Q And on February 21st, 2004, were you at Nate
14 Johnson's trailer?

15 A Yes.

16 Q And this is the day the stabbing took place?

17 A Yes.

18 Q Tell me what you remember happening that day with
19 regards to the stabbing?

20 A Well, I saw a truck pulled up. I just had woke up.
21 I saw a truck pulled up. I went to the window to see
22 who it was or whatever. I saw four people get out of
23 the truck, a woman and three guys. The lady came and
24 asked to use the bathroom. She came into the house.
25 I don't know them. So, you know --

1 Q You don't know those people?

2 A No. I don't know them. I was just there on a
3 weekend pass. So, two of the dudes was arguing. Two
4 of the guys was arguing, and they started fighting.
5 I didn't know what for or whatever. And when they
6 was fighting, the guy pulled out, it looked like a
7 pocket knife. Because the dude who got stabbed was
8 like stuck between the door, the guy inbetween the
9 truck door. And he just grabbed him like on his
10 shoulder up here and just started stabbing him and
11 then pushed him.

12 Q Where did he stab him?

13 A He stabbed him up in his chest area and down up in
14 this area.

15 Q Uh-huh.

16 A And when he was stabbing him, he pushed him inside
17 the seat part, like where the seat is at in the truck
18 and just kept on stabbing him. Then he backed up
19 after he finished stabbing him. The dude turned
20 around and fell on his back out of the truck. The
21 only thing he said was, "I told you." That's all I
22 heard him say.

23 I ran out of the house because, you know, I couldn't
24 believe this was happening. I was in shock. I ran out
25 the house to see what was wrong and how bad the dude was

1 cut. So, after I lifted up his shirt and found out where
2 he was cut at and what was bleeding the most, I ran back
3 to the house and got a towel.

4 Q Where was he bleeding the most?

5 A Down up in the lower part of his body. I put the
6 towel there. I asked one of the males, the other
7 dude that was with them that wasn't arguing or
8 nothing, to help me put him in the back of the truck
9 to get him to the hospital or whatever. But the lady
10 really didn't know how to go to the hospital. So I
11 helped -- he helped me put him on the back of the
12 truck and they left. When they left the man came
13 back to the door asking for drugs. And I told him, I
14 was like, "Did you know what you just did? Is you
15 stupid? Get from the door." I slammed the door in
16 his face.

17 Q Did you see where he went after that?

18 A He went walking down the road.

19 Q Do you remember who assisted you in putting the
20 victim in the truck?

21 A Yes. I don't know his name though. I don't really
22 know them. I really didn't conversate (sic) with
23 them.

24 Q Was it Mr. Bryant?

25 A No. He just stood there.

1 Q Tell me about the truck that pulled up. How was it
2 positioned in correlation to the trailer?

3 A It was like, this is the trailer; the truck was
4 parked like this way in front of the trailer.

5 Q Okay. Was the passenger's or driver's side facing
6 the trailer?

7 A The driver's side.

8 Q Okay. And where you saw the stabbing take place,
9 which side of the truck did that occur on?

10 A The driver's side.

11 Q The driver's side?

12 A Uh-huh.

13 Q Now, you were talking about the victim being up
14 against the truck in some way?

15 A Yes, up against the door of the truck.

16 Q Which door of the truck are you talking about?

17 A The driver's side. The driver's door of the truck.

18 Q Was the door opened or closed?

19 A It was opened.

20 Q So he was leaning back like into the driver's seat
21 area?

22 A Like up against like the corner of the door,
23 something like the corner of the door.

24 Q Was he standing?

25 A He was standing.

1 Q Did you ever see any kind of weapon on the victim?

2 A No. None. He had -- to me, he had no chance of
3 defending himself once that dude started stabbing
4 him. None at all.

5 MR. MOORE: Your Honor, may she step down?

6 THE COURT: She may.

7 MR. MOORE: Step down.

8 Q Can you demonstrate if I am the victim how Mr. Bryant
9 was stabbing the victim?

10 A He was like this. He was just doing like this. He
11 got him up against like facing the seats. He pushed
12 him down and kept on stabbing him.

13 Q Okay. Thank you. You may take a seat. Do you
14 remember what Mr. Bryant was wearing?

15 A He had on a black dew rag, red shirt and blue jeans.

16 Q Did you give that description to the police?

17 A Uh-huh.

18 THE COURT: That's a yes or no?

19 A Yes.

20 Q Was the victim, Mr. Wright, able to say anything to
21 you when you treated him?

22 A No. His eyes slowly was rolling back in his head. I
23 tried to talk to him and everything else, but he
24 wasn't responding to anything. He just like moaned a
25 couple of times and his eyes kept on rolling back in

1 his head.

2 Q Thank you, Ms. Jenkins.

3 CROSS-EXAMINATION

4 BY MR. KIRKLAND:

5 Q Good morning, Ms. Jenkins.

6 A Morning.

7 Q Nate Johnson, he owned the trailer?

8 A I guess, yes.

9 Q How long had you known Nate?

10 A Not really that long.

11 Q But you were staying there that weekend?

12 A Uh-huh.

13 Q Was there drug usage in the trailer?

14 A I haven't seen him use any drugs for myself. I
15 haven't -- when I found out there was drugs in the
16 trailer, this is when the dude came to the door
17 asking for it after he stabbed the dude and after
18 they left to take the dude to the hospital, that's
19 when I realized that they had drugs in the house
20 because they started panicking and it was like, we
21 need to hide the drugs, this, that and the other.

22 Q I believe you said the vehicle -- the driver's side
23 was next to the door of the trailer?

24 A It was not too far from the door of the trailer.

25 Q But it was the driver's side?

1 A Uh-huh.

2 Q The stabbing took place on the driver's side?

3 A Yes.

4 Q Were you outside or inside of the trailer when this
5 was going on?

6 A I was inside.

7 Q Did you tell us -- this was February. Could you tell
8 us how dark it was at the time this was going on?

9 A It was daylight.

10 Q Total daylight?

11 A (Witness nods head.)

12 Q Were you able to tell the difference in the size of
13 the two fellows fighting?

14 A Not really, because that wasn't my biggest concern.
15 My biggest concern was only what was going on at the
16 time.

17 Q Can you tell us what kind of clothes the other fellow
18 had on?

19 THE COURT: Who is "the other fellow"?

20 MR. KIRKLAND: Mr. Wright.

21 A I think a plaid shirt. I can't really remember. My
22 main concern was just to try to stop him from
23 bleeding.

24 Q That being your main concern, whose idea was it to
25 put a towel on the wound?

1 A Mine.

2 Q It was your idea?

3 A Uh-huh.

4 Q Where did the towel come from?

5 A It is my Job Corp towel.

6 Q How many times did you see Willie Wright get stabbed?

7 A I don't really know. The only thing I know is that
8 he got stabbed and he was bleeding very much.

9 Q You said that he kept stabbing him, but I know that
10 you don't know. Could you guess? Was it eight or
11 ten or fifteen?

12 A I don't really know. I didn't look at the wounds
13 like that. I was just looking for what was bleeding
14 and what was --

15 Q I'm not asking you about the wounds. I am asking you
16 what you saw from the trailer.

17 A What I saw, I saw him get stabbed repeatedly. That's
18 what I saw.

19 Q When I say that, I mean, what's repeated? I am not
20 asking you for an exact number, but an estimation.

21 MR. MOORE: Your Honor, I believe she said she
22 couldn't answer the question.

23 THE COURT: Asked and answered and calls for
24 speculation. Sustained. Move along.

25 Q One last question. Who put Mr. Wright in the truck?

1 A It was me and the other male that was with them.

2 Q Mr. Bryant helped you, didn't he?

3 A No. He was not the one helping.

4 Q Thank you.

5 THE COURT: Redirect?

6 MR. MOORE: I have no further questions of this
7 witness.

8 THE COURT: Thank you Ms. Jenkins. You got to
9 go back to Beaufort? Gentlemen, can she be excused
10 from her subpoena?

11 MR. KIRKLAND: I have absolutely no objection to
12 that. Your Honor.

13 MR. MOORE: No objection from the State.

14 THE COURT: All right. Thank you for coming.
15 You're welcome to go back home. Next witness. Hold
16 on a second. Everybody okay? Let's try to get one
17 more.

18 MR. MOORE: The State calls Robert Thompson.

19 ROBERT C. THOMPSON, after being duly sworn,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. MOORE:

23 Q Officer Thompson, could you state your name for the
24 record?

25 A Robert C. Thompson.

1 Q Where are you employed?

2 A City of Bamberg.

3 Q How long have you been employed there?

4 A Twenty-four years, eight months, ten days.

5 Q So you've almost made it past the finish line?

6 A Right.

7 Q Were you involved in an attempt to apprehend
8 Mr. Frankie Bryant back on February 21st, 2004?

9 A Yes, I was.

10 Q Can you tell the jury how you got involved in doing
11 that that day?

12 A Yes, I may. On the date in question, myself and
13 Assistant Chief Bamberg, we was on duty for the City
14 of Bamberg at the present time. We was on another
15 call, at which time a citizen came up to us and
16 advised that there had been a stabbing incident off
17 of Wayman Street in the City of Bamberg. That's when
18 we got involved.

19 Q Okay. What specifically were they asking you to do?

20 A They were reporting the incident.

21 Q Okay. And so what did you do next based on having
22 the incident reported to you?

23 A Well, after we received that information from that
24 citizen, myself and Assistant Chief Bamberg proceeded
25 to that residence where the incident took place, and

1 at which time, you know, the victim was not there or
2 the subject.

3 Q Is this residence where it happened, is that in
4 Bamberg County?

5 A Bamberg County, Bamberg City.

6 Q So when you got there and didn't find the victim
7 there, what did you find there?

8 A There was some blood on the ground.

9 Q And what did you do next?

10 A At which time we was notified by the hospital that
11 there was a victim that had been transported to the
12 emergency room. And we was told, given a name of the
13 suspect, at which time we proceeded to try to locate
14 that suspect.

15 Q Who was that suspect?

16 A Mr. Bryant.

17 Q And do you know who Mr. Bryant is?

18 A Yes, I do.

19 Q And what did you do when you got that information?

20 A Upon receiving that information that the suspect was
21 supposed to have been Mr. Bryant, myself and
22 Assistant Chief Bamberg proceeded to travel back up
23 Wayman Street to Calhoun Street which is in the City
24 of Bamberg where we was given a description of
25 clothing that Mr. Bryant supposedly had been wearing

1 at the time, at which time myself and Assistant Chief
2 Bamberg and fellow officers with the Sheriff's
3 Department proceeded in that area, at which time
4 myself and -- myself, I proceeded towards 301 South
5 Main Highway in the vicinity of Easy Shop No. 18,
6 across from the 301/601 car wash, at which time I
7 stopped at the car wash and I spoke with Mr. Bryant's
8 brother which is sitting in the courtroom at the
9 present time and advised him that if he saw his
10 brother he needed to get in contact with myself or
11 Assistant Chief Bamberg, at which time when I
12 proceeded to go back to highway 301 from that car
13 wash parking area. That's when I saw Mr. Bryant by
14 the trash dumpsters by Easy Shop 18.

15 Q And what did Mr. Bryant do at this point?

16 A As I proceeded to approach him to go across the road
17 because I had to wait for traffic, he proceeded to go
18 over the fence.

19 Q And so he was running from you?

20 A It appeared to be he didn't want to talk to me at the
21 time.

22 Q And you saw him go over the fence?

23 A Yes, I did.

24 Q And did you follow up to see where he went?

25 A I proceeded to radio my assistant chief what area

1 that I saw him in, and I proceeded to go to Wayne's
2 Auto Clinic which is on the same side as Easy Shop
3 18, which there is a junkyard in the back. And I
4 observed Mr. Bryant running across the field. That's
5 the last I seen him.

6 Q And at that point you lost sight of him?

7 A Yes, I did.

8 Q Did you ask for any further help to apprehend him at
9 this point?

10 A At that time county units had proceeded to come to
11 help assist us in trying to apprehend Mr. Bryant.
12 And also another city officer was called. And our
13 investigator was called at the same time to come to
14 the crime scene which is at the area that we saw him
15 going to the wood line. And we tried to apprehend
16 him. We wasn't -- we didn't make it.

17 Q It wasn't successful?

18 A No.

19 Q Did you all take any extra efforts to apprehend him?

20 A The area in which we figured that he went into from
21 that wooded area was surrounded. And it was
22 attempted -- a dog -- a dog was called in, and at
23 which time, if I am not mistaken, Deputy Russell and
24 the dog handler had spotted an area which there was
25 fresh foot tracks around a little ditch area right

1 there, the embankment area.

2 Q Can you describe this general area, what kind of
3 terrain it is?

4 A Well, behind the Easy Shop 18 and the mechanic's
5 shop, is, like I said, it was a junkyard. It still
6 is a junkyard for his cars once they repair them or
7 the wrecker driver brings them in. And it's fairly
8 well cut down because they had to remove some of the
9 vehicles in the past. And an embankment had been dug
10 for a run off for water. But it's a pretty clear
11 area between the area where I spotted him and the
12 area going into the woods.

13 Q How about the area around the wood line?

14 A It was pretty well -- some houses on the other side,
15 but the wooded area is a couple -- about a city acre
16 of wooded area between there and Freddie's Discount
17 Store.

18 Q Showing you a picture that's State's Exhibit 13. I
19 ask you if you recognize it?

20 A Yes, I do.

21 Q What is that?

22 A This is the rear of Easy Shop 18, Wayne's Auto Clinic
23 in the City of Bamberg.

24 Q And did you observe Mr. Bryant doing anything in that
25 general picture?

1 A Crossing the area. That's the only thing that I
2 observed.

3 Q I also hand you another picture, State's Exhibit 14,
4 and ask you if you recognize this?

5 A Yes. This exhibit here is the area where I saw
6 Mr. Bryant cross the fence.

7 MR. MOORE: Your Honor, I'd move that State's 13
8 and State's 14 be admitted into evidence.

9 MR. KIRKLAND: Without objection, Your Honor.

10 THE COURT: Without objection.

11 (WHEREUPON, State's Exhibit No. 13 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 14 is admitted
14 into evidence.)

15 MR. MOORE: May he step down and briefly show
16 the jury in the picture where he saw Mr. Bryant?

17 THE COURT: He may.

18 Q Starting with State's 14, could you just show the
19 jury what happened?

20 A This right here is the area at which point I saw him
21 when he crossed the fence right here by this dumpster
22 by Easy Shop No. 18.

23 Q And the picture that's been admitted as State's 13,
24 would you do the same and show them that?

25 A This exhibit here is the wooded area behind Easy Shop

1 No. 18 and Wayne's Auto Clinic. This general area is
2 where he was crossing behind the field.

3 Q Thank you, Captain Thompson. I don't have any
4 further questions.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MR. KIRKLAND:

8 Q Good afternoon, Captain.

9 A Good afternoon.

10 Q What time of the evening was this that you were
11 looking for Mr. Bryant?

12 A I don't have it documented, but the investigator has
13 all that paperwork in his case file, the time it was
14 reported and the time that he was called out.

15 Q Do you recall if it was day or night?

16 A It was day.

17 Q Did you have a conversation with Mr. Bryant at any
18 time?

19 A Not that day.

20 Q How far were you from Mr. Bryant when you say you saw
21 him?

22 A When I saw Mr. Bryant he was approximately about
23 75 -- 75 to 100 yards from me. 100 feet. Excuse me.

24 Q It's possible it could have been somebody besides
25 Mr. Bryant?

1 A No, sir.

2 Q Are you sure?

3 A I know Mr. Bryant.

4 Q Were you there when they brought the dogs in?

5 A I was on the other -- excuse me. I was on the other
6 side of the perimeter when the dog arrived.

7 Q Did the dog strike?

8 A I didn't hear the dog strike. I was on the opposite
9 part of that wooded area.

10 Q That's all.

11 THE COURT: Redirect?

12 MR. MOORE: Nothing further, Your Honor.

13 THE COURT: Thank you. You may step down. May
14 he be excused?

15 MR. KIRKLAND: Certainly, Your Honor.

16 MR. MOORE: Yes, sir.

17 THE COURT: You may, Captain. Okay. Next
18 witness.

19 MR. MOORE: The State calls Tony Gordon, Anthony
20 Gordon.

21 ANTHONY GORDON, after being duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. MOORE:

25 Q Mr. Gordon, could you state your name for the record?

1 A Anthony Gordon.

2 THE COURT: Mr. Gordon, pull up a little bit.

3 A Anthony Gordon.

4 Q And do you go by Tony Gordon?

5 A Yes.

6 Q And do you know Mr. Frankie Bryant?

7 A Yes, I do.

8 Q Did you know Mr. Willie Wright?

9 A Yes, I do. Yes, I did.

10 Q So you knew both of these gentlemen?

11 A Yes, I do.

12 Q Were you with them that night when Willie Wright got
13 stabbed?

14 A Yes, I was.

15 Q Can you tell me, start at the beginning when you
16 first made contact with them. Tell me about that?

17 A Okay. I was in this place called back lot. That's
18 over there across the road there. And I was back
19 there drinking, you know, and outside by the
20 trashcans drinking or whatnot. And they pulled up.

21 Q Is this back lot actually in the City of Bamberg?

22 A Yes, it is right there in the city. And when they
23 pulled up, Willie and Frank jump out. And there was
24 a girl in the middle. She was just sitting there.

25 She never get out. And I asked her, I said, man -- I

1 can't curse, so I am trying to hold that back.

2 THE COURT: Yeah, don't curse in here for me.

3 A No. No, sir. No, sir. But what I said, you can
4 practically understand what I said, you know. Where
5 the so-and-so you all been? I ain't seen you in so
6 long, you know.

7 THE COURT: Slow down for me. Because you ain't
8 in the back lot now. You're up here with us.

9 A Yes, sir. Yes, sir. And then they came up and asked
10 me did I know where some drugs was at. And I said,
11 "Yeah, they ought to all be back around here in a
12 little bit." And so Frankie came up to me and asked
13 me, said, "Do you know where I can get some for eight
14 dollars?" I said, "Yeah, right around the corner
15 there." And Willie asked me, "Where that at?" I
16 said, "Nate Johnson's house around there over there
17 in that area." He said, "That's my cousin. I want
18 to go see where he lives anyway." That's what Willie
19 said. I said, "All right. Come on. Let's go." So
20 I got on the back; Frank got on the back. And we was
21 riding and whatnot. And we was riding.

22 Q Okay. When you were out there in this back lot, did
23 you observe Mr. Wright, Mr. Bryant have any kind of
24 fight or altercation?

25 A No. I mean, they was like everything was cool, you

1 know, like let's go to do this. Let's go get this
2 here now.

3 Q How were they acting? Not just how they were saying
4 it, but how was their demeanor would you say?

5 A How you mean?

6 THE COURT: Tell him what "demeanor" means.

7 Q Demeanor means how you're carrying yourself, whether
8 you're happy, you're sad.

9 A Like everything was cool. Like they're happy, yeah.
10 Yes, sir.

11 Q So you all load up into the truck and head for Nate
12 Johnson's house?

13 A Right. And I went and knocked on the door.

14 Q Tell me this.

15 A Oh, okay. I'm sorry.

16 Q We're skipping a little bit. You all get in the
17 truck. How is everybody situated in the truck?

18 A Willie is driving. The girl is in the passenger's
19 side. I'm on Willie's side. Frankie is on this
20 side. We both was in the back. And I was asking
21 Frankie, I said, "Man, where you been all this long
22 time?"

23 Q I don't need you to get into all of that.

24 A I'm sorry. I'm sorry. I just thought that I'd tell
25 the whole story.

1 Q I understand.

2 A I'm sorry.

3 Q That's all right. You're doing great. So you all go
4 over to Nate Johnson's house?

5 A Yes, sir.

6 Q And what happens when you arrive at Nate Johnson's
7 house?

8 A I knocked on the door. And there was a big guy
9 sitting in there. And there was a girl in there, and
10 I asked her was Nate home. They said no. And I was
11 asking them do they know anybody around here got
12 anything, and they said no, ain't nothing going on.

13 So I stepped back outside to let them know that
14 nothing was going on when I seen them standing by the
15 truck, like they was, you know, bull jiving around.
16 I thought they was. At least I thought they was bull
17 jiving around. I said, man, you all need to cut that
18 so-and-so out.

19 So I turned back around and the other girl came
20 up from out the truck. She had already walked up and
21 said, "You think they'll let me use the bathroom?"
22 And I said, "Yeah. Go ahead and ask them." And then
23 next thing I knew as I can remember, they said, well,
24 either she went to use the bathroom or she didn't.

25 As far as I remember, it seemed like she did.

1 But all I can remember is somebody screaming. She
2 was screaming. I turned around. That's when I seen
3 Willie falling in the truck. And I ran over there.
4 Frank was over there. I pushed Frank away from him
5 and asked him, "What did you do?" Man, what the
6 so-and-so you done did?

7 Willie falls on the floor, on the ground. And
8 that's when I got on my knees and was looking at
9 Willie and looking at Frank. Frank was standing over
10 him with a knife in his hand. So I just kept looking
11 at Frank.

12 Q What kind of knife did he have?

13 A It was a little small knife, a little silver knife as
14 far as I can remember that part. And then from
15 there --

16 Q How did you feel at this point?

17 A Pardon me?

18 Q How were you feeling at that time?

19 A In shock. As far as how you mean? Feeling like how
20 I felt alcohol wise you mean?

21 Q No. Emotionally.

22 A Oh, in shock. It was like, man, like the so-and-so
23 you done did? You know. It was like it just
24 happened so fast, you know.

25 Q Did you actually see the stabbing?

1 A No, I didn't see the stabbing. I didn't see the
2 stabbing. I didn't even know he was stabbed until I
3 seen him lying down there and blood was -- you could
4 see the blood coming out under his back. And, you
5 know, the pants he had on, you could kind of see it
6 like that.

7 Q And what did you do at that point?

8 A I called -- I asked somebody to call -- I asked them,
9 I said, "Call the ambulance. Somebody call the
10 ambulance." They said they ain't had no phone or
11 something. Then the girl come out. Some girl come
12 out with rags and said put some pressure on him, on
13 the leg wound. I told them, I said, "Call the
14 ambulance. Call the ambulance." They said, "You all
15 got to leave here. You all got to leave here."
16 That's when --

17 Q Was the girl that came out of the house with the rag,
18 was she the girl that had been in the truck with you
19 earlier, or was she a girl that was in the trailer?

20 A No. The girl that was in the trailer, she's the one
21 that come out with the rag. She's the one helped put
22 him on the truck and all of that.

23 Q Okay. Did you go to the hospital with him?

24 A No. It was just me and the other girl who was there.
25 She drove. I told them I couldn't drive a stick.

1 Q Did you ride with him?

2 A I rode with her. Just me and her and Willie was on
3 the back. I couldn't get nobody to ride with us to
4 hold the pressure down on the blood so we can get him
5 over to the hospital. Because nobody had a phone, we
6 didn't know whether the ambulance was going to come
7 or what. We was trying to get him to the hospital to
8 save his life. And she ain't know where the hospital
9 was. I said, "Frank, get in here, man, and show her
10 where the hospital is so we can go on and take him to
11 the hospital." Frankie said, "No, man, I can't go.
12 I got too many warrants on me."

13 Q Mr. Gordon, this State's Exhibit 2. It's a
14 photograph. I am going to ask if you recognize it.
15 You can hold it.

16 A Okay. It seems like the house. I don't know. I'm
17 trying to think now. I think he had some poles up
18 around the house. I'm not sure.

19 Q Is that Mr. Johnson's trailer?

20 A I can't really tell looking at it.

21 Q Okay. I am going to ask you to look at State's
22 Exhibit 1. Do you recognize that?

23 A That's the truck.

24 Q That's the truck you all were riding around in?

25 A It's the truck that they was riding around in. I was

1 just rode with them straight to the house.

2 Q That's the truck that you were in the back of?

3 A Right.

4 MR. MOORE: Your Honor, I ask that State's
5 Exhibit 1 be admitted into evidence.

6 MR. KIRKLAND: Without objection.

7 THE COURT: 1, without objection.

8 (WHEREUPON, State's Exhibit No. 1 is admitted
9 into evidence.)

10 Q Do you recall when you all -- when the truck pulled
11 up into the yard, do you recall which direction the
12 truck was pointing?

13 A The driver's side is the only way that you can go in
14 the yard is like this. The house is like this. The
15 truck is like this.

16 Q So the driver's side was facing the house?

17 A Right. That's the only way you can pull in that
18 yard. We didn't turn around or nothing, just pulled
19 right in and parked just like that.

20 Q And what area was Mr. Willie Wright and Mr. Frankie
21 Bryant when you came back out of the trailer?

22 A They was on the driver's side.

23 Q And specifically, where was Mr. Wright? Do you
24 recall when you saw him fall?

25 A Falling inside of the truck on the driver's side.

1 Q Was he half way sitting in the truck? How was he
2 situated?

3 A Yeah. He was practically like -- like he was like
4 going like this, sliding on -- sliding on out. Well,
5 from the truck, he was in like this and then he was
6 over like this some kind of way. When he was down,
7 his head was opposite from the truck. He went
8 straight down like that. And his feet was towards
9 the truck, you know, driver's side.

10 Q So he was near the driver's side?

11 A Right. Right there.

12 Q Driver's seat area?

13 A Right. Right there.

14 Q Did you ever see Willie with a knife or any weapon?

15 A No, sir.

16 Q Is Frankie Lee Bryant in the courtroom today?

17 A Yes, sir.

18 Q Can you point him out to us?

19 A Frankie is right there.

20 Q What kind of shirt is he wearing?

21 A It looks kind of like yellow and black.

22 Q Okay.

23 A Yellow and black something.

24 THE COURT: Cross.

25 CROSS-EXAMINATION

1 BY MR. KIRKLAND:

2 Q Good afternoon, Mr. Gordon.

3 A Yes, sir.

4 Q Tell me where you were in the pickup when you all
5 pulled up to the trailer?

6 A I was on the driver's side.

7 Q You were driving?

8 A No. I was in back of the truck on the driver's side.

9 Q All right. And where was Frankie in the truck?

10 A He was on the back also.

11 Q He was in the bed in the back with you?

12 A Right, right.

13 Q So you and Frankie weren't in the front of the truck?

14 A No, sir.

15 Q Who was it that asked you about drugs, getting drugs?

16 A To start off with?

17 Q Uh-huh.

18 A Frankie.

19 Q Frankie did it?

20 A Yes, sir.

21 Q Do you normally procure drugs for people?

22 A No, sir.

23 Q Where do you work?

24 A Unemployed.

25 Q What do you do for money?

- 1 A Rake yards or work for my aunt.
- 2 Q Sell drugs, too?
- 3 A No, sir; never sell drugs.
- 4 Q Now, you testified that you went up to the door?
- 5 A Yes, sir.
- 6 Q Did you go into the door?
- 7 A Did I go inside?
- 8 Q Yes, sir.
- 9 A Yes, sir. Yes, sir.
- 10 Q You went in the house?
- 11 A Yes, sir.
- 12 Q So when you came out of the house, was the fight
- 13 already in progress?
- 14 A When I come out of the house, it looked like they
- 15 was -- you know, well, if you call it fighting. I
- 16 thought they was just bull jiving around. And I
- 17 said, man, you all need to cut that B-S out. I ain't
- 18 paid it no attention. I turned back around and went
- 19 into the house and was talking to the fellow.
- 20 Q Were they touching each other?
- 21 A They was like arguing when I seen them. They wasn't
- 22 touching at the time. I ain't seen them touching at
- 23 all.
- 24 Q Did you see an actual stabbing?
- 25 A No, sir.

1 Q Were you able to see Mr. Willie's hands the whole
2 time?

3 A No, sir.

4 Q You don't know who brought the knife to the fight?

5 A No, sir.

6 Q Did you hear Frankie saying anything during this
7 period of time?

8 A No, sir.

9 Q Did you hear Willie saying anything?

10 A No, sir. I didn't hear. You could just --
11 commotion.

12 Q Was Frankie stabbing Willie while he sat in the
13 truck?

14 A No, sir.

15 MR. KIRKLAND: That's all, Your Honor.

16 THE COURT: Redirect, if any?

17 MR. MOORE: No further questions.

18 THE COURT: Thank you. You may step down. May
19 he be released from his subpoena?

20 MR. MOORE: The State says he can.

21 MR. KIRKLAND: Yes, sir, Your Honor.

22 THE COURT: All right. You're free to go.

23 THE WITNESS: Thank you, sir.

24 THE COURT: Okay. Madam Forelady, Ladies and
25 Gentlemen of the Jury, we're going to break now.

1 We're going to take a two-hour lunch break. I've got
2 another one. So I am not taking two hours just to
3 goof off. I'll be working and we've got other stuff
4 that we've got to do. But I don't want you all
5 sitting around and doing nothing, so I am going to
6 let you go until 2:30.

7 Please report back just a few minutes before
8 that. We'll start right at 2:30. Do not discuss the
9 case amongst yourselves. Don't let anybody discuss
10 it with you. Don't commence any deliberations. If
11 anybody tries to talk with you about the case, get
12 their name and immediately report it to me when you
13 come back from lunch. I'll deal with it accordingly.

14 Everybody else please remain seated. My jury
15 panel is free to go to lunch.

16 (WHEREUPON, the jury exits the courtroom at
17 12:26 p.m.)

18 THE COURT: All right. Gentlemen, anything for
19 the record on behalf of the State?

20 MR. MOORE: No, sir.

21 THE COURT: On behalf of the defendant?

22 MR. KIRKLAND: No, sir.

23 THE COURT: All right. The defendant is --
24 whose got him? Take him in custody. Make him
25 available to his lawyer through lunch. We'll break

1 until about 2:15.

2 (WHEREUPON, a lunch break is taken.)

3 THE COURT: Are we ready to proceed, Solicitor?

4 MR. MOORE: Yes, sir.

5 THE COURT: Bring the jury in, please.

6 (WHEREUPON, the jury enters the courtroom at
7 2:46 p.m.)

8 THE COURT: How was the birthday cake?

9 Mr. Hires ate some for lunch. If he doesn't get sick
10 we'll take a break and you all can eat it. It was
11 his birthday. He is 63 years old.

12 MR. MOORE: The State calls Agent Parrot of the
13 State Law Enforcement Division.

14 JEFF PARROTT, after being duly sworn, testified
15 as follows:

16 THE COURT: Mr. Moore.

17 (WHEREUPON, a bench conference was held.)

18 THE COURT: Your witness.

19 MR. MOORE: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. MOORE:

22 Q Could you state your name for the record?

23 A Yes, sir. It is Jeff Parrott, P-A-R-R-O-T-T.

24 Q Mr. Parrott, where are you employed?

25 A I am employed with the State Law Enforcement

1 Division, commonly known as SLED.

2 Q And what are your duties there?

3 A My duties there include, I am actually assigned to
4 the latent print crime scene unit of SLED,
5 responsible for crime scenes, crime scene processing,
6 includes reconstruction, footwear examination, tire
7 tread examination, latent fingerprints or fingerprint
8 identification, blood stain pattern analysis and
9 impression evidence.

10 Q What kind of educational background do you have?

11 A I had a Bachelor of Science in Business Management,
12 is my background.

13 Q Okay.

14 A As well as of course after school going through the
15 police academy.

16 Q Where did you graduate from?

17 A University of South Carolina.

18 Q Go ahead with your --

19 A I'm sorry. After of course getting into law
20 enforcement and went through the South Carolina
21 Criminal Justice Academy and graduated from there.
22 And since then I've gone through about 4,000 hours of
23 advanced training in crime scene and crime scene
24 processing and everything that that includes.

25 Q Have you previously testified as an expert?

1 A Yes, sir.

2 Q In the field of crime scene?

3 A Several times; yes, sir.

4 MR. MOORE: Your Honor, at this time I'd like to
5 qualify Parrott as an expert in crime scene
6 investigation and crime scene analysis.

7 THE COURT: Any voir dire?

8 MR. KIRKLAND: No, sir, your Honor. 4,000 hours
9 of education will do it.

10 THE COURT: Okay. Ladies and Gentlemen of the
11 Jury, normally, like every witness that has testified
12 today they cannot testify except as to what they see,
13 hear, smell, touch, feel. They can't give an
14 opinion. The rules do allow someone who has been
15 qualified because of education or experience to give
16 an opinion in a matter. So Mr. Parrott is qualified
17 as an expert in crime scene analysis. He will be
18 allowed to give an opinion.

19 Now, just because it's an expert opinion, it
20 will be admitted into evidence, you all give it
21 whatever weight, if any weight, that you want to give
22 it. Just because it is an expert's opinion doesn't
23 mean -- it means that you all give it whatever weight
24 you want to. That's up to you all. Mr. Parrott.

25 THE WITNESS: Yes, sir.

1 Q Thank you, Your Honor. Agent Parrott, were you asked
2 to assist the Bamberg Police Department in regards to
3 this case?

4 A Yes, sir, I was.

5 Q Can you tell us how you got involved?

6 A Yes, sir. On February 23, 2004, approximately
7 9:30 a.m. I received a call from our headquarters.
8 Actually Detective Jim Mathis from Bamberg PD called
9 requesting our assistance processing a truck from a
10 homicide that occurred a couple of nights prior.

11 Q So you came down to Bamberg to process this truck?

12 A Yes, sir, I did.

13 Q And where did you process the truck at?

14 A At the Bamberg Police Department parking lot.

15 Q And go through processing the truck. What does that
16 entail?

17 A First of all, when you arrive on the scene, the first
18 thing we do is we're briefed by the local agency, get
19 the circumstances surrounding why we're there, find
20 out about different things that we might want to look
21 for in the vehicle and then immediately start
22 documentation. Typically, that's both written
23 documentation and then photographs. We take
24 photographs surrounding the vehicle, within the
25 vehicle, and then any evidence that we might find

1 within the vehicle throughout the whole scene.

2 Of course then we collect any evidence that we
3 find, of course documenting that. And we actually
4 take any evidence that we might find and process that
5 evidence back at our headquarters where we do that
6 ourselves.

7 Q And in this particular case, what evidence did you
8 find concerning this truck?

9 A This vehicle, we took swabs from blood that we found
10 within the vehicle. We found blood in two
11 significant areas. One was the area of the threshold
12 of the door on the driver's side at the bottom, and
13 also in the bed of the truck. And swabs were taken
14 of those particular areas. Those swabs were taken
15 back to our lab.

16 Also I did fingerprinting which is the black
17 powder that we spread on the vehicle for any type of
18 fingerprints that might be on there. We took several
19 lifts from that particular vehicle as well.

20 Q Were you given any fingerprints -- fingerprint cards
21 to compare those lifts to from particular
22 individuals?

23 A Yes, sir. We had major case prints, which is
24 fingerprints as well as the palms, of both Mr. Wright
25 as well as Mr. Bryant in this case.

1 Q Were any of the lifts that you lifted off the truck
2 -- were any of those found to match Mr. Bryant?

3 A Yes, sir.

4 Q How many?

5 A Two lifts were found to match Mr. Bryant.

6 Q And can you tell me where those lifts came from?

7 A Yes, sir. One of the lifts we identified was from
8 the passenger's side door located in the upper
9 exterior of the door itself. It would be the area
10 farthest away from the hinged side where the door
11 opens, upper left-hand side as you look at the
12 passenger's side door was the right palm was
13 identified in that particular area.

14 Also, on the driver's side just behind the cab
15 area just over an area of where the gas filler tank
16 is of the bed of the pickup truck found, actually I
17 identified the left palm of Mr. Bryant as well.

18 Q When you say bed, do you mean down in the bed, or
19 what do you mean?

20 A On the top portion of the bed. If I may demonstrate.

21 Q You may.

22 A For instance, if this is the side of the truck or the
23 camper or area that the person, the compartment that
24 the person gets into is here, the bed goes over and
25 then the actual bottom side where you haul things,

1 the cargo area is down here. This particular lift
2 would have been the left palm just like this as it
3 goes over kind of the lip of the bed itself.

4 Q Thank you. Agent Parrott, I am handing you State's
5 Exhibit 5. It's a photograph. I ask you if you
6 recognize that?

7 A Yes, sir, I do.

8 Q And what is that?

9 A This is the front of the vehicle. It's the Ford
10 Ranger XLT that was photographed. I actually took
11 these photographs from the driver's side looking
12 across the compartment, the passenger compartment
13 from the driver's side over to the passenger's side.

14 Q And this is State's Exhibit 6. It's also a
15 photograph. I ask if you recognize it?

16 A Yes, sir. I also took this photograph. It's the bed
17 or the cargo area of that same vehicle.

18 MR. MOORE: Your Honor, I ask that State's
19 Exhibit No. 5 and No. 6 be admitted into evidence.

20 MR. KIRKLAND: No objection, Your Honor.

21 THE COURT: Without objection.

22 (WHEREUPON, State's Exhibit No. 5 is admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit No. 6 is admitted
25 into evidence.)

1 MR. MOORE: I ask that Agent Parrott step down
2 and show the jury what these pictures depict.

3 THE COURT: Certainly.

4 Q I am handing you State's Exhibit 5. Could you show
5 the jury what you found in State's Exhibit 5?

6 A Certainly. The area of concentration here in this
7 photograph is showing the relationship -- what I was
8 concerned about was the blood that was down here in
9 the threshold area that I mentioned earlier, way down
10 at the bottom here, the blood located on the
11 threshold area where it says Ranger on the black
12 moulding. It's this part right here. It's just
13 again showing the relationship of blood to the
14 compartment itself.

15 THE COURT: You may sit back down.

16 MR. MOORE: I was going to have him do No. 6.

17 Q This is State's Exhibit 6. Could you explain what
18 that depicts?

19 A Yes. This is the bed of the truck, of the cargo area
20 of the truck just showing its relationship where we
21 found the blood in relationship to it to the bed of
22 the truck or the wheel wells for documentation prior
23 to collection of that evidence.

24 Q As to the blood in this the bed of the truck, were
25 you able to determine anything about the quantity of

1 blood that would have been in that bed of the truck?

2 A Well, as far as the quantity of blood that was in the
3 bed, it would be what we consider a volume of
4 bloodletting. In other words, there was -- the
5 source of bloodletting was in that area for a period
6 of time to allow that amount of blood to come out.
7 So it was a volume of blood, not necessarily one
8 drop, two drops, but a volume of blood.

9 Q How about the blood in the driver's side door area?

10 A The same situation. It was a large enough quantity
11 to determine that whatever the source of the bleeding
12 was there for a period of time, not just in and out
13 or -- it was there where something free flowing blood
14 allowed it to go down, whatever source, to go into
15 that threshold of the door.

16 MR. MOORE: Thank you, Agent Parrott.

17 CROSS-EXAMINATION

18 BY MR. KIRKLAND:

19 Q Agent, did you get any prints from around the
20 driver's side cab of the truck?

21 A Yes, sir.

22 Q You got -- did you get any from Frankie Bryant on the
23 driver's side cab of the truck?

24 A Yes, sir.

25 Q So you got more than two prints?

1 A Those are the two. One from the passenger side door
2 and one from the driver's side on the bed area just
3 behind.

4 Q But not off of the cab?

5 A No, sir. No, sir.

6 Q Just the bed?

7 A Yes, sir.

8 Q Did any of these prints that you got tell anything
9 about what happened before the prints were put there,
10 how they got there?

11 A No, sir.

12 Q Does it tell anything about any arguing, talking?

13 A No, sir.

14 Q Basically, it's just prints?

15 A Yes, sir.

16 Q And blood?

17 A Yes, sir.

18 Q Thank you..

19 THE COURT: Thank you. You may step down. May
20 he be released from his subpoena, gentlemen?

21 MR. MOORE: Yes.

22 THE COURT: Mr. Kirkland?

23 MR. KIRKLAND: Yes, sir. We agree for him to be
24 released.

25 THE COURT: Thank you. We enjoyed having you in

1 Bamberg. Next witness.

2 MR. MOORE: The State calls Dr. Laura Knight.

3 DR. LAURA KNIGHT, after being duly sworn,
4 testified as follows:

5 THE COURT: Thank you Dr. Knight. Good
6 afternoon.

7 THE WITNESS: Good afternoon.

8 DIRECT EXAMINATION

9 BY MR. MOORE:

10 Q Dr. Knight, could you state your name for the record?

11 A Laura Knight.

12 Q Where are you employed?

13 A Medical University of South Carolina in Charleston.

14 Q And in what capacity?

15 A I am in resident pathology in my fifth year of
16 training.

17 Q And pathology, tell us about that. What is
18 pathology?

19 A Okay. Well, pathology is basically the study of
20 disease. And as part of the scope of a pathologist,
21 we do autopsies to investigate the cause and manner
22 of death.

23 THE COURT: Dr. Knight, pull up just a tad so
24 you can speak into that microphone.

25 THE WITNESS: How's that?

1 THE COURT: Yes, ma'am.

2 Q And, Dr. Knight, could you tell us about your
3 educational background?

4 A Yes. I have a Bachelor's Degree in Chemistry from
5 Murray State University. And after that I have a
6 medical degree from the University of Louisville.

7 Q And for pathology, do you have any other training as
8 far as that goes?

9 A Yes. I have five years of pathology residency. I am
10 in my fifth year currently.

11 Q And have all those been at MUSC?

12 A Yes.

13 Q And how many autopsies would you have performed in
14 that time?

15 A I have performed approximately 200 autopsies.

16 MR. MOORE: Your Honor, I'd like to have Dr.
17 Knight to be qualified as an expert in forensic
18 pathology.

19 MR. KIRKLAND: Without objection, Your Honor.

20 THE COURT: Likewise, she'll be able to give
21 opinions. She is qualified as an expert in
22 pathology. She can give opinions in the field of
23 pathology. You can give that opinion whatever
24 weight, if any, you so desire.

25 Q Dr. Knight, did you have occasion to perform an

1 autopsy on Willie Wright?

2 A Yes, I did.

3 Q And can you tell us about your findings in that
4 autopsy?

5 A Yes. Mr. Wright had -- the most remarkable finding
6 was a large irregular incised wound of his left groin
7 and thigh area. Additionally, he also had a stab
8 wound on his right upper chest.

9 Q And can you testify as to what was the cause of his
10 death?

11 A Yes. We determined that the cause of death was
12 cardiogenic shock and brain injury from not getting
13 blood flow. Those were due to his bleeding from the
14 wounds.

15 Q Would one wound in particular be the fatal wound?

16 A Yes. The wound to his groin area transected the
17 femoral artery, cut completely through the femoral
18 artery. And that had to be repaired surgically, and
19 he did not survive that.

20 (WHEREUPON, State's Exhibit No. 15 is marked for
21 identification.)

22 Q Dr. Knight, I have a diagram here.

23 THE COURT: What number?

24 Q This is State's 15. It's just a basic outline of
25 basically a male figure of the human body. And, Your

1 Honor, I'd like to ask her to step down and just draw
2 where the wounds in question were on his body.

3 THE COURT: We don't have that easel any more.

4 THE CLERK: It's in the jury room.

5 THE COURT: However you want to do it. You can
6 hold it up and she can do it or we can get an easel.
7 Mr. Moore, why don't you set it up right there so
8 they can all see it. However you want to do it.

9 THE CLERK: Why don't you put it right here.

10 THE COURT: You all make the oldest man in here
11 do all of the hard work. Mr. Moore, how about move
12 that pedestal back so my juror on the very end can
13 see it. Can everybody see it?

14 Q Okay. And this circle up here, upper chest area I
15 would say on his right side, can you tell us about
16 that wound, the size of it?

17 A Let me grab my notes to refer to.

18 THE COURT: Speak up, Doctor, for me, please.

19 THE WITNESS: Yes.

20 A Okay. The first wound on the right upper chest was
21 up to 2 inches deep. It went through the skin and
22 through the subcutaneous tissue and just barely into
23 the muscle. It did not go particularly deep. It did
24 not penetrate the chest cavity. The size on the skin
25 is 0.73 inches. So almost three quarters of an inch

1 is the size on the skin, how big it was.

2 Q Okay. Tell us about the one in the groin area?

3 A The wound in the groin area, on the left groin and
4 left thigh, was a long incised wound. It was longer
5 than it was deep, and it was 12 inches long over all.
6 It had been stapled and there were sutures underlying
7 it where the surgeon had operated on this gentleman.
8 The wound was jagged at its mid portion. The rest of
9 it was pretty smooth.

10 Q What, if anything, does the jagged mean?

11 A Well, generally, if a surgeon had intervened, he
12 would not make a jagged incision. So that portion of
13 the wound is probably the portion that was inflicted
14 rather than medical.

15 THE COURT: Speak up, Doctor, please.

16 THE WITNESS: Sorry.

17 Q And how deep was this one?

18 A This wound had been altered by the surgeon. So we
19 can't give an accurate depth on that necessarily.
20 However, we do know that the femoral artery was
21 transected. So it was at least as deep as the
22 femoral artery.

23 Q All right. Can you say anything about the type of
24 weapon that was used or eliminate any type of weapon
25 as far as the nature of the cuts?

1 A Yes. These were fairly smooth, smooth in the sense
2 that there were not many abrasions or marks around
3 the wounds. So we can tell that it probably was not
4 a serrated knife. It was probably a smooth blade.

5 Q Is that consistent with your average pocket knife?

6 A It would be consistent with that and many others.

7 Q Thank you, Doctor.

8 THE COURT: All right. Fellows on the back, no
9 talking, please. You want to move that easel?
10 Unless Mr. Kirkland may need it. Do you need it?

11 MR. KIRKLAND: No, sir. I will not.

12 Q You stated the stab wound to the groin area was the
13 cause of death?

14 A Yes.

15 Q Can you say that to any scientific or medical degree
16 of certainty?

17 A Yes.

18 Q So, to a scientific medical degree of certainty?

19 A Yes. To a scientific or medical degree of certainty
20 the cause of death was due to bleeding to death from
21 the groin wound.

22 Q Thank you. I have no further questions.

23 CROSS-EXAMINATION

24 BY MR. KIRKLAND:

25 Q Good afternoon, Doctor. How are you doing?

1 A Well, thank you.

2 Q Did you have the opportunity to review the emergency
3 room notes when Mr. Wright presented?

4 A Yes, I did.

5 Q Do they talk about the emergency room physician doing
6 any work, cut downs on this body?

7 A Yes, they do.

8 Q Where were the cut downs done?

9 A On the right groin.

10 Q Would you explain what a cut down is?

11 A Sure, sure. The physician made an incision in the
12 groin in order to gain access to access to the
13 femoral vessels so that he could infuse resuscitative
14 fluids very rapidly. It's superior to, say, an IV in
15 your arm.

16 Q Did it discuss any type of procedures that the doctor
17 in the emergency room did to the left groin area
18 where the wound was?

19 A Not the emergency room physician, no.

20 Q Did you get to look at the operating room notes of
21 Dr. Ross?

22 A I did not see those but I did speak with Dr. Ross.

23 Q Did he discuss what he did?

24 A Yes.

25 Q Cutting this gentleman?

1 A Yes. He said that he did extend the wound on the
2 left groin.

3 Q He did some extensive procedures trying to save his
4 life. Is that correct?

5 A He did procedures to attempt to save his life.
6 That's correct, yes.

7 Q And that's where the sutures, staples came from?

8 A Uh-huh. Yes.

9 Q He in fact enlarged the wound, did he not?

10 A Yes. To gain exposure.

11 Q Did he give you an exact amount of how much he
12 enlarged the wound?

13 A No.

14 MR. MOORE: Objection, Your Honor. It's
15 hearsay.

16 THE COURT: Sustained.

17 Q Is there anything in your notes that shows how long
18 or how large the wound was enlarged?

19 A No.

20 Q On the autopsy did you do any kind of toxicology
21 tests?

22 A Yes, we did.

23 Q Did you do anything that showed any kind of
24 substances in the blood?

25 A Yes.

1 Q Did your findings show that Mr. Wright had any
2 alcohol in him?

3 A Yes, he did.

4 Q Did it show any other drug?

5 A He also had ephedrine or pseudoephedrine in his
6 blood.

7 Q Now, that is also the base drug for an illicit drug,
8 is it not?

9 A I'm not a toxicologist. I know that the most common
10 reason that we see that drug come up on drug screens
11 is because it's in cold preparations.

12 Q Are you also aware that it is in a street drug called
13 crank, ice, crystal meth?

14 A I am not a toxicologist. That's beyond my area of
15 expertise.

16 Q That's all.

17 THE COURT: Redirect?

18 MR. MOORE: No further questions, Your Honor.

19 THE COURT: All right. Thank you for coming to
20 Bamberg. Is she released from her subpoena?

21 MR. MOORE: Yes, sir.

22 MR. KIRKLAND: Yes, sir.

23 THE COURT: You have a nice afternoon and be
24 careful going to Charleston. Did you offer 15 into
25 evidence?

1 MR. MOORE: Yes, sir. The State offer's 15 into
2 evidence.

3 THE COURT: Any objection?

4 MR. KIRKLAND: No, sir, Your Honor.

5 THE COURT: Next witness.

6 MR. MOORE: At this time the State rests.

7 THE COURT: What that means is that is the
8 conclusion of the State's evidence. I have to listen
9 to a couple of arguments. It will be just a little
10 bit. You all go to the jury room. Mr. Hires, are
11 you still feeling well?

12 THE CLERK: Yeah. I feel fine.

13 THE COURT: It's a pretty good test. It's not
14 poison. You all don't discuss the case amongst
15 yourselves. Eat a little cake. They got plenty of
16 cold drinks back there?

17 THE CLERK: Yeah.

18 (WHEREUPON, the jury exits the courtroom at 3:18
19 p.m.)

20 THE COURT: All right. Motions?

21 MR. KIRKLAND: No motions, Your Honor.

22 THE COURT: I assume nothing on behalf of the
23 State?

24 MR. MOORE: No, sir. Nothing.

25 THE COURT: All right. Mr. Kirkland, what is

1 the desire of your client to testify?

2 MR. KIRKLAND: Your Honor, I believe he desires
3 to testify.

4 THE COURT: Okay.

5 MR. KIRKLAND: If you would be so kind, since
6 the jury is already out, after you give him these
7 charges to allow me to speak with him just a moment.
8 May I speak with Mr. Timmerman for a second?

9 THE COURT: Sure.

10 (WHEREUPON, the attorneys confer.)

11 THE COURT: Does the defendant have a record?

12 MR. MOORE: Yes, sir.

13 THE COURT: Would you please tell me what it is?

14 MR. MOORE: He has a conviction for possession
15 with intent to distribute. I believe it's cocaine.

16 THE COURT: It carries more than a year
17 obviously?

18 MR. MOORE: Yes, sir. This is -- I have as
19 1997. And he received a year -- sentence of 10 years
20 suspended upon probation.

21 THE COURT: Anything else other than the PWID?

22 MR. MOORE: No, sir. He does have other things
23 on there, but I don't see anything that carries a
24 year. Well, he does have -- in 1996 he has a petty
25 larceny conviction which would involve dishonesty.

1 Those are the two I see that are eligible
2 potentially.

3 THE COURT: PWID what? Cocaine?

4 MR. MOORE: This rap sheet does not specify the
5 drug.

6 THE COURT: Do you disagree with that record,
7 Mr. Kirkland?

8 MR. KIRKLAND: No, sir. He does have a record
9 of possession with intent to distribute.

10 THE COURT: All right. Mr. Frankie Lee Bryant,
11 will you please stand and raise your right hand.

12 FRANKIE L. BRYANT, III, after being duly sworn,
13 testifies as follows:

14 THE COURT: All right. Mr. Bryant, we've now
15 reached the stage in the trial where obviously you
16 can present your own defense. What that means is you
17 have the right through your lawyer to call witnesses
18 to put up any exhibits that you may want to, and you
19 also have the right to testify in your own defense.
20 But you also likewise have the right to claim the
21 protections given to you by the Fifth Amendment to
22 the Constitution of the United States which states in
23 part, quote: "No person shall be compelled in any
24 criminal case to be a witness against himself", end
25 of quote.

1 This means that you cannot be required to
2 testify in the case. You can testify if you want to,
3 but nobody can make you testify. If you choose not
4 to testify, then of course I would tell the jury they
5 could not hold the fact that you did not testify
6 against you in any manner whatsoever, and I would
7 tell them that they couldn't even consider that fact
8 when they deliberated your guilt or innocence, and I
9 would tell them that there could absolutely be no
10 prejudice to you for the fact that you did not
11 testify.

12 Of course you can testify if you want to, but
13 you don't have to testify if you don't want to. And
14 if you don't, then I am going to tell them they can't
15 hold that against you in any manner whatsoever.

16 Now, if you testify, obviously you'll be
17 governed by the same rules that govern all other
18 witnesses. You'll be subject to examination, cross
19 examination on any relevant issue. And you have two
20 prior convictions, possession with intent to
21 distribute a drug and a petty larceny. These
22 convictions deal with dishonesty and or incarceration
23 for a period of more than one year. And if I
24 determine that the probative value of these prior
25 convictions outweigh the prejudicial effect to you,

1 then the solicitor will be able to introduce your
2 record to attack your credibility or your
3 believability for that reason only. I would tell the
4 jury that's the only reason to use your prior record.

5 If you decide to testify, this decision must be
6 made on your part, must be freely and voluntarily and
7 intelligently made with knowledge of the protections
8 given to you by the Fifth Amendment and the
9 consequences of your decision to testify.

10 This decision is up to you. You may want to
11 talk to your lawyer, your family or your friends.
12 The end result, it's up to you. I have a couple of
13 questions. Number one, do you understand what I have
14 told you?

15 MR. BRYANT: Yes, sir.

16 THE COURT: Do you have any questions you want
17 to ask me?

18 MR. BRYANT: No, sir.

19 THE COURT: All right. Do you need to talk to
20 your lawyer a little bit before you make your
21 decision?

22 MR. BRYANT: Yes, sir.

23 THE COURT: That's fair. All right. Let's take
24 about five more minutes for the court reporter to
25 stretch her legs, anybody to go to the restroom, and

1 we'll start back about 3:30.

2 (WHEREUPON, a break is taken.)

3 (WHEREUPON, Defendant's Exhibit No. 3 is marked
4 for identification.)

5 THE COURT: All right. Mr. Kirkland, is your
6 guy going to take the stand?

7 MR. KIRKLAND: Yes, sir, Your Honor.

8 THE COURT: Okay. You've had enough time to
9 talk to him and tell him your experience with people
10 taking the stand?

11 MR. KIRKLAND: Yes, sir, Your Honor.

12 THE COURT: Anything for the record, gentlemen?

13 MR. MOORE: Yes, sir. Mr. Kirkland and I have
14 entered into a stipulation as to Mr. Frankie Bryant's
15 toxicology results. And I am stipulating that they
16 can be admitted.

17 THE COURT: Well, they'll be stipulated. What
18 is his result?

19 MR. KIRKLAND: They took his blood and tested
20 him for various substances.

21 THE COURT: And ...?

22 MR. KIRKLAND: Everything is negative. They
23 took it the very night he was arrested.

24 THE COURT: You want that to come in? Negative
25 blood? So he wasn't under the influence of alcohol

1 or drugs or anything?

2 MR. KIRKLAND: Well, he wasn't smoking crack.

3 THE COURT: I know that. It might make him a
4 little clearer headed thinking. Okay.

5 (WHEREUPON, Defendant's Exhibit No. 3 is
6 admitted into evidence.)

7 (WHEREUPON, the jury enters the courtroom at
8 3:34 p.m.)

9 THE COURT: You may call your first witness.

10 MR. KIRKLAND: The defense calls Frankie Lee
11 Bryant.

12 FRANKIE L. BRYANT, III, after being duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. KIRKLAND:

16 Q Would you give your full name for the record?

17 A Frankie Lee Bryant, III.

18 Q Do you remember the events of February of last year?

19 A Yes, sir, I do.

20 Q Could you tell us how you ended up being in the
21 vehicle with Mr. Wright?

22 A I seen him down in Ehrhardt.

23 Q Was anybody with him?

24 A Yes. The girl, Shelia.

25 Q The girl that testified first?

- 1 A Yes, sir. Yes, sir.
- 2 Q Did you know her?
- 3 A No, sir.
- 4 Q Did you know -- did you know Willie?
- 5 A Yes, sir.
- 6 Q How did you know him?
- 7 A He is my cousin.
- 8 Q Do you know which cousin, how close?
- 9 A First. Very close.
- 10 Q You have known him all your life?
- 11 A Yes, sir.
- 12 Q After you were in the vehicle with him, could you
- 13 tell us where you all went next?
- 14 A Went to the store and got some beer and stuff.
- 15 Q Is that all you all bought?
- 16 A Yes, sir.
- 17 Q And what did you all do next?
- 18 A Then we took a guy home.
- 19 Q Who did you take home?
- 20 A Ronnie Rick.
- 21 Q After that what did you do?
- 22 A We stopped down the road a few times and stuff, a few
- 23 arguments.
- 24 Q Where were you headed?
- 25 A Bamberg.

1 Q Why were you going to Bamberg?

2 A To visit my brother.

3 Q For what purpose?

4 A Supposed to give me some money.

5 Q All right. You said a while ago stopped with
6 arguments. Would you tell the court about what
7 happened when you all stopped?

8 A I mean, he got out of his side of the truck, came on
9 my side and started hitting me, you know. So we got
10 back in the truck and we left and went down the road.

11 Q Was Ms. Oliver's version of what happened when you
12 stopped accurate?

13 A She was still in the truck, sir.

14 Q I mean in terms of the punching, --

15 A Yes, sir.

16 Q -- talking, was that accurate?

17 A Yes, sir.

18 Q You all proceeded to Bamberg?

19 A Yes, sir.

20 Q Where did you go when you got to Bamberg?

21 A To the car wash where my brother was.

22 Q Did you talk to your brother?

23 A Yes, sir.

24 Q Anything happen between you and your brother?

25 A My brother gave me some money.

- 1 Q How much money?
- 2 A A hundred dollars that day.
- 3 Q Why did he give you \$100?
- 4 A Sir?
- 5 Q Why did he give you \$100?
- 6 A He just give it to me. He had owed me.
- 7 Q Where did you go from there?
- 8 A The back lot in Bamberg.
- 9 Q And what happened when you got to the back lot?
- 10 A Willie started talking and I seen Tony.
- 11 Q Tell us who you saw?
- 12 A Tony, the guy who testified in here earlier.
- 13 Q Do you know his last name?
- 14 A Yes, sir. Tony -- I can't remember.
- 15 Q Did you talk to Tony?
- 16 A Did I speak to him? Yes, sir, I did.
- 17 Q Did you ask him to buy drugs?
- 18 A No, sir.
- 19 Q Did anybody ask him to buy drugs?
- 20 A I think Willie did. I know they was talking.
- 21 Q Did you hear Willie ask him to buy drugs?
- 22 A Not at that time. I was talking to somebody else.
- 23 Q You all eventually left there?
- 24 A Yes, sir.
- 25 Q Where did you go after that?

- 1 A To a trailer.
- 2 Q And how did you get there?
- 3 A Willie was driving.
- 4 Q Where were you -- you were in Willie's truck?
- 5 A I was in the back of the truck.
- 6 Q Where is the back? Tell us where --
- 7 A On the back of the truck sitting down on the side.
- 8 Q You were in the bed of the truck?
- 9 A Yes, sir.
- 10 Q Was anybody else in the bed of the truck?
- 11 A Tony was, sir.
- 12 Q Which side in the bed were you in? Were you on the
- 13 driver's side or the passenger's side?
- 14 A The driver's side.
- 15 Q You all eventually go to the trailer?
- 16 A Yes, sir.
- 17 Q When you got to the trailer, what happened?
- 18 A Then Tony, he got out and went inside. And me and
- 19 Willie had some words.
- 20 Q About what?
- 21 A About he wanted some money. I said no.
- 22 Q Did he tell you why he wanted money?
- 23 A No. He just wanted my money.
- 24 Q How much of your money did he want?
- 25 A I don't know. He just wanted my money. I told him

1 that I wasn't going to give him none.

2 Q And what happened next?

3 A Then we got in a fight.

4 Q And tell us what happened during the fight?

5 A Well, I got from the bed of the truck on the ground
6 on the driver's side, and he busted my lip and
7 started choking me.

8 Q How was he choking you?

9 A Around like this.

10 Q And what happened after that?

11 A After that, after I get loosed (sic) and stuff, he
12 said, "Give me your money, Frank. Give me your
13 money." I said, "Oh, no." I couldn't say nothing.
14 I was trying to push him and push him, trying to get
15 loose from him.

16 Q And what happened after that?

17 A Then I pushed trying to get loose from him. I pushed
18 him against the driver's side of the door. That's
19 when I seen he reached for a knife and he stabbed me
20 right here.

21 Q You saw what?

22 A He reached far a knife inside the driver's side.

23 Q Did he get a knife?

24 A Yes, sir.

25 Q And what did you say happened?

1 A He stabbed me right here.

2 MR. KIRKLAND: Your Honor, may he come down and
3 show the wounds?

4 MR. MOORE: The State doesn't object.

5 THE COURT: Go ahead.

6 Q Would you show you were where you were stabbed?

7 A Right here and here and here.

8 THE COURT: How many places are you pointing to?

9 THE WITNESS: Three.

10 THE COURT: All right.

11 Q What happened after that?

12 A After that -- so we still -- I tried -- he stabbed
13 me. I tried to get loose. I couldn't get no air or
14 nothing. So, I took the knife, tried to take the
15 knife out of his hand.

16 Q You got the knife from him?

17 A From him. He still was choking me, choking me. And
18 I took it and stabbed him.

19 Q Do you know where you stabbed him?

20 A No, sir. I just stabbed him.

21 Q Do you know how many times you stabbed him?

22 A I think it was just once, no where else.

23 Q Why did you stab him?

24 A To try to get loose from him, a loose (sic). He was
25 choking me.

- 1 Q Did you feel like you were in danger?
- 2 A I was scared.
- 3 Q You couldn't get away?
- 4 A No, sir; I could not.
- 5 Q Had you ever had trouble with Willie before?
- 6 A No, sir. No, sir.
- 7 Q Did you ever know of him to be violent like this?
- 8 A I know he done beat up two people before.
- 9 Q Did he ever do this to you?
- 10 A No, sir.
- 11 Q When it happened in the truck the first couple of
- 12 times, why didn't you just walk away?
- 13 A I just thought, I said he'll be all right, you know.
- 14 I said, well, he'll be all right. I didn't pay no
- 15 attention and, you know, start talking and, you know,
- 16 drinking beer.
- 17 Q After -- where was he when you stabbed him?
- 18 A On the driver's side.
- 19 Q Was he sitting down or standing up?
- 20 A Standing up.
- 21 Q What happened after you stabbed him?
- 22 A Then he fell. He fell.
- 23 Q He let go?
- 24 A Yes, sir.
- 25 Q He fell where?

- 1 A On the ground.
- 2 Q What happened after that?
- 3 A I just stand there until me and the first witness,
- 4 put him in the back of the truck.
- 5 Q Anybody else help put him in the truck?
- 6 A No, sir.
- 7 Q What happened to the knife?
- 8 A I don't know, sir. When I left, everything was on
- 9 the ground. Even the towel. Everything was on the
- 10 ground.
- 11 Q Did you -- where did you go after this happened?
- 12 A I left walking and I saw the polices (sic). They
- 13 passed me. I kept walking. I walked back to the bus
- 14 station.
- 15 Q Did you see the officer that said he saw
- 16 Mr. Thompson, Officer Thompson? Do you know him?
- 17 A Yes, sir, I do.
- 18 Q Did you see him?
- 19 A No, sir. At that time; no, sir.
- 20 Q Did you know they were chasing you?
- 21 A No, sir.
- 22 Q Where did you go --
- 23 A I ran --
- 24 Q -- when you left?
- 25 A I ran through a path, and I seen a truck driver and I

1 caught a ride to Allendale.

2 Q What happened after you got to Allendale?

3 A I went home. And then later that night I came back
4 and turned myself in.

5 Q Why did you turn yourself in?

6 A I felt like I was defending myself, self-defense.

7 Q Did you know before you turned yourself in, did you
8 know that Willie was deceased at that time?

9 A No, sir, I did not.

10 Q Did you talk to your mom or anybody else before you
11 turned yourself in?

12 A No, sir.

13 Q When you got to -- once you turned yourself in, what
14 happened after that?

15 A They asked me questions and stuff. The police did.

16 Q Did they take you anywhere?

17 A They took me to the emergency room that night.

18 Q What happened at the emergency room?

19 A Then -- I can't remember the detective -- he took
20 down my statement and stuff. He kept asking me
21 questions and questions about this case.

22 Q Do you remember them taking any blood from you?

23 A Yes, they did.

24 MR. KIRKLAND: Your Honor, at the time we'd like
25 to put into evidence the prior stipulated drug

1 results.

2 THE COURT: All right. Ladies and gentlemen,
3 the stipulation is that both lawyers have agreed that
4 it is true, that they don't need to bring witnesses
5 in here to prove it's true. The stipulation is as
6 follows.

7 MR. KIRKLAND: We are just agreeing that the
8 drug results are accurate, Your Honor. They're done
9 by SLED.

10 THE COURT: They're agreeing that the drug
11 results are accurate and done by SLED.

12 Q Do you know what the results were?

13 THE COURT: No. He can't testify to that. It's
14 stipulated. They can read the report.

15 MR. KIRKLAND: We stipulate that all the drug
16 results are negative, Your Honor. They tested for
17 alcohol, barbiturates, benzodiazepines, cannabis
18 which is marijuana.

19 THE COURT: Don't you interpret it.

20 MR. KIRKLAND: It says that, Your Honor.
21 Cocaine and opiates.

22 THE COURT: That's a stipulated fact. Move on.

23 (WHEREUPON, Defendant's Exhibit No. 3 is
24 admitted into evidence.)

25 Q Did they treat you at the emergency room?

1 A They treated me for my shoulder and stuff.

2 Q Did they treat you anywhere else?

3 A No, sir. They didn't treat me for the stab wounds
4 neither.

5 Q Did you get any other injuries?

6 THE COURT: What was that last thing you said?

7 A They didn't treat me for the stab wounds.

8 THE COURT: They did or did not?

9 A They didn't.

10 THE COURT: Did not?

11 A Did not.

12 Q Did you get any injuries on your face or head?

13 A I got a busted lip and with the knife right here.

14 THE COURT: I can't understand you. What?

15 A Because of the knife, across my neck and busted my
16 lip where he hit me.

17 MR. KIRKLAND: That's all, Your Honor.

18 THE COURT: Cross?

19 CROSS-EXAMINATION

20 BY MR. MOORE:

21 Q Mr. Bryant, I had a little trouble hearing you. You
22 just said you weren't treated for stab wounds?

23 A I wasn't.

24 Q Was not?

25 A No, I was not.

- 1 Q But you were at the emergency room?
- 2 A Yes, sir.
- 3 Q Did a doctor see you?
- 4 A Yes, sir.
- 5 Q Nurses see you?
- 6 A Yeah. A bunch of people was in there. The polices
- 7 (sic), too. They asked me a bunch of questions.
- 8 Q Frankie, where are you from?
- 9 A From Ehrhardt, sir.
- 10 Q Have you lived in this area all your life?
- 11 A Yes, sir, I have.
- 12 Q Do you have a lot of family around here?
- 13 A Yes, sir.
- 14 Q When he first picked you up, where were you all at?
- 15 A We was in Ehrhardt drinking beer and liquor that day
- 16 in the alley of Ehrhardt.
- 17 Q And he picked you up and you got in his truck?
- 18 A Yes, sir, I did.
- 19 Q Where were you riding in the truck?
- 20 A When we first left Ehrhardt, on the passenger's side,
- 21 right-hand side.
- 22 Q Inside the cab of the truck?
- 23 A At the time; yes, sir.
- 24 Q And so you all drove around. Had you all fought or
- 25 tussled at that point?

- 1 A Yes, sir.
- 2 Q When did you first fight or tussle?
- 3 A Going to take Ronnie Ray home.
- 4 Q Going where?
- 5 A To take Ronnie Ray home.
- 6 Q Okay. Did this happen at Ray's house?
- 7 A It was down the road before we got to his house.
- 8 Q Okay. Where does Ray live?
- 9 A About six miles out of Ehrhardt.
- 10 Q Okay. And so you all fought near Ray's house?
- 11 A Yes, sir.
- 12 Q Do you know Ray?
- 13 A Yes, sir.
- 14 Q Is he a friend? Relative? What's the deal on Ray?
- 15 A A cousin.
- 16 Q He is a cousin?
- 17 A Yes, sir.
- 18 Q If you wanted to stay at Ray's house or hang out
- 19 there for a while, is there any reason you couldn't?
- 20 A No, sir. I could have. Yes, sir.
- 21 Q Okay. So you drop Ray off?
- 22 A Yes, sir. We left and went to Bamberg.
- 23 Q And you choose to get back in the truck?
- 24 A Yes, sir.
- 25 Q Where do you all drive next?

- 1 A Bamberg.
- 2 Q Okay. Where in Bamberg?
- 3 A To the car wash, sir.
- 4 Q To the car wash?
- 5 A Yes, sir.
- 6 Q And there is people at the car wash?
- 7 A Yes, sir.
- 8 Q Is there people you know at the car wash?
- 9 A Yes, sir.
- 10 Q Is that where your brother was?
- 11 A Yes, sir. At the time. Yes, sir.
- 12 Q And did you all fight at the car wash?
- 13 A No, sir, we did not.
- 14 Q Where is the second place you fought?
- 15 A At that trailer, sir.
- 16 Q Okay. So you only fought one time before?
- 17 A Yes, sir.
- 18 Q Okay. And during that fight earlier, did he use a
- 19 weapon on you?
- 20 A No, sir. Just his fists.
- 21 Q Did you feel like you needed to go to the hospital?
- 22 A Well, at that time; no, sir. I thought he would be
- 23 all right. I know him. That's my cousin, you know.
- 24 Q You weren't seriously injured?
- 25 A At that time; no, sir.

1 Q So it wasn't that serious of a fight?

2 A No, sir. Not at that time.

3 Q Were you afraid at that point?

4 A No, sir.

5 Q Were you mad?

6 A No, sir.

7 Q Were you drunk?

8 A Tipsy. I ain't going to say I was drunk.

9 Q You feel like you knew what you were doing?

10 A Yes, sir.

11 Q So you go to the car wash, and there is people you
12 know there, including your brother; correct?

13 A Yes, sir.

14 Q If you'd said to your brother, can I go with you or
15 hang out with you, could you have done that?

16 A Yes, sir, I could have.

17 Q And you didn't have to get back in that truck?

18 A No, sir.

19 Q You didn't have to go to that trailer?

20 A No, sir.

21 Q You didn't have to be around Willie Wright?

22 A No.

23 Q But you chose to?

24 A Yes, sir. He is my cousin. Yes, sir.

25 Q And Tony Gordon, you and Tony, your testimony is you

1 and Tony got in bed of the truck?

2 A Yes, sir.

3 Q And you all went over to Nate Johnson's trailer?

4 A Yes, sir.

5 Q On the way to the trailer, were you upset in any way?

6 A No, sir. No, sir.

7 Q Had he done anything to tick you off?

8 A No, sir.

9 Q A clear state of mind?

10 A Yes, sir.

11 Q And you all pulled up into the yard?

12 A Yes, sir.

13 Q At that point you get out of the bed of the truck?

14 A Yes, sir. On the driver's side. Yes, sir.

15 Q And you get out on the driver's side?

16 A Yes, sir.

17 Q Anybody make you get out on the driver's side, get
18 out of the bed of the truck at all?

19 A No, sir.

20 Q You could have stayed in the bed of that truck if you
21 wanted to?

22 A Yes, sir.

23 Q So you went over to the driver's area?

24 A I was going to -- I was on the back of the truck. I
25 was sitting on that side.

- 1 Q Yes, sir.
- 2 A Yes, sir.
- 3 Q But you got out and went over to where Willie Wright
4 was?
- 5 A We was both outside standing beside the truck.
- 6 Q Standing beside the truck?
- 7 A Yes, sir.
- 8 Q Where beside the truck on the driver's side? Were
9 you near the cab? Or are you near the tailgate?
10 Tell me where you were?
- 11 A The cab, the back of the truck, where the back tire
12 is at, at the back right here. He is standing
13 between the door.
- 14 Q Was the door open?
- 15 A Yes, sir.
- 16 Q And he was standing in the door area?
- 17 A Yeah, the door area.
- 18 Q And you were standing near the tire?
- 19 A Yes. On the side of it. Yes, sir.
- 20 Q At that point if you wanted to walk away, run away,
21 could you have done it?
- 22 A Yes, sir. I think I could.
- 23 Q But you didn't do that, did you?
- 24 A No, sir.
- 25 Q You went over where Willie Wright was?

- 1 A No, sir. I was standing right there.
- 2 Q So he came to you?
- 3 A Yes, sir.
- 4 Q Did he come over and attack you?
- 5 A When he asked for my money, that's when he grabbed
- 6 me.
- 7 Q So he came to you and grabbed you?
- 8 A Yeah. I told him that I wouldn't give him no money.
- 9 Q That's your testimony?
- 10 A Yes, sir.
- 11 Q That he came over --
- 12 A Yes, sir.
- 13 Q -- to where you were at that wheel well or where that
- 14 tire is, that back tire of the truck?
- 15 A Where I was standing beside; yes, sir.
- 16 Q And that's where you all fought?
- 17 A Yes, sir.
- 18 Q I'm showing you State's Exhibit 5. Do you recognize
- 19 that?
- 20 A The truck.
- 21 Q What part of the truck?
- 22 A The cab or -- the cab.
- 23 Q The cab of the truck?
- 24 A Yes, sir.
- 25 Q At the bottom, parallel where the seat is, the

- 1 driver's seat, that's blood, isn't it?
- 2 A Yes, sir.
- 3 Q That's Willie Wright's blood?
- 4 A Yes, sir.
- 5 Q Yes, sir? Is that your -- yes?
- 6 A Yes. I said yes, sir.
- 7 Q Okay. Sorry. I didn't hear you. So he got stabbed
- 8 over there. That's where he bled out, not over by
- 9 the tire. That was his truck, wasn't it?
- 10 A Yes, sir.
- 11 Q And he was the one driving that truck?
- 12 A Yes, sir, he was.
- 13 Q So that was his area and his space?
- 14 A Yes, sir.
- 15 Q And that's where he got stabbed.
- 16 THE COURT: Is that a question?
- 17 Q Is that where he got stabbed?
- 18 A Sir? No, sir. Stabbed in the door, in the middle of
- 19 the door where he was standing at. We was fighting
- 20 and tussling.
- 21 Q So you don't know how that blood got there?
- 22 A Unless he fell back on the door or something.
- 23 Q Willie was a big strong guy, wasn't he?
- 24 A Yes, sir, he was.
- 25 Q And a tough guy?

- 1 A Yes, sir.
- 2 Q And he was considerably bigger than you?
- 3 A Yes, sir, he was.
- 4 Q But it's your testimony that you took a knife away
- 5 from somebody who was a whole lot bigger and stronger
- 6 than you?
- 7 A Yes, sir.
- 8 Q That you were just able to take it away from him?
- 9 A I struggled with it until I got it. He was choking
- 10 me. I was scared for my life.
- 11 Q And you say today he stabbed you?
- 12 A He did.
- 13 Q Do you recall going to the Bamberg Police Department
- 14 after you turned yourself in?
- 15 A Yes, sir.
- 16 Q Do you recall giving a statement?
- 17 A Yes, sir.
- 18 Q And that was your opportunity to tell them what
- 19 happened, right?
- 20 A Yes, sir.
- 21 Q And you told them what happened?
- 22 A Not exactly. At that time I didn't.
- 23 Q You didn't tell the truth?
- 24 A I was scared at that time, and I didn't know what to
- 25 do.

1 Q Sir?

2 A I was scared. I was scared for myself, frightened.

3 Q So you didn't tell the police the truth?

4 A No, sir, I did not. I just gave them that testimony,
5 but that was not the truth.

6 Q I'm handing you what's been marked as State's
7 Exhibit 4. Do you recognize it?

8 A Yes, sir.

9 Q What is it?

10 A My testimony that I gave the police.

11 Q I want you to read it. Have you read it? Do you
12 know what it says?

13 A It says: "Willie came" --

14 Q Don't read it out loud. To yourself.

15 A Yes, sir.

16 Q Anywhere on there does it say he stabbed you?

17 A No, sir.

18 Q Handing you what's been marked State's Exhibit 14, do
19 you recognize that?

20 A Yes, sir.

21 Q What is that?

22 A Behind the bus station and the fence and the
23 trashcan. Excuse me.

24 Q Did you go over that fence when Officer Thompson was
25 coming after you?

- 1 A I didn't know he was chasing me. I just jumped over
2 the fence.
- 3 Q You did jump over the fence?
- 4 A Yes, sir.
- 5 Q State's 13, do you recognize it?
- 6 A Yes, sir.
- 7 Q What is that?
- 8 A Behind the store in the woods.
- 9 Q Do you deny running through that area?
- 10 A I ran through the path, the path that is back there.
- 11 Q But according to you, you didn't have any reason to
12 run.
- 13 A No, sir. I turned myself in.
- 14 Q You were running to turn yourself in?
- 15 A No. I went home. That night I turned myself in.
- 16 Q Why didn't you stick around?
- 17 A (No response.)
- 18 Q Can you show me how you took the knife from him?
- 19 A Yes, sir. You need to put your hand on my neck like
20 that. The other hand. He grabbed me like that.
- 21 Q Where did he have the knife?
- 22 A In his hand there. And I just kept like this here.
23 I just kept doing my hands like that, both my hands
24 like that there.
- 25 Q How much did he outweigh you by?

1 A About 80 pounds, sir.

2 THE COURT: Have a seat.

3 Q And you just ripped that knife away from him?

4 A I just pushed and pushed until I got it from him.

5 Q The truth is you had the knife from the beginning?

6 A No, sir, I did not.

7 Q The truth is you came around there and you stabbed
8 him in the doorway of his truck, isn't it?

9 A No, sir.

10 Q You testified that you stabbed him one time?

11 A One time, sir. That's it.

12 Q So that other stab wound just miraculously appeared?

13 A I don't know nothing about that stab wound, sir.

14 Q You only stabbed him once?

15 A Once. That's it.

16 Q No further questions.

17 THE COURT: Redirect.

18 MR. KIRKLAND: None, Your Honor. I'll call

19 Joyce Grimes to the stand, please.

20 JOYCE GRIMES, after being duly sworn, testifies
21 as follows:

22 DIRECT EXAMINATION

23 BY MR. KIRKLAND:

24 Q Would you give us your name, please?

25 A Joyce Grimes.

1 Q Tell us where you work?

2 A I am the Director of Medical Records at Bamberg
3 Hospital.

4 Q So you are the custodian of medical records?

5 A Yes, I am.

6 Q Were you asked to bring any medical records here
7 today?

8 A Yes, I was.

9 Q Did you do so?

10 A Yes, sir, I did.

11 Q Whose medical records did you bring?

12 A Frankie Bryant.

13 Q Did you bring copies of those records?

14 A Yes, I did.

15 Q Are you in charge of making sure that's the actual
16 medical records?

17 A Yes, I am.

18 Q Is the copy that you brought the exact copy of the
19 records that are there?

20 A Yes, it is.

21 Q May I have that copy?

22 (WHEREUPON, Defendant's Exhibit No. 4 is marked
23 for identification.)

24 MR. KIRKLAND: Your Honor, the defense would
25 move that copy into evidence.

1 MR. MOORE: Your Honor, we'd object to hearsay.

2 THE COURT: All right. Ladies and Gentlemen,
3 you all step out a second, please. I'll be right
4 back with you in just a few minutes.

5 (WHEREUPON, the jury exits the courtroom at 4:07
6 p.m.)

7 THE COURT: All right. What do you object to?

8 MR. MOORE: Well, Your Honor, in looking at
9 these medical records, it's my contention that they
10 contain opinions in them from the people who treated.

11 THE COURT: Such as?

12 MR. MOORE: Well, such as that there is a
13 contusion, that there is abrasions, what these mean,
14 old and new abrasions. I mean, there is no way to
15 cross examine or to explain what all this means. And
16 it's to me basically a diagnosis and a diagnosis is
17 basically an opinion, and I think somebody who
18 actually treated him should be here to testify as to
19 their opinion.

20 THE COURT: All right. Read rule 803(4). Let
21 me see the records.

22 MR. KIRKLAND: Your Honor, I can probably make
23 this pretty easy.

24 THE COURT: Well, make it easy.

25 MR. KIRKLAND: I will take off everything except

1 for what's the front page and the nurse's notes. And
2 I will call the nurse who triaged and who is a
3 supervisor that night whose name is on here.

4 THE COURT: Wait a minute. Don't be tearing the
5 records up. Why have you brought this witness in to
6 get all of this other stuff in?

7 MR. KIRKLAND: I don't need anything but hers.
8 I am willing to put just hers in.

9 THE COURT: Do you have her here to testify?

10 MR. KIRKLAND: She's here; yes, sir.

11 THE COURT: Why are we going through all of
12 this?

13 MR. KIRKLAND: There is doctor's notes on here
14 also. I was not going to ask her about the doctor's
15 notes.

16 THE COURT: Well, I am not going to allow them.
17 You mean you don't want them in?

18 MR. KIRKLAND: It doesn't make any difference to
19 me whether they come in or not.

20 THE COURT: You have either got to offer them or
21 not offer it.

22 MR. KIRKLAND: I would offer all of it, Your
23 Honor. If anything other than the nurse's notes are
24 a problem, I am willing to only have the nurse's
25 notes.

1 THE COURT: Well, sir, look at 403(4) (sic).
2 "Statements made for the purposes of medical
3 diagnosis or treatment and describing medical history
4 or past or present symptoms, pain or sensations are
5 the exception or general character, cause or external
6 source thereof insofar as reasonably pertinent to
7 diagnosis or treatment."

8 So I don't know what you're trying to put in.
9 But if all you want is the nurse and she's here to
10 testify, why do we need the whole record?

11 MR. KIRKLAND: I am willing to unstaple it an
12 just put the nurse's notes in, Your Honor.

13 THE COURT: That's fine. Why don't you wait
14 'til you get the nurse here and she can identify them
15 as her notes. Then you can go about it that way.
16 Then it's not hearsay. Let me see the nurse's notes.
17 you want to call the nurse to testify about what she
18 took on triage?

19 MR. KIRKLAND: Yes, sir. And that there is
20 nothing else there on the notes. There is nothing
21 that shows whether he is treated or not. He went to
22 the emergency room, but there is nothing disproving
23 the fact that he went there and had stab wounds.

24 THE COURT: I sure don't see any stab wounds on
25 here. If you want to get this nurse up here and go

1 through all that, that's up to you. I will allow the
2 nurse's notes if the nurse testifies. I will allow
3 the business or the hospital records as it complies
4 with 803(4). There is a lot of stuff in there that
5 doesn't comply with 803(4). So you all are going to
6 have to sit down and redact it out or withdraw that
7 and let the nurse put in her notes. Which way do you
8 want to do it?

9 MR. KIRKLAND: I will call the nurse.

10 THE COURT: All right. We're going to
11 withdraw -- you are withdrawing 4. I will allow you
12 to call the nurse. And we will allow the copy to be
13 made as a substitute for the original. You can
14 examine the nurse on on her notes but nothing else.
15 Fair?

16 MR. KIRKLAND: Yes, sir.

17 THE COURT: All right. So we don't need this
18 young lady, Ms. Grimes, any more, do we?

19 MR. KIRKLAND: I am through with Ms. Grimes.

20 THE COURT: Ms. Grimes, you may step down.

21 THE WITNESS: Thank you.

22 THE COURT: Thank you for coming.

23 MR. KIRKLAND: I will call Pam Hughes.

24 THE COURT: Bring Pam Hughes in. Bring the jury
25 back in.

1 (WHEREUPON, the jury enters the courtroom at
2 4:12 p.m.)

3 THE COURT: Okay. Ms. Foreman, Ladies and
4 Gentlemen of the Jury, let me explain what's going
5 on. Ms. Grimes was the custodian of the medical
6 records, and Mr. Kirkland wanted to put all of the
7 medical records in. But they -- included in that
8 were things that one person said and another person
9 said and another person said. There are rules that
10 allows certain parts of medical records to come in
11 but not other parts. We had to discuss that.

12 So, to make it a lot easier, he withdraw all of
13 the medical records except those generated by Ms. Pam
14 Hughes who was the RN at the time of admission. And
15 he is now calling Ms. Hughes to testify about what
16 she saw. Ms. Hughes, would you come around.

17 PAMELA HUGHES, after being duly sworn, testified
18 as follows:

19 THE COURT: If you'll have a seat. Pull up and
20 speak into that microphone.

21 THE WITNESS: Thank you.

22 THE COURT: Your witness.

23 DIRECT EXAMINATION

24 BY MR. KIRKLAND:

25 Q Would you give us your name, please?

1 A Pamela Hughes.

2 Q Would you tell us where you work?

3 A I am a registered nurse supervisor with Bamberg
4 County Hospital Nursing Center.

5 Q How long have you worked there?

6 A Five years.

7 Q How long have you been a nurse?

8 A About seven and a half years.

9 Q Were you working as the supervisor -- do you work a
10 particular shift?

11 A Typically, predominantly, yes. I work the p.m.
12 shift, 7 to 7.

13 Q 7 p.m. to 7 a.m.?

14 A Yes, sir.

15 Q Were you working on the 22nd of February of last
16 year, 2004?

17 A I would have to say yes.

18 THE COURT: You can show her those records to
19 refresh her memory. Just show her her part, please.
20 In fact, let's do this. Let me hold it. We're going
21 to withdraw Exhibit No. 4. Is that correct?

22 MR. KIRKLAND: Yes, sir, Your Honor.

23 THE COURT: Out of withdrawn Exhibit No. 4 I am
24 going to take the nursing records that Ms. Hughes
25 generated. Give me the ones that you generated,

1 please, ma'am. How many pages did you generate?

2 THE WITNESS: It appears just this first page.

3 THE COURT: All right. Let's take that page out
4 and make it Exhibit 5.

5 MR. KIRKLAND: We might need to speak. That is
6 one piece of paper. That's just copied differently.
7 These first four pages right here, that is one piece
8 of --

9 THE WITNESS: That is the entire nursing record.

10 MR. KIRKLAND: That is three pages.

11 THE COURT: Take those out and make them
12 Exhibit 5.

13 (WHEREUPON, Defendant's Exhibit No. 4 is
14 withdrawn from evidence.)

15 (WHEREUPON, Defendant's Exhibit No. 5 is marked
16 for identification and received in evidence.)

17 THE COURT: Ladies and gentlemen, what we've
18 done is the original record was brought in. We're
19 using a copy. The original record obviously was
20 long. They copied. They made one page into three
21 pages. That has no effect whatsoever. That's
22 Defendant's Exhibit 5. Is that right?

23 COURT REPORTER: Yes, sir.

24 THE COURT: All right. Everybody in agreement
25 with that?

1 MR. MOORE: Yes, sir.

2 MR. KIRKLAND: Yes, sir.

3 THE COURT: Okay, Ms. Hughes. Answer his
4 questions.

5 Q Ms. Hughes, can you tell us what you have in your
6 hand?

7 A What appears to be a copy of the triage and nurse's
8 notes from that night.

9 Q Those are the standard nurse's notes for the
10 emergency room?

11 A Yes, sir.

12 Q Can you tell us whose name is at the bottom?

13 A My name, Pamela Hughes, RN.

14 Q Whose records are they?

15 A A Frankie Bryant.

16 Q Did you have occasion to come into contact with
17 Mr. Bryant?

18 A Only apparently by this paperwork. Yes, sir.

19 Q Did you triage Mr. Bryant?

20 A I did.

21 Q Did you undress Mr. Bryant?

22 A Not that I recall.

23 Q Would you look at the rest of the notes, please. I
24 call your attention to the middle of the page, of the
25 first, where it has "chief complaint". Is that what

1 he told you or what you observed personally?

2 A It would have been a combination of both.

3 Q Okay.

4 A The abrasions noted indicates that I actually
5 visualized his abdomen. It also reads "and right
6 upper arm". As far as when it happened, time,
7 Saturday afternoon related to the altercation, he
8 would have told me that.

9 Q The following pages, anything written on them?

10 A Page 2 of the nurse's notes indicates he was released
11 at 03:25 in the morning.

12 Q Do they show any treatments by anybody?

13 A No, sir.

14 Q Is that normal?

15 A It's not -- I don't know that I would use "normal".
16 It's not unusual. It's common.

17 Q In that nobody documents any care, that's common?

18 A My interpretation? Is that what you're asking for
19 based on this blank sheet of paper?

20 Q Well, I am asking you specifically, when patients
21 come into the hospital, do people -- are people
22 normally treated and there is no documentation of
23 treatment?

24 A This indicates to me that the doctor didn't order
25 anything for the nurse to do.

1 Q Can you be sure of that?

2 A No. No.

3 Q Could it be that the nurse who did it just didn't
4 document it?

5 MR. MOORE: Objection, Your Honor. Speculation.

6 THE COURT: Absolutely. Sustained. You can ask
7 her what she did, not any other nurse.

8 Q Did you treat his wounds in any way?

9 A Not that I recall. I myself, I am very big on
10 documentation. It's -- how do I say that? In the
11 standard of care I would have documented anything
12 that I did. If it's not on here, then I would have
13 to assume that I did not.

14 Q Thank you.

15 THE COURT: Cross?

16 CROSS-EXAMINATION

17 BY MR. MOORE:

18 Q Ms. Hughes, on that first page there is an area with
19 boxes for other injuries?

20 A Uh-huh.

21 Q Towards the bottom on the left?

22 A Yes, sir.

23 Q And one of those has "stab" in a box by it. Was
24 "stab" checked?

25 A No, sir.

1 Q As a nurse working in the emergency department, have
2 you had occasion to treat people with stab wounds?

3 A Yes, sir.

4 Q And when someone has a stab wound, do you note it?

5 A I would not note it by trauma nursing standards. I
6 probably myself personally professionally would not
7 note it as a stab. I would probably note it as a
8 laceration and then go on to describe that
9 laceration, what it looked like, where it was and
10 what I did about it.

11 Q In this case did you describe a laceration?

12 A No, sir.

13 Q What you noted were abrasions, right?

14 A Yes, sir. What I could visibly see in triage. Yes,
15 sir.

16 Q So you visibly saw abrasions?

17 A According to my note.

18 Q And what is an about abrasion?

19 A About abrasion versus a laceration?

20 Q Yes, ma'am.

21 A An abrasion is more superficial. A laceration is
22 something that may or may not require suturing or
23 some closure of some type.

24 Q So you all don't call stab wounds abrasions?

25 A No.

1 Q And the only thing noted on here are abrasions?

2 A From what I could visibly see in the triage room;
3 yes, sir.

4 Q Thank you.

5 REDIRECT EXAMINATION

6 BY MR. KIRKLAND:

7 Q Would you explain what the triage is?

8 A Triage is a very localized, isolated area where we
9 take patients to do a preliminary assessment as a
10 registered nurse on duty: Vital signs, chief
11 complaint, any history, any medications. It's also,
12 while there is a door, we don't usually undress or
13 disrobe patients within that room. So this would
14 only be what I could see or assess just sitting
15 across from him.

16 Q With him dressed?

17 A With him fully clothed. Yes, sir.

18 Q That's all.

19 RECROSS-EXAMINATION

20 BY MR. MOORE:

21 Q Earlier you said that you noted abrasions on the
22 abdomen, and I believe you said that meant you would
23 have actually looked and saw those abrasions,
24 correct?

25 A I don't remember what I said. I don't know what

1 you're referring to.

2 Q Well, my understanding earlier, if you based on your
3 course of business -- and I may have misunderstood
4 it; explain it to me -- but what you note is
5 something, you actually check out?

6 A What I can visibly see or hear.

7 Q Okay. So it could be either one?

8 A Yes, sir. And when I say "hear", if I can elaborate,
9 that means by listening with a stethoscope. Okay?

10 Q Okay. So the only thing once again you noted were
11 just abrasions?

12 A Yes, sir.

13 Q In the abdomen area. So the abdomen area was checked
14 to some degree?

15 A Yes, sir.

16 THE COURT: You may step down. And you're
17 released from your subpoena. And thank you for
18 coming.

19 THE WITNESS: Thank you.

20 THE COURT: Next witness.

21 MR. KIRKLAND: The defense rests, Your Honor.

22 THE COURT: Anything in reply?

23 MR. MOORE: No, sir, Your Honor.

24 THE COURT: All right. What that means, Ms.

25 Foreman, Ladies and Gentlemen of the Jury, that's the

1 end of the testimony. It's 4:30. What is left is
2 that the lawyers have to argue their final argument.
3 I have to charge you on the law. That probably will
4 take about anywhere from 45 minutes to an hour. That
5 puts us at 5:30. I will give you all two choices.
6 Why don't you all go back in the jury room. We can
7 go until we can finish tonight. We can come back in
8 the morning at 9:30. This is the last case I've got.
9 I'll let you all decide which way you want to do it.
10 However you want to do it I will do it. So go back
11 and decide and send me a little note. We'll do it
12 whatever way. Then we'll come back. Is that fair?

13 (WHEREUPON, the jury exits the courtroom at 4:25
14 p.m.)

15 THE COURT: All right. Any motions? Anything
16 for the record, gentlemen, on behalf of the State?

17 MR. MOORE: No, Your Honor. I do have some
18 requests to charge that I can give you.

19 THE COURT: Well, let's see if there are any
20 motions.

21 MR. KIRKLAND: No, sir, Your Honor. We just
22 have a request to charge also.

23 THE COURT: Let's go through this. All right.
24 I am going to do obviously indictment not evidence,
25 multiple -- well, it's not multiple charges. One

1 charge. Presumption of innocence, reasonable doubt,
2 it is the jury trial judge, credibility of witnesses,
3 expert witnesses. You all didn't bring in his prior
4 record, so I don't need to talk about that. And
5 murder, lesser included offense of voluntary
6 manslaughter, self-defense. All right.

7 Mr. Solicitor?

8 MR. MOORE: Your Honor, the State would request
9 a charge on degree of force used and duty to retreat.

10 THE COURT: Let me see what you've got. All
11 right. Mr. Kirkland?

12 MR. KIRKLAND: Yes, sir, Your Honor.
13 Self-defense would include size.

14 THE COURT: Hold on. How about right to act on
15 appearances?

16 MR. KIRKLAND: Yes, sir.

17 THE COURT: Size and age.

18 MR. KIRKLAND: Yes, sir, Your Honor. Prior
19 violence by victim.

20 THE COURT: Why is that?

21 MR. KIRKLAND: Well, the testimony was that the
22 violence occurred during the day.

23 THE COURT: All right.

24 MR. KIRKLAND: Intoxication.

25 THE COURT: All right.

1 MR. KIRKLAND: And continuing until the threat
2 of harm has ended.

3 THE COURT: What's that last one?

4 MR. KIRKLAND: Continuing until threat of harm
5 is ended.

6 THE COURT: All right.

7 MR. KIRKLAND: That would be all, sir.

8 THE COURT: All right. Come look at the verdict
9 form. All right. The injury wants to finish
10 tonight. Any problem with the verdict form?

11 MR. MOORE: No objection.

12 THE COURT: Do you all need any time before we
13 start the argument?

14 MR. KIRKLAND: I would like a moment to go over
15 what I wrote down from testimony that was
16 contradictory.

17 THE COURT: All right. I'll give you five
18 minutes.

19 (WHEREUPON, a break is taken.)

20 THE COURT: Are you ready?

21 MR. MOORE: The State is ready, Your Honor.

22 THE COURT: Are you going to make the opening or
23 are you going to waive opening?

24 MR. MOORE: I am going to waive opening.

25 (WHEREUPON, the jury enters the courtroom at

1 4:38 p.m.)

2 THE COURT: Since I got your message that you
3 all would like to try to finish up tonight, do you
4 want me to order some snacks? Are you all okay? The
5 cake held you good enough?

6 THE FOREPERSON: We're okay.

7 THE COURT: You all got plenty of cold drinks
8 back there and everything?

9 THE FOREPERSON: Yes.

10 THE COURT: What we've got left to do is this.
11 Mr. Kirkland will give you his closing argument
12 followed by Mr. Moore. I will give you the charge or
13 instructions on the law. So if you would please pay
14 close attention to Mr. Kirkland.

15 MR. KIRKLAND: If it please the Court,
16 Mr. Moore, Ladies and Gentlemen of the Jury, the
17 first thing I'd like to say is thank you for being
18 here and doing your civic duty. This is not
19 necessarily a pleasant task but one that you have to
20 do to have a free country, and we thank you for it.

21 You know, at the start of this trial we had
22 opening statements. And the State talked and we
23 talked and there was some talk about putting together
24 a puzzle. Now it's time to look at some of the
25 pieces that are put together. And do we really put

1 together a puzzle?

2 Before I go into some of that, let me remind
3 everybody that the burden here is on the State of
4 South Carolina. The burden is not on Mr. Frankie Lee
5 Bryant. At no time does the burden fall on him. The
6 State must prove beyond a reasonable doubt certain
7 elements that Mr. Wright was killed by Mr. Bryant
8 with what's called malice aforethought. In other
9 words, it's unlawful.

10 And before I go too much further, the judge is
11 going to give you a charge. He is going to talk to
12 you about what the law is, what the law on the
13 elements, what you have to see, what you have to have
14 proven beyond a reasonable doubt. And anything that
15 anybody else says that is not exactly what he says is
16 inaccurate. And if I say something, it won't be on
17 purpose; but if I say something that's not what the
18 judge tells you the law is, disregard me, because he
19 is the only person who can tell you what the law
20 actually is. I am going to paraphrase what the law
21 is a little bit.

22 The State has to prove beyond a reasonable doubt
23 that Frankie Lee Bryant unlawfully, with malice
24 aforethought, killed Willie Wright. They also have
25 to prove beyond a reasonable doubt that this is not

1 self-defense. Mr. Bryant does not have to prove
2 anything.

3 The judge will talk to you about what reasonable
4 doubt is. I would ask you to pay close attention
5 when the judge gives you charges concerning malice
6 aforethought. Basically he'll tell you exactly what
7 it means: Hatred, ill will, without excuse. It's an
8 evil heart. It's purposeful. The intent was to
9 kill. It's unlawful. It can't be self-defense. It
10 can't be something that he is defending himself for
11 you to find that there is no self-defense.

12 If you believe he defended himself, if you
13 believe this is not with an evil heart, if you
14 believe this is not ill will, if that's not what you
15 see in the facts, then it's not murder.

16 Now, he is also going to -- and the verdict form
17 will also have what's called voluntary manslaughter.
18 This still requires an intentional malice-related
19 evil heart killing but that it occurs in the heat of
20 passion and with sufficient legal provocation for it
21 to occur. And that's sort of self explanatory, but
22 the judge will talk to you. He'll define those terms
23 for you.

24 You all had the opportunity to listen to
25 everybody who was here on the witness stand,

1 everybody who spoke. You saw Ms. Oliver. You heard
2 her tell basically 36 hours of almost nonstop
3 partying, drugs and alcohol. Ms. Oliver told that
4 Mr. Wright was driving. She is in the middle.
5 Frankie is by the side. Mr. Gordon is in the back.
6 The only person that told that story. Also told you
7 that the passenger's side was up against the door of
8 the trailer. Very positive about it. Just sure as
9 she could be. Not another soul came up with that
10 story.

11 But the critical thing about this is she also is
12 adamant about seeing a knife in his hand when he got
13 out. Of course, I submit to you if he didn't get out
14 there like she said she was so sure about it, did he
15 have a knife in his hand at the time? How much of
16 what she said was credible, given the total nature of
17 her testimony and her state of mind?

18 And of course Mr. Gordon and Mr. Bryant both
19 told that he is in the bed of the truck. You know,
20 she talked about what she called tussling, fighting,
21 struggle, which is basically a person who is 75 or
22 80 pounds larger than Mr. Bryant here. And she told
23 you all that every time this happened it happened
24 where? Around where Mr. Bryant was. He went around
25 the car and went there.

1 Different stories about how many times this
2 happened. I am not telling you to pick and choose
3 what you want to out of what she said. That's really
4 your job. But think about how credible her testimony
5 is concerning him getting out of that truck with a
6 knife in his hand. Take it all into consideration in
7 that.

8 I'll also remind you that she said this occurred
9 on the ground on the passenger's side. She said
10 that's where it occurred, the whole fight. That's
11 what she saw right there beside the trailer. Not
12 only did she say the vehicle was with the passenger's
13 door to the trailer but that that's where it
14 occurred.

15 Next was Mrs. Jenkins. Well, Ms. Jenkins told
16 you that all four of them got out of a Ford Ranger
17 pickup. Mr. Gordon who you saw, Mr. Bryant there
18 that's a fair sized fellow, not big but not small,
19 Ms. Oliver who you saw, and Mr. Wright who is
20 approximately 75 or 80 pounds bigger than that.

21 You all get to see the size of the truck. I
22 think most of you all probably commonly knowledge
23 know what a Ford Ranger is. When you get back there
24 and you think about how four people among you all and
25 it's about that size climbed out of that truck. Of

1 course she went over on to say about all the
2 stabbing. And when she told the story, it was a
3 stabbing and a stabbing. And then, you know, pressed
4 a little bit, doesn't know how many stabbings and
5 maybe it's a little stabbing and all over the place.
6 But she did say when she came out it was going on.
7 She doesn't know where the knife came from.

8 Mr. Gordon testified he went in the trailer,
9 arguing, fussing. He didn't know where the knife
10 came from. He saw -- after the stabbing was over, he
11 saw the knife in Mr. Bryant's hand. But up to this
12 point, the witnesses for the State, you got one
13 person whose story, other than this issue of the
14 stabbing, is so totally than what anybody else said
15 telling you that he had a knife. And that's your
16 only evidence concerning him having the knife in his
17 hand bringing it to the fight, a person on a 36-hour
18 binge. Mr. Gordon has basically told you, you know,
19 he didn't see all what was going on. He went in the
20 house and came out.

21 Mr. Bryant does not have to prove anything about
22 this. The State beyond a reasonable doubt must prove
23 that there is murder: Evil intent, malice
24 aforethought. You also got to hear Mr. Bryant
25 testify. Before I say that, you know, you all got to

1 hear some other people testify; but, you know,
2 basically, as far as what the SLED agent said, there
3 is a stabbing, there is blood. You all already knew
4 he was put in the back of the bed of the truck. You
5 already knew he was stabbed. You already knew he
6 went to the hospital. Of course there was blood. I
7 mean, there is no question there was blood. And it
8 came from the stabbing. And you know it came from
9 the stabbing because everybody there that testified,
10 including Mr. Bryant, told you there was a stabbing.

11 Now, Mr. Bryant took the stand and talked. You
12 all had the opportunity to see him. You all had the
13 opportunity to see. Was he evasive with his answers?
14 Did they catch him in a lie? Did they backtrack on
15 him? You got the opportunity for the person who was
16 involved that's not deceased -- and there's two
17 people. And, you know, God bless the family that's
18 had to deal with this because it's hard for them.
19 But the truth is there's two people involved in this
20 and one of them testified today.

21 And he told you that while he's being choked on
22 the driver's side of the vehicle -- and of course on
23 a Ford Ranger, you know, the bed is -- an older model
24 truck, some of you gentlemen know approximately how
25 long a short bed pickup is. You jump out the truck,

1 you're right there by the cab. There ain't much to
2 go on and on about where the tire is and the cab.
3 We're not talking about a semi. But they're out the
4 truck. And it starts.

5 He is grabbed around the throat. He takes a
6 knife from him. The man has got one hand on his
7 throat, the knife in one hand. He's got two hands
8 left to wrestle the knife away with. He testified he
9 got it away and he stabbed him. I don't really know
10 how much he stabbed him but he stabbed him. He
11 defended himself.

12 He got out the vehicle. Did he run when he got
13 out the vehicle? Why should he? It's his cousin.
14 Even though his cousin had punched him around and
15 beat up on him some earlier, great goodness, it's his
16 cousin. You're not expecting your cousin to choke
17 you. You're not expecting your cousin to pull a
18 knife. You're not expecting to have to wrestle away
19 the knife. You're not expecting to have to stab him.
20 You're not expecting to have to live with having
21 stabbed your cousin.

22 The only uncontradictory credible testimony
23 about how the knife is in the fight is this, that he
24 took the knife from him. Folks, that's self-defense.
25 Even if you look at it from the State's perspective,

1 there is a day of being beaten on, there is a fight;
2 once you consider all of this together, that there
3 was any evil intent, hatred, mean heart, just wanting
4 to kill his cousin? I don't believe that's what you
5 all heard. That's not what we have here.

6 You know, you didn't -- during the State's
7 evidence you heard that went there for drugs. You'll
8 see that even though you had testimony, you have
9 access to the results. Mr. Bryant wasn't doing
10 drugs.

11 You didn't get anything from the State about
12 why. Any kind of a crime like this must show an
13 intent to commit the crime that they're saying he had
14 to commit, what I talked about and that the judge
15 will charge you about, with malice aforethought. No
16 time did the State tell you why something like this
17 happened. You got a glimpse of it on the travel from
18 Ehrhardt to Bamberg which you found out when
19 Mr. Bryant was on the stand. You found out it's for
20 money. He wants his money. Drugs.

21 Thirty-six hours of binging wasn't enough. You
22 don't have a murder weapon. You know what it is.
23 Let's talk about what you don't know. You know there
24 was -- you don't know -- you don't have a whole lot
25 of evidence of how this happened. You got, you know,

1 evidence that he is stabbed here. He bled out. The
2 doctor did some surgery to a wound. The issue is not
3 how bad the wound is. The issue is why the wound had
4 to occur. The wound is there. It's a mortal wound.
5 He died from the wound. It's not disputed.

6 But the State has to prove it's an intentional,
7 malice, evil heart killing. The State didn't get
8 testimony about how long Ms. Oliver and Mr. Wright
9 were out drinking, doing drugs. Missing pieces of
10 the puzzle, I think that you've got them. To the
11 extent that there is an issue of self-defense,
12 missing pieces of the puzzle. Do you have everything
13 put in place? Has the puzzle been put together such
14 that it shows that this gentleman right here with an
15 evil heart purposefully, intentionally, without any
16 justification of self-defense, malice aforethought,
17 killed Mr. Wright?

18 Folks, there is really -- you got -- you're
19 going to have a choice of guilty and not guilty. If
20 you don't know, it's a not guilty. Because the
21 reason is because the State has to prove beyond a
22 reasonable doubt that he is guilty of doing what the
23 judge is going to charge you. If there is a doubt,
24 if there is a doubt, you should not send this man to
25 jail for murder.

1 THE COURT: You know that's not proper argument.
2 Sentencing is not their function.

3 MR. KIRKLAND: I apologize, Your Honor. You
4 should not convict this man for murder. You should
5 not convict this man for voluntary manslaughter. I
6 submit to you that this was not a fair fight. At no
7 point in time would a person who outweighed
8 Mr. Bryant by 75, 80 pounds who had been on a 36-hour
9 drug and alcohol binge be a fair fight.

10 We ask you to vote not guilty. We ask you to
11 consider that the State has not proven beyond a
12 reasonable doubt -- the judge will tell you that that
13 reasonable doubt is what would make a person
14 hesitate. If you hesitate about whether it's done or
15 not, it's a reasonable doubt, and it should be not
16 guilty. We ask for a not guilty verdict. Thank you
17 again for your time.

18 MR. MOORE: Thank you, Your Honor. May it
19 please the Court. Mr. Kirkland, Ladies and Gentlemen
20 of the Jury, all Frankie Bryant had to do was walk
21 away. Over and over again, all he had to do was walk
22 away. But he never did.

23 When they first picked him up over in Ehrhardt,
24 the first time they had these tussles or fist fights
25 or whatever they were, he could have walked away. He

1 was in an area that he was from. They had dropped a
2 friend off, somebody that he knew. He could have
3 went with him, could have walked away.

4 They came into Bamberg, stopped at the car wash,
5 saw his brother, could have walked away. When they
6 got to the trailer he could have stayed in the truck.
7 He could have walked away. But instead he decided to
8 get a knife and to stab Willie Wright and kill him.

9 No, it wasn't a fair fight; I agree. Frankie
10 Bryant had a knife and Willie Wright was unarmed.
11 Antoinette Jenkins told you she saw him come up and
12 stab him and that man that got stabbed didn't have a
13 chance. Willie Wright didn't have a chance. And he
14 is here trying to claim self-defense when he is the
15 one that had the knife and he is the one that stabbed
16 him twice.

17 Was the second time self-defense? Wasn't once
18 enough to get away? If he just stabbed him here,
19 Willie Wright would still be here. He claims I just
20 stabbed him once. There is just clear absolute
21 evidence, two stab wounds. Two stab wounds.

22 Look at the puzzle. Look at what the witnesses
23 said and what they didn't say. None of them said,
24 none of them, none of them ever said Willie Wright
25 had a knife. Nobody except the man who is on trial.

1 That's the only person, the only person to put a
2 knife in Willie Wright's hand. And there is a good
3 reason for that. Because it was Frankie Bryant's
4 knife.

5 Sheila Oliver saw it out before the fight ever
6 began. She didn't have anything against Frankie.
7 She didn't have anything against either one of them.
8 Most of these people, they didn't really --
9 Antoinette Jenkins didn't even know who these people
10 were. She told you what happened. She saw a man
11 die. She saw a man stabbed to death. That's very
12 real to you. It's just something a person doesn't
13 forget. And Antoinette Jenkins told you what
14 happened.

15 Mr. Kirkland has talked a lot about malice,
16 we've got to prove this malice. The judge is going
17 to charge you on that. There is two kinds of malice:
18 Express, telling somebody you're going to kill them,
19 it's very clear. You have expressed it. And there
20 is implied. Implied is by your actions and what you
21 do. And one way it can be implied is the use of a
22 deadly weapon. A knife is a deadly weapon under
23 South Carolina law.

24 He chose to use a deadly weapon. In opening I
25 told you about when knives get involved, that's when

1 things change, because everybody knows what a knife
2 can do. When you go stabbing somebody, you know what
3 can happen. You know what a knife is for in that
4 kind of situation. And a knife is used to kill, and
5 it was used to kill this time. That's how we've
6 proved malice.

7 You're going to be charged on self-defense.
8 There was no self-defense. The judge is going to
9 charge you on it. And there is four basic elements
10 that constitute or make out a self-defense, four
11 things that have all got to be there for there to be
12 self-defense.

13 Number one, the person claiming self-defense has
14 got to be without fault in bringing on the
15 difficulty. Well, he went to Willie Wright. He
16 could have walked away. If he doesn't go to Willie
17 Wright, this never happens. He is at fault in
18 bringing this on.

19 You've got to believe that he was in imminent
20 danger of losing life or serious injury. Well based
21 on what had happened earlier, their fights, their
22 tussles, no serious injury happened. He admitted no
23 weapons were used. Why should he believe that he was
24 in imminent danger? There is no reason. Mr. Wright
25 didn't have a weapon. And based on their prior

1 activities, he said, I wasn't seriously injured. It
2 wasn't that big of a deal. So all of this stuff
3 about he is supposed to fear Willie Wright so bad,
4 nothing that bad happened to him earlier in the day.

5 Third, it's kind of the same thing, but a
6 reasonable person in Frankie Bryant's shoes has got
7 to believe that they would be in serious threat of
8 death or serious bodily injury. A reasonable person.
9 Because even if he believed it, if it was an
10 unreasonable belief, then he is not entitled to
11 self-defense. The judge is going to charge you
12 further on it. But a reasonable person been there
13 that day who hadn't been seriously injured who says
14 it wasn't that big of a deal has no expectation,
15 shouldn't reasonably believe they're going to be in
16 danger.

17 Number four, no other probable means of avoiding
18 the danger. That's why I say to you, walk away.
19 That's all he had to do to avoid any danger, not even
20 of serious injury. All Frankie Lee Bryant had to do
21 was walk away. If he walks away, Willie Wright is
22 still here. They're still cousins. Maybe they make
23 friends. Maybe they're all right. But he didn't
24 walk away. He brought a deadly weapon.

25 The other thing that you're going to be charged

1 on is voluntary manslaughter. And that's when
2 somebody kills upon a sudden heat of passion with
3 reasonable provocation. If something caused them to
4 become really upset, it doesn't justify the killing,
5 but it lessens it. If something happened that caused
6 them to blow their top and fly off the handle and
7 kill somebody, it still ain't right; it's still
8 against the law, but it's a different offense.

9 He said he was calm. I don't think he used the
10 word "calm". But he wasn't angry. There is no
11 evidence he was angry when they drove over to that
12 trailer. He wasn't worked up. There wasn't
13 something Willie said to him, threatened him.
14 Everything was calm. Tony Gordon was with him. He
15 said he seemed fine. No heat of passion, nothing
16 there to make him snap.

17 The other thing that could be charged involving
18 that is if something happened to someone that would
19 enrage them and maybe just lessen, cause this heat of
20 passion that I'm talking about. Something happened
21 the other person did to them and really made them
22 angry and would cause a reasonable person to really
23 get angry.

24 If that person has time to cool off, a period of
25 time and a break to cool off and get back to their

1 regular senses, then it's not voluntary manslaughter.
2 I bring that up because we've talked about these
3 prior fights. If that had been enough to really get
4 him worked up, he had time to cool off and think
5 about this thing. Time to cool off. Every killing
6 is done almost in some kind of passion. But it's got
7 to be based on a reasonable provocation. And there
8 is not one here.

9 Mr. Kirkland said he wasn't caught in a lie.
10 Well, he told -- he told you on the stand that he
11 lied to the police. He gave a statement to the
12 police. I asked him to read that statement and look
13 in there and say anywhere that Willie Wright stabbed
14 you. Was it put anywhere in that statement that he
15 gave to the police? No. I lied.

16 If that really happened, there would be every
17 reason in the world. He stabbed me. He stabbed me.
18 But it didn't happen. It had to come up later. And
19 then they called the nurse who didn't have a real
20 good -- much recollection. But she did have her
21 records, and you'll be able to get her part of the
22 records.

23 And look on there. There is a part about stab
24 wound, a box you can check. She didn't check that
25 box. And you saw how thorough she is and how

1 meticulous and how much pride she takes in her notes.
2 Abrasions. That's all that was there. Scratches,
3 abrasions. She knows the difference between a stab
4 wound and abrasions.

5 He got that running away. Because the only time
6 he finally did walk away was after he murdered Willie
7 Wright. He knew how to walk away, but he wasn't
8 going to until he was done with what he needed to do.

9 There's a lot of evidence here. You all are
10 going to remember stuff that neither lawyer remembers
11 to bring up. But 12 people are smarter than one or
12 two. There's a lot of little points to look at, but
13 I am going to leave you with one.

14 He said the physical evidence didn't show
15 anything. That SLED agent told you about this blood.
16 If you don't believe Willie Wright was stabbed near
17 the driver's seat, you'd better take a look at this,
18 because that's where the blood is. And you'll be
19 able to take this back with you.

20 And he said something else about that blood. He
21 said there was a lot of it. That basically it had to
22 pour out of Willie Wright right there to cause it
23 because he got stabbed in that artery leaning back
24 here and it shot right down, right on that Ford
25 Ranger emblem. Because like Antoinette Jenkins told

1 you, he was leaned up in there in that wedge. And
2 the blood poured out of him right there and then he
3 fell in the yard, left to bleed to death.

4 Ladies and Gentlemen, this is murder, pure and
5 simple. And I'm going to ask you to convict Frankie
6 Bryant of what he did, murdering Willie Wright.
7 Thank you.

8 THE COURT: Madame Forelady and Ladies and
9 Gentlemen of the Jury, my instructions probably will
10 take ten to fifteen minutes at the outside. You all
11 okay? Need a break? Ready to go? Okay.

12 Let me remind you again that in this case the
13 indictment which we talked about earlier charges the
14 defendant with murder. I remind you again that the
15 fact that the defendant was arrested, charged and
16 indicted in the case is not evidence in the case and
17 cannot be considered by you as evidence in the case,
18 nor does it create any presumption of inference of
19 guilt.

20 This indictment or document is simply the
21 written formal instrument which contains the charges
22 made against the defendant. It's the formal document
23 by which this case is brought into court. The
24 defendant has plead not guilty to the indictment, and
25 that plea of not guilty puts the burden on the State

1 of South Carolina to prove the defendant guilty.

2 A person charged with committing a criminal
3 offense in South Carolina is never ever required to
4 prove himself innocent. I instruct you that it is an
5 important rule of the law that the defendant in a
6 criminal trial, no matter how serious the charge,
7 will always be presumed to be innocent of the crime
8 for which the indictment was issued unless guilt has
9 been proven by evidence satisfying you of that guilt
10 beyond a reasonable doubt.

11 This presumption of innocence does not end when
12 you begin your deliberations, but it stays with the
13 defendant throughout the trial until you reach a
14 verdict of guilt based on evidence satisfying you of
15 that built beyond a reasonable doubt.

16 Presumption of innocence is not a mere legal
17 theory. It's not just a legal phrase. It is a
18 substantial constitutional right to which every
19 defendant is entitled unless you, the jury, are
20 satisfied from the evidence of the defendant's guilt
21 beyond a reasonable doubt.

22 What is a reasonable doubt in the law? A
23 reasonable doubt is the kind of doubt that would
24 cause a reasonable person to hesitate to act. I'll
25 repeat it. A reasonable doubt is the kind of doubt

1 that would cause a reasonable person to hesitate to
2 act.

3 I remind you once again that during the trial
4 that you and I have had certain duties to perform.
5 As the trial judge it has been my responsibility to
6 preside over the trial of the case and to rule on the
7 admissibility of evidence. You're to consider only
8 the competent evidence before you. So don't consider
9 anything that was stricken from the record. You are
10 to consider only the testimony which has been
11 presented from the witness stand, the exhibits which
12 have been made a part of the record and the
13 stipulation that was made between counsel.

14 I tell you again I have the additional duty to
15 charge you the law. As the presiding judge I am the
16 sole judge of the law in the case, and it is your
17 duties as jurors to accept and apply the law as I now
18 state it to you. As I said earlier, if you have some
19 idea as to what the law is or what the law ought to
20 be and it does not agree with what I tell you it is,
21 I ask that you abandon that idea because you are
22 sworn to accept the law and apply the law as I --
23 exactly as I state it to you.

24 If I have made any comment about the facts in
25 the case, please disregard it. I have absolutely no

1 right to comment on the facts. That is for you to
2 decide and you only. In order to decide the facts in
3 the case, obviously and necessarily you must decide
4 the credibility of the witnesses who have testified
5 in the case. Credibility simply means believability.
6 Who do you believe?

7 It is your duty as jurors to analyze and to
8 evaluate the evidence and determine which evidence
9 convinces you it is true. In determining the
10 credibility or believability of witnesses who have
11 testified in this case, you may believe one witness
12 over several witnesses or several witnesses over one
13 witness. You may believe a part of the testimony of
14 a witness and reject the remaining part of the
15 testimony of that same witness.

16 You may believe the testimony of a witness in
17 its entirety or you can reject the testimony of a
18 witness in its entirety. You may consider whether
19 the witness has exhibited to you any interest, bias,
20 prejudice or other motive in the case. You can also
21 consider the appearance and manner of the witness
22 while on the witness stand.

23 As I stated to you earlier, we had a couple of
24 people who testified as expert witnesses. Normally
25 the rules of evidence do not allow people to give

1 opinions or conclusions. There is an exception, and
2 the people who have been qualified an as an expert
3 because of education or experience may give an
4 opinion in a case. I charge you that you should
5 consider any expert opinion received into evidence
6 and like any other evidence give it the weight you
7 think it deserves. You can accept or reject the
8 opinion of an expert.

9 Now, what I have just told you, Ladies and
10 Gentlemen, that's sort of general propositions of law
11 that I charge and instruct in every criminal case
12 that applies basically in all criminal cases.

13 The second part of the instructions will deal
14 with the elements of the crime. He is charged with
15 murder, and there is a legal theory of something
16 called a lesser included offense. And I'll talk to
17 you about murder and the lesser included offense of
18 manslaughter, and then I'll talk to you about
19 self-defense, and then you all will be able to
20 deliberate the case.

21 The defendant is indicted and charged with
22 murder. The State must prove beyond a reasonable
23 doubt that the defendant killed another person with
24 malice aforethought. The law defines malice as a
25 hatred or ill will or hostility towards another

1 person. It is the intentional doing of a wrongful
2 act without just cause or excuse and with an intent
3 to inflict an injury or under circumstances that the
4 law would infer an evil intent.

5 Malice aforethought does not require that malice
6 exist for any particular time before the act is
7 committed, but malice must exist in the mind of the
8 defendant just before and at the time the act is
9 committed. Therefore, there must be a combination of
10 the previous evil intent and the act.

11 Malice aforethought may be either expressed or
12 inferred. The terms "expressed" and "inferred" do
13 not mean different kinds of malice but merely the
14 manner in which malice may be shown to exist; that
15 is, either by direct evidence or circumstantial
16 evidence, which are proved.

17 Express malice is shown when a person speaks
18 words which express hatred or ill will for another or
19 when the person prepared beforehand to do the act
20 which was later accomplished. For example, lying in
21 wait for a person or any other acts of preparation
22 going to show that the deed was within the
23 defendant's mind would be expressed malice.

24 Malice also may be inferred from conduct showing
25 a total disregard for human life. Inferred malice

1 may also arise when the deed is done with a deadly
2 weapon. A deadly weapon is defined as any article,
3 instrument or substance which is likely to cause
4 death or great bodily harm. Whether an instrument
5 has been used as a deadly weapon depends on the facts
6 and circumstances of each case, and the law gives
7 several examples of instruments which may be deadly
8 weapons, which includes a knife.

9 Now, if you find that the State has failed or
10 has not proved beyond a reasonable doubt that the
11 defendant committed murder, then you may consider
12 whether the State has proved beyond a reasonable
13 doubt that the defendant committed voluntary
14 manslaughter.

15 Included within the offense of murder is the
16 lesser included crime of voluntary manslaughter. In
17 order to prove voluntary manslaughter, the State must
18 prove beyond a reasonable doubt that the defendant
19 took the life of another in the sudden heat of
20 passion based on sufficient legal provocation.

21 Both heat of passion and sufficient legal
22 provocation must be present at the time of the
23 killing to constitute voluntary manslaughter. Sudden
24 heat of passion may for a time affect the person's
25 self-control and temporarily disturb the person's

1 reason. The sudden heat of passion must be the type
2 that would make an ordinary person unable to coolly
3 reflect on his actions and would produce an
4 uncontrollable impulse to do violence.

5 Sufficient legal provocation must be the type
6 that would make a person of reasonable ordinary
7 reason and caution become enraged and to lose control
8 temporarily. The provocation needed for voluntary
9 manslaughter must come from some act of or related to
10 the victim.

11 Words alone, however vulgar or insulting, are
12 not enough to be legal provocation. Where death is
13 caused by the use of a deadly weapon, the words must
14 be accompanied by some overt threatening act which
15 would have produced the heat of passion.

16 The exercise of a legal right, no matter how
17 offensive it is to another, is never sufficient legal
18 provocation for voluntary manslaughter.

19 If the heat of passion had cooled or if there
20 was enough time between the provocation, if any, and
21 the killing for the passion of a reasonable person to
22 cool, the killing would not be voluntary
23 manslaughter. In deciding whether a reasonable
24 person would have had enough time to cool off, you
25 should consider all of the circumstances surrounding

1 the killing. You may consider the nature of the
2 provocation, if any, the defendant's mental and
3 physical state, and the circumstances and
4 relationships between the parties.

5 Now, the defendant has raised the defense of
6 self-defense. Self-defense is a complete defense,
7 and if it is established, you must find the defendant
8 not guilty. The State has the burden of disproving
9 self-defense by proof beyond a reasonable doubt.

10 If you have a reasonable doubt of the
11 defendant's guilt after considering all of the
12 evidence, including the evidence of self-defense,
13 then you must find the defendant not guilty. On the
14 other hand, if you have no reasonable doubt of the
15 defendant's guilt after considering all of the
16 evidence, including the evidence of self-defense,
17 then you must find the defendant guilty.

18 There are several elements that are required to
19 establish self-defense. Number one, first the
20 defendant must be without fault in bringing on the
21 difficulty. If the defendant's conduct was the type
22 which was reasonably calculated to and did provoke a
23 deadly assault, then the defendant would be at fault
24 in bringing on the difficulty and would not be
25 entitled to a not guilty verdict based on

1 self-defense.

2 The second and third element of self-defense are
3 sort of intertwined. That is that the defendant was
4 actually in imminent danger of death or serious
5 bodily injury or that the defendant actually believed
6 he was in imminent danger of death or bodily injury.
7 If the defendant was actually in imminent danger, it
8 must be shown that the circumstances would have
9 warranted a person of ordinary firmness and courage
10 to strike the fatal blow to prevent death or serious
11 bodily injury.

12 If the defendant believed he was in imminent
13 danger of death or serious injury, it must be shown
14 that a reasonable prudent person of ordinary firmness
15 and courage would have had the same belief.

16 In deciding whether the defendant actually was
17 or believed he was in imminent danger of death or
18 serious bodily injury, you should consider the facts
19 and circumstances surrounding the crime, including
20 the physical condition and characteristics of the
21 defendant and the victim.

22 The defendant does not have to show that he was
23 actually in danger. It is enough if the defendant
24 believed he was in imminent danger and a reasonably
25 prudent person of ordinary firmness and courage would

1 have had the same belief. The defendant has the
2 right to act on appearances even though the
3 defendant's belief may have been mistaken.

4 It is for you to decide whether the defendant's
5 fear or imminent danger of death or serious bodily
6 injury was reasonable and would have been felt by an
7 ordinary person in the same situation.

8 Evidence of prior difficulties between the
9 defendant and the victim may be considered in
10 deciding whether a threat existed, whether the
11 defendant had a reason to believe a threat existed,
12 and how serious that threat was.

13 The relative sizes, ages and weights of the
14 defendant and victim may be considered in deciding
15 the apparent or actual need for force in self-defense
16 and the amount of force needed.

17 The intoxication of the victim may be considered
18 in deciding whether the defendant's fear of death or
19 bodily harm was reasonable.

20 And the last element, Ladies and Gentlemen of
21 the Jury, is that -- the last element of self-defense
22 is that the defendant had no other probable way to
23 avoid the danger of death or serious bodily injury
24 than to act as the defendant did in this particular
25 instance. Let me read that again. I think I got it

1 tongue tied.

2 The final element of self-defense is that the
3 defendant had no other probable way to avoid the
4 danger of death or serious bodily injury than to act
5 as he did in this particular instance.

6 It is ones duty to retreat from his adversary
7 unless by doing so the danger of being killed or
8 suffering serious bodily harm is increased or it is
9 reasonably apparent that such danger would be
10 increased.

11 A person cannot be required to make an exact
12 calculation as to the degree or amount of force which
13 may be needed to avoid death or serious bodily harm.
14 Therefore, in self-defense, the defendant has the
15 right to use the force needed to avoid death or
16 serious bodily harm.

17 The force used in self-defense does not have to
18 be limited to the degree or amount of force used by
19 the victim. The defendant has the right to use so
20 much force as appeared to be necessary for complete
21 self protection in which a person of ordinary reason
22 and firmness would have believed to be needed to
23 prevent death or serious bodily harm.

24 If the defendant is justified in defending
25 himself, then the defendant is also justified in

1 continuing to defend until it is apparent that the
2 danger of death or serious bodily injury has
3 completely ended.

4 And, finally, in self-defense, the degree of
5 resistance ought to be in proportion to the nature of
6 the injury offered; that is, that it should be
7 sufficient to ward off such injury and do no more.

8 In other words, the moment a man disarms or puts
9 himself out of the power of the aggressor to do him
10 further injury, then he should cease from further
11 violence. But if he does commit any further outrage,
12 then he becomes the aggressor.

13 Now, that's the law. I know sometimes it's
14 complicated. But you use your own common sense and
15 apply the law as I have just given it to you as to
16 the facts you find them. And then it doesn't become
17 a very difficult task when you do that. You don't
18 leave your common sense at home when you make a
19 decision in these cases.

20 Madam Forelady, a couple of things. There are
21 two possible verdicts. One is not guilty and one is
22 guilty. And obviously I had to put one before the
23 other. So don't place any significance on the order
24 in which I have placed them.

25 The verdict must be unanimous. All 12 of you

1 must agree. When you all reach a verdict, I'll tell
2 you how to fill this out. You sign it, you check it,
3 you will knock on the door and tell the bailiff
4 you're ready, and I'll receive you back to receive
5 the verdict. And it's I think very easy to follow,
6 even for a school teacher.

7 But the verdict form is as such. It says: We,
8 the jury, find the defendant in this case, Frankie
9 Lee Bryant, to be not guilty or guilty of murder. If
10 you find him not guilty of murder, then you go to
11 number two, where you would consider voluntary
12 manslaughter.

13 THE FOREPERSON: Uh-huh.

14 THE COURT: Okay?

15 THE FOREPERSON: Okay.

16 THE COURT: If you find him guilty of murder,
17 then you do not have to go to bottom of the
18 instruction.

19 THE FOREPERSON: Right. Right.

20 THE COURT: If you have any problem with it, you
21 send me a note.

22 THE FOREPERSON: Okay.

23 THE COURT: When you all make a unanimous
24 decision, then you check the appropriate boxes, sign
25 and date it and tell them that it's ready.

1 THE FOREPERSON: Okay.

2 THE COURT: Now, I've got about two more minutes
3 I've got to spend with these lawyers. I am going to
4 let you all go to the room. Don't start your
5 deliberations yet. We've got to see if I left
6 anything out. Then we have to gather up the
7 evidence. Because you all get out of the evidence in
8 the room. I'll send the evidence along with the
9 verdict form into the room, and then at that time
10 I'll ask you all to start your deliberations.

11 So it's about 20 minutes until six. If you all
12 need additional Cokes or snacks or whatever you need,
13 you let Mr. Blocker know and we will accommodate you.
14 So at this time I am going to ask you to go back to
15 jury room. Do not start deliberations yet until I
16 send everything in.

17 (WHEREUPON, the jury exits the courtroom at 5:37
18 p.m.)

19 THE COURT: Sheriff Grimes, how about let this
20 one juror take a quick smoke? We won't start any
21 deliberations until he gets back. Mr. Alternate, I
22 am going to ask -- Mr. Bailiff, how about put my
23 alternate in that other -- you got another place for
24 him? I am not going to keep you long.

25 All right. Any exceptions on behalf of the

1 State?

2 MR. MOORE: No additional requests.

3 THE COURT: On behalf of the defendant?

4 MR. KIRKLAND: No, sir, Your Honor.

5 THE COURT: All right. Let me know when the guy
6 comes back from smoking. All right. Tell them they
7 can start. It is 5:42.

8 (Pause)

9 THE COURT: Mr. Moore, Mr. Kirkland, I've let
10 the jury start to deliberate. It is a quarter 'til
11 basically. I am going to cut the alternate. Any
12 problems?

13 MR. KIRKLAND: Not from the defense, Your Honor.

14 MR. MOORE: No objection.

15 (WHEREUPON, the jury begins deliberating.)

16 THE COURT: All right. Anything before we
17 receive the verdict?

18 MR. MOORE: Nothing from the State, Your Honor.

19 THE COURT: Let me warn everybody in the
20 audience. I don't know what the verdict is going to
21 be. I respect the jury's decision. They're the
22 finders of the facts and make the decision. If I
23 hear any outbreak, outbursts, any emotion, screaming,
24 crying, carrying on, whatever the verdict may be, I
25 am going to put you in jail. So, if you can't

1 control yourself, fair warning, leave now. I assume
2 everybody can. I got my man right back there that
3 will take care of you. Bring them out.

4 (WHEREUPON, the jury enters the courtroom at
5 6:40 p.m.)

6 THE COURT: Madam Forelady, have you all reached
7 a verdict?

8 THE FOREPERSON: Yes.

9 THE COURT: Hand it to the bailiff, please.
10 Mr. Hires, you may publish the verdict.
11 Mr. Kirkland, you stand and receive the verdict with
12 your client.

13 THE CLERK: The State of South Carolina vs.
14 Frankie Lee Bryant, case number 2004-GS-05-085; we,
15 the jury, find the defendant in this case, Frankie
16 Lee Bryant, to be guilty of voluntary manslaughter;
17 Mary M. Sanders, Foreperson, November the 9th, 2005.

18 Madam Foreman, is this your verdict, and is it
19 still your verdict?

20 THE FOREPERSON: Yes.

21 THE CLERK: Members of the Jury, is this your
22 verdict and is it still your verdict?

23 (Jurors answer affirmatively).

24 THE COURT: Anything for the jury before I
25 dismiss them?

1 MR. KIRKLAND: No, sir, Your Honor.

2 THE COURT: All right. You all have a seat.

3 Madam Forelady and Ladies and Gentlemen, I want to
4 thank all of you for your service here this week. I
5 could not have had a jury to pay closer attention
6 than you all did. I really appreciate your time and
7 effort. I think that you have reached a verdict that
8 no one can criticize. It's your verdict. I think
9 you did the right thing. And you are free to go. We
10 are finished for the week. That's it. So you won't
11 have to come back. Ms. Hibler, I might make her come
12 back.

13 What we have to do now is the sentencing phase.
14 You all are welcome to stay for it or you all are
15 free to leave. So those who would like to leave, any
16 of you, it's dark outside. Does anybody need a ride
17 home? Is everybody okay? Everybody all right? I'll
18 have deputies available if anybody -- I guess we got
19 lights out there. Everybody feels okay to walk out?
20 You gentlemen be out there while they walk out.
21 Thank you. You're go free to go. Thank you very
22 much. Everyone else will remain seated. Your check
23 will be in the mail. I'm serious. It's \$40.

24 (WHEREUPON, the jury is excused from the trial
25 of the case at 6:42 p.m.)

1 THE COURT: All right. You got a sentence
2 sheet?

3 MR. MOORE: Yes.

4 THE COURT: All right. Come around. All right.
5 They need to sign the sentence sheet. All right.
6 Mr. Kirkland, anything that you want to tell me
7 before we pass sentence?

8 MR. KIRKLAND: Just that, Your Honor, He is 41
9 years old. He has three stepchildren.

10 THE COURT: Forty-one?

11 MR. KIRKLAND: Forty-one; yes, sir. He works
12 driving a skidder for Brown Logging. I don't think
13 that I need to belabor the facts in any way. We have
14 already been through that all day.

15 THE COURT: Another classic example of what
16 drugs, alcohol and perfectly good people and what
17 happens. In this one, somebody is dead and also
18 somebody is going to spend most part of the rest of
19 his life in jail.

20 MR. KIRKLAND: The one thing I will say is I
21 think Frankie is -- and based what I am going to say
22 and I'll say in a second, some remorse there. He has
23 cried every time he has ever been in my presence.

24 THE COURT: Well, it is his first cousin.

25 MR. KIRKLAND: There has been no exceptions to

1 that. You know, it was his desire to say he was
2 sorry on the stand. I told him not to do that. That
3 was not appropriate. You know, he certainly is
4 remorseful. He can speak for himself at this point.
5 We would ask for mercy, not an incredibly long
6 sentence, something where he can pay a penalty yet
7 have an opportunity to come back out and be
8 productive.

9 THE COURT: All right. Let me hear from the
10 victim before I hear from him.

11 MR. WRIGHT: How you doing, sir?

12 THE COURT: Your name?

13 MR. WRIGHT: My name is Charles Wright. I am
14 the brother of the deceased, Willie James Wright.

15 THE COURT: So you would be also the first
16 cousin of the defendant?

17 MR. WRIGHT: First cousin? No. Not first
18 cousin. We are cousins though.

19 THE COURT: So first cousin was not correct?

20 MR. WRIGHT: No.

21 THE COURT: Okay. Go ahead.

22 MR. WRIGHT: On behalf of myself and my family.

23 THE COURT: Who is with you?

24 MR. WRIGHT: My sister and sister-in-law.

25 THE COURT: Who is the one on the far right?

1 MR. WRIGHT: My next to oldest sister.

2 THE COURT: All right.

3 MR. WRIGHT: First of all, we hate that
4 something like this had to occur because we are
5 family. Second of all, I'm glad it is somewhat a
6 closure but we do miss our brother very dearly. And
7 third of all, we have to deal with our mother now who
8 has lost like 25, 30 pounds since this happened. And
9 maybe this is a lesson learned for everyone in the
10 communities, Bamberg, Barnwell.

11 THE COURT: I don't know.

12 MR. WRIGHT: Wherever.

13 THE COURT: It's just so add to because here
14 we've got a life, obviously your brother's life. How
15 old was your brother?

16 MR. WRIGHT: When he got murdered he was 44. I
17 am the youngest.

18 THE COURT: I can understand how you feel. Any
19 of your sisters want to speak?

20 MR. WRIGHT: Thank you.

21 THE COURT: I have noticed that you have been
22 here all week. I appreciate that.

23 MS. O'NEAL: They flew in from New York.

24 THE COURT: Yes, ma'am. Your name?

25 MS. BROWN: My name is Vera Brown. I am the

1 baby sister of the family. Like Charles said, we're
2 sorry this happened. We miss our brother dearly. Me
3 and my next to the oldest sister, we're the only two
4 in South Carolina.

5 THE COURT: Where do you live, ma'am?

6 MS. BROWN: I live in Orangeburg, and so do she.
7 My mom lives in Ehrhardt. We have to deal with our
8 mother everyday.

9 THE COURT: What is your mom's name?

10 MS. BROWN: Lee Wright. She was a Kinard before
11 she got married. We have to deal with her everyday.
12 She was not able to come to deal with this. When our
13 brother got killed, it took a part of her. We don't
14 know what's going to happen to our mother. We don't
15 know whether there is going to be a closure for her.
16 I don't think it will be a closure for her because
17 she talks about him everyday, 24 hours a day. She
18 miss him dearly, and so do we.

19 THE COURT: Yes, ma'am. Your name?

20 MS. WRIGHT: Albertha Wright. I am next to -- I
21 am older than Willie was. I apologize, sorry that
22 this happened this way. But I thank God for justice.
23 I know that it cannot bring him back.

24 THE COURT: No, ma'am.

25 MS. WRIGHT: And I just ask God to strengthen my

1 mother, to give her strength to go forth. And truly
2 he is missing because she sees him in the house. She
3 can't rest at night. She walks. She hears all types
4 of sounds. This is like taking her down. But I ask
5 God to give her strength.

6 THE COURT: He will.

7 MS. WRIGHT: I know He will. I know He will.
8 And this has took a part of us, you know, for him to
9 get killed this way. You know, everyday I pray and
10 ask God, I say, God, just protect her. And I thank
11 God that justice has been served.

12 THE COURT: Thank you for coming. Is that it
13 Ms. O'Neal?

14 MS. O'NEAL: Yes, sir.

15 THE COURT: Mr. Bryant, I'll be glad to hear
16 from you.

17 MR. BRYANT: Yes, sir. I want to tell the
18 family that I'm very sorry. I have to live with that
19 each day. And I thank you for your time, sir. I ask
20 you to have mercy on me. Thank you.

21 THE COURT: Well, sometimes it's a tough job up
22 here. But there is no -- we have to pay for our
23 actions. We have to be responsible for our actions.
24 And the jury has spoken. You know, if you had been
25 convicted of murder, my choice would have been

1 between 30 years and life in jail without parole. If
2 I had given you anything less than life without
3 parole, you would have had to serve day for day of
4 that.

5 Now my choice is zero to 30. And you will be
6 eligible for parole, as I understand it, after about
7 85 percent of it. But I -- don't rely on that
8 because I may be wrong. It may change.

9 No matter what I do, it's obviously not going to
10 change anything. This family is without a brother.
11 Their mother is suffering tremendously. And you're a
12 young man at 41 who is going to spend some of the
13 best years of your life incarcerated.

14 MALE SPEAKER: Yes, sir.

15 THE COURT: It's just not a good thing for
16 anybody, is it?

17 MALE SPEAKER: No, sir.

18 THE COURT: But perhaps some young person will
19 look and see what drugs and alcohol causes, either
20 directly or indirectly. Because I'm convinced if you
21 all weren't going over there looking for drugs this
22 would have never happened.

23 All right sir. Mr. Frankie Lee Bryant, in
24 indictment 2004-GS-05-085, the jury has found you
25 guilty of voluntary manslaughter. The sentence of

1 the Court is you be committed to the State Department
2 of Corrections for a period of 25 years. Good luck
3 to you.

4 (WHEREUPON, the proceedings are concluded)
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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)

COUNTY OF BAMBERG)

I, Jenny H. Williams, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, having transcribed these proceedings for Lisa Hicklin, Official Court Reporter who reported same, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 9th day of November, 2005.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 5, 2006

Jenny H. Williams

Jenny H. Williams, Court Reporter

WITNESSES

Mathis-B.P.D.

212

210

ARREST WARRANT NUMBER

H038301

ACTION OF GRAND JURY

true bill

[Signature]
Foreperson of Grand Jury
Date: 5-27-04

VERDICT

Guilty

Foreperson of Petit Jury
Date:

DOCKET NO. 2004-GS-05-085

The State of South Carolina

County of Bamberg

COURT OF GENERAL SESSIONS

MAY 31, TERM 2004

THE STATE

vs.

FRANKIE LEE BRYANT

Indictment for

MURDER

SC Code 16-03-0010

CDR Code 116

Class FEL-EXM

A TRUE COPY

Attest *J.B. Hines*
CLERK OF COURT
BAMBERG COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF BAMBERG)

INDICTMENT

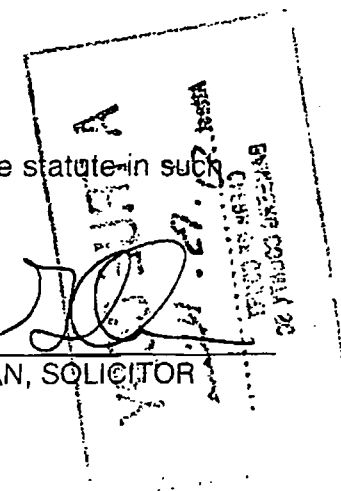
At a Court of General Sessions, convened on May 31, 2004 the
Grand Jurors of Bamberg County present upon their oath:

MURDER

That Frankie Lee Bryant did in Bamberg County on or about February 21, 2004,
with malice aforethought, kill one Willie James Wright by means of stabbing the victim
multiple times with a knife and said victim died as a result thereof, all in violation of
Section 16-3-10, *South Carolina Code of Laws*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.

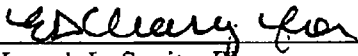

BARBARA R. MORGAN, SOLICITOR



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

April 18th, 2007



Joseph L. Savitz, III
Chief Attorney

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF BAMBERG)

FRANKIE LEE BRYANT, III, #244187,
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

2009-CP-05-208
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention KIRKLAND CORRECTIONAL INSTITUTION
2. Name and location of Court which imposed sentence BAMBERG COMMON PLEAS
/GENERAL SESSIONS COURT, 110 NORTH MAIN STREET, BAMBERG, SC 29003
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2004-GS-05-085
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) NOVEMBER 9, 2005

FILED
BAMBERG COUNTY
JAMES J. HARRIS
CLERK OF COURT
BAMBERG, SC
2009 OCT 12 PM 1:51

Revised 3/2003

- (b) 25 YEARS TO THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty YES
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SUPREME COURT OF SOUTH CAROLINA
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. APPEAL DISMISSED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. OCTOBER 14, 2008
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. UNPUBLISHED OPINION NO.: 2008-UP-574
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in

custody unlawfully:

(a) INEFFECTIVE ASSISTANCE OF COUNSEL

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) COUNSEL DID NOT OBJECT TO THE JUDGE'S ERRONEOUS CHARGE.

(b) COUNSEL FAILED TO PROTECT THE APPLICANT FROM BEING PROSECUTED BY NOT OBJECTING TO THE JUDGE'S ERRONEOUS CHARGE TO THE JURY.

(c) COUNSEL FAILED TO EXERCISE DUE DILIGENCE IN REPRESENTING APPLICANT TO THE BEST OF HIS ABILITY BY ALLOWING JUDGE TO MAKE AN ERRONEOUS CHARGE TO THE JURY.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not

previously been presented:

- (a) _____
- (b) _____
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. KENT C. KIRKLAND, POST OFFICE BOX 1122, BARNWELL, SC 29812;
- ii. JOSEPH L. SAVITZ, III, 1330 LADT STREET, SUITE 401, POST OFFICE

BOX 11589, COLUMBIA, SC 29211-1589

iii. _____

(b) the proceedings at which each such attorney represented you:

- i. KENT KIRKLAND (ARRAIGNMENT, TRIAL & SENTENCING)
- ii. JOSEPH L. SAVITZ, III, (APPEAL)

iii. _____

19. State clearly the relief you seek in filing this application:

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

County of **BAMBERG**)

VERIFICATION

I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Frank B. Burt

SWORN to and subscribed before me this 18th
day of August, 2009.

[Signature] (L.S.)
Notary Public

My Commission Expires: 6/11/11

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Franklin Bryant
Applicant

SWORN or affirmed to and subscribed before me this
18th day of August, 2009

[Signature]
Notary Public

My Commission Expires: 6/11/11

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BAMBERG	)	SECOND JUDICIAL CIRCUIT
	)	
	)	2009-CP-05-0208
	)	
Frankie Lee Bryant, III, #244187,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	(Applicant Retained Counsel)
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the Application for Post-Conviction Relief filed October 12, 2009, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Bamberg County. The Applicant was indicted at the May 2004 term of the Bamberg County Grand Jury for Murder (2004-GS-05-0208) The Applicant was represented by Kent Kirkland, Esquire. On November 9, 2005, the Applicant proceeded to trial and was found guilty of the lesser-included offense of Voluntary Manslaughter. The Honorable Doyet A. Early, III, sentenced the Applicant to confinement for a period of twenty five (25) years.

A timely notice of appeal was filed and perfected on Applicant's behalf. Following submission of an Anders brief, the South Carolina Court of Appeals dismissed the appeal. State v. Bryant, Op. No. 2008-UP-574 (Ct. App. Filed October 14, 2008). The case was returned to the lower court by Remittitur dated October 30, 2008.

Attached herewith and incorporated herein by reference are the records of the Bamberg County Clerk of Court regarding the subject conviction, the Applicant's records from the Department of Corrections, the appellate records, and the Applicant's trial transcript.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel.
 - a. "Counsel did not object to the judge's erroneous charge."
 - b. "Counsel failed to protect the Applicant from being prosecuted by not objecting to the judge's erroneous charge to the jury."
 - c. "Counsel failed to exercise due diligence in representing Applicant to the best of his ability by allowing judge to make an erroneous charge to the jury."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCR.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just

result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

HENRY D. McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLAIMS
Assistant Attorney General

By: Mary S. Williams
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

March 9, 2010.

STATE OF SOUTH CAROLINA

COUNTY OF BAMBERG

FRANKIE L. BRYANT, III, 244187

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

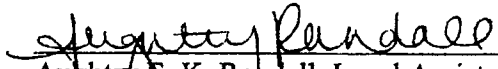
2009-CP-05-0208

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Glenn Walters, Esquire
 Glenn Walters & Associates, PA
 Post Office Box 1346
 Orangeburg SC 29115**

DATED this 10th day of March, 2010.


 Aughtry E. K. Randall, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA

2 COUNTY OF BAMBERG

CIRCUIT COURT
2009-CP-05-00208

3
4 FRANKIE LEE BRYANT, III,
5 Applicant,

6 -vs-

TRANSCRIPT OF RECORD

7 STATE OF SOUTH CAROLINA,
8 Respondent.

9 Post Conviction Relief Hearing

10 Heard on Wednesday, July 13, 2011

11 Aiken, South Carolina

12 BEFORE:

13 THE HONORABLE JAMES R. BARBER, III
14
15

16 APPEARANCES:

17 Counsel on Behalf of the Applicant:

18 Rob D. Corney, Esq.

19 Sally Elliott, Esq.

20 Counsel on Behalf of the Respondent, State of SC:
21 Glenn Walters, Esq.

22 Cheri L. Young, RPR
23 Circuit Court Reporter
24 P O Box 1154
25 Aiken, SC 29802-1154

EXAMINATION INDEX

KENT C. KIRKLAND

DIRECT BY MR. WALTERS 5

CROSS BY MR. CORNEY 12

EXHIBIT INDEX

MAR / ADM

Plaintiff's

1 Charge - Golden

8 8

KENT C KIRKLAND - DIRECT

1 ON WEDNESDAY, JULY 13, 2011 AT 10:10 A.M.:

2 MR. CORNEY: I'll bring you up a packet, Your Honor.

3 THE COURT: All right.

4 MR. CORNEY: May it please the Court, Your Honor.

5 THE COURT: Yes, sir

6 MR. CORNEY: This is Frankie Lee Bryant, case number
7 2009-CP-05-0208.

8 Mr. Bryant was indicted in May 2004 in Bamberg County
9 for murder. He proceeded to trial before Judge Early on
10 November -- he proceeded to trial before Judge Early
11 November 9th, 2005. He was found guilty of the lesser
12 included voluntary manslaughter, was sentenced to 25
13 years.

14 A notice of appeal was filed and perfected. After an
15 Anders brief was submitted to the Court of Appeals, it was
16 dismissed by an unpublished opinion. A timely PCR
17 application was filed October 12th, 2009.

18 He's represented today by Mr. Glenn Walters.

19 THE COURT: Mr. Walters, are you ready to proceed?

20 MR. WALTERS: Yes, sir, Your Honor.

21 THE COURT: All right.

22 MR. WALTERS: May it please the Court. Your Honor,
23 at this time we would call Attorney Kent Kirkland.

24 KENT C. KIRKLAND, having been duly sworn, was
25 examined and testified as follows:

KENT C KIRKLAND - DIRECT

1 THE CLERK: Please have a seat on the witness box.
2 State your full name for the Court.

3 THE WITNESS: My name is Kent C. Kirkland.

4 MR. WALTERS: May it please the Court.

5 THE COURT: Yes, sir.

6 DIRECT EXAMINATION

7 BY MR. WALTERS:

8 Q. Attorney Kirkland, at the time you were representing
9 my client you were serving as the public defender; is that
10 correct?

11 A. Yes, that's correct.

12 Q. And I believe that this trial was with regard to a
13 murder charge; is that correct?

14 A. Yes, that's correct.

15 Q. And do you remember the facts of the murder itself and
16 how it occurred?

17 A. Yes, sir. Yes, sir.

18 Q. All right. Would you tell me what you knew?

19 A. Well, to sum it up fairly shortly, Mr. Bryant and a
20 cousin of his had been out for part of a weekend and
21 certainly the entire day of that day. There was a fair
22 amount of drugs, alcohol, going to different places.

23 There had been some violence earlier in the day where
24 the deceased in this instance and Mr. Bryant had had
25 altercations, physical.

KENT C KIRKLAND - DIRECT

1 So at some point they end up fighting over a knife.
2 And that takes place within the confines of actually being
3 in and around, near the pickup that they were riding in.

4 At some point during that there is a stabbing, and,
5 you know, Mr. Wright's deceased.

6 Q. All right. And during the trial of the case, of
7 course you went into the phase of putting the case in the
8 hands of the jury. The Judge was required to charge the
9 jury on the law; is that correct?

10 A. That is correct.

11 Q. And what is your knowledge of the charges that were
12 given by Judge Early in this particular case?

13 A. The State and I both handed up charges. I handed up
14 the charge that I would, I believe today would be the
15 correct charge, was the correct charge to have presented
16 to the jury then, on the degree of force and that would be
17 the same charge.

18 Q. You're talking about the charge that we have on the
19 sheet of paper?

20 A. That would be the charge that would be in the book.

21 Q. All right. Refer to that charge, if you could
22 designate what it is, please, the name?

23 A. Yes, sir. I used the charge -- I asked for the charge
24 of, for the degree of force that would be the same charge
25 that you get out, if you go to the bar and get out the

KENT C KIRKLAND - DIRECT

1 book of charges which I believe is the same book of
2 charges that the judiciary uses.

3 The State handed up, asked for a request to charge
4 based on Golden V. State. And those were the two charges
5 handed to the Judge.

6 Q. And what was the substance of Golden V. State?

7 A. Well, Golden V. State says that the degree of
8 resistance ought to be proportioned to the nature of the
9 injury offered. That is, that it should be sufficient to
10 ward off such injury and no more. For the moment a man
11 disarms or puts it out of the power of the aggressor to do
12 him further injury, he ought to cease from further
13 violence and if he does commit any further outrage, he
14 then becomes the aggressor.

15 I don't think the charge was given even exactly as
16 that says. The Judge actually gave a charge that says,
17 then he should cease from further violence --

18 Q. Mr. Kirkland --

19 A. -- as opposed --

20 Q. Attorney Kirkland, what part of the transcript are you
21 referring to?

22 A. That would be page 196.

23 Q. All right.

24 A. Which would contain the charges given to the jury.

25 Q. Yes, sir. I didn't mean to interrupt you. On page

KENT C KIRKLAND - DIRECT

1 196, could you inform Judge Barber of the charge that was
2 given by Judge Early?

3 A. That charge on page 196 would have been the charge
4 specifically in the Anders brief that said it was
5 reversible error.

6 That's the charge starting on line four and it runs
7 through line 12. However, that charge is really, as given
8 by the Judge is not even exactly as the Golden V. State
9 charge.

10 The word further outrage was substituted and used
11 further violence.

12 Q. All right. I want to mark that for the record. The
13 sheet we have there with Golden, I want to mark that as
14 Plaintiff's Exhibit Number One.

15 (Thereupon, Plaintiff's Exhibit No. 1, State vs
16 Golden, was received into evidence.)

17 BY MR. WALTERS:

18 Q. And I believe you designated page 196 of the
19 transcript; is that correct?

20 A. Yes, sir. Starting at line four and continuing
21 through line 12.

22 Q. All right. Now, the case that we've just marked as
23 Plaintiff's Exhibit Number One, and the information or the
24 charge that was given by the Judge on page 196, lines four
25 through 12, you said there was a distinct difference

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1 between the charge that was given and the actual case law
2 that we have with regards to Defendant's Exhibit -- or
3 Plaintiff's Exhibit Number One; is that correct?

4 A. The charge is incorrect if given at all, is my
5 understanding of the law currently. And it wasn't given
6 even --

7 Q. Would you --

8 THE COURT: Wait a minute. Let him finish.

9 MR. WALTERS: I'm sorry.

10 THE WITNESS: It wasn't -- you know, it was
11 substituted with other words that probably even make it
12 worse. And the correct charge was not given and I, quite
13 frankly, didn't object to it --

14 BY MR. WALTERS:

15 Q. All right.

16 A. -- as the Anders brief points out.

17 Q. I don't want to interrupt you. And I'm sorry I
18 started to a while ago.

19 Delineate for the Court exactly what the differences
20 are.

21 A. Well, the correct charge -- the charge as given
22 basically puts the burden on the Defendant to stop at the
23 moment in which, some moment in time and he can't keep
24 going if he's trying to defend himself.

25 That is, you know, error because the correct charge

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1 for the degree of force says, it does not have to be
2 limited to the degree of or amount of force used by the
3 victim.

4 Whereas, the Golden charge basically says you have to
5 limit that. And it says, the Defendant has the right to
6 use so much force as appeared to be necessary for complete
7 self-protection in which a person of ordinary reason and
8 firmness would have believed to be needed.

9 It's a reasonable-man standard. And that's not the
10 charge that was given. The charge that was given was,
11 basically you have to know when to stop and you have the
12 burden of stopping.

13 And in this case, this was -- at the point of which
14 the stabbing occurs, it's a full-blown fight.

15 Q. So, when this charge was being read to the jury, it's
16 your testimony that you failed to object to it?

17 A. That is my testimony, yes, sir, that I failed to
18 object.

19 Q. Do you believe it could have had a significant impact
20 on the jury and made a difference with regards to outcome
21 of the case?

22 MR. CORNEY: I'm going to object to speculation on
23 that, Your Honor.

24 THE COURT: Overruled.

25 THE WITNESS: Yes, sir. Absolutely I believe that.

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1 The crux of this case basically was, you know, that
2 there's a significant size difference, age difference,
3 amount of violence, how the knife comes out, and the knife
4 being taken from one person to the other, the amount of
5 fear that was involved because of the difference in size,
6 and the violence that had occurred throughout the day and,
7 you know, prior to the fatal incident.

8 Yes, sir. I am convinced at this point that I should
9 have objected because it was a critical charge to have
10 done correctly.

11 Q. And you are aware of the standard that's required in,
12 I believe, Strickland V. Washington, but for --

13 A. Right. There's two prongs. One is reversible error
14 and two -- did I --

15 MR. CORNEY: I'm going to object to that, Your
16 Honor. I believe that's up to the Court's discretion to
17 decide. I mean, whether it was -- it affected him, or I'm
18 sorry...

19 (Conferring with Ms. Elliott.)

20 Yeah, I guess that if he's going to lead I want to
21 question him after. If he's going to ask him if he
22 thought he was ineffective as counsel, that's up to the
23 Court's discretion to decide.

24 THE COURT: Well, I understand that but I'm going to
25 let him opine a little bit about that. I mean, he's just

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1 basically stating what Strickland is. It has two prongs;
2 one, there's got to be some deficiency and, second, it's
3 got to be prejudice. I mean, it's likely that without it
4 would have had a different result.

5 So, assume he's asking did he think those prongs were
6 met. I will make that decision but, and then I guess the
7 Supreme Court will make it after me.

8 But you can answer it, Mr. Kirkland.

9 THE WITNESS: Yes, sir. I looked at that case last
10 night and the two prongs again. And I do believe that my
11 ineffective assistance to Mr. Bryant was there, and
12 secondly that that ineffective assistance based on the
13 facts of this specific case and the critical nature of the
14 fight itself was that it prejudiced him.

15 MR. WALTERS: Your Honor, I have no further
16 questions.

17 THE COURT: All right. Anything Mr. Corney?

18 MR. CORNEY: Yes, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. CORNEY:

21 Q. Mr. Kirkland, you weren't the first attorney appointed
22 on this case; were you? Was there somebody appointed
23 before you to represent him?

24 A. Quite frankly, I don't know at this point.

25 Q. Okay.

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1 A. I was the -- no, no. In fact, I'm wrong. I do know.
2 I was the -- I took over being the public defender from
3 Chris Wilson, and he had the case before I did. That is
4 accurate.

5 I became the attorney after I became the public
6 defender and succeeded Chris Wilson.

7 Q. Okay. And you had the opportunity to review all the
8 facts in this case and the indictments and everything with
9 Mr. Bryant?

10 A. Yes, sir. Yes, sir. I would have had that
11 opportunity. Certainly.

12 Q. And after discussing that with him, it was your trial
13 strategy from that point to go after a self-defense?

14 A. Absolutely.

15 Q. Mr. Bryant gave a statement to the police after this
16 incident; right?

17 A. Yes. I believe he did. I do not recall the exact
18 statement at this point. No, sir.

19 Q. Okay. Was Mr. Bryant aware of your strategy going
20 into this trial that it was going to be a self-defense
21 type issue you were going to go after?

22 A. Yes, sir. We would have discussed, I met with
23 Mr. Bryant numerous times and --

24 Q. He was on board --

25 A. -- the witnesses, et cetera.

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1 Q. He was on board with that strategy throughout your
2 representation?

3 A. Well, quite frankly, inasmuch as most public defender
4 clients would have been -- you know, they sort of trust
5 you. Their life's in your hands, so.

6 Q. Okay. You had toxicology reports submitted as part of
7 this trial; right?

8 A. I believe that's correct. Yes, sir.

9 Q. And they showed that Mr. Bryant had not been under the
10 influence of crack at the time of this stabbing -- at the
11 time of this incident, stabbing?

12 A. I do not recall that degree of specificity today.

13 Q. Right. As far as the jury charges, you pursued
14 voluntary manslaughter and self-defense charges with the
15 Judge; right?

16 A. Yes, sir.

17 Q. You asked the Judge to include a right-to-act-on-
18 appearance-charge as part of the self-defense charge? And
19 if you need a minute, just holler. I'll give you a minute
20 to look over it.

21 A. Yes, I did.

22 Q. Okay. I believe there are several other parts of the
23 self-defense charge that you requested. Prior violence by
24 the victim; right?

25 A. I did. Yes, that's correct.

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1 Q. The continuing-until-the-threat-of-harm-has-ended
2 charge?

3 A. Yes.

4 Q. Okay. Was there any other discussions off the record
5 with the Judge about the charging language that was to be
6 used?

7 A. It's not in the record, and I do not recall. Quite
8 candidly, there could have been. You know, frequently in
9 a trial like that outside of the presence of the jury and
10 you may banter about and walk up to the bench and hand up
11 charges.

12 But I do not recall a specific conversation between me
13 and the Judge and the assistant solicitor over that.

14 Q. So you don't recall whether Judge Early told you
15 before that the language he would use as far as his
16 proportionality of force used?

17 A. No, sir; I do not recall that. We may or may not
18 have, but I just don't recall.

19 Q. So you feel that Judge Early's charge in regards to
20 this proportionality of defense is not -- hold on. Give
21 me a minute. I'm sorry.

22 A. That's all right.

23 Q. You feel that Judge Early's charge in regards to the
24 proportionality force used is not substantially correct or
25 adequately covers the law as it stands?

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1 A. I believe that it's an incorrect charge. Yes, sir.

2 Q. The rest of the charge from self-defense, those were
3 read directly from the bench book; is that right?

4 A. I didn't --

5 Q. To your understanding?

6 A. -- look to see if they all specifically were. I would
7 have to look to see that.

8 Q. But you didn't see any issues with the rest of the
9 charge other than just this proportionality of force used
10 portion?

11 A. Again, I didn't look to see if all of them were
12 correct. And in preparation for today, I just simply
13 looked at what was in the Anders brief file that was, said
14 I was ineffective and it was reversible error. And that's
15 really the only one I looked at.

16 Q. And I believe counsel referred to the Golden V. State
17 case?

18 A. Yes, sir.

19 Q. Are you familiar with that case?

20 A. Not enough to discuss the whole case today. No, sir.

21 Q. Okay. But, you're aware that the degree of resistance
22 portion of that charge came from that case?

23 A. Yes. Yes, sir. And in fact, the exhibit (verbatim)
24 that the State requested cites Golden V. State at the end
25 of it.

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1 Q. Okay. The Court charged the State's burden of proof
2 throughout the entire trial and the jury charge; is that
3 correct?

4 A. Say that again.

5 Q. The Court in the opening statements to the jury as
6 well as during the jury charge at the end, repeatedly
7 charged the jury of the State's burden of proof; right?

8 A. I didn't look to see. I didn't go back and look in
9 the transcript to see that prior to coming in here. I
10 would assume so, but I really don't want to assume so
11 without looking to see for sure.

12 Q. That's fairly normal for the -- during one of these
13 cases; wouldn't you agree to that?

14 A. Yes, sir. It would not just be fairly normal. It
15 would be my practice in an opening generally, and trying a
16 lot of cases, it would have been my practice in an opening
17 to have made sure that the jury heard that it was only the
18 State's burden of proof.

19 Q. Okay. So you would believe that the jury probably,
20 probably, based on your practice, heard multiple times
21 that it's the State's burden to prove these charges?

22 A. I -- that would be the norm. Yes, sir. I just can't
23 say specifically in this instance without looking back.

24 Q. Okay. An appeal was filed from this trial as well;
25 right?

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1 A. Yes, sir. I filed the paperwork for that.

2 Q. And do you recall the issue that was brought forward
3 on that appeal?

4 A. I do not. I did not have any part in that. The
5 Appellate Division of the Office of Indigent Defense
6 handles that. As long as I file the appeal within 10
7 days, it's no longer my baby to rock.

8 I do not do appellate work. And, quite frankly,
9 nobody from OID ever contacted me about it.

10 Q. So you have no knowledge of whether or not the jury
11 charge was appealed on the Court's error?

12 A. No. The Anders brief, apparently as it was filed,
13 basically stated there was no grounds other than, you
14 know, in the Anders brief you're required to put it, to
15 give to the Court, you know, to assert, that, I don't see
16 an issue that the Defendant has raised, but at the same
17 time if there's another issue and you see it, you say,
18 here it is.

19 And in that brief the attorney for the appeal
20 basically said, I don't see an issue that I can argue
21 based on what Mr. Bryant would have said that's a viable
22 option, but I do see something that would be reversible
23 error and it was not objected to.

24 And that's the basis of the PCR is my understanding
25 today.

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1 Q. And to your knowledge the appeal was dismissed;
2 right? To your knowledge?

3 A. I believe it was. I believe the, whatever the Court
4 above looked at all of what was in the Anders brief and
5 saw that there was nothing other than my error and it was
6 dismissed.

7 Q. Okay.

8 A. Because it wasn't raised timely. I didn't, I
9 didn't --

10 THE COURT: Didn't preserve it.

11 THE WITNESS: I didn't preserve it.

12 BY MR. CORNEY:

13 Q. During this incident to your knowledge, the stabs
14 during this incident, they happened one right after
15 another; right? Based on your understanding of the facts
16 in this case.

17 A. My understanding is there are two guys grappling and
18 fighting and struggling and a knife is pulled by the
19 Defendant. It's apparently the -- I mean, the victim, the
20 deceased's knife, and as they're scrapping over it
21 eventually Mr. Bryant ends up with the knife and in very
22 close-quarters battle. I think they're even in a door of
23 a vehicle, sort of trapped in there. And there was a
24 stabbing.

25 Q. But you had no reason to think that the victim was

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1 stabbed once and 10 to 20 minutes later down the road, he
2 came back and was stabbed again; do you?

3 A. No, sir. My understanding is it was all one very
4 close-quarter, close-time incident.

5 Q. The language in this Golden V. State case that the
6 jury was charged with probably didn't necessarily apply or
7 make a difference; did it?

8 A. I would not necessarily -- I would not agree with
9 that, no. I would not agree with that at all.

10 Q. You've had a moment to review that charge that was
11 given out of that case?

12 A. The Golden?

13 Q. The Golden V. State case.

14 A. Yes, sir. I have.

15 Q. And to you, to you that doesn't -- kind of struggling
16 for the right word.

17 To you that doesn't seem to be inconsistent with the
18 facts that were here, an inconsistent charge as far as, as
19 far as the amount of force to be used?

20 A. I'm not -- I don't understand your question.

21 Q. In the facts of this case, I mean, the stabs happened
22 one right after the other, like you said. This charge
23 seems to point out that the amount of force --
24 proportionality of force used is to be stopped and not
25 returned down the road. Is that your understanding of it?

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1 A. No, no, I don't agree with that. I think the charge
2 that was used puts the burden, actually sort of shifts the
3 burden onto the Defendant to sort of stop once he had
4 control.

5 I believe the jury could clearly take that to mean
6 that once he had control of the knife he somehow should
7 have escaped and -- and, I believe they could have
8 believed that the burden was on him at that point to stop
9 and go no further when the facts of the case would tend to
10 show that that wasn't an option.

11 It was -- it's a battle at that point and one person
12 is sort of trapped and believes that they're in danger,
13 imminent danger.

14 Q. Okay. But you did say that under normal circumstances
15 you would assume that the jury probably heard the State's
16 burden -- had the burden of proof several times throughout
17 the course of this trial?

18 A. Again, I can't say without looking at the transcript
19 exactly what happened. But my normal practice and I
20 believe most judges' normal practice is at the first of
21 the trial and the last of the trial that would be given as
22 a charge.

23 And in that light I think the jury would have heard
24 that. I don't know how that sort of covers my error but I
25 do believe that would be correct.

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1 Q. Beg the Court's indulgence a moment, Your Honor.

2 MS. ELLIOTT: Your Honor, may we have one moment?

3 (Pause.)

4 MR. CORNEY: I apologize, Your Honor.

5 Q. Just briefly, Your Honor. Did you hand up copies of
6 your charge to the Judge when you presented those?

7 A. Yes, sir. I would have handed up copies.

8 Q. Okay.

9 A. And at that time having just been the public defender
10 and in that environment that I was in at that time, I was
11 the public defender for two counties. There was nobody
12 else. I was it.

13 Anywhere from 700 to a thousand warrants, and I
14 probably did not type that up in the same manner that the
15 State did. I had only been the public defender a few
16 months.

17 I probably handed the charges up. I don't have a note
18 that specifically says that but what I have are the copies
19 of the charges that I handed to the Judge, my copy of them
20 and they would have been handed, printed off --

21 Q. That's your normal practice, to print them off?

22 A. At the time it would have been. No, my normal
23 practice subsequent to that would have been to begin to
24 type them up in that manner, hand them up separately.

25 I would have handed -- as time went on and I became

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1 better, I hope became a better attorney, I would have
2 handed them up separately, each individual one typed up in
3 a manner so that they would be preserved.

4 Q. And you would agree that the proper way to review the
5 charge is to look at the totality of it, from start to
6 end; right? That's a proper way to review whether a
7 charge is proper or not to a jury?

8 A. You're talking about to look at all the charges
9 together to see --

10 Q. No. The totality.

11 A. No, sir..

12 Q. You don't think that's the proper way to do it?

13 A. No, sir. Absolutely. I would not agree to that. I
14 think an individual charge can be given among a dozen
15 charges and that charge can be wrong and influence the
16 trial, depending upon the facts of the case.

17 Q. The law says that the charges needs to be a
18 substantially correct statement of the law, right?

19 Overall, the totality of the charge needs to be
20 substantially a correct statement of the law?

21 A. I believe it should be the correct statement of the
22 law. And in this case, I don't think it was.

23 Q. You said you haven't had a chance to review the entire
24 charge in this particular case?

25 A. No, no. I said I didn't read the entire transcript.

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1 What I did was looked at the issue that was going to be
2 here before us today.

3 But I didn't, I didn't look at the entire 200-page
4 transcript before coming here. I didn't look at it start
5 to finish to see -- as an example of what you were asking
6 me about the State having the burden of proof, I didn't
7 look at all of that before coming in here today.

8 Q. The Court as part of the self-defense charge did
9 charge the jury that it was the State's burden to disprove
10 self-defense, right, as part of this charge?

11 A. Again, I would have to look at the transcript
12 specifically for that issue to see that.

13 Q. So without looking at the entire charge it's probably
14 hard to make a determination on whether or not there was
15 prejudice shown based on this?

16 A. I would disagree with that. No, sir. I would say
17 that prejudice occurred because of the combination of the
18 facts and the specific error of the charge, not just the
19 error of it being the wrong charge, but the wrong charge
20 also being given incorrectly with the words substituted
21 that I believe even is more prejudicial.

22 MR. CORNEY: I believe that you have the transcript
23 up there and you have the whole record of charges that
24 were given and everything; right, Your Honor?

25 THE COURT: I do.

1 BY MR. CORNY:

2 Q. And you said you had a copy of the charges that you
3 handed up to the Judge?

4 A. Yes, sir. I do.

5 MR. CORNEY: Would that be something I could
6 introduce to you, Your Honor, as part of the record?

7 THE COURT: The whole charge that was handed up?
8 Tell me how that's relevant. Isn't it relevant what
9 charge was given, not what was, what the Defendant
10 proposed?

11 MR. CORNEY: I think it's an issue of whether he
12 objected to it or not.

13 I think him handing up a different charge than what
14 was actually given maybe preserved that issue, if it's
15 something that he presented to the Judge as to what he
16 wanted to be charged, it wasn't given.

17 THE COURT: You're saying if one lawyer submitted one
18 proposed charge or charges and another lawyer doesn't,
19 that just because you submitted something different that
20 preserves any objection that you make?

21 MR. CORNEY: I don't know that it necessarily does
22 but, I mean, it's an issue of whether or not he objected
23 to the charges that were given.

24 THE COURT: I would believe right now that that in
25 itself does not preserve any objection.

1 I understand your position that the totality -- and I
2 think you're right, the totality of the charge itself that
3 you have to look at, but it has to be the correct law.
4 So, all right.

5 MR. CORNEY: I believe that's all I have. Thank you.

6 THE COURT: Anything, Mr. Walters?

7 MR. WALTERS: No, sir. May it please the Court.

8 Your Honor, I've talked to my client --

9 THE COURT: Let me excuse this witness, if you don't
10 mind.

11 MR. WALTERS: Yes, sir. I'm sorry.

12 THE COURT: You can step down.

13 THE WITNESS: Thank you, sir.

14 THE COURT: And go home with your wife if you want
15 to, go on back to the 'Berg.

16 MR. WALTERS: May it please the Court. Your Honor, I
17 had two or three occasions to meet with my client while he
18 was incarcerated.

19 Paragraph 11 of the petition essentially addresses
20 the same issue three different times. I guess it's worded
21 three different ways.

22 My client has chosen not to testify. I've explained
23 to him his right to testify at the PCR.

24 We met two or three times while he was incarcerated.
25 And I believe the issue -- we've attempted to address the

1 issue the best way we could.

2 THE COURT: The only issue you raised in your
3 application is that this appeal, I mean, if he had
4 preserved his objection it would have been heard at
5 appeal. Because it was not heard at appeal based on the
6 brief, that he was ineffective to not object at that time
7 and give your client the opportunity to have a correct
8 charge made?

9 MR. WALTERS: Yes, sir, Your Honor.

10 THE COURT: All right. I don't know what your client
11 might add to that, certainly.

12 You don't wish to testify; is that correct?

13 THE APPLICANT: No, sir.

14 THE COURT: All right. You talked to Mr. Walters
15 about this?

16 THE APPLICANT: Yes, sir.

17 THE COURT: And you understand you have the right to
18 if you want?

19 THE APPLICANT: Yes, sir.

20 THE COURT: Nobody's forced you, pressured you,
21 intimidated you into making this decision?

22 THE APPLICANT: No, sir.

23 THE COURT: All right. Okay. I thank y'all.

24 MR. WALTERS: Yes, sir.

25 MR. CORNEY: Thank you, Your Honor.

1 THE COURT: Both of you submit me proposed orders.

2 MR. WALTERS: Yes, sir, Your Honor.

3 MR. CORNEY: Yes, sir, Your Honor. What kind of time
4 line do you want for that, Your Honor?

5 THE COURT: Well, I know you folks over the AG's
6 office have not much to do.

7 MR. CORNEY: No, not at all.

8 THE COURT: You can have yours by Monday.

9 MR. CORNEY: At the pleasure of the Court.

10 THE COURT: Mr. Walters, I don't want to interfere
11 with his vacation.

12 MR. CORNEY: We wouldn't want to do that.

13 THE COURT: How much time do you need to do me an
14 order?

15 MR. WALTERS: Could I have 30 days, Your Honor?

16 THE COURT: Thirty days. Is that good enough?

17 MR. CORNEY: Yes, sir.

18 MR. WALTERS: May I have a copy of Plaintiff's
19 Exhibit One? I think that's the only one we had.

20 THE COURT: As far as I'm concerned you can. Maybe
21 the clerk's office charges an exorbitant fee.

22 MR. WALTERS: Thank you, Your Honor.

23 THE COURT: All right. Have a safe trip back.

24 END OF CASE: 10:44 A.M.

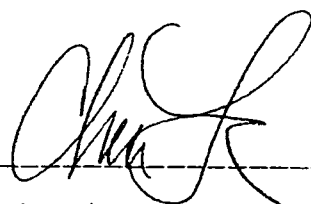
25 * * * *

1 CERTIFICATE OF REPORTER

2 I, Cheri L. Young, Registered Professional Reporter,
3 and Official Court Reporter for the State of South
4 Carolina, do hereby certify that the foregoing transcript
5 of proceedings heard on Wednesday, July 13, 2011, in
6 Aiken, South Carolina, was reported by me using machine
7 shorthand and realtime computer-aided translation and is a
8 true, accurate and complete transcript of the proceedings
9 had and evidence introduced in the hearing of the matter.

10 I do further certify that I am neither of kin, counsel
11 nor interest to any party hereto.

12 I have hereunto set my hand this Tuesday, the 21st day
13 of February, 2012.

14
15
16 

17 Cheri L. Young, RPR
18 Official Court Reporter
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA

COUNTY OF BAMBERG

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUITFILED
BAMBERG COUNTY
2011 DEC 20 AM 9:14
CASE NO.: 2009-CP-05-208

FRANKIE LEE BRYANT, III #244187

vs.

STATE OF SOUTH CAROLINA,

Defendant.

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff's Attorney:

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Phone: 803.734.3970 Fax 803.253.6283

E-mail: _____ Other: _____

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____

Estimated Time Needed: _____ Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

*Glenn Walters*Signature of Attorney for ☒ Plaintiff/☐ Defendant

11.15.2011

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$ _____☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support☐ Domestic Abuse or Abuse and Neglect☐ Indigent Status ☐ State Agency v. Indigent Party☐ Sexually Violent Predator Act ☐ Post-Conviction Relief☐ Motion for Stay in Bankruptcy☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)☒ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____☐ CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA

COUNTY OF BAMBERG

FRANKIE LEE BRYANT, III #244187,

PLAINTIFF,

V.

STATE OF SOUTH CAROLINA,

DEFENDANT.

FILED
BAMBERG COUNTY
IN THE COURT OF COMMON PLEAS
2011 DEC 20 AM 9:14 FOR THE
SECOND JUDICIAL CIRCUIT
JAMES R. BARBER
CLERK OF COURT
DOCKET NO.: 2009-CP-05-208

**ORDER GRANTING POST CONVICTION
RELIEF (PCR)**

DATE OF HEARING: JULY 12, 2011
PRESIDING JUDGE: HON. JUDGE JAMES R. BARBER, III
PLAINTIFF'S COUNSEL: GLENN WALTERS, SR., ESQUIRE
DEFENDANT'S COUNSEL: ROBERT CORNEY, ESQUIRE
COURT REPORTER:

I. PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Bamberg County Clerk of Court. The Applicant was indicted for Voluntary Manslaughter (2004-GS-05-085) wherein the Applicant was represented by Kent Kirkland, Esquire. A jury trial commenced on November 9, 2005, before the Honorable Judge Doyet A. Early, III. The Applicant was found guilty on November 9, 2005, Judge Doyet A. Early, III, sentenced him to twenty-five (25) years imprisonment.

A notice of appeal was filed on November 16, 2005 by Attorney Kent Kirkland. The South Carolina Court of Appeals confirmed the conviction. The South Carolina Court Supreme Court dismissed the Applicant's Appeal (Unpublished Opinion. 2008-UP-574) and said

dismissal was filed on October 14, 2008. The Applicant filed an Application for Post Conviction Relief on October 12, 2009 with the Bamberg County Clerk of Court.

In his application for post conviction relief (PCR), the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of counsel."

At the hearing the Applicant alleged ineffective assistance of counsel in the following Particulars:

1. Counsel did not object to the Judge's erroneous charge.
2. Counsel failed to exercise due diligence in representing Applicant to the best of his ability b allowing the Judge to make an erroneous charge to the jury."
3. Counsel failed to protect the Applicant from being prosecuted by not objecting to the Judge's erroneous charge to the jury."

An evidentiary hearing on this matter was convened on July 12, 2011, at the Aiken County Courthouse. The Applicant, Frankie Lee Bryant, III #244187 was present with his attorney of record, Glenn Walters. The Respondent was present and represented by Robert Corney of the South Carolina Attorney General's Office.

The Court had before it the records of the Bamberg County Clerk of Court, the trial transcript, the appellate records, and the Applicant's records from the South Carolina Department of Corrections.

II. STATEMENT OF FACTS

On November 5, 2005, Frankie Lee Bryant, III, stood trial in Bamberg County before Judge Doyet A. Early, III and a jury on an indictment (2004-GS-05-085) charging him with murder. The victim was Bryant's first cousin, Willie Wright. Tr. P. 126, lines 4-9. State's

witnesses testified that Bryant stabbed Wright during a fight which Wright provoked. Bryant testified that he disarmed Wright and stabbed him in self defense after Wright tried to rob him by choking him first and then drawing the knife. Tr.p.129, line 17—p.131, line 18; tr. P. 134, lines 5-9. A pathologist testified that Wright had been stabbed twice—one wound fatal, one not. Tr. P. 112 lines 3-19. The judge charged the jury on murder, voluntary manslaughter and self defense. The jury found Bryant guilty of voluntary manslaughter, and the judge sentenced him to imprisonment for twenty-five years.

III. FINDINGS OF FACT

Based upon the pleadings and the testimony of Attorney Kent Kirkland I hereby make the following Findings of Fact:

I FIND THAT the trial judge included the following language at the conclusion of his charge on self defense:

A person cannot be required to make an exact calculation as to the degree or amount of force which may be needed to avoid death or serious bodily harm. Therefore, in self defense the defendant has the right to use the force needed to avoid death or serious bodily harm.

The force used in self defense does not have to be limited to the degree or amount of force used by the victim. The defendant has the right to use so much force as appeared to be necessary to complete self protection...which a person of ordinary reason and firmness would have believed to be needed to prevent death or serious bodily harm.

If the defendant is justified in defending himself, then the defendant is also justified in continuing to defend [himself] until it is apparent that the danger of death or serious bodily injury is completely ended.

And finally, in self defense the degree of resistance ought to be in proportion to the nature of the injury offered: that is, that it should be sufficient to ward off such injury and do no more. In other words, the moment a man disarms or puts himself out of the power of the aggressor to do him further injury, then he should cease from further violence. But if he does commit any further outrage then he becomes the aggressor. Tr. p.195, line 11—p. 196, line 12.

B. I FIND THAT the degree of force charge was in error and Defense Counsel did not take exception to this charge. Tr. p. 198, line 25—p. 199, line 4 that the degree of force charges were in error.

C. I FIND THAT a trial judge must charge the jury with the current and correct law of the State. *Article V, Section 17, South Carolina Constitution; State v. Robinson*, 306 S.C. 399, 412 S.E.2d 411 (1991). “Merely superimposing a correct statement of law over an erroneous charge only fosters prejudice and confusion.” *State v. Patrick*, 289 S.C. 301, 345 S.E.2d 481, 485 (1986).

D. I FIND THAT in a PCR action [t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” *Frasier v. State*, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having

produced a just result.” Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

E. I FIND THAT under the two (2) pronged test of Strickland 104 S. Ct. 2052, in evaluating allegations of ineffective assistance of counsel the defendant has proven or met his burden.

F. I FIND THAT trial counsel’s not objecting to the jury charge concerning degree of force was an error that prejudiced the Applicant.

G. I FIND THAT Defendant shall be granted a new trial.

IV. CONCLUSION

Based on all the foregoing Findings of Fact and Conclusions of Law, this Court finds and concludes that the trial counsel’s failure to object to the jury charge concerning degree of force was an error that prejudiced the Applicant. Therefore, this application for post conviction relief is GRANTED and the Defendant shall be granted a new trial.

AND IT IS SO ORDERED this 12 day of DECEMBER, 2011.


 Honorable Judge James Barber, III
 Presiding Judge
 Second Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BAMBERG	)	
	)	
FRANKIE LEE BRYANT, III #244187,	)	DOCKET NO.: 2009-CP-05-208
	)	
PETITIONER,	)	
	)	
V.	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT.	)	
	)	

CERTIFICATE OF SERVICE BY MAIL

I, G. Chisolm Davis, Paralegal for the Law Office of Glenn Walters, PA do hereby certify that I have this 15th day of November 2011 served a copy of the proposed **Order Granting Post Conviction Relief** on the Honorable Judge James R. Barber, III, Circuit Court Judge by placing a copy of same in the United States Mail with proper postage affixed thereto addressed to the following address:

Hon. Judge James R. Barber, III
Presiding Circuit Court Judge
 Richland County Judicial Center
 Post Office Box 2766
 Columbia, SC 29201

By: *G. Chisolm Davis*
 Paralegal for the Law Office of Glenn Walters, PA

**GLENN WALTERS
ATTORNEY AT LAW, P. A.**

1910 RUSSELL STREET • POST OFFICE BOX 1346 • ORANGEBURG, S.C. 29116
TELEPHONE: (803) 531-8844 • FACSIMILE: (803) 531-3628

Glenn Walters, Sr., Esquire

R. Bentz Kirby, Of Counsel

Paul W. Owen, Jr., Esquire

November 15, 2011

SC Attorney General's Office
Attn: Robert Corney, Esquire
Rembert Dennis Building
Post Office Box 11549
Columbia, SC 29211-1549

 **DUPLICATE**

RE: Frankie Lee Bryant, III v. State of South Carolina
Docket No.: 2009-CP-05-208

Dear Attorney Corney:

Enclosed herewith and served upon you, please find the proposed Order Granting Post Conviction Relief with regard to the above referenced matter.

By copy of this correspondence, I am forwarding same to the Honorable James Barber, III for his review and signature.

If you have any additional questions, please feel free to contact the office.

With kind regards, I am

Sincerely,


Glenn Walters
Attorney at Law

GW:gcd

Enclosures: as noted

STATE OF SOUTH CAROLINA
COUNTY OF BAMBERG
FRANKIE LEE BRYANT, III #244187,
PETITIONER,
V.
STATE OF SOUTH CAROLINA,
RESPONDENT.

) IN THE COURT OF COMMON PLEAS
)
)
)
) DOCKET NO.: 2009-CP-05-208
)
)
)
)

FILED
BAMBERG COURT
2011 NOV 20 AM 9:14
JAMES
CLERK OF COURT

CERTIFICATE OF SERVICE BY MAIL

I, G. Chisolm Davis, Paralegal for the Law Office of Glenn Walters, PA do hereby certify that I have this 15th day of November 2011 served a copy of the proposed **Order Granting Post Conviction Relief** on Robert Corney, Esquire for the South Carolina Attorney General's Office by placing a copy of same in the United States Mail with proper postage affixed thereto addressed to the following address:

SC Attorney General's Office
Attn: Robert Corney, Esquire
Rembert Dennis Building
Post Office Box 11549
Columbia, SC 29211-1549

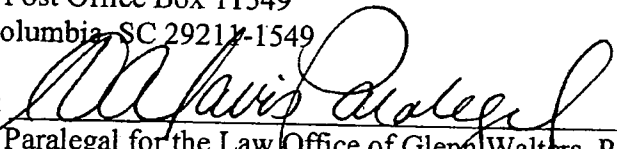
By: G. Chisolm Davis
Paralegal for the Law Office of Glenn Walters, PA

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BAMBERG	)	
	)	
FRANKIE LEE BRYANT, III #244187,	)	DOCKET NO.: 2009-CP-05-208
	)	
PETITIONER,	)	
	)	
V.	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT.	)	

CERTIFICATE OF SERVICE BY MAIL

I, G. Chisolm Davis, Paralegal for the Law Office of Glenn Walters, PA do hereby certify that I have this 28th day of December 2011 served a clocked copy of the **Order Granting Post Conviction Relief** on Robert Corney, Esquire for the South Carolina Attorney General's Office by placing a copy of same in the United States Mail with proper postage affixed thereto addressed to the following address:

SC Attorney General's Office
Attn: Robert Corney, Esquire
 Rembert Dennis Building
 Post Office Box 11549
 Columbia, SC 29211-1549

By: 
 Paralegal for the Law Office of Glenn Walters, PA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 11/02/09

C0404

BRYANT, FRANKIE - FBI # 891622TA8 SID# SC00915142 SCDC # 244187

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION .: LIEBER CORRECTIONAL INST.

SECURITY/CUST.: 3 MINIMUM IN

CURR INCARC SENT...: 25 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: YES

SOCIAL SECURITY #....:

DORM.....: EA0053A

RACE.....: B SEX....: M

PROJ MAXOUT DATE: 01/31/2027

PROJ PAROLE DATE: 00/00/0000

EWC JOB...: WARDKEEPER ASSISTANT

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 3F5 EEC LEVEL:

ASSIGNMENT...: BUILDING #1

CURRENT PROGRAM...: NO CURRENT PROGRAM

AGE...: 45 DATE OF BIRTH...:

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS MOS DYS COUNTY	SENTENCE START U/VU CATEGORY
VOLUNTARY MANSLAUGHTER	25 0 0 BAMBERG	11/ 7/20 5 V 4

PREVIOUS SCDC OFFENSES (COMPLETE)	SENTENCE YRS MOS DYS COUNTY	SENTENCE START U/VU CATEGORY
CRACK COC POSS INT/DISTR	1 0 0 BAMBERG	8/25/1997 N 2

PRIOR COMMITMENTS OVER 90 DAYS:

NO PRIOR COMMITMENTS OVER 90 DAYS

DETAINERS (HOLD, WANTED, NOTIFY):

BURGLARY-1ST DEGREE NOTIFY OPEN ARREST NOTIFICATION CATEG: 4

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

8/19/ 8 INTERFERING WITH COUNT CONVICTED ADMIN

1/25/98 OUT OF PLACE OTHER

1/25/98 OUT OF PLACE CONVICTED MINOR

HISTORY OF MOVEMENTS:

DATE	LOCATION	STATUS	REASON
6/24/ 8	LIEBER	INCARCERATED	ADMINISTRATIVE
6/24/ 8	PALMETTO RCHLAN	AUTH ABSENCE (AUL)	MEDICAL
4/16/ 8	LIEBER	INCARCERATED	ADMINISTRATIVE
4/16/ 8	KIRKLAND	INCARCERATED	MEDICAL
4/10/ 8	LIEBER	INCARCERATED	ADMINISTRATIVE
4/10/ 8	KIRKLAND	INCARCERATED	MEDICAL
1/16/ 7	LIEBER	INCARCERATED	ADMINISTRATIVE
1/16/ 7	KIRKLAND	INCARCERATED	MEDICAL
1/ 9/ 6	LIEBER	INCARCERATED	ADMINISTRATIVE
11/10/ 5	KIRKLAND	INCARCERATED	R&E PROCESSING
11/10/ 5	LIEBER	INCARCERATED	NEW ADMISSION
3/17/98	UNK	RELEASE	EXPIRATION OF SENTENCE
11/13/97	LOWER SAVANNAH	INCARCERATED	LABOR CREW
10/16/97	WALDEN	INCARCERATED	ADMINISTRATIVE
9/25/97	BROAD RIVER R&E	INCARCERATED	R&E PROCESSING
9/25/97	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER ASSISTANT	02/21/07	0/ 0/ 0		3F5
CUST ATTN VISITING	03/31/06	9/18/ 6	UNSAT JOB PERFORM	3F5
WARDKEEPER ASSISTANT	03/09/06	3/30/ 6	INMATE REQUEST	3F5
LABOR CREW/WORK PROG	11/14/97	3/17/98	RELEASED/PAROLED	2F5

BRYANT, FRANKIE - FBI # 891622TAB SID# SC00915142 SCDC # 244187 (CONTINUED)
INVENTORY CLERK 10/22/97 11/13/97 INSTIT TRANSFER 2F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC	START	END	TERMINATION
DESCRIPTION	DATE	DATE	REASON
BONUS 4-7 HRS/WK	12/01/97	3/17/98	RELEASED/PAROLED

***** END OF REPORT *****

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 11/02/09
OMCOMITA RELEASE DATE SCREEN C040481
SCDC# > 244187 LOC: LIEBER
BRYANT, FRANKIE - SCDC CLASSIFICATION... VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY... N
SEXUAL PREDATOR...: NOT APP
DNA STATUS...: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION...:
CURRENT SENTENCE: 025-00-000 CONSECUTIVE SENTENCE ...: N
025-00-000 CURRENT SENT START DATE: 11/07/2005
PROJECTED COMPLETION DATES
MAXOUT DATE: 01/31/2027 CURRENT EWC ..: 3 F 5
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ...: 000341 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE
TOTAL EXTRA EARNED CREDITS ..: 000
TOTAL SERVICE TIME EARNED ...: 001435

PFKEYS: 5:HISTORY OF DATE CHANGES

4-© 1 Sess-1 167.7.50.33 SCDC1465 3/11

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATEBamberg

VS.

Frankie Lee Bryant

AKA:

Race: BLK Sex: Male Age: 41

DOB: SS#

Address:

City, State, Zip

DL# SID# SC00410142

INDICTMENT/CASE#:

2004

-GS-

05085

AW#:

H03830

Date of Offense:

3-21-04

S.C. Code §:

16-03-0010

CDR Code #:

01111116☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Vulgar Assault - 30 yearsin violation of § 16-03-50 of the S.C. Code of Laws, bearing CDR Code # 0121117☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor[Signature]
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

§14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ 500.00

§73.3, 1B TP (Law Enforce. Funding) \$25 \$ _____

§33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§50-21-114(BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

[Signature]
Clerk of Court/ Deputy ClerkCourt Reporter: [Signature]

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

[Signature]
01111316
Nov 9, 2005

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SCCA/217 (7/2003)

STATE OF SOUTH CAROLINA)
COUNTY OF BAMBERG)

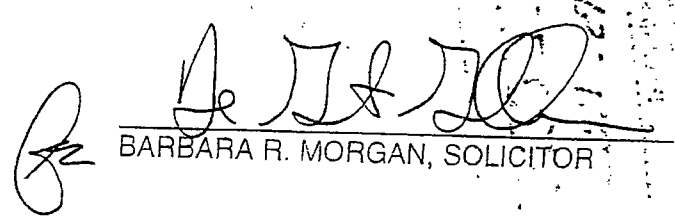
INDICTMENT

At a Court of General Sessions, convened on May 31, 2004 the
Grand Jurors of Bamberg County present upon their oath:

MURDER

That Frankie Lee Bryant did in Bamberg County on or about February 21, 2004,
with malice aforethought, kill one Willie James Wright by means of stabbing the victim
multiple times with a knife and said victim died as a result thereof, all in violation of
Section 16-3-10, *South Carolina Code of Laws*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


BARBARA R. MORGAN, SOLICITOR

271

WITNESSES

Mathis-B.P.D.

ARREST WARRANT NUMBER

H038301

ACTION OF GRAND JURY

True bill


Foreperson of Grand Jury

Date: 5-27-04

VERDICT

Guilty

Foreperson of Petit Jury
Date:

DOCKET NO. 2004-GS-05-085

The State of South Carolina

County of Bamberg

COURT OF GENERAL SESSIONS

MAY 31, TERM 2004

THE STATE

VS.

FRANKIE LEE BRYANT

Indictment for

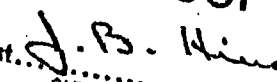
MURDER

SC Code 16-03-0010

CDR Code 116

Class FEL-EXM

A TRUE COPY

Attest... 
CLERK OF COURT
BAMBERG COUNTY, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.
Frankie Lee Bryant
AKA:
Race: Black Sex: Male Age: 41
DOB: 11-11-1971 SS#: 123456789
Address: 1234 Main St, Greenville, SC 29601
City, State, Zip
DL# 123456789 SID# 50004151-12

INDICTMENT/CASE#: 085
A/W#: 41032301
Date of Offense: 2-21-04
S.C. Code §: 16-03-0010
CDR Code #: D 1 1 1 1 1 10
☐ CASE RESTORED
SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: 16-03-0010
in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0121117
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

[Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
☐ set by SCDPPPS
Recipient:
*Fine: \$
§14-1-206 (Assessments 107.5%) \$
§14-1-211(A)(1) (Conv. Surcharge) \$100 \$
§14-1-211(A)(2) (DUI Surcharge) \$100 \$
§56-5-2995 (DUI Assessment) \$12 \$
§ 35.13 (Public Def/Prob) \$500 \$
§73.3, 1B TP (Law Enforce. Funding) \$25 \$
§33.7, 1B TP (Drug Court Surcharge) \$100 \$
§50-21-114(BUI Breath Test Fee) \$50 \$
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$
TOTAL \$

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk
Court Reporter:

PRESIDING JUDGE
Judge Code: 211111
Sentence Date: 2/21/04

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
)
 COUNTY OF BAMBERG) CASE NUMBER: 2004-GS-05-085

State of South Carolina,)
)
)
 v.)
)
)
 Frankie Lee Bryant.)
)
)
 _____)

VERDICT FORM

(1) We, the Jury, find the Defendant in this case, Frankie Lee Bryant, to be:

___ NOT GUILTY

___ GUILTY

of Murder.

If your answer to Question #1 is "Guilty," please stop your deliberations. If your answer to Question #1 is "Not Guilty," please answer Question #2.

(2) We, the Jury, find the Defendant in this case, Frankie Lee Bryant, to be:

___ NOT GUILTY

✓ GUILTY

of Voluntary Manslaughter.

Mary M. Sanders
 Foreperson
 November 9, 2005

Please notify the bailiff when you have completed your deliberations.

OFFICE COPY

THE STATE OF SOUTH CAROLINA

EXHIBIT "4"

In The Court of Appeals

APPEAL FROM BAMBERG COUNTY

Court of General Sessions

Doyet A. Early, III, Circuit Court Judge

Case No. 2004-GS-05-085

The State,

Respondent,

v.

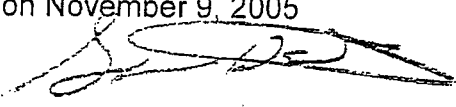
Frankie Lee Bryant,

Appellant.

NOTICE OF APPEAL

Frankie Lee Bryant appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Doyet A. Early, III on November 9, 2005. This appeal is taken from the Order of the Honorable Doyet A. Early, III., dated November 9, 2005, wherein Appellant was found guilty of voluntary manslaughter. Appellant received written notice of entry of this Order on November 9, 2005

November 17, 2005


Glenn Walters, Sr.
Post Office Box 1346
Orangeburg, SC 29116
(803) 531-8844
Attorney for Appellant

Other Counsel of Record:
DeGrant Gibbons
Assistant Solicitor
Post Office Box 3368
Aiken, SC 29802
(803) 642-1557
Attorney for Respondent

2005 NOV 17 PM 1:35

FILED

OFFICE COPY

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

EXHIBIT 5

APPEAL FROM BAMBERG COUNTY

Court of General Sessions

Doyet A. Early, III, Circuit Court Judge

Case No. 2004-GS-05-085

The State,

Respondent,

v.

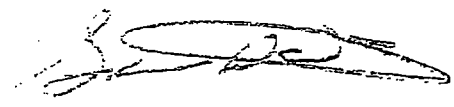
Frankie Lee Bryant,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the Petitioner by delivering a copy of it to the attorneys of record, DeGrant Gibbons and Barbara Morgan, at her office at 109 Park Avenue SE, Aiken, South Carolina 29801, on November 17, 2005.

November 17, 2005.



Glenn Walters, Sr.
Post Office Box 1346
Orangeburg, SC 29116
(803) 531-8844
Attorney for Appellant

2005 NOV 17 PM 1:36

FILED

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.
Frankie Lee Bryant, III, Appellant.

Appeal From Bamberg County
Doyet A. Early, III, Circuit Court Judge

Unpublished Opinion No. 2008-UP-574
Submitted October 1, 2008 – Filed October 14, 2008

APPEAL DISMISSED

Chief Attorney Joseph L. Savitz, III, South Carolina
Commission of Indigent Defense, Division of
Appellate Defense, of Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief
Deputy Attorney General John W. McIntosh,
Assistant Deputy Attorney General Salley W. Elliott,

Office of the Attorney General, of Columbia; and Solicitor Barbara R. Morgan, of Aiken, for Respondent.

PER CURIAM: Frankie Bryant appeals his conviction and sentence for voluntary manslaughter, arguing the trial court erred by giving the jury contradictory charges on the amount of force a defendant may employ while acting in self-defense. After a thorough review of the record and counsel's brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss¹ Bryant's appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

HEARN, C.J., and GEATHERS, J., and CURETON, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Bamberg County

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FRANKIE LEE BRYANT, III,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

JOSEPH L. SAVITZ, III
Chief Attorney

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The judge committed reversible error in his self-defense instructions by giving contradictory charges on the amount of force a defendant acting in self-defense is entitled to employ.

STATEMENT OF FACTS

On November 9, 2005, Frankie Lee Bryant, III, stood trial in Bamberg County before Judge Doyet A. Early, III, and a jury on an indictment (2004-GS-05-085) charging him with murder. The victim was Bryant's first cousin, Willie Wright. ROA p. 126, lines 4-9. State's witnesses testified that Bryant stabbed Wright during a fight which Wright provoked. Bryant testified that he disarmed Wright and stabbed him in self-defense after Wright tried to rob him by choking him first and then drawing the knife. ROA p. 129, line 17 – p. 131, line 18; ROA p. 134, lines 5-9. A pathologist testified that Wright had been stabbed twice – one wound fatal, one not. ROA p. 112, lines 3-19. The judge charged the jury on murder, voluntary manslaughter and self-defense. The jury found Bryant guilty of voluntary manslaughter, and the judge sentenced him to imprisonment for twenty-five years.

ARGUMENT

The judge committed reversible error in his self-defense instructions by giving contradictory charges on the amount of force a defendant acting in self-defense is entitled to employ.

The trial judge included the following language at the conclusion of his charge on self-defense:

A person cannot be required to make an exact calculation as to the degree or amount of force which may be needed to avoid death or serious bodily harm. Therefore, in self-defense the defendant has the right to use the force needed to avoid death or serious bodily harm.

The force used in self-defense does not have to be limited to the degree or amount of force used by the victim. The defendant has the right to use so much force as appeared to be necessary for complete self-protection ... which a person of ordinary reason and firmness would have believed to be needed to prevent death or serious bodily harm.

If the defendant is justified in defending himself, then the defendant is also justified in continuing to defend [himself] until it is apparent that the danger of death or serious bodily injury is completely ended.

And finally, in self-defense the degree of resistance ought to be in proportion to the nature of the injury offered: that is, that it should be sufficient to ward off such injury and do no more. In other words, the moment a man disarms or puts himself out of the power of the aggressor to do him further injury, then he should cease from further violence. But if he does commit any further outrage, then he becomes the aggressor.

ROA p. 195, line 11 – p. 196, line 12. Defense counsel did not take exception to this charge. ROA p. 198, line 25 – p. 199, line 4.

The quoted charge is both confusing and contradictory. An instruction limiting a defendant's right of self-defense to the same force attempted to be used on him is erroneous:

A person assaulted, being₅ without fault and bringing on

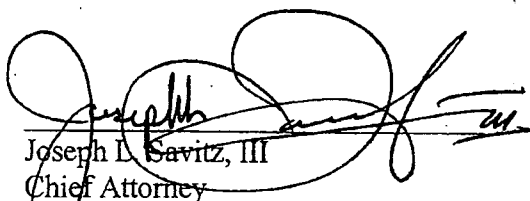
the difficulty, has the right to use such force as is necessary for his complete self-protection ... The defendant, if without fault, had the right to use such necessary force as required for his complete protection from loss of life or serious bodily harm and cannot be limited to the degree or quantity of attacking opposing force.

State v. Campbell, 111 S.C. 112, 96 S.E. 543-4 (1918); see, also, *Douglas v. State*, 332 S.C. 67, 504 S.E.2d 307 (1998).

A trial judge must charge the jury with the current and correct law of the State. *Article V, Section 17, South Carolina Constitution*; *State v. Robinson*, 306 S.C. 399, 412 S.E.2d 411 (1991). "Merely superimposing a correct statement of law over an erroneous charge only fosters prejudice and confusion." *State v. Patrick*, 289 S.C. 301, 345 S.E.2d 481, 485 (1986).

Since defense counsel did not object to the judge's erroneous charge, the Court may find that it is procedurally-barred. If so, Bryant will need to raise this issue in an application for post-conviction relief as an allegation of ineffective assistance of counsel. If not, the Court should reverse his conviction for voluntary manslaughter and remand for a new trial.

Respectfully submitted,



Joseph I. Savitz, III
Chief Attorney

ATTORNEY FOR APPELLANT

This 8th day of May, 2007.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Bamberg County
Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FRANKIE LEE BRYANT, III,

APPELLANT

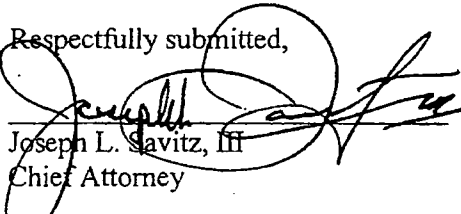
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Frankie Lee Bryant, III, states:

1. He is Chief Attorney for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Doyet A. Early, III, which was held on 11-9-05, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Frankie Lee Bryant, III.

Respectfully submitted,


 Joseph L. Savitz, III
 Chief Attorney

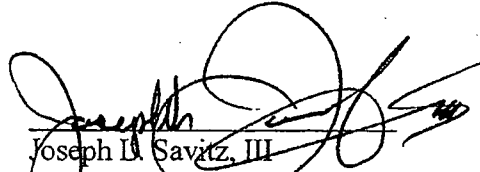
ATTORNEY FOR APPELLANT

This 8th day of May, 2007.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

May 8, 2007



Joseph D. Savitz, III
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, SC 29211-1589
803) 734-1343
Attorney for Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Bamberg County

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

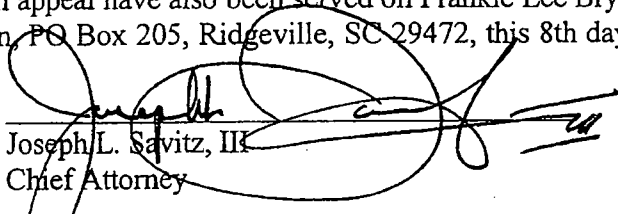
V.

FRANKIE LEE BRYANT, III,

APPELLANT

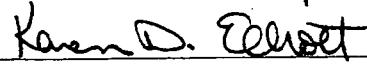
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 8th day of May, 2007. A copy of the brief and record on appeal have also been served on Frankie Lee Bryant, III, #244187 at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 8th day of May, 2007.


Joseph L. Savitz, III
Chief Attorney

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 8th day of May, 2007.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: March 19, 2017.

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

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APPEAL DISMISSED.

HEARN, C.J., and GEATHERS, J., and CURETON, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

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CLERK

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October 30, 2008

REMITTITUR

The Honorable James B. Hiers
2959 Main Highway
PO Drawer 150
Bamberg, SC 29003-0150

Re: The State v. Bryant, Frankie Lee III
2004-GS-05-00085

Dear Mr. Hiers:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,

A handwritten signature in cursive script, appearing to read "Renee S. Johnson".

Renee S. Johnson
Administrative Specialist

Handwritten initials "KAR/rj" in cursive.
KAR/rj

cc: Chief Appellate Defender Joseph L. Savitz, III
Frankie Lee Bryant, III # 244187
Assistant Deputy Attorney General Salley W. Elliott
Barbara R. Morgan, Esquire