

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Newberry County

S.C. Supreme Court

The Honorable Brooks P. Goldsmith, Circuit Court Judge
2000-CP-36-0051

STEPHEN ANDREW BECKHAM,

PETITIONER,

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT.

SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY) COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
VERSUS) 96-GS-36-79
STEPHEN ANDREW BECKHAM,)
DEFENDANT.)

NEWBERRY, SOUTH CAROLINA
SEPTEMBER 14-OCTOBER 4, 1996

B E F O R E

HONORABLE HENRY F. FLOYD, JUDGE.

A P P E A R A N C E S

W. TOWNES JONES, IV, SOLICITOR
MICHAEL T. COULTER, DEPUTY SOLICITOR
BETTY C. STROM, ASST. SOLICITOR
KNOX MCMAHON, DEPUTY SOLICITOR
APPEARING ON BEHALF OF THE PLAINTIFF.

JACK SWERLING, ATTORNEY
RICHARD HARPOOTLIAN, ATTORNEY
APPEARING ON BEHALF OF THE DEFENDANT.

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VOLUME XX OF XXII

OCTOBER 3, 1996

PENALTY PHASE:

MESSIAH HEARING 5124

OPENING:

BY COURT 5132

BY MCMAHON 5134

BY HARPOOTLIAN 5142

RONNIE GRIGG: (IN CAMERA)

DIRECT BY JONES 5162

DIANNE FOLLINGSTAD:

DIRECT BY SWERLING 5192

CROSS BY JONES 5199

DIRECT cont. BY SWERLING 5201

CROSS BY JONES 5234

JOLENE LANDER:

DIRECT BY MCMAHON 5278

CROSS BY JONES 5295

JAMES WILLIAMS:

DIRECT BY COULTER 5302

CROSS BY SWERLING 5310

WALTER BAILEY: (IN CAMERA)

DIRECT BY COULTER 5326

CROSS BY HARPOOTLIAN 5343

REDIRECT BY COULTER 5361

1 PROCEEDING

2 (THURSDAY, OCTOBER 3, 1996 - PENALTY PHASE)

3 THE COURT: ALL RIGHT, GENTLEMEN, ONE
4 OF THE REASONS FOR THE DELAY HAD TO DO WITH JUROR
5 NO. 111. SHE IS PRESENTLY RECEIVING SOME MEDICAL
6 ATTENTION, IS UNAVAILABLE TO PROCEED. SO THE JUROR
7 -- WOULD EITHER SIDE LIKE ANY MORE INFORMATION THAN
8 THAT? SHE IS NOT AVAILABLE. SHE IS AT NEWBERRY
9 COUNTY HOSPITAL.

10 MR. SWERLING: JUDGE, CAN WE APPROACH
11 THE SIDE BAR?

12 THE COURT: SURE.

13 (BENCH CONFERENCE OFF THE RECORD.)

14 THE COURT: ALL RIGHT. AFTER
15 CONSULTATION WITH THE STATE'S ATTORNEYS AND THE
16 DEFENSE ATTORNEYS, WE WILL SUSPEND THE PRESENTATION
17 IN FRONT OF THE JURY ON THIS PHASE OF THE TRIAL
18 UNTIL WE CAN CONFIRM EXACTLY WHAT THE JUROR'S
19 CONDITION IS AND THAT IN THE -- WITH A MEDICAL
20 OPINION, AS TO WHETHER SHE CAN OR CANNOT CONTINUE.
21 BOTH SIDES HAVE AGREED TO A REASONABLE PERIOD OF
22 TIME IN WHICH TO MAKE THAT DETERMINATION.

23 IN THE MEANTIME, WE WILL PROCEED WITH
24 THE MESSIAH HEARING AS TO THE ISSUE OF WARD AND
25 JEFFCOAT.

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1 SO, IS HE READY TO GO ON THAT?

2 MR. COULTER: I BELIEVE SO, YOUR HONOR.

3 THE COURT: OKAY.

4 MR. COULTER: LET ME GO BACK AND...

5 THE COURT: AND TO THE PRESS, WITH
6 REGARD TO THAT ISSUE, OF COURSE, THE JUROR'S NAME
7 IS NOT TO BE PUBLISHED. YOU MAY REFER TO THE JUROR
8 BY THE NUMBER OF 111.

9 (BRIEF RECESS)

10 THE COURT: WE HAVE CONFIRMED THAT
11 JUROR 111 IS MEDICALLY UNABLE TO CONTINUE, AND I
12 HAVE EXCUSED HER FOR GOOD CAUSE. AND THE DOCTOR --
13 THE ATTENDING PHYSICIAN IS FILING AN AFFIDAVIT WITH
14 THE COURT. I'VE SHOWN THE PARTIES THE GIST OF THE
15 AFFIDAVIT. I HAVE ALSO INSTRUCTED THE JUROR NOT TO
16 DISCUSS THE CASE WITH ANYONE OR ALLOW ANYONE TO
17 DISCUSS THE CASE WITH HER UNTIL THE PROCEEDINGS ARE
18 CONCLUDED. AND THEN I'VE INSTRUCTED HER THAT SHE
19 HAS A RIGHT TO DISCUSS THE CASE IF SHE WISHES. IF
20 SHE CHOOSES NOT TO, SHE MAY ALSO EXERCISE THAT
21 RIGHT. AND IF SHE EXERCISES THE RIGHT NOT TO TALK,
22 IF SOMEONE WERE TO PERSIST, I HAVE GIVEN HER MY
23 ADDRESS AND TELEPHONE NUMBER AND I WILL DEAL WITH
24 THAT PERSON BY WAY OF CRIMINAL CONTEMPT.

25 FIRST ALTERNATE IS JUROR NO. 28; DOES

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1 THE STATE AGREE?

2 MR. JONES: YOUR HONOR -- JUROR NO. 28?

3 THE COURT: YES, SIR. I'M FILING WITH

4 --

5 MR. JONES: YES, YOUR HONOR.

6 THE COURT: ALL RIGHT. DOES THE

7 DEFENSE AGREE? NO. 28, ALTERNATE?

8 MR. HARPOOTLIAN: THAT WAS THE FIRST

9 ALTERNATE DRAWN, YOUR HONOR?

10 THE COURT: FIRST ALTERNATE DRAWN.

11 MR. HARPOOTLIAN: YES, SIR.

12 THE COURT: ALL RIGHT. AND THAT'S

13 PURSUANT -- OF COURSE, THE ALTERNATES WERE DRAWN

14 PURSUANT TO SECTION 14-7-320, AND THEY WERE

15 QUALIFIED IN A LIKE MANNER. SO I WOULD SUBSTITUTE

16 THAT JUROR IN PLACE OF JUROR 111, FILING WITH THE

17 CLERK THE AFFIDAVIT OF THE ATTENDING PHYSICIAN AND

18 WE'LL MAKE THAT A PART OF THE RECORD. MARK IT AS A

19 COURT EXHIBIT.

20 COURT REPORTER: COURT EXHIBIT NUMBER

21 TWENTY-FOUR.

22 (WHEREUPON, COURT'S EXHIBIT NO. 24 WAS

23 MARKED.)

24 THE COURT: ALL RIGHT, NOW, WE'RE

25 PREPARED TO GO WITH VERY SHORT OPENING STATEMENTS

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1 TO THE JURY WITH REGARD TO THE PENALTY PHASES. LET
2 ME REMIND THE ATTORNEYS THAT RESIDUAL DOUBT IS NOT
3 AN ISSUE THAT CAN BE DISCUSSED WITH THE JURY.
4 ALSO, THE PERSONAL OPINIONS OF VARIOUS WITNESSES AS
5 TO WHAT IS THE APPROPRIATE PUNISHMENT OR IS NOT THE
6 APPROPRIATE PUNISHMENT IS NOT A RELEVANT INQUIRY
7 FOR THE JURY. UNDERLYING FACTS THAT WOULD GO TO
8 THE ISSUES OF MITIGATING AND AGGRAVATING
9 CIRCUMSTANCES, OF COURSE, IS WHAT THE JURY IS
10 ENTITLED TO CONSIDER BEARING UPON THE QUESTION OF
11 WHETHER A LIFE SENTENCE OR A DEATH SENTENCE SHOULD
12 BE IMPOSED.

13 MR. HARPOOTLIAN?

14 MR. HARPOOTLIAN: YOUR HONOR, TWO
15 ISSUES. ONE IS, WE MADE A MOTION TO SQUASH BASED
16 ON THE LACK OF SUFFICIENCY OF NOTICE. YOUR HONOR
17 HAS NOT RULED ON THAT.

18 THE COURT: I HAVE -- AND AS I
19 INDICATED TO YOU IN CHAMBERS AT THE CONCLUSION OF
20 THE GUILT PHASE, I HAVE REVIEWED THE AMENDMENT TO
21 THE NOTICE OF EVIDENCE AND AGGRAVATION OF
22 PUNISHMENT. AND I WOULD DENY YOUR MOTION AS TO
23 THAT SPECIFICITY. I DO HAVE SOME CONCERN AS TO
24 WHETHER OR NOT THE STATE CAN MEET THE LEGAL
25 REQUIREMENTS WITH REGARD TO THE -- AS THE SUPREME

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1 COURT HAS DEFINED THE CONCEPT OF PHYSICAL TORTURE,
2 BUT WE'LL HAVE TO CROSS THAT BRIDGE WHEN WE GET TO
3 IT.

4 MR. HARPOOTLIAN: YES, SIR.

5 THE COURT: OTHERWISE, I FIND IT
6 SUFFICIENTLY APPRISES THE DEFENDANT OF WHAT THE
7 STATE INTENDS TO OFFER.

8 MR. HARPOOTLIAN: YOUR HONOR,
9 SECONDARILY, THE -- OUR SUPREME COURT HAS ON
10 NUMERABLE OCCASIONS INDICATED THAT THE JURY IN THIS
11 PROCESS PROCEEDING SHOULD NOT BE SUBJECTED TO NOR
12 SHOULD THEIR VERDICT BE THE RESULT OF PASSION OR
13 PREJUDICE. TO THAT EXTENT, WE ARE GOING -- I WOULD
14 STATE FOR THE RECORD THAT WE ASK THE COURT TO SUI
15 SPONTE TO STOP THE SOLICITOR FROM ANY EMOTIONAL
16 PLEAS TO THIS JURY, EITHER DURING STATEMENT OR
17 DURING TESTIMONY.

18 THE COURT: WELL, THE CONTEMPORANEOUS
19 OBJECTION STATE MR. HARPOOTLIAN -- AND I'LL HAVE TO
20 -- IF IT RISES TO THE LEVEL THAT I THINK I OUGHT BE
21 INVOLVED, I WILL DO THAT. BUT, YOU KNOW, DON'T
22 WAIT --

23 MR. HARPOOTLIAN: OH, WE WON'T WAIT,
24 YOUR HONOR. WE JUST DON'T WANT TO INTERRUPT THE
25 SOLICITORS. AND WOULD LIKE YOUR HONOR TO -- I

1 MEAN, I UNDERSTAND THE IN FAVOREM VITAE IS NOT
2 STILL THE STANDARD HERE AND THAT WE DO HAVE TO
3 OBJECT AND WE DO HAVE TO BE AGGRESSIVE ABOUT IT.
4 BUT BY THE SAME TOKEN, YOUR HONOR, I WOULD NOTE
5 THAT YOUR HONOR'S ABILITY TO INTERRUPT SUI SPONTE
6 IS BY NO WAY LIMITED.

7 THE COURT: AND I THANK YOU FOR
8 REMINDING ME OF THAT.

9 MR. HARPOOTLIAN: WELL, I JUST THOUGHT
10 PERHAPS IF YOU'D FORGOTTEN, I JUST WANTED TO MAKE
11 SURE --

12 THE COURT: OKAY, I UNDERSTAND.

13 MR. HARPOOTLIAN: YES, SIR.

14 THE COURT: ALL RIGHT, EVERYBODY READY
15 TO GO?

16 MR. SWERLING: JUDGE, WE WOULD, ALSO,
17 AT SOME POINT, BEFORE THEY -- WHEN THEY SEEK TO GET
18 INTO THAT, WE WOULD LIKE A PROFFER AS TO ANY VICTIM
19 IMPACT TESTIMONY BEFORE -- IT'S SO PREJUDICIAL. I
20 MEAN, EVEN THOUGH PAYNE VERSUS TENNESSEE OPENED
21 THAT DOOR TO GO AHEAD AND DO THAT, IT STILL
22 PROVIDES -- YOU KNOW, THE STATE HAS TO PROVIDE A
23 NARROWER GLIMPSE RATHER THAN JUST OPEN UP THE DOOR
24 COMPLETELY.

25 MR. MCMAHON: JUDGE, THAT'S NOT A

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1 REQUIREMENT UNDER LAW. JOHNSON, NANCE, FRANKLIN,
2 ALL OF THEM, LONGWORTH, ROSHERVILLE, I MEAN, IT'S
3 NO REQUIREMENT THAT THERE WOULD BE AN IN-CAMERA
4 HEARING AS TO THAT.

5 THE COURT: I DON'T DISAGREE WITH THAT,
6 SOLICITOR. BUT YOU KNOW, YOU NEED TO -- YOU KNOW
7 WHEN YOU NEED A HEARING.

8 MR. MCMAHON: YES, SIR. AND IF THAT IS
9 REQUIRED OF US, WE WOULD ASK FOR ANY VICTIM IMPACT
10 TESTIMONY THAT MAY COME IN ON BEHALF OF THE
11 DEFENSE.

12 THE COURT: NO, I DIDN'T -- THAT'S NOT
13 WHAT I SAID. I SAID THAT YOU KNOW WHEN YOU'RE
14 GETTING TO THE LINE.

15 MR. MCMAHON: YES, SIR.

16 THE COURT: AND IF YOU THINK YOU'RE
17 GETTING THERE, I'LL BE GLAD TO GIVE YOU A HEARING
18 ON THAT.

19 MR. MCMAHON: THANK YOU.

20 THE COURT: ALL RIGHT, BRING THE JURY
21 IN.

22 (WHEREUPON, THE JURY RETURNED TO OPEN
23 COURT AT 11:35 A.M.)

24 THE COURT: AND I WOULD NOTE THAT WE'RE
25 PROCEEDING AT 11:35, WHICH IS IN EXCESS OF TWENTY-

1 FOUR HOURS.

2 MS. CAPPS, IF YOU WILL SWAP WITH MS
3 MOORE. YOU ARE NOW GOING TO BE SEATED AS A PR
4 JUROR IN THE CASE.

5 ALL RIGHT, NOW, MADAM FOREMAN, AND
6 LADIES AND GENTLEMEN OF THE JURY, I APPRECIATE VERY
7 MUCH YOUR PATIENCE, AND WE WANTED TO SEE HOW YOUR
8 FELLOW JUROR WAS BEFORE WE ABSOLUTELY PROCEEDED.
9 BUT OUT OF AN ABUNDANCE FOR CAUTION, I HAVE EXCUSED
10 HER FOR CAUSE AND SHE'S BEING WELL TAKEN CARE OF.
11 YOU NEED NOT WORRY ABOUT THAT, SHE'S BEING
12 TRANSPORTED BACK HOME.

13 AND I HAVE -- AS I HAVE INDICATED, MS.
14 CAPPS, YOU ARE BEING SUBSTITUTED IN AS THE FIRST
15 ALTERNATE IN THE CASE.

16 AND AGAIN, TO THE TWO OF YOU -- TO THE
17 REMAINING ALTERNATE, OF COURSE, PLEASE, PAY JUST AS
18 GOOD ATTENTION AS YOU DID DURING THE GUILT PHASE
19 BECAUSE WE MAY -- WE, HOPEFULLY, NOT HAVE THE
20 NECESSITY FOR FURTHER SUBSTITUTION.

21 NOW, MADAM FOREMAN, AND LADIES AND
22 GENTLEMEN OF THE JURY, THE CLERK WILL PROVIDE YOU
23 WITH ADDITIONAL PADS FOR PURPOSES OF TAKING NOTES
24 DURING THE PENALTY PHASE, WHICH WE ARE NOW INTO.
25 AND IN ACCORDANCE WITH YOUR INSTRUCTIONS THE OTHER

1 DAY, THE NOTES THAT YOU TOOK, YOU HAD ASKED THAT
2 THEY BE DESTROYED AND THEY HAVE BEEN AT YOUR
3 REQUEST.

4 NOW, AS WE'VE INDICATED TO YOU, LADIES
5 AND GENTLEMEN, YOU THE JURY HAVE RETURNED A VERDICT
6 OF GUILTY BEYOND A REASONABLE DOUBT UPON THE CRIMES
7 OF CONSPIRACY, KIDNAPPING AND MURDER. AND UNDER
8 THE LAW OF THE STATE OF SOUTH CAROLINA, HAVING
9 RETURNED THAT VERDICT, THEN YOU THE JURY BECOME --
10 MAKE THE DETERMINATION AS TO WHAT IS THE
11 APPROPRIATE SENTENCE FOR THE DEFENDANT IN THIS
12 PROCEEDING.

13 I WOULD REMIND YOU, LADIES AND
14 GENTLEMEN, THAT WHATEVER DECISION YOU MAKE, IT
15 SHOULD NOT BE THE RESULT OF ANY PASSION, CAPRICE,
16 ANY ARBITRARY FACTOR, ANY EMOTION OR PREJUDICE.
17 BUT TO BE BASED SOLELY UPON THE EVIDENCE THAT IS
18 PRESENTED TO YOU DURING THE COURSE OF THE
19 PROCEEDINGS.

20 THE BURDEN OF PROOF IS UPON THE STATE
21 OF SOUTH CAROLINA TO CONVINCE YOU BEYOND A
22 REASONABLE DOUBT THE EXISTENCE OF AGGRAVATING
23 CIRCUMSTANCES IN THIS CASE. AND YOU ARE NOT
24 AUTHORIZED TO IMPOSE A SENTENCE OF DEATH UNTIL AND
25 UNLESS THE STATE OF SOUTH CAROLINA CAN CONVINCE YOU

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1 UNANIMOUSLY BEYOND A REASONABLE DOUBT OF THE
2 EXISTENCE OF ONE OR MORE AGGRAVATING CIRCUMSTANCES.

3 NOW, LADIES AND GENTLEMEN, IN ADDITION,
4 DURING THE COURSE OF THE PROCEEDINGS, IT IS A
5 CONTINUED ADVERSARY PROCEEDING PROCESS WHEREBY
6 WITNESSES ARE EXAMINED AND CROSS-EXAMINED. AND YOU
7 WILL BE HEARING TESTIMONY THROUGHOUT THIS
8 PROCEEDING AS TO EVIDENCE IN AGGRAVATION, EVIDENCE
9 IN MITIGATION. AT THE END OF THE PROCEEDING, I
10 WILL GIVE YOU LEGAL INSTRUCTIONS AS TO WHAT YOU
11 SHOULD DO. AND THEY WILL BE GIVEN TO YOU IN
12 WRITING, SO THAT YOU CAN HAVE THEM TO REVIEW DURING
13 THE COURSE OF YOUR DELIBERATION.

14 AND, LADIES AND GENTLEMEN, JUST LIKE
15 THE PREVIOUS PROCEEDING, YOU ARE THE JUDGES OF THE
16 FACTS. YOU DETERMINE THE CREDIBILITY OR THE
17 BELIEVABILITY OF THE WITNESSES AND THE EVIDENCE
18 THAT WILL BE PRESENTED TO YOU DURING THE COURSE OF
19 THIS PROCEEDING.

20 I AM GOING TO PERMIT SHORT OPENING
21 STATEMENTS TO YOU BY THE PROSECUTION AND THE
22 DEFENSE AND THEN, WE WILL START TAKING TESTIMONY.
23 THERE IS AT ONE POINT, POTENTIALLY, DURING THIS
24 PROCEEDING THAT I MAY HAVE TO HAVE AN IN-CAMERA
25 HEARING OF APPROXIMATELY ONE TO TWO, MAYBE THREE

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1 HOURS AT THE MOST. OTHERWISE, I THINK WE'VE IRONED
2 OUT MOST OF THE OTHER DIFFICULTIES.

3 SO WITH THAT IN MIND, LADIES AND
4 GENTLEMEN -- IF THE CLERK'S GOT THE PADS FOR THEM?

5 THE CLERK: THE BAILIFF'S HAS THEM.

6 THE COURT: THE BAILIFF'S GOT THEM. IF
7 YOU WILL GO AHEAD AND GIVE THOSE OUT TO THEM AND
8 THE PENS.

9 ANY EXCEPTIONS OR OBJECTIONS TO THE
10 PRELIMINARY REMARKS FROM THE STATE?

11 MR. JONES: NONE FROM THE STATE, YOUR
12 HONOR.

13 THE COURT: FROM THE DEFENSE?

14 MR. HARPOOTLIAN: NONE FROM THE
15 DEFENSE, YOUR HONOR.

16 THE COURT: MR. MCMAHON, YOU WILL BE
17 ARGUING FOR THE STATE?

18 MR. MCMAHON: YES, SIR.

19 THE COURT: YOU MAY PROCEED.

20 MR. MCMAHON: MAY IT PLEASE THE COURT?

21 MADAM FORELADY, AND LADIES AND
22 GENTLEMEN OF THE JURY, THIS IS, OF COURSE, THE
23 FIRST OPPORTUNITY THAT I HAVE HAD AS ONE OF THE
24 SOLICITORS OR DEFENSE ATTORNEYS IN THIS CASE TO
25 STAND AND ADDRESS ALL OF YOU AS A JURY, AS JURORS

1 IN THIS CASE. AND IN THINKING OF WHAT I WILL SAY,
2 AND THIS WILL BE VERY BRIEF, I WOULD LIKE TO BEGIN
3 BY THANKING EACH AND EVERY ONE OF YOU FOR YOUR
4 TIME, YOUR TALENT, YOUR ATTENTION, YOUR FOCUS,
5 WHICH YOU HAVE SHOWN ALL THE PARTIES, ALL THE
6 PARTIES, DURING THE TRIAL OF THIS CASE.

7 I'M SURE BY NOW, I DON'T NEED TO
8 EXPLAIN TO YOU, YOU COULD EXPLAIN TO ME
9 SEQUESTRATION AND WHAT THAT MEANS. TO BE TAKEN
10 FROM YOUR HOMES, YOUR HOME COUNTY, YOUR HOME
11 COMMUNITY, AND BROUGHT DOWN HERE AND SEQUESTERED.
12 BUT THERE IS A VERY IMPORTANT PURPOSE FOR THAT: TO
13 FOCUS YOUR ATTENTION ON THE TASK YOU HAVE PART OF
14 WHICH COMPLETED AND THE TASK THAT LIES AHEAD, TO
15 FOCUS YOUR TIME, YOUR TALENT, YOUR LIFE'S
16 EXPERIENCES, YOUR COMMON SENSE ON THIS WITNESS
17 CHAIR, ON THIS EVIDENCE, ON THIS PROCEEDING NOW,
18 FREE OF ANY OUTSIDE INFLUENCES OF EITHER SIDE OUT
19 OF THIS COURTROOM, OF ANYTHING YOU MAY HAVE HEARD
20 OR READ BEFORE YOU GOT INTO THAT JURY BOX, BUT TO
21 FOCUS YOUR ATTENTION. AND YOU HAVE DONE THAT SO
22 WELL, SO WELL. AND I KNOW YOU WILL CONTINUE TO DO
23 SO.

24 GOING BACK TO WHENEVER IT WAS, I'VE
25 LOST TRACK OF DAYS AND DATES AND WEEKS, BUT

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1 WHENEVER IT WAS WE WERE UP IN OCONEE, SAID THERE
2 WERE TWO PHASES, POTENTIALLY, TWO PHASES TO THIS
3 TRIAL. THE FIRST FOCUS OF THE TRIAL WAS WHETHER
4 THE DEFENDANT WAS GUILTY OR NOT GUILTY. NOW, THAT
5 FOCUS HAS SHIFTED. IT IS NO LONGER -- AND I THINK
6 IT'S IMPORTANT -- AND YOU KNOW IT, BECAUSE YOU DID
7 IT, BECAUSE YOU SPOKE THE TRUTH. IT IS IMPORTANT
8 TO KNOW IT'S NOT STEPHEN BECKHAM PRESUMED INNOCENT.
9 IT'S STEPHEN BECKHAM, CONSPIRATOR, KIDNAPPER, AND
10 MURDERER, LESS THAN TWENTY-FIVES PACES AWAY. AND
11 YOU WORKED HARD, AND YOU DELIBERATED AND YOU
12 ANALYZED THAT EVIDENCE. AND YOU SPOKE THE TRUTH.
13 YOU DID YOUR DUTY. YOU FULFILLED YOUR OATH.

14 DURING THIS STAGE OF THE TRIAL, THE
15 PROCEDURE IS SOMEWHAT SIMILAR, SOMEWHAT SIMILAR.
16 THE STATE GOES FIRST. AND WE MUST -- AND YOU'LL
17 HEAR TERMS AND MANY OF YOU HEARD THESE TERMS UP IN
18 OCONEE, AGGRAVATION, MITIGATION, WHAT INCREASES THE
19 ENORMITY OF THE CRIME, SOME FACTS, SOME DETAIL,
20 SOME OCCURRENCE; OR WHAT LESSENS THE CULPABILITY OR
21 THE GUILT OF THIS CRIME OF MURDER. HIS HONOR WILL
22 EXPLAIN THAT TO YOU MUCH MORE ELOQUENTLY, MUCH --
23 WITH MUCH MORE GREATER LEGAL ABILITY THAN I EVER
24 CAN. BUT YOUR CHOICES, THE DECISION YOU MUST MAKE
25 IS BETWEEN LIFE AND DEATH.

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1 THE STATE IS SEEKING THE DEATH PENALTY.
2 AND FOR YOU TO BE AUTHORIZED TO IMPOSE THE DEATH
3 PENALTY, YOU MUST FIND A STATUTORY AGGRAVATING
4 CIRCUMSTANCE. WE ALLEGE THREE, ONLY ONE OF WHICH
5 IS NECESSARY. AND YOU MUST FIND THAT STATUTORY
6 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT.
7 THE BURDEN IS ON US. WE ALLEGE THREE. MURDER
8 DURING THE COMMISSION OF A KIDNAPPING, A
9 KIDNAPPING. AND HAVEN'T YOU ALREADY FOUND THAT
10 BEYOND A REASONABLE DOUBT? GUILTY OF KIDNAPPING
11 DURING THE COMMISSION OF A MURDER. ONLY ONE IS
12 NECESSARY.
13 JUST BECAUSE YOU FIND A STATUTORY
14 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT
15 DOES NOT MEAN YOU HAVE TO IMPOSE THE DEATH PENALTY.
16 THAT IS YOUR DECISION. THAT'S FOR YOU TO LOOK AT
17 ALL THE FACTS AND CIRCUMSTANCES AND MAKE THAT
18 DECISION. KIDNAPPING.
19 AND NUMBER TWO, THE OFFENDER, THE
20 CONVICTED CAUSED OR DIRECTED ANOTHER, CAUSED OR
21 DIRECT ANOTHER TO COMMIT THE CRIME OF MURDER. YOU
22 WILL CONSIDER ALL THAT EVIDENCE IN THIS FIRST PHASE
23 AND ALL THE EVIDENCE YOU HEAR TODAY, TOMORROW,
24 WHENEVER. DOES THAT SOUND FAMILIAR? CAUSED AND
25 DIRECTED. RICHARD ANDERSON. AND HOW ELOQUENTLY,

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1 HOW. ELOQUENTLY MR. BECKHAM'S ATTORNEYS GOT UP HERE
2 AND TALKED ABOUT RICHARD ANDERSON AND HOW HE
3 CRUSHED THE LIFE OUT OF VICKIE BECKHAM. CAUSED AND
4 DIRECTED. WHO MADE THE SCHEME? WHO WAS THE
5 PLANNER? WHO WAS CALLING THE SHOTS? THE MASTER
6 PLANNER, THE MASTER SCHEMER, THE MASTER
7 MANIPULATOR. WHO UNLEASHED THAT CRUSHING ON THIS
8 CHILD? WHO? BEYOND A REASONABLE DOUBT.

9 AND WE FURTHER RELY ON PHYSICAL
10 TORTURE, ANY ONE OF WHICH, ANY ONE OF WHICH IS
11 SUFFICIENT. PHYSICAL TORTURE, THE SERIOUS,
12 VIOLENT, INHUMANE, MALICIOUS INFLECTION OF PAIN, OF
13 SUFFERING ON A VICTIM, ON ANOTHER HUMAN BEING
14 BEFORE DEATH. IT'S NOT CONSISTENT WITH
15 INSTANTANEOUS DEATH. THERE CAN BE NO PHYSICAL
16 TORTURE. BUT IT'S SOME TYPE OF AGGRAVATED BATTERY.
17 SOME DISFIGUREMENT, SOME REMOVAL OF A PART OF A
18 PERSON'S BODY OR ABILITY TO TALK; EVEN THE LACK OF
19 ABILITY TO BEG. PHYSICAL TORTURE.

20 WE SUBMIT EACH AND EVERY ONE TO YOU FOR
21 YOUR CONSIDERATION, FOR YOUR DECISION. AND WHEN WE
22 TALK OF PHYSICAL TORTURE -- AND, LADIES AND
23 GENTLEMEN, SOLICITOR JONES, SOLICITOR COULTER,
24 SOLICITOR STROM, WE DON'T BRING THIS EVIDENCE TO
25 YOU LIGHTLY. WE DON'T BRING THIS EVIDENCE TO

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1 OFFEND YOU. WE BRING THIS EVIDENCE BECAUSE YOU
2 HAVE TO MAKE SUCH A SERIOUS DECISION. AND IT IS
3 NOT FAIR, IT IS NOT RIGHT IN OUR SYSTEM FOR YOU TO
4 MAKE THAT DECISION WITHOUT KNOWING EVERYTHING. WE
5 DON'T RELISH IN SHOWING PHOTOGRAPHS. BUT, LADIES
6 AND GENTLEMEN, YOU WONDER, YOU WONDER WHEN YOU HEAR
7 THIS TESTIMONY HOW CAN IT GET WORSE? IT WILL. IT
8 DOES.

9 I'M PREPARING YOU FOR THE GRAPHIC
10 DETAIL, THE PHOTOGRAPHS, THE TESTIMONY. AND WE
11 MUST FACE IT, AND I KNOW YOU WILL. THIS IS THE TIP
12 OF THE ICEBERG, THE TIP OF THE ICEBERG.

13 NOW, LADIES AND GENTLEMEN, I SPOKE OF
14 STATUTORY MITIGATING CIRCUMSTANCES. AND THOSE ARE
15 THINGS UNDER OUR LAW THAT OUR LEGISLATURE HAS
16 DECIDED LESSEN SOME FACT, SOME DETAIL, SOME
17 INSTANCE, SOME OCCURRENCE THAT LESSENS THE
18 CULPABILITY, THE BLAME WORTHINESS, THE GUILT FOR A
19 PERSON CONVICTED OF MURDER. STATUTORY AGGRAVATING
20 CIRCUMSTANCES. THERE ARE NONSTATUTORY AGGRAVATING
21 CIRCUMSTANCES THAT THEY MAY BRING UP. YOU CAN
22 CONSIDER ANY STATUTORY AGGRAVATING -- EXCUSE ME,
23 STATUTORY MITIGATING CIRCUMSTANCE OR NONSTATUTORY
24 MITIGATING CIRCUMSTANCE. AND IT DOESN'T HAVE TO BE
25 PRESENT; DOESN'T HAVE TO BE PRESENT, BECAUSE YOU

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1 CAN GIVE A LIFE SENTENCE FOR NO REASON AT ALL, NO
2 REASON AT ALL. A SENTENCE BASED ON MERCY, MERCY.
3 WHERE WAS THE MERCY FOR VICKI? BUT IF THAT'S YOUR
4 DECISION, IF THAT'S YOUR DECISION, SO BE IT. IT
5 WILL BE FOR NO REASON.

6 LADIES AND GENTLEMEN, DURING THIS
7 PROCEEDING, I DON'T KNOW WHO MAY STAND UP HERE
8 AFTER ME, EITHER ONE OR BOTH OF MR. BECKHAM'S
9 ATTORNEYS. I DON'T KNOW. I DON'T KNOW WHAT MAY BE
10 SAID. I TELL YOU THERE WILL BE WITNESSES THAT TAKE
11 THIS STAND THAT WILL TUG AT YOUR HEART, THAT WILL
12 PULL AT YOUR SOUL, THAT WILL ENGENDER EMOTIONS IN
13 YOU, THAT WILL ASK YOU FOR MERCY. THAT WILL HAVE
14 BEEN MANIPULATED, JUST LIKE SOLICITOR JONES SAID IN
15 THIS PROCEEDING --

16 MR. SWERLING: YOUR HONOR, OBJECTION TO
17 THAT COMMENT, OBJECTION TO THAT COMMENT. HE'S
18 INJECTING AN --

19 THE COURT: SUSTAINED.

20 MR. SWERLING: -- ARBITRARY --

21 THE COURT: SUSTAINED AS TO THE
22 ARGUMENT.

23 MR. MCMAHON: I WILL TELL YOU THIS. I
24 WILL TELL YOU THIS NOW, TEARS WILL BE SHED. AND
25 EVERY TEAR SHED WAS CAUSED BY STEPHEN BECKHAM.

1 EVERY ONE OF THEM, EVERY ONE. AND WE WILL TRY TO
2 SHOW YOU NOT A ONE-DIMENSIONAL VICKI LANDER
3 BECKHAM, BUT THE LIFE THAT THAT WAS, THE HOPES AND
4 DREAMS THAT SHE HAD. THE DESIRE TO RAISE HER
5 CHILDREN. SAMUEL, FOUR YEARS OLD AT THE TIME, AND
6 THE IMPACT THAT IT HAS HAD ON THOSE LEFT BEHIND. A
7 TRAGEDY. THEY MAY SAY STOP THE KILLING, STOP THE
8 TRAGEDY. HE'S THE TRAGEDY.

9 ONE LAST THING. I KNOW PEOPLE THAT ARE
10 FEARLESS, FEARLESS, AND THEY'RE RECKLESS. MOST
11 PEOPLE THAT ARE FEARLESS ARE RECKLESS. BUT, YOU
12 KNOW, FEAR -- WHEN A PERSON HAS FEAR AND THEY FACE
13 IT, THEY'RE COURAGEOUS, THEY'RE STRONG. THEY LOOK
14 THAT FEAR IN THE EYE AND THEY DON'T BLINK. YOU
15 HAVE BEEN COURAGEOUS. I DON'T TELL YOU THAT TO
16 COMPLIMENT YOU, TO INGRATIATE YOU TO THE STATE
17 WHATSOEVER. I TRULY COMMEND YOU FOR THE HARD WORK
18 AND THE COURAGE.

19 AND I SUBMIT TO YOU IF YOU WONDER
20 PERHAPS HOW DID YOU END UP IN THIS SEAT, IN THIS
21 CHAIR, IN THIS POSITION. BUT LIFE HAS PREPARED YOU
22 FOR IT, YOUR BACKGROUNDS AND HISTORIES HAS PREPARED
23 YOU FOR IT, AND THERE'S NO FINER PEOPLE IN AMERICA
24 TO DECIDE THIS CASE THAN YOU.

25 HAVE YOUR RESOLVE AND LISTEN TO THIS

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1 TESTIMONY AND BASE YOUR DECISION, NOT ON EMOTION,
2 NOT ON PASSION, NOT ON PREJUDICE, NOT ON SYMPATHY,
3 BUT ON WHAT'S RIGHT, ON WHAT MUST, MUST BE DONE, ON
4 WHAT THE FACTS, THE FACTS WILL DICTATE. IT MIGHT
5 NOT BE EASY, BUT IF IT'S APPROPRIATE AND NECESSARY,
6 IT'S JUSTICE. THANK YOU.

7 THANK YOU, YOUR HONOR.

8 THE COURT: MR. HARPOOTLIAN?

9 MR. HARPOOTLIAN: MAY IT PLEASE THE
10 COURT, YOUR HONOR?

11 MADAM FORELADY AND LADIES AND GENTLEMEN
12 OF THE JURY, IT IS MY DUTY, MY OBLIGATION TO COME
13 BEFORE YOU IN A VERY SERIOUS PROCEEDING TO MAKE A
14 VERY SERIOUS DECISION. OVER THE NEXT SEVERAL DAYS,
15 WE WILL HEAR TESTIMONY FROM THE STATE AND FROM THE
16 DEFENSE AS TO WHAT SHOULD BE YOUR APPROPRIATE
17 DECISION IN THIS CASE.

18 THE SOLICITOR HAS TALKED ABOUT
19 AGGRAVATING AND MITIGATING CIRCUMSTANCES AND I'M
20 GOING TO TALK ABOUT THOSE IN JUST A MINUTE. THOSE
21 ARE TECHNICAL TERMS THAT YOU WILL LEARN ABOUT AND
22 HEAR ABOUT. BUT I WANT TO TALK TO YOU FOR JUST A
23 SECOND ABOUT JUSTICE. JUSTICE.

24 AS THE SOLICITOR, OVER THE NEXT FEW
25 DAYS INTRODUCES PHOTOGRAPHS AND PICTURES BEFORE YOU

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1 MORE GRAPHIC THAN THESE, AND AUTOPSY TESTIMONY,
2 MORE PICTURES, MORE GRAPHIC DESCRIPTIONS, MORE OF
3 ALL OF THAT, I WANT YOU TO ASK YOURSELF, I WANT YOU
4 TO ASK YOURSELF AS YOU LISTEN TO THAT, WHO TOOK
5 THESE AND BROKE VICKI'S NECK? WHO TOOK THESE AND
6 CRUSHED HER LARYNX? WHO BEAT HER TO DEATH? WHO
7 DID SHE SCRATCH AND PLEAD WITH?

8 NOW, YOUR VERDICT HAS SPOKEN LOUD AND
9 CLEAR. AND THE BEST THAT STEPHEN BECKHAM CAN
10 EXPECT FROM YOU IS THE REST OF HIS LIFE IN PRISON.
11 THE GUY WHO BEAT VICKI BECKHAM AS SHE PLEADED FOR
12 HER LIFE WILL BE TWENTY YEARS BEFORE HE GETS OUT,
13 NOT THE REST OF HIS LIFE, WHILE HE SERVES IT AT
14 HOME IN ILLINOIS. NOW, I'M NOT BEING INDIGNANT.
15 I'M NOT ATTEMPTING TO CRITICIZE. BUT WHAT I'M
16 TELLING YOU IS ISN'T IT INCONSISTENT, DOESN'T IT
17 OFFEND YOU A LITTLE BIT THAT THE SOLICITOR WOULD
18 TAKE THAT PIECE OF HUMAN WASTE CALLED RICHARD
19 ANDERSON AND PAT HIM ON THE HEAD AND REWARD HIM.
20 THE VICTIMS IN THIS CASE, YOU'VE HEARD FROM THEM
21 BEFORE AND YOU'LL HEAR FROM THEM AGAIN, SHANNON AND
22 ANDREW, PERHAPS EVEN LITTLE SAMUEL. THE GUY THAT
23 BEAT THEIR MOTHER TO DEATH WILL BE BACK ON THE
24 STREET.

25 THE SOLICITOR -- RICHARD ANDERSON

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1 KILLED THEIR MOTHER. THE SOLICITOR WILL ASK YOU TO
2 RETURN A VERDICT OF DEATH ON THEIR FATHER. WE'RE
3 NOT ASKING YOU TO REWARD HIM. WE'RE ASKING -- OR
4 EVEN HAVE MERCY ON HIM. HAVE MERCY ON THEM. THEY
5 HAVE SUFFERED BECAUSE OF HIS CONDUCT. DON'T LET
6 THEM SUFFER BECAUSE OF THE STATE'S CONDUCT AND
7 RATIFY THAT.

8 WEEKS AGO YOU STOOD BEFORE US AS WE
9 ASKED YOU ABOUT YOUR OPINIONS ON THE DEATH PENALTY.
10 EACH ONE OF YOU SAID THAT YOU THOUGHT THAT YOU
11 COULD GIVE A LIFE SENTENCE IN THE APPROPRIATE
12 CIRCUMSTANCES. EACH ONE OF YOU SAID THAT. WE'RE
13 NOT GOING TO DRAG THIS PROCEEDING OUT. I WILL TELL
14 YOU THAT SINCE YOU'VE ALREADY FOUND THE KIDNAPPING
15 -- HE'S GUILTY OF KIDNAPPING BEYOND A REASONABLE
16 DOUBT, YOU HAVE FOUND AN AGGRAVATING CIRCUMSTANCE,
17 WHICH WOULD AUTHORIZE YOU TO IMPOSE DEATH. WE'RE
18 NOT ARGUING WITH YOU ABOUT THAT.

19 WHAT WE WOULD DO AND HOPE WE WILL BE
20 ABLE TO SHOW YOU OVER THE NEXT FEW DAYS IS THAT A
21 DEATH SENTENCE FOR STEPHEN BECKHAM WOULD HAVE MORE
22 IMPLICATIONS THAN JUST FOR STEPHEN BECKHAM. AND
23 THAT A LIFE SENTENCE FOR STEPHEN BECKHAM HAS MORE
24 IMPLICATIONS THAN JUST A LIFE SENTENCE FOR STEPHEN
25 BECKHAM. THESE CHILDREN, YOU WILL HEAR FROM

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1 EXPERTS AND FROM THEM, NEED THEIR FATHER. EVEN IF
2 IT'S GOING TO BE A PHONE CALL OR A ONCE-A-MONTH
3 VISIT, HE CAN HAVE SOME CONSTRUCTIVE INPUT AND
4 AFFECT ON THEM.

5 WE'RE NOT HERE TO ARGUE IN ANY WAY
6 WHATSOEVER WITH THE VERDICT YOU RETURNED DAY BEFORE
7 YESTERDAY. STEPHEN BECKHAM HAD A RIGHT TO A TRIAL
8 BY A JURY. HE'S HAD THAT, AS TO GUILT OR
9 INNOCENCE. WHAT WE SEEK TO DO OVER THE NEXT
10 SEVERAL DAYS IS SHOW YOU THAT THE ISSUE ISN'T AS
11 SIMPLE AS THIS IS A HORRIBLE CRIME AND HE OUGHT TO
12 DIE FOR IT. IT'S MORE COMPLEX THAN THAT. MUCH
13 MORE COMPLEX, MUCH MORE COMPLEX.

14 THE TOUGHER SENTENCE FOR HIM PERHAPS IS
15 LIFE. LIFE IN THE PENITENTIARY. THE BETTER
16 SENTENCE FOR HIS CHILDREN IS LIFE. THE DEATH OF
17 THEIR MOTHER WAS TRAUMATIC. THE DEATH OF THEIR
18 FATHER WILL BE MORE SO.

19 SO, LADIES AND GENTLEMEN, IF YOU HEAR
20 WITNESSES FROM THE STATE TALKING ABOUT HOW GRUESOME
21 THIS MURDER WAS, REMEMBER WHO STRUCK THE FATAL
22 BLOW. HE WASN'T SOME AUTOMATON. HE WASN'T -- IT
23 WASN'T AN INSTRUMENT, IT WAS HUMAN BEING, RICHARD
24 ANDERSON. WHO'S BEEN REWARDED, WHO NEGOTIATED --
25 ATTEMPTED TO NEGOTIATE IMMUNITY AND FINALLY,

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1 NEGOTIATED A SENTENCE THAT RESULTED IN HIS BEING
2 ABLE TO BE BACK OUT ON THE STREETS. HE LIED TO THE
3 STATE. HE LIED TO THE JUDGE THAT TOOK HIS PLEA, HE
4 SAID HE USED HIS FIST. AND FINALLY, APPARENTLY,
5 HAS ADMITTED TO THE TRUTH, OR LEAST PART OF IT
6 BEFORE YOU AND SAID HE USED THESE BOLT CUTTERS.

7 IT IS EASY TO TAKE A LIFE, IT'S HARD TO
8 GIVE ONE. RICHARD ANDERSON AND STEPHEN BECKHAM,
9 YOUR VERDICT SPEAKS LOUD AND CLEAR. A VERDICT OF
10 LIFE IS NOT A REWARD. A VERDICT OF LIFE IS NOT
11 TELLING HIM HE HAS NOT DONE ANYTHING WRONG. A
12 VERDICT OF LIFE WILL SPEAK LOUD AND CLEAR TO HIM,
13 TO HIS FAMILY. BUT MERCY THAT WASN'T SHOWN TO
14 VICKI, AND I WILL CONCEDE THAT, SHOULD BE SHOWN TO
15 HIS CHILDREN NOW, BY YOU.

16 IN A MOMENT THE STATE WILL BEGIN TO
17 PRESENT, AS I SAID, SOME PRETTY EGREGIOUS
18 PHOTOGRAPHS AND TESTIMONY ABOUT VICKI'S LAST
19 MOMENTS. ALL I ASK YOU IS YOU LISTEN TO THAT AND
20 REMEMBER THE CHILDREN THAT ARE OUT HERE KNOW, BASED
21 ON YOUR VERDICT WHAT HAPPENED, YOU WILL HEAR THEM
22 BEFORE THIS CASE IS OVER. I ASK YOU TO SHOW THEM
23 THE MERCY THAT RICHARD ANDERSON DID NOT SHOW AND
24 THEIR FATHER DID NOT SHOW. AND I SUBMIT YOU'RE
25 BETTER THAN THEY ARE. YOU'RE BETTER THAN THEY ARE.

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1 THANK YOU.

2 THE COURT: ALL RIGHT, SOLICITOR, CALL
3 YOUR FIRST WITNESS.

4 MR. JONES: YOUR HONOR, PRIOR TO
5 CALLING THAT WITNESS, COULD I MOVE THE INTRODUCTION
6 OF ALL OF THE EVIDENCE AND TESTIMONY THAT WAS
7 PRESENTED IN THE FIRST PHASE OF THIS TRIAL? WOULD
8 THAT BE THE APPROPRIATE TIME?

9 THE COURT: YES, SIR, AND IT WOULD BE
10 SUBJECT AND PRESERVED ALL OBJECTIONS MADE DURING
11 THE COURSE OF THE TRIAL BY THE DEFENSE.

12 MR. JONES: WHAT I WOULD MOVE IS THAT
13 EVERY PIECE OF EVIDENCE INTRODUCED BY THE STATE AND
14 EVERY PIECE OF TESTIMONY STATED FROM THE WITNESS
15 STAND THAT WAS PRESENTED IN THE FIRST TRIAL NOW BE
16 INCORPORATED AND PRESENTED INTO THIS PHASE OF THE
17 TRIAL.

18 THE COURT: AND YOUR MOTION IS GRANTED
19 SUBJECT TO ALL RESERVATIONS AS TO OBJECTIONS MADE
20 BY THE DEFENSE.

21 MR. JONES: I WOULD CALL RONNIE GRIGGS
22 TO THE STAND, THEN, YOUR HONOR.

23 MR. SWERLING: JUDGE, COULD WE --

24 (BENCH CONFERENCE IN THE PRESENCE OF
25 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF

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1 THE RECORD.)

2 THE COURT: MADAM FOREMAN, LADIES AND
3 GENTLEMEN, I NEED TO HAVE ONE LITTLE BRIEF HEARING
4 BEFORE WE GET STARTED. SO LET ME LET YOU GO TO
5 YOUR JURY ROOM, PLEASE.

6 (JURY RECESSED TO JURY ROOM AT 12:12
7 P.M.)

8 STAND DOWN AND WAIT BACK OUT THERE JUST
9 A FEW MINUTES.

10 WHO'S GOING TO BE EXAMINING THIS
11 WITNESS?

12 MR. COULTER: SOLICITOR JONES, YOUR
13 HONOR. I THINK HE'S TRYING TO FIND OUT A LITTLE
14 BIT OF INFORMATION AT THE DEFENSE'S REQUEST IN
15 REGARDS TO MR. HALL.

16 THE COURT: WELL, WE'RE GOING TO HAVE
17 TO HEAR IT. I MEAN, I DON'T -- YOU ALL TELL ME
18 WHAT YOUR BASIS -- ARE YOU SAYING YOU GOT THAT
19 MATERIAL OR YOU DIDN'T?

20 MR. HARPOOTLIAN: NO, WE HAVEN'T GOTTEN
21 IT. AND AS RESULT OF THAT, WE MOVE TO EXCLUDE --
22 APPARENTLY, PHOTOGRAPHIC LINEUPS WERE DONE WITH
23 BOTH OF THESE WITNESSES AND WE WERE NOT PROVIDED
24 ANY OF THAT. AND WE MOVE TO EXCLUDE THESE
25 WITNESSES' TESTIMONY OR AT LEAST DELAY IT UNTIL WE

1 HAVE AN OPPORTUNITY TO LOOK AT THE LINEUPS AND DO
2 ANY RESEARCH ON WHETHER -- ON A MOTION TO SUPPRESS
3 ANY IN-COURT IDENTIFICATION.

4 THE COURT: WELL, I MEAN, DO WE KNOW
5 WHETHER OR NOT THEY DID OR DID NOT MAKE A
6 IDENTIFICATION?

7 MR. JONES: YOUR HONOR, I TALKED WITH
8 MS. STROM AND YOU KNOW, I -- JUST A MINUTE.

9 MR. COULTER: YOUR HONOR, IT'S MY
10 UNDERSTANDING THAT BOTH MR. HALL AND MR. GRIGGS
11 WERE SHOWN A LINEUP AND THAT THEY DID IN FACT
12 IDENTIFY THE DEFENDANT IN EACH OF THOSE LINEUPS.

13 THE COURT: WELL, OF COURSE --

14 MR. HARPOOTLIAN: YOUR HONOR, WE MOVE
15 TO EXCLUDE THEIR TESTIMONY AND IN THE ALTERNATIVE
16 BE GIVEN COPIES OF THE LINEUPS, THE RESULTS, WHO
17 SHOWED IT TO THEM, WHEN DID THEY SHOW IT TO THEM.

18 MR. SWERLING: JUDGE, WE SHOULD HAVE
19 BEEN GIVEN THAT INFORMATION. AND YOU HAD IT --
20 THERE WAS A CUT OFF FROM WAY BACK IN THE BEGINNING
21 OF SEPTEMBER. I MEAN, THIS DISCOVERY HAS BEEN
22 REGULATED. NOW, AT THE PENALTY PHASE OF THE TRIAL,
23 WE'RE FINDING OUT ABOUT SOME LINEUPS THAT THE STATE
24 HASN'T DISCLOSED. I MEAN, THAT'S BRADY.

25 MR. JONES: JUDGE, WE --

1 THE COURT: LINEUP IS A STATEMENT.

2 MR. JONES: EXCUSE ME, YOUR HONOR?

3 THE COURT: THE ORDER THAT I ISSUED

4 SAID THAT A LINEUP WAS A STATEMENT BECAUSE THEY

5 POINT TO AND IDENTIFY A PERSON. THAT'S AS CLEAR A

6 STATEMENT AS IT CAN BE, THAT'S HIM. THAT ORDER

7 THAT I FILED --

8 MR. JONES: JUDGE --

9 THE COURT: -- SOMETIME AGO CLEARLY

10 SAID THAT IF THERE WERE LINEUPS, THEY CONSTITUTED

11 STATEMENTS AND HAD TO BE DISCLOSED.

12 MR. JONES: JUDGE, THEY HAD A COPY OF

13 THE LINEUP --

14 MR. SWERLING: NO, WE DIDN'T.

15 MR. JONES: AND THEY -- AND THEY KNEW--

16 COULD I -- COULD I -- YOU DON'T WANT TO HEAR FROM

17 ME?

18 MR. SWERLING: YEAH, GO AHEAD.

19 THE COURT: OH, YEAH, I WANT TO HEAR

20 FROM YOU.

21 MR. JONES: WELL, THEN I WANT TO HEAR

22 FROM YOU IN A PROPER FASHION. I MEAN, I WANT YOU

23 TO HEAR FROM ME --

24 MR. SWERLING: EXCUSE ME, I'M UPSET, -

25 OKAY? JUST EXCUSE ME. I APOLOGIZE, YOUR HONOR.

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1 THE COURT: GO HAVE A SEAT, MR.

2 SWERLING.

3 MR. JONES: JUDGE.

4 THE COURT: YES, SIR?

5 MR. JONES: MY UNDERSTANDING IS THAT
6 THE LINEUP SHOWN TO MR. GRIGGS AND MR. HALL IS THE
7 SAME LINEUP THAT WAS USED PREVIOUSLY IN THIS CASE
8 AND WAS TURNED OVER TO THE DEFENSE, GIVEN A COPY OF
9 OR GIVEN AN OPPORTUNITY TO VIEW IT.

10 IT'S ALSO MY UNDERSTANDING THAT WHEN
11 THEY INTERVIEWED MR. HALL, THEY WERE AWARE THAT HE
12 HAD BEEN SHOWN A LINEUP AND HAD PICKED THE
13 DEFENDANT OUT OF THE LINEUP, IS MY UNDERSTANDING.

14 THE COURT: WELL, THAT LAST PART'S NOT
15 GOING TO CUT IT. THE FIRST PART AS TO WHETHER YOU
16 COMPLIED TO MY ORDER IS WHAT'S IMPORTANT.

17 MR. JONES: ALL RIGHT.

18 THE COURT: AND THE ORDER SAID -- AND
19 LET ME PUT MY HAND ON IT. CLEARLY FROM THE GET-GO,
20 I SAID THAT ALL LINEUPS -- LET ME MAKE SURE BEFORE
21 I SAY THAT ON THE RECORD.

22 MR. HARPOOTLIAN: YOUR HONOR, THAT IS A
23 LINEUP...

24 THE COURT: WAIT, WAIT, WAIT, WAIT JUST
25 A MINUTE. LET ME LOOK AT WHAT I SAID FIRST.

1 IN MY ORDER OF MAY 28TH, CONTROLLING PRETRIAL
2 DISCOVERY, BEFORE THERE WAS ANY -- BEFORE THERE WAS
3 ANY QUOTE, OPEN FILE, PARAGRAPH G SAYS, AS TO THE
4 DEFENDANT'S UNNUMBERED REQUESTS FOR PHOTO LINEUPS,
5 THE RELEASE OF SUCH MATERIAL TO THE DEFENSE IS
6 LIKEWISE ORDERED FOR THE SAME REASON IN PARAGRAPH
7 F. THAT'S WHAT MY ORDER SAYS. THAT'S WHAT MY
8 WRITTEN ORDER SAID IN MAY.

9 MR. COULTER: IT SAID THAT WE NEEDED TO
10 TURN OVER INFORMATION REGARDING --

11 THE COURT: YES, SIR.

12 MR. COULTER: AND I THINK THAT --- IF
13 I'M NOT MISTAKEN, AND I MAY BE, I DON'T HAVE YOUR
14 ORDER IN FRONT OF ME, ONE OF THE THINGS I THINK IN
15 THAT STATEMENT IT SAID IS THAT HAD TO BE TURNED
16 OVER AT SOME TIME -- I'M NOT SURE EXACTLY THE
17 TIMING AS TO WHEN THOSE THINGS HAD TO BE TURNED
18 OVER. IF YOU COULD LOOK THROUGH THAT.

19 THE COURT: ALL RIGHT.

20 MR. SWERLING: YOUR HONOR, THE ORDER,
21 IF YOU RECALL, IN YOUR CHAMBERS, WHEN WE HAD THE
22 MEETING ON AUGUST 20TH. THE HEARING WAS SET FOR
23 AUGUST 20TH AND WE HAD IT IN YOUR CHAMBERS. WE
24 WERE ORDERED TO FILE AND GIVE EACH OTHER ALL OF
25 THAT INFORMATION TWO WEEKS PRIOR TO TRIAL, WHICH

1 WOULD HAVE BEEN SEPTEMBER 4TH, I BELIEVE, THE
2 FRIDAY BEFORE.

3 MR. COULTER: I GUESS WHAT I'M TRYING
4 TO FIGURE OUT, JUDGE, WE TURNED OVER THIS LINEUP.

5 MR. SWERLING: BUT YOU DIDN'T COMPLY
6 WITH PARAGRAPH F, WHICH MEANS THE RESULTS OF THE
7 LINEUP. YOUR HONOR'S G REFERS TO PARAGRAPH F. AND
8 WE WERE SUPPOSED TO BE TOLD THE RESULTS, RESPONSES.

9 THE COURT: IT SAYS IF -- SEE IF YOU
10 LOOK AT F, IT SAYS IN ADDITION TO THE RELEASE OF
11 SUCH -- I'M TALKING ABOUT COMPOSITES THERE-- THE
12 COURT ORDERS THAT ANY RESPONSE GIVEN BY THE WITNESS
13 WITH REGARD TO A COMPOSITE MUST ALSO BE DISCLOSED
14 AS SUCH RESPONSE WOULD CONSTITUTE A STATEMENT UNDER
15 5(A)(2). AND G WAS GROUNDED ON THE SAME BASIS.

16 MR. SWERLING: AND JUDGE, YOU KNOW
17 WHAT'S INTERESTING? NOW, THAT I RECALL, AND MAYBE
18 THIS MIGHT -- WE WERE SPECIFICALLY TALKING ABOUT
19 THIS ISSUE. AND THE ISSUE CAME UP, WE DISCUSSED IT
20 AND YOUR HONOR SAID, THERE'S A CUT OFF, THAT'S IT.
21 IT WAS GOING TO BE A CUT OFF, IT WAS GOING TO BE
22 TWO WEEKS BEFORE TRIAL. BECAUSE THIS IS THE ISSUE
23 WE WERE TALKING ABOUT, ROY HALL. BECAUSE IN FACT,
24 YOUR HONOR, ONE OF THE ISSUES THAT CAME UP BEFORE
25 YOUR HONOR, THAT YOUR HONOR CONSIDERED THE REASON

1 WHY THE STATE HAD TO DISCLOSE IT WAS BECAUSE IT
2 MIGHT BE EVIDENCE IN THE STATE'S CASE IN CHIEF IN
3 AGGRAVATION. AND THAT'S EXACTLY WHAT'S HAPPENING
4 HERE.

5 MR. COULTER: YOUR HONOR, I RECALL US
6 TALKING ABOUT STATEMENTS GIVEN BY ROY HALL, IN
7 REGARDS TO WRITTEN STATEMENTS GIVEN BY ROY HALL. I
8 THINK WE'VE -- WE WOULD BE WILLING TO PROCEED
9 WITHOUT MAKING REFERENCE TO ANY TYPE OF
10 PHOTOGRAPHIC LINEUP IDENTIFICATION.

11 THE COURT: WELL, THAT TAINTS THE
12 PROCESS, THOUGH, DOESN'T IT?

13 MR. COULTER: HOW IS THAT?

14 THE COURT: WELL, I MEAN, HE COMES IN
15 HERE, THE GENTLEMAN SITTING TO THE LEFT IS THE
16 DEFENDANT. "DO YOU SEE THE DEFENDANT IN THE
17 COURTROOM?" WHAT DO YOU THINK HIS ANSWER'S GOING
18 TO BE?

19 MR. COULTER: WELL, I'M SURE IF THIS
20 WAS IMPROPER AND IF WE TAINTED HIS IDENTIFICATION,
21 BUT HE WAS SHOWN THIS AFTER HE TOLD LAW ENFORCEMENT
22 ALL THE INFORMATION THAT HE GAVE.

23 THE COURT: I DON'T KNOW THAT.

24 MR. COULTER: OKAY, WELL, WE CAN
25 PROFFER THAT.

1 MR. SWERLING: YOUR HONOR, THIS IS THE
2 DEATH PENALTY PHASE OF THE CASE. THIS DISCUSSION
3 CAME UP CONCERNING THIS WITNESS. YOUR HONOR RULED
4 THAT WE WERE ENTITLED TO THE INFORMATION
5 SPECIFICALLY BECAUSE YOUR HONOR FELT THAT THIS WAS
6 A MATTER THAT COULD COME UP IN THE STATE'S CASE IN
7 CHIEF IN AGGRAVATION. AND IF YOU REMEMBER,
8 INITIALLY, THERE WAS A DENIAL THAT THIS PERSON EVEN
9 EXISTED. AND THEN WHEN WE WENT THROUGH THIS WHOLE
10 ANALYSIS THAT THE STATE MIGHT OFFER AS A
11 CIRCUMSTANCE IN AGGRAVATION, YOUR HONOR SAID WE'RE
12 ENTITLED TO IT. I MEAN, WHAT I'M BEFUDDLED ABOUT
13 AND WHAT I'M STANDING HERE JUST IN TOTAL AMAZEMENT
14 ABOUT IS THAT THEY DID -- EVEN IN SPITE OF THE FACT
15 THAT THIS WAS THE FOCUS OF THE DISCUSSION, IT STILL
16 HASN'T BEEN TURNED OVER TO US.

17 MR. COULTER: JUDGE, THEY'VE KNOWN
18 ABOUT ROY HALL FOR MONTHS NOW, AND THEY'VE BEEN
19 GIVEN THIS INFORMATION. THEY'VE HAD THE PHOTO
20 LINEUP. THE ONLY QUESTION HERE IS WHETHER OR NOT
21 HE'S ACTUALLY MADE AN IDENTIFICATION OF A PHOTO
22 LINEUP. NOW, ALL I'M SAYING IS THAT WE CAN PROFFER
23 THIS EVIDENCE WITHOUT THIS PHOTO LINEUP BECAUSE HE
24 DID NOT -- HE DOES NOT KNOW STEPHEN BECKHAM BECAUSE
25 WE SHOWED HIM A LINEUP. HE KNOWS STEPHEN BECKHAM

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1 BECAUSE STEPHEN BECKHAM CAME TO HIM IN 1991 AND
2 ASKED HIM -- ASKED ROY HALL TO KILL HIS WIFE FOR
3 HIM. THAT'S THE BASIS, IT'S NOT THIS PHOTO LINEUP.

4 MR. SWERLING: I DON'T THINK THAT'S
5 EVEN THE ISSUE. I MEAN, WE RUSHED TO GET REPORTS
6 AND CERTIFY ALIBI -- I MEAN, THIS IS NOW THE SAME
7 THING THAT HAPPENED WITH THE ALIBI. WE DID
8 EVERYTHING WE COULD TO FURNISH THEM WITH THE
9 REPORTS OF THE WITNESSES THAT YOUR HONOR WANTED,
10 THE NOTICE OF ALIBI. WE COMPLIED WITH DISCOVERY TO
11 THE LETTER BECAUSE THAT'S WHAT I DO. I MEAN, I
12 THINK WE HAVE TO DO THAT. BECAUSE THE DANGER OF
13 SANCTIONS IS THE REASON WHY YOU OPERATE UNDER THOSE
14 RULES.

15 MR. COULTER: WELL, JUDGE, NO MATTER
16 HOW MUCH THEY FEEL THEY'VE COMPLIED TO IT, WE'VE
17 DONE THE BEST WE CAN TO MAKE THIS AN OPEN-FILE
18 POLICY. WE WENT WAY BEYOND WHAT IS REQUIRED UNDER
19 THE RULES OR UNDER THE COURT'S ORDER.

20 THE COURT: I'M NOT HERE TO PAT YOU ON
21 THE BACK.

22 MR. COULTER: I'M NOT ASKING YOU TO.

23 THE COURT: BECAUSE AT THIS POINT IN
24 TIME, IT WAS A VERY CLEAR, SPECIFIC ORDER. I MEAN,
25 IT'S IN WRITING. THERE'S NO MISUNDERSTANDING, DONE

1 IN MAY.

2 MR. COULTER: YES, SIR.

3 THE COURT: AND FOLLOWED UP AGAIN, IN
4 COLUMBIA, ON AUGUST THE FIRST OR SOMEWHERE AROUND
5 THERE.

6 MR. SWERLING: AUGUST 20TH.

7 THE COURT: AUGUST 20TH, AGAIN.

8 MR. COULTER: I UNDERSTAND ALL THAT.

9 WHAT I'M TRYING TO FIGURE OUT IS -- I UNDERSTAND
10 THAT THERE SHOULD HAVE BEEN SOMETHING MENTIONED
11 ABOUT HIM PICKING HIM OUT OF A PHOTO LINEUP. BUT
12 IF THAT'S GOING TO BE EXCLUDED FROM OUR POTENTIAL
13 TESTIMONY TO THE JURY, THEN HOW DOES THAT AFFECT
14 OUR ABILITY NOT TO BE ABLE TO CALL HIM? WHY DOES
15 THAT PARTICULAR THING -- IF WE'RE WILLING TO
16 WITHDRAW THAT PARTICULAR CORROBORATING EVIDENCE,
17 THAT HE PICKED HIM OUT OF A LINEUP, HOW SHOULD THAT
18 PREJUDICE THEM, WHEN THEY'VE KNOWN ABOUT HIM FOR
19 MONTHS AND MONTHS AND HAD HIS STATEMENTS AND
20 EVERYTHING NECESSARY TO BE ABLE TO CROSS THIS
21 PARTICULAR --

22 MR. SWERLING: WE'VE KNOWN --

23 MR. COULTER: I MEAN, THEY EVEN HAD
24 THEIR OWN FOLDER THAT THEY'VE GOT DOWN IN COLUMBIA.
25 AND IT'S GOT TO BE THREE INCHES THICK ON THE GUY.

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1 IF WE EXCLUDE THAT TESTIMONY THAT THEY PICKED HIM
2 OUT OF A LINEUP, HOW ARE THEY PREJUDICED BY THAT?

3 MR. SWERLING: FIRST OF ALL, MONTHS AND
4 MONTHS? WE FOUND OUT ABOUT HIM ON AUGUST 20TH IN
5 CHAMBERS. AFTER YOUR HONOR SPECIFICALLY SAID, "ONE
6 OF THE PROBLEMS, SOLICITOR, IS YOU'RE GOING -- MAY
7 OFFER THAT EVIDENCE IN AGGRAVATION." THAT'S
8 EXACTLY WHAT'S HAPPENING. ISN'T THAT INTERESTING?

9 MR. COULTER: AND THEY'VE BEEN TO THE
10 JAIL A NUMBER OF TIMES AND TALKED TO HIM IN PERSON.

11 MR. SWERLING: YOUR HONOR, THAT HAS
12 NOTHING --

13 MR. COULTER: AND HE CAN CHARACTERIZE
14 IT ANY WAY IT WANTS, BUT HE'S HAD PLENTY OF
15 OPPORTUNITY TO HAVE DISCUSSIONS WITH HIM.

16 MR. SWERLING: THAT HAS NOTHING TO DO
17 WITH THE RULES.

18 MR. JONES: YOUR HONOR, YOUR HONOR,
19 WHEN WE WERE TALKING ABOUT PRESENTING HIM IN OUR
20 CASE IN CHIEF IN AGGRAVATION --

21 THE COURT: UH-HUH.

22 MR. JONES: IF I RECALL THE DISCUSSION
23 CORRECTLY, WE WERE NOT, WE WERE NOT TALKING ABOUT
24 ISSUES OF DISCOVERY THEN, OTHER THAN THE NAME. IN
25 OTHER WORDS, WE WEREN'T TALKING ABOUT -- WELL, THEY

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1 -- WE WERE TALKING ABOUT -- "WELL, IF YOU'RE GOING
2 TO PUT HIM UP IN AGGRAVATION, SOLICITOR, YOU NEED
3 TO GIVE THEM NOTICE OF WHO YOUR WITNESSES ARE GOING
4 TO BE IN AGGRAVATION AHEAD OF TIME. NOT NOTICE OF
5 WHAT YOUR WITNESSES ARE GOING TO SAY, BUT JUST
6 NOTICE OF THE ACTUAL WITNESS." SO YOU SAID,
7 SOLICITOR --

8 THE COURT: I DID -- AND THAT'S TRUE,
9 EXCEPT FOR ONE THING.

10 MR. JONES: YES, SIR.

11 THE COURT: THAT IF THERE WAS A PHOTO
12 LINEUP AND THERE WAS AN IDENTIFICATION, YOU HAD TO
13 DISCLOSE THAT.

14 MR. JONES: YES, SIR. AND I THINK THAT
15 -- YOU KNOW, WHAT MR. COULTER IS ARGUING AND WHAT
16 I'M ARGUING TO YOU NOW, IS THAT IN THE COURSE OF
17 ATTEMPTING TO DISCLOSE THE MASSIVE NATURE OF THIS
18 INVESTIGATION, THAT WAS OVERLOOKED, NOT HELD BACK.
19 WE GAVE THEM A COPY OF THE STATEMENT OF MR. HALL.
20 WE GAVE THEM -- THEY HAD ACCESS TO MR. HALL. THEY
21 HAD ACCESS -- I MEAN, THEY TALKED TO MR. HALL.
22 THEY SENT AN INVESTIGATOR TO TALK TO MR. HALL. WE
23 GAVE THEM A COPY OF THE PHOTO LINEUP. AND WHAT
24 WE'RE SAYING IS IT WAS AN OVERSIGHT NOT TO TELL
25 THEM THAT MR. HALL HAD SELECTED THE DEFENDANT OUT

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1 OF THE LINEUP AS BEING THE PERSON THAT HE MET AND
2 KNEW IN 1991. AND WE'RE NOT ONLY APOLOGIZING TO
3 THE COURT AT THIS TIME FOR OVERLOOKING THAT,
4 REGARDLESS OF HOW IT MIGHT BE CHARACTERIZED AND
5 REGARDLESS OF THE FEELINGS THAT MIGHT BE HAD, THE,
6 I PRESENT TO YOU, OVERRIDING ISSUE NOW IS, WHAT IS
7 THE PROPER SANCTION? AND I WOULD SUGGEST THAT THE
8 PROPER SANCTION IS TO PREVENT US FROM USING THE
9 LINEUP AND THE PRIOR IDENTIFICATION OF THE
10 DEFENDANT WHEN SHOWN THE LINEUP AS CORROBORATION OF
11 THIS WITNESS'S TESTIMONY TO REMOVE ANY
12 CONSIDERATION OF ANY PREJUDICE THAT MIGHT HAVE
13 RESULTED TO THE DEFENSE. THERE SHOULD
14 REALISTICALLY BE NONE, BUT JUST OUT OF AN ABUNDANCE
15 OF CAUTION WE'RE ASKING YOU TO CONSIDERED IMPOSING
16 THAT SANCTION AND ALLOW US TO PROCEED WITH THE GIST
17 OF THE WITNESS'S STATEMENTS THAT THE DEFENSE HAS
18 HAD ACCESS TO ALL ALONG, THE INFORMATION THAT WE
19 DID PROVIDE THEM, JUDGE, THAT WE DID PROVIDE THEM
20 IN ACCORDANCE WITH YOUR ORDER.

21 IN OTHER WORDS, WE DIDN'T IGNORE YOUR
22 ORDER. WE DIDN'T ATTEMPT TO UNDERCUT YOUR ORDER.
23 WE JUST DIDN'T FULLY COMPLY WITH YOUR ORDER. AND
24 THE PARTICULARS THAT WE DID COMPLY WITH WERE SUCH
25 THAT IT WOULD BE FAIR AND PROPER AND NOT PREJUDICE

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1 TO ALLOW US TO GO FORWARD WITH THOSE AREAS OF OUR
2 COMPLIANCE AND THESE WITNESSES' TESTIMONY.

3 THE COURT: WELL, I WANT TO HEAR IN-
4 CAMERA BEFORE I RULE SOME TESTIMONY FROM MR. HALL
5 ON -- NOT ON THE PHOTO LINEUP, BUT ON
6 IDENTIFICATION.

7 MR. JONES: ALL RIGHT, SIR.

8 THE COURT: AND KNOWLEDGE --

9 MR. JONES: ALL RIGHT, SIR.

10 THE COURT: -- BEFORE.

11 MR. JONES: AND ALSO --

12 THE COURT: AND I'M NOT GUARANTEEING
13 THAT'S GOING TO BE SUFFICIENT.

14 MR. JONES: AND ALSO, MR. GRIGGS?

15 THE COURT: WHOEVER THE PHOTO -- THE
16 ISSUE OF THE PHOTO -- YES.

17 MR. JONES: MR. GRIGGS AND MR. HALL,
18 APPARENTLY, WERE SHOWN THE PHOTO LINEUP.

19 THE COURT: SURE.

20 MR. JONES: SO YOU WOULD WANT TO TALK
21 TO BOTH OF THEM IN-CAMERA. CAN WE PROCEED WITH
22 THAT NOW?

23 THE COURT: YES, SIR.

24 MR. JONES: CALL MR. GRIGGS.

25 MR. SWERLING: YOUR HONOR, I'M JUST

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1 WONDERING IF MR. BECKHAM OUGHT TO BE IN THE
2 COURTROOM?

3 THE COURT: WELL, I THOUGHT ABOUT THAT.
4 THEN -- AND I THOUGHT ABOUT HAVING OTHER PEOPLE
5 SITTING OVER THERE. BUT I, YOU KNOW, I'M NOT
6 ENGAGED IN THAT. I'M NOT GOING TO ENGAGE IN THAT.

7 PUT HIM ON THE STAND.

8 MR. JONES: ALL RIGHT. COME AROUND.

9 RONNIE GRIGG, BEING DULY
10 SWORN, TESTIFIED AS FOLLOWS:

11 THE COURT: NO LEADING, TO THE POINT.

12 MR. JONES: YES, SIR.

13 DIRECT EXAMINATION:

14 BY MR. JONES:

15 Q STATE YOUR NAME FOR THE RECORD.

16 A RONNIE GRIGG.

17 Q G-R-I-G-G?

18 A YES, SIR, IT IS.

19 Q ARE YOU UNDER SUBPOENA TO BE HERE TODAY
20 BY THE STATE OF SOUTH CAROLINA?

21 A YES, SIR, I AM.

22 Q WHERE DO YOU CURRENTLY RESIDE?

23 A KINGS MOUNTAIN, NORTH CAROLINA.

24 Q AND AS A RESULT OF RECEIVING AN OUT-OF-
25 STATE SUBPOENA, DID YOU WAIVE A HEARING IN AN

1 EFFORT TO DETERMINE WHETHER OR NOT YOU WOULD BE
2 MORE PREJUDICED BY NOT BEING HERE THAN THE STATE'S
3 CASE WOULD HAVE BEEN PREJUDICED BY HAVING YOU HERE?

4 A I DID SIGN A WAIVER.

5 MR. SWERLING: JUDGE, BEFORE WE
6 PROCEED, CAN WE -- ANY AGENTS THAT HAVE ANYTHING TO
7 DO WITH THIS, COULD THEY BE EXCLUDED FROM THE
8 COURTROOM?

9 THE COURT: THAT'S A FAIR REQUEST.
10 ALL RIGHT. YOU MAY PROCEED.

11 Q (BY MR. JONES) MR. GRIGGS -- GRIGG,
12 WHAT IS YOUR BUSINESS?

13 A I OWN A CARPET STEAM CLEANING COMPANY.

14 Q WHAT WAS YOUR BUSINESS IN THE SPRING,
15 SUMMER AND FALL OF 1991?

16 A IT, ALSO, WAS THAT BUSINESS.

17 Q ALL RIGHT. AND WHERE WAS THE PRIMARY
18 WORK AREA OF YOUR BUSINESS DURING THAT PERIOD,
19 SPRING, FALL, SUMMER -- SPRING, SUMMER, FALL OF
20 '91?

21 A IT WAS ROCK HILL, SOUTH CAROLINA.

22 Q AND DURING THAT PERIOD, SPRING, SUMMER,
23 FALL OF 1991, DID YOU HAVE OCCASION TO MEET AN
24 INDIVIDUAL IN THE ROCK HILL AREA THAT YOU HAD NOT
25 KNOWN BEFORE THEN?

- 1 A YES, SIR.
- 2 Q AND WHAT DID YOU COME TO KNOW THAT
- 3 INDIVIDUAL'S NAME AS?
- 4 A MR. BECKHAM.
- 5 Q AND WHAT DID YOU -- WHAT NAME WOULD YOU
- 6 REFER TO HIM AS WHEN YOU WOULD MEET HIM?
- 7 A STEVE.
- 8 Q AND DO YOU RECALL THE FIRST PLACE THAT
- 9 YOU EVER MET HIM?
- 10 A IT WAS AT A LOCAL BAR. IT WAS AFTER
- 11 WORK. IT WAS LIKE A HOLIDAY INN TYPE LOCATION.
- 12 Q IN WHAT CITY?
- 13 A IN ROCK HILL.
- 14 Q AND DO YOU RECALL THE NATURE OF YOUR
- 15 MEETING HIM? IN OTHER WORDS, TELL THE COURT HOW
- 16 YOU MET HIM AND WHAT RESULTED AS -- SUBSEQUENT TO
- 17 YOUR FIRST MEETING.
- 18 A WELL, THERE JUST -- THERE WASN'T A
- 19 WHOLE LOT OF PEOPLE THERE AT THE TIME THAT I GOT
- 20 THERE. AND, OF COURSE, WE WERE SITTING AT THE BAR
- 21 AND ALL, AND JUST DUE TO THE FACT THAT THERE WERE
- 22 JUST A FEW PEOPLE THERE, WE KIND OF GOT INTO A
- 23 CONVERSATION, JUST GENERAL CONVERSATION.
- 24 Q TO THE BEST OF YOUR RECOLLECTION, WHAT
- 25 TIME PERIOD WAS THIS, WHAT WAS THE TIME? DATE?

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- 1 A IT HAD TO BE LATE SUMMER --
- 2 Q OF WHAT YEAR?
- 3 A -- EARLY FALL. '91.
- 4 Q AND DO YOU RECALL THE BUSINESS THAT THE
- 5 INDIVIDUAL THAT YOU MET, MR. BECKHAM, AND THAT YOU
- 6 CALLED STEVE WAS IN AT THE TIME?
- 7 A IT WAS SOME KIND OF COMMUNICATIONS OR
- 8 CABLE OR SOMETHING TO THAT EFFECT. I JUST KNOW IT
- 9 WAS SOMETHING TO DO WITH COMMUNICATIONS.
- 10 Q HOW MANY TIMES WOULD YOU SAY YOU MET
- 11 THAT PERSON DURING, AS YOU SAY, THE LATE SUMMER,
- 12 EARLY FALL OF '91?
- 13 A PROBABLY BUMPED INTO HIM THREE OR FOUR
- 14 TIMES.
- 15 Q HOW WOULD YOU DESCRIBE HIS APPEARANCE,
- 16 THE PERSON THAT YOU MET DURING THAT PERIOD OF TIME?
- 17 A JUST CASUAL, I MEAN, I DON'T KNOW WHAT
- 18 YOU --
- 19 Q WELL, HIS DRESS, WHAT WAS HIS DRESS?
- 20 A JUST A CASUAL DRESS. I MEAN, YOU KNOW
- 21 --
- 22 Q WHAT ABOUT HIS PHYSICAL FEATURES,
- 23 HEIGHT, WEIGHT?
- 24 A SLIM BUILD, PROBABLY ABOUT MY HEIGHT.
- 25 Q HOW TALL ARE YOU?

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1 A I'M FIVE-ELEVEN.

2 Q AND DO YOU RECALL ANY FACIAL FEATURES,
3 THAT IS, SKIN, HAIR COLOR.

4 A IT WAS LIGHTER THAN MINE, BUT IT WAS
5 CLOSE. BUT I MEAN, IT WAS LIGHTER, A LITTLE BIT
6 LIGHTER THAN MINE.

7 Q BOTH SKIN AND HAIR?

8 A WELL, HE WAS KIND OF TAN. I MEAN, YOU
9 KNOW, HE HAD A BETTER TAN THAN I DID BECAUSE I'M
10 KIND OF PALE ANYWAY. BUT --

11 Q DID YOUR CONVERSATIONS WITH HIM CENTER
12 AROUND ANY PARTICULAR SUBJECTS?

13 A JUST GENERAL DRINKING AND TALKING,
14 TALKING TRASH TO WOMEN. I MEAN, THAT'S KIND OF THE
15 BAR SCENE WHEN YOU'RE IN A BAR.

16 Q UH-HUH.

17 A AND THAT'S BASICALLY WHAT IT WAS.

18 Q WOULD YOU -- WHEN -- AFTER THE FIRST
19 OCCASION THAT YOU MET HIM, DID YOU MEET HIM ON
20 ANOTHER OCCASION?

21 A WE BUMPED INTO EACH OTHER AGAIN; YES,
22 WE DID.

23 Q WHEN YOU SAW HIM THE NEXT TIME, DID YOU
24 REMEMBER HIM?

25 A NOT AT FIRST, BUT THEN I DID RECALL WHO

1 HE WAS AND I, YOU KNOW, MADE CONVERSATION WITH HIM
2 AGAIN.

3 Q AND ON THOSE OCCASIONS THAT YOU WOULD
4 SPEND TIME WITH HIM, THE FIRST TWO THAT YOU TALKED
5 ABOUT, WHAT WAS THE AMOUNT OF TIME THAT YOU SPENT
6 WITH HIM IN THE AMOUNTS OF HOURS OR MINUTES?

7 A WELL, WHEN I GOT TO A BAR, I USUALLY
8 STAYED THERE FROM THE TIME THEY OPENED UNTIL THEY
9 WERE READY TO SEND ME HOME. SO, YOU KNOW, I'D SAY
10 THAT WOULD BE THREE OR FOUR HOURS.

11 Q ALL RIGHT. AND DID YOU HAVE OCCASION
12 TO MEET WITH HIM AT SOME POINT IN TIME AND DISCUSS
13 ANYTHING CONCERNING OTHER ACQUAINTANCES OF YOURS?

14 A YEAH, WE GOT ON A CONVERSATION OF --
15 ACTUALLY, IT WAS KIND OF LIKE OF GENERAL THINGS
16 THAT WERE HAPPENING IN SOCIETY.

17 Q WELL, LET --

18 MR. JONES: YOUR HONOR, IF I COULD, YOU
19 ASK ME TO BE CONCISE AND TO THE POINT. DO YOU WANT
20 ME TO FOCUS ON --

21 THE COURT: I'M LOOKING FOR THE ISSUE
22 WHICH WE'RE --

23 MR. JONES: ALL RIGHT. ALL RIGHT.

24 Q (BY MR. JONES) NOW, ONCE YOU HAD A
25 CONVERSATION WITH HIM CONCERNING ANOTHER

1 ACQUAINTANCE OF YOURS, DID YOU, SUBSEQUENT TO THAT
2 CONVERSATION, HAVE OCCASION TO MEET WITH THIS
3 PERSON, MR. BECKHAM, THAT YOU WERE REFERRING TO AS
4 STEVE, AT A LATER TIME?

5 A YES, I DID.

6 Q AND WHERE DID YOU MEET WITH HIM AT A
7 LATER TIME?

8 A IN NEWBERRY.

9 Q AND DID YOU COME TO NEWBERRY?

10 A YES, I DID.

11 Q WERE YOU FAMILIAR WITH NEWBERRY BEFORE
12 YOU CAME HERE?

13 A YES, I WAS.

14 Q HOW WAS THAT?

15 A I HAD BEEN IN THE VIDEO BUSINESS,
16 PREVIOUSLY, AND WE KIND OF TRADED AND SOLD OUT
17 TAPES TO A LOT OF THE VARIOUS VIDEO STORES. AND I
18 HAD LIVED IN SPARTANBURG FOR APPROXIMATELY TEN
19 YEARS, SO I KNEW A LOT OF THE AREAS AROUND.

20 Q WHERE WERE YOU SUPPOSE TO MEET THIS
21 PERSON?

22 A AT A VIDEO STORE.

23 Q AND DID YOU KNOW WHERE THE VIDEO STORE
24 WAS?

25 A YES, I DID.

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1 Q WHEN WERE YOU SUPPOSE TO MEET HIM?

2 A IT WAS LATE EVENING. I HAD ORIGINALLY

3 SET UP THAT I WAS GOING TO COME DOWN AND BRING SOME

4 VIDEO TAPES AND TRY TO EXCHANGE TAPES AND SELL

5 TAPES OUT, AND IT WAS IN THE EVENING TIME.

6 Q AND WAS IT DAYLIGHT?

7 A NO, SIR.

8 Q NO. WAS THERE -- AND YOU MET WHERE,

9 AGAIN?

10 A IT WAS AT A VIDEO STORE. I THINK IT

11 WAS ANDY'S -- ANDY'S VIDEO STORE.

12 Q DID YOU HAVE SOMEONE WITH YOU?

13 A YES, I DID.

14 Q AND WHAT WAS THE PURPOSE OF HAVING

15 SOMEONE WITH YOU?

16 A THIS PARTICULAR PERSON WAS --

17 Q WITHOUT GOING INTO WHAT THE PERSON DID

18 OR WHATEVER. WAS THERE SUPPOSE TO BE A PROCESS BY

19 WHICH THE TWO OF THEM WOULD MEET AT THAT --

20 A IN A ROUNDABOUT WAY, IT WAS FOR AN

21 APPROVAL, MORE OR LESS.

22 Q WHOSE APPROVAL?

23 A BECKHAM'S.

24 Q AND WAS HE TO GIVE ANY KIND OF -- WAS

25 HE -- WAS HE -- WHAT WAS HE TO DO, BECKHAM, AT THAT

1 MEETING, AT THAT MEETING?

2 A WELL, BASICALLY, JUST TO INDICATE
3 WHETHER HE WANTED TO GO FURTHER WITH ANOTHER
4 MEETING WITH THIS PERSON.

5 Q OKAY. AND DID YOU HAVE OCCASION TO BE
6 WITH BECKHAM PERSONALLY AT THE MEETING?

7 A NOT AT THE SECOND MEETING --

8 Q NO, BUT AT THIS MEETING IN NEWBERRY,
9 THE FIRST?

10 A THAT MEETING, I WAS, YES.

11 Q AND DID YOU HAVE A CHANCE TO STAND
12 CLOSE TO HIM AND LOOK AT HIM AND SEE HIM?

13 A YES, I DID.

14 Q WHEN YOU PULLED INTO THE RESTAURANT --
15 I MEAN, THE VIDEO STORE THAT YOU WERE TO MEET HIM
16 IN, DID YOU RECOGNIZE HIM WHEN YOU ARRIVED AT THE
17 VIDEO STORE?

18 A I DIDN'T SEE HIM AT FIRST, BUT THEN
19 AFTER I GOT OUT, I DID SEE HIM.

20 Q AND WHERE WAS HE WHEN YOU SAW HIM AND
21 RECOGNIZED HIM?

22 A HE WAS WALKING UP TO THE VIDEO STORE.

23 Q UH-HUH. AND YOU RECOGNIZED HIM AS WHO?

24 A AS STEPHEN BECKHAM.

25 Q YOU KNEW THAT'S WHO HE WAS? I MEAN,

1 DID YOU RECOGNIZE HIM AS BEING THE PERSON THAT THAT
2 IS --

3 A SAME PERSON THAT I HAD MET PREVIOUSLY.

4 Q NOW WHAT DID YOU DO WHEN YOU RECOGNIZED
5 HIM?

6 A I STOPPED AND TALKED WITH HIM. AND WE
7 HAD A CONVERSATION. AND, OF COURSE, I LET HIM KNOW
8 THAT THE PERSON WE HAD DISCUSSED WAS WITH ME, AND,
9 YOU KNOW, WE JUST KIND OF DISCUSSED ABOUT A FURTHER
10 MEETING.

11 Q ALL RIGHT. AND HOW LONG WOULD YOU SAY
12 YOU SPENT WITH THIS FELLOW, STEVE BECKHAM, DURING
13 THAT PROCESS?

14 A HALF HOUR.

15 Q AND THEN YOU LEFT?

16 A YES, SIR.

17 Q AND DID YOU SEE BECKHAM AGAIN, AFTER
18 THAT?

19 A YES, I DID.

20 Q AND ABOUT HOW OFTEN OR HOW MANY TIMES
21 DID YOU SEE HIM AFTER THAT?

22 A IT WAS ONE OTHER TIME AFTER THAT.

23 Q AND WHERE DID YOU SEE HIM AFTER THAT?

24 A THERE AGAIN, IT WAS IN A BAR.

25 Q AND WHO ARRIVED AT THE BAR FIRST?

- 1 A I DID.
- 2 Q AND SO, WHEN HE ARRIVED, DID YOU
- 3 RECOGNIZE HIM?
- 4 A YES, SIR.
- 5 Q WHEN HE ENTERED?
- 6 A YES, SIR.
- 7 Q YOU KNEW WHO HE WAS?
- 8 A YES, SIR.
- 9 Q I MEAN, AND YOU RECOGNIZED -- DID HE
- 10 COME TO YOU OR DID YOU GO TO HIM?
- 11 A HE CAME OVER TO THE BAR AND SAT DOWN.
- 12 Q UH-HUH. AND YOU RECOGNIZED HIM?
- 13 A YES, SIR.
- 14 Q NOW, DID SOMETIME THIS YEAR YOU HAVE AN
- 15 OPPORTUNITY TO LOOK AT A PHOTOGRAPHIC LINEUP?
- 16 A YES, SIR, I DID.
- 17 Q DO YOU RECALL WHO SHOWED YOU THE
- 18 LINEUP?
- 19 A A FEW DETECTIVES, SPIKE AND MR.
- 20 GILLIAM.
- 21 Q DO YOU RECALL WHEN THAT WAS,
- 22 APPROXIMATELY, THIS YEAR?
- 23 A AT LEAST A MONTH AGO.
- 24 Q AND WHERE WAS THE LINEUP SHOWN TO YOU,
- 25 WHERE WERE YOU?

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1 A THEY CAME TO MY RESIDENCE.

2 Q WHICH WAS IN?

3 A KINGS MOUNTAIN.

4 Q ALL RIGHT. AND PRIOR TO SHOWING YOU
5 THE LINEUP, DID THEY ASK YOU IF YOU KNEW ANYONE BY
6 THE NAME OF STEPHEN BECKHAM?

7 A THEY ACTUALLY TOLD ME THAT THEY HAD
8 INFORMATION THAT I MAY HAVE KNOWLEDGE OF SOMETHING
9 THAT HAD HAPPENED AND THEY WANTED ME TO LOOK AT A
10 PHOTOGRAPH LINEUP TO SEE IF I RECOGNIZED ANYBODY IN
11 THAT LINEUP, WHICH THERE WAS NO INDICATION AS TO
12 WHAT THE PURPOSE WAS AT THAT TIME. THEY DID SHOW
13 ME A LINEUP AND I DID RECOGNIZE SOMEONE IN THAT
14 LINEUP.

15 Q IF YOU WERE TO BE ASKED TO IDENTIFY
16 STEPHEN BECKHAM TODAY, WOULD YOU BASE YOUR
17 IDENTIFICATION ON WHAT YOU SAW IN THAT LINEUP OR
18 WHAT YOU SAW IN THE SUMMER OF 1991?

19 A I REALLY DON'T KNOW. I MEAN, WHAT ARE
20 YOU --

21 Q WHAT I'M ASKING YOU IS, WHAT DO YOU
22 BELIEVE FORMS THE CONTENT OF KNOWLEDGE AND
23 IMPRESSION OF RECOGNITION IN YOUR MIND CONCERNING
24 YOUR ABILITY TO POINT SOMEONE OUT, STEPHEN BECKHAM,
25 AS BEING SOMEONE YOU'VE MET BEFORE AND KNOW?

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1 A JUST, YOU KNOW, THE FACIAL FEATURES,
2 THE GENERAL APPEARANCE. I MEAN, THE HAIR AND THE--
3 THE CLOTHING MAY BE DIFFERENT, BUT, YOU KNOW, AS
4 FAR AS FEATURES, I'M PRETTY GOOD ABOUT FEATURES.

5 Q UH-HUH. AND WOULD YOUR ABILITY TO
6 RECOGNIZE HIM BE BASED ON YOUR EXPERIENCES WITH HIM
7 AND MEETINGS WITH HIM DURING 1991 MORE THAN IT
8 WOULD BE BASED ON YOUR VIEWING OF A PHOTOGRAPHIC
9 LINEUP A MONTH AGO?

10 A YES, SIR.

11 MR. JONES: YOUR HONOR, WOULD YOU WANT
12 ME AT THIS POINT IN TIME ATTEMPT TO --

13 THE COURT: LET ME DO IT FROM HERE.

14 MR. JONES: YES, SIR.

15 THE COURT: HAVE YOU BEEN SHOWN THAT
16 LINEUP MORE THAN ONE TIME?

17 A NO, SIR, ONE TIME.

18 THE COURT: ALL RIGHT, LET ME SEE Y'ALL
19 AT THE SIDE BAR.

20 (BENCH CONFERENCE OFF THE RECORD.)

21 THE COURT: MR. GRIGG, LET ME ASK YOU A
22 COUPLE OF OTHER QUESTIONS. DO YOU RECALL -- YOU
23 SAID AGENT MCCRAW FROM SLED AND WHO ELSE
24 INTERVIEWED YOU?

25 A I BELIEVE IT WAS GILLIAM.

1 THE COURT: GILLIAM? AND DO YOU HAVE
2 ANY RECOLLECTION -- AND THAT INTERVIEW OCCURRED
3 WHEN?

4 A IT WAS AT LEAST A MONTH AGO.

5 THE COURT: OKAY. AND DID YOU -- DO
6 YOU HAVE ANY RECOLLECTION AS TO WHETHER OR NOT
7 EITHER OF THOSE INVESTIGATORS TOOK ANY WRITTEN
8 NOTES?

9 A I HAVE NO IDEA.

10 THE COURT: WHERE WERE YOU INTERROGATED
11 AT?

12 A WE MET AT A LOCAL RESTAURANT.

13 THE COURT: IN YORK OR HERE?

14 A NO, IN KINGS MOUNTAIN.

15 THE COURT: IN KINGS MOUNTAIN?

16 A YES, SIR.

17 THE COURT: AND HOW LONG WAS THE
18 INTERVIEW, DO YOU KNOW?

19 A WE SPENT ABOUT FORTY-FIVE MINUTES TO AN
20 HOUR.

21 THE COURT: AND YOU HAVE NO
22 RECOLLECTION IF ANYBODY WROTE ANYTHING DOWN?

23 A I REALLY COULDN'T TELL YOU.

24 THE COURT: DID YOU WRITE ANYTHING
25 DOWN?

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1 A NO, SIR, I DIDN'T.

2 THE COURT: DID YOU BRING ANY NOTES
3 WITH YOU?

4 A NO, SIR, I DIDN'T. I DIDN'T KNOW AT
5 THE TIME WHAT IT WAS INVOLVED WITH, SO I HAD NO
6 REASON TO WRITE NOTES.

7 THE COURT: OKAY.

8 ALL RIGHT, LET THE WITNESS STAND DOWN.

9 ON MESSIAH, WHY CAN'T WE JUST GO AHEAD
10 EXCEPT--WELL, WE STILL GOT THE SAME PROBLEM ABOUT
11 THAT OTHER ONE.

12 (WHEREUPON, THE JURY RETURNED TO OPEN
13 COURT AT 12:56 P.M.)

14 THE COURT: MADAM FOREMAN, I'VE KIND OF
15 RUN INTO A DEAD END ON SOMETHING. AND I'M JUST
16 GOING TO LET YOU GO TO LUNCH, COME BACK AT TWO.
17 WE'LL CONTINUE ALONG. DON'T DISCUSS THE CASE AND
18 WE'LL SEE YOU AT TWO.

19 (WHEREUPON, THE JURY WAS EXCUSED FROM
20 OPEN COURTROOM FOR LUNCH AT 12:58 P.M.)

21 THE COURT: HOW LONG WILL DR. SEXTON
22 BE?

23 MR. JONES: SIR?

24 THE COURT: HOW LONG WILL DR. SEXTON
25 BE?

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1 MR. JONES: JUDGE, I THINK AN HOUR AND
2 A HALF. LET ME MENTION THIS TO YOU. I HAVE BEEN
3 RELYING ON A GOOD BIT OF ASSISTANCE IN GETTING
4 WITNESSES READY AND ORGANIZED TO PRESENT TODAY. I
5 KNOW THAT I CALLED FOR DR. SEXTON LAST NIGHT. HE'S
6 IN A SEMINAR IN COLUMBIA. I DON'T KNOW WHEN HE'S
7 GOING TO BE HERE. YOU KNOW, WE HAD PLANNED AND
8 SCHEDULED HIM AS ONE OF OUR LAST WITNESSES FOR
9 TODAY, OKAY? HE WAS OUT OF TOWN YESTERDAY; HE
10 WASN'T DUE BACK LAST NIGHT; HE WAS DUE IN A SEMINAR
11 TODAY, AND I'M NOT SO CERTAIN THAT I CAN GET HIM
12 HERE AT THAT TIME. I JUST WANTED THE COURT TO KNOW
13 THAT.

14 THE COURT: WELL, DR. FOLLINGSTAD WILL
15 BE THE FIRST WITNESS AFTER LUNCH. AND I'LL TELL
16 THE JURY IT'S HAVING TO BE CALLED OUT OF ORDER.

17 MR. JONES: JUDGE, IF I CAN GET DR.
18 SEXTON HERE, CAN HE GO FORWARD?

19 THE COURT: NO, SIR. DR. FOLLINGSTAD'S
20 UP FIRST.

21 MR. HARPOOTLIAN: THANK YOU, YOUR
22 HONOR.

23 MR. JONES: WELL, YOUR HONOR --

24 THE COURT: YOU ALL NEED TO REGROUP
25 YOUR SITUATION BECAUSE WE'VE STILL GOT THAT MESSIAH

1 ISSUE FLOATING AROUND THERE.

2 MR. JONES: YES, SIR.

3 THE COURT: AND WE'VE GOT THIS LINEUP.

4 MR. JONES: YES, SIR. WELL, IN REGARDS

5 -- SINCE YOU HAVE DECIDED TO LET DR. FOLLINGSTAD

6 TESTIFY OUT OF ORDER BECAUSE SHE TOOK IT UPON

7 HERSELF TO SCHEDULE A TRIP, YOU KNOW, BEFORE --

8 WHILE UNDER SUBPOENA BY THE DEFENSE AND THIS COURT,

9 TO SCHEDULE A TRIP TO BE OUT OF TOWN, I WOULD ASK

10 THAT YOU RULE NOW, ON THE ADMISSIBILITY OF

11 PHOTOGRAPHS THAT WE WOULD INTRODUCE THROUGH DR.

12 SEXTON, IN AN EFFORT TO -- FOR WHATEVER PURPOSE WE

13 MIGHT WANT TO USE THOSE PHOTOGRAPHS DURING HER

14 TESTIMONY.

15 THE COURT: I CAN DO THAT.

16 MR. JONES: ALL RIGHT, SIR.

17 THE COURT: I MEAN, IT'S JUST A MATTER

18 OF ME LOOKING AT THEM.

19 MR. JONES: YES, SIR.

20 THE COURT: I'VE LOOKED AT MOST OF

21 THEM.

22 MR. JONES: YES, SIR.

23 THE COURT: I'LL BE GLAD TO DO THAT.

24 MR. JONES: THANK YOU.

25 THE COURT: SHOW THEM TO ME NOW. I'LL

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1 GIVE YOU A RULING RIGHT NOW.

2 MR. SWERLING: JUDGE, COULD YOU
3 INTERVIEW EACH OF THE AGENTS SEPARATELY ABOUT THAT
4 ISSUE THAT WE JUST TALKED ABOUT?

5 THE COURT: I'M NOT GOING TO GET
6 INVOLVED IN THAT. YOU CAN EXAMINE THEM.

7 MR. HARPOOTLIAN: YOUR HONOR, WE HAVE
8 OBVIOUSLY SEEN THE PHOTOGRAPHS, I JUST DON'T KNOW
9 WHICH ONES THEY'RE TALKING ABOUT.

10 THE COURT: WHAT ISSUE IN AGGRAVATION
11 ARE YOU OFFERING THESE PHOTOGRAPHS FOR?

12 MR. JONES: THE -- OFFERING THEM TO
13 SHOW THE INCAPACITATING NATURE OF THEM CONCERNING
14 THE KIDNAPPING. THE PHYSICAL TORTURE AREA,
15 CONCERNING -- DR. SEXTON WILL TESTIFY TO THAT.

16 JUDGE, ALSO, THERE'S MALICE INVOLVED IN
17 THE MURDER, AND THE CIRCUMSTANCES SURROUNDING THE
18 CRIME, JUDGE.

19 THE COURT: ALL RIGHT, WHAT'S THE
20 DEFENSE'S POSITION?

21 MR. HARPOOTLIAN: YOUR HONOR, WE'VE NOT
22 SEEN WHICH PHOTOGRAPHS. COULD WE LOOK AT THOSE,
23 PLEASE?

24 AS TO -- SPECIFICALLY, AS TO
25 DEFENDANT'S EXHIBIT -- I MEAN, COURT'S EXHIBITS 29,

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1 27, 26 AND 28, THESE ARE AUTOPSY PHOTOS TAKEN OF A
2 SPECIFIC INJURY, IN WHICH THAT INJURY, I THINK DR.
3 -- EVEN DR. SEXTON TESTIFIED, THIS IS NOT THE
4 CONDITION IN WHICH SHE WAS FOUND. THIS IS AFTER
5 IT'S BEEN AUTOPSIED. I MEAN, IT WOULD BE LIKE
6 SHOWING SOMEONE WHO'S -- IF A HEMATOMA HAD
7 OCCURRED, THEY WOULD HAVE CUT THE SKULL OPEN AND
8 THEN SHOWN THE BRUISE ON THE BRAIN, NUMBER ONE.

9 NUMBER TWO, THERE'S NO TESTIMONY IN THE
10 RECORD, THAT THE DEFENDANT CAUSED THIS INJURY
11 HIMSELF. MATTER OF FACT, DR. SEXTON INDICATED TO
12 MR. FLEMING THAT THE PISTOL THAT MR. ANDERSON HAD
13 WAS INCONSISTENT WITH THIS INJURY.

14 MR. JONES: YOUR HONOR --

15 MR. HARPOOTLIAN: IF I COULD FINISH,
16 PLEASE.

17 AND IN ADDITION, YOUR HONOR, THE
18 PREJUDICIAL FAR OUTWEIGHS ANY PROBATIVE VALUE. I
19 THINK BEFORE THESE ARE ALLOWED IN, YOUR HONOR
20 SHOULD KNOW WHAT THE MINIMUM WAS, IF THIS IS AN
21 ACCURATE DEPICTION OF WHAT THE WOUND LOOKED LIKE
22 BEFORE OR AFTER SHE WAS AUTOPSIED.

23 AS TO -- I MEAN, ALL OF THESE PICTURES,
24 YOUR HONOR, GO TO THE ISSUE OF INJURIES --
25 ESPECIALLY, DEFENDANT'S EXHIBIT NO. 30, 31, 32, 33

1 AND 25, ALL GO TO INJURIES, WHICH THE RECORD -- AT
2 LEAST THE STATE'S CASE IN ITS CASE IN CHIEF WOULD
3 INDICATE WERE COMMITTED AT THE HANDS OF RICHARD
4 ANDERSON, NOT AT THE HANDS OF THE DEFENDANT. THEIR
5 PREJUDICIAL VALUE FAR OUTWEIGHS ANY PROBATIVE
6 VALUE. THEY DON'T GO TO TORTURE. THERE'S BEEN NO
7 TESTIMONY THAT WOULD MEET THE REQUIREMENTS OF OUR
8 CASE LAW AND STATUTE UNDER TORTURE.

9 THEY CERTAINLY DON'T KNOW -- THEY DON'T
10 GO TO ANY -- THESE INJURIES DON'T GO TO ANY
11 KIDNAPPING. AND AGAIN, YOUR HONOR, I DON'T KNOW
12 WHAT POINT THEY'RE PROBATIVE OF. THE ONLY REASON
13 THEY'RE SEEKING TO INTRODUCE THEM IS TO INFLAME THE
14 JURY. IT'S PASSION AND PREJUDICE. SO UNDER 402,
15 THEY HAVE NO PROBATIVE VALUE. UNDER 403, THEY'RE
16 PREJUDICIAL. AND THEY DON'T FOCUS ON THE CONDUCT
17 OF THIS -- THE PARTICULARIZED CONDUCT OF THIS
18 DEFENDANT UNDER THE EIGHTH AMENDMENT.

19 THE COURT: WELL, I MEAN, FOR THE SAKE
20 OF DISCUSSION, THOUGH -- AND I KNOW YOU WANT TO
21 SEPARATE OUT THE CONDUCT OF THE DEFENDANT FROM
22 ANDERSON. BUT THE STATE'S THEORY IS THAT IT IS A
23 MURDER FOR HIRE.

24 MR. HARPOOTLIAN: YES, SIR.

25 THE COURT: AND SO HE IS RESPONSIBLE

1 UNDER OUR DEATH PENALTY STATUTE OF THAT CONDUCT IF
2 THE JURY BELIEVES THAT, ANY CONDUCT FLOWING FROM
3 THAT.

4 MR. HARPOOTLIAN: YES, SIR. WELL,
5 THERE'S VICARIOUS LIABILITY FOR THE CONDUCT
6 LEGALLY. BUT IF YOU'RE GOING TO ARGUE THE
7 PARTICULARIZED CONDUCT OF THIS DEFENDANT IN THAT
8 PROCESS, CERTAINLY, THERE'S NO EVIDENCE -- MATTER
9 OF FACT, THE EVIDENCE THE STATE INTRODUCED IS
10 CONTRARY AND WOULD NEGATE ANY ALLEGATION THAT HE
11 COMMITTED ANY ONE OF THOSE INJURIES. RICHARD
12 ANDERSON'S TESTIMONY -- I MEAN, WADE FLEMING'S
13 TESTIMONY AND DR. SEXTON'S TESTIMONY IS NOT
14 CONSISTENT WITH HIM CAUSING ANY OF THOSE INJURIES.
15 AND SECONDLY, YOUR HONOR, THE PICTURES OF THE WOUND
16 IN THE SCALP ARE OBVIOUSLY POST-AUTOPSY OR DURING
17 THE AUTOPSY AND SPREAD OPEN JUST TO GET A BETTER
18 VIEW OF THE INJURY. THEY'RE NOT, I WOULD SUBMIT,
19 NOT PICTURES OF THE INJURY AS IT APPEARED. AND
20 HAVE NO -- AND THE PREJUDICIAL FAR OUTWEIGHS THE
21 PROBATIVE ON THOSE.

22 MR. SWERLING: JUDGE, THERE'S ALSO ONE
23 OTHER ISSUE, WHICH I THINK IS IMPORTANT, IS THAT
24 THERE'S NO EVIDENCE IN THE RECORD THAT WHEN BECKHAM
25 LEFT -- IF YOU BELIEVE THE EVIDENCE THAT'S BEEN

1 PRESENTED SO FAR, EXPECTED RICHARD ANDERSON TO DO
2 THAT KIND OF DAMAGE, TO DO THOSE KIND OF INJURIES.
3 AND SINCE THE DEATH PENALTY HAS TO BE FOCUSED ON
4 THE INDIVIDUAL SO THAT THE JURY CAN MAKE A RATIONAL
5 DECISION CONCERNING WHAT THE PUNISHMENT SHOULD BE,
6 TO ALLOW IN PHOTOGRAPHS THAT ARE NOT RELATED,
7 CANNOT BE DIRECTLY RELATED TO THE DEFENDANT'S
8 CONDUCT OR EVEN ANTICIPATED OR EXPECTED CONDUCT, WE
9 THINK INJECTS AN ARBITRARY AND CAPRICIOUS FACTOR
10 INTO THE CASE, IN ADDITION TO THE OTHER REASONS MR.
11 HARPOOTLIAN STATED, WHICH ALSO, INJECTS ARBITRARY
12 AND CAPRICIOUS FACTORS INTO THE CASE, ESPECIALLY
13 THE AUTOPSY PHOTOS. I MEAN, THAT CAN DO NOTHING,
14 BUT INFLAME THE JURY.

15 THE COURT: OF COURSE, THE CASE LAW OF
16 THE STATE ALLOWS PHOTOGRAPHS -- AUTOPSY PHOTOGRAPHS
17 IN. THE QUESTION IS, IS WHETHER THEY'RE TOO
18 GRUESOME OR NOT?

19 MR. SWERLING: IT'S PRETTY GRUESOME.

20 THE COURT: MR. MCMAHON?

21 MR. MCMAHON: YES, SIR. AND, OF
22 COURSE, I WAS GOING TO FOLLOW UP ON THAT CASE LAW,
23 YOUR HONOR. AS RECENTLY AS, I THINK, JANUARY OF
24 '96, THE NANCE CASE OUT OF FLORENCE COUNTY AND
25 GOING BACK TO STATE VERSUS FRANKLIN OUT OF, I

1 BELIEVE, IT'S OUT OF WILLIAMSBURG COUNTY, IN THAT
2 CASE SEVENTEEN PHOTOGRAPHS OF THE CRIME SCENE AND
3 TEN SLIDES OF THE VICTIM'S BODY TAKEN AT THE
4 AUTOPSY WERE ADMITTED INTO EVIDENCE OVER THE
5 DEFENSE COUNSEL'S OBJECTION DURING THE SENTENCING
6 PHASE OF THE TRIAL. AND THAT'S EXACTLY WHY, YOUR
7 HONOR, WE HAVE THE BIFURCATED PROCEEDING IN A DEATH
8 PENALTY CASE.

9 WE, OF COURSE, DID NOT ATTEMPT OR
10 WOULD, HAD WE ATTEMPTED, YOU ALLOWED THOSE
11 PHOTOGRAPHS -- I WOULD PREDICT THAT YOU WOULD NOT
12 HAVE ALLOWED THOSE PHOTOGRAPHS IN THE GUILT PHASE.
13 AND THIS GOES TO SEVERAL ISSUES THAT PHOTOGRAPHS
14 HAVE BEEN ALLOWED UNDER THE CASE LAW OF THIS STATE,
15 BOTH MALICE, THE ISSUE OF PHYSICAL TORTURE, WHICH
16 IS ONE OF THE AGGRAVATING CIRCUMSTANCES THAT WE ARE
17 PROCEEDING UNDER. AND ALL OF THAT -- THERE WOULD
18 BE TESTIMONY FROM THE FORENSIC PATHOLOGIST THAT THE
19 INJURIES DEPICTED WERE PRE-MORTEM. AND IF THEY
20 WERE PRE-MORTEM AND GOING BACK TO THE TESTIMONY
21 FROM THE FIRST PHASE, THAT THERE WAS A GREAT DEAL
22 OF BLOOD LETTING, BLOOD SHEDDING OF MS. BECKHAM,
23 THAT, OF COURSE, WOULD GO TO PHYSICAL TORTURE, AND
24 WOULD EXCLUDE INSTANTANEOUS DEATH, WHICH IS ONE OF
25 THE FACTORS THAT WE HAVE TO CONSIDER IN OUR ATTEMPT

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1 TO PLACE AND ASK FOR THE JURY TO RETURN A
2 PARTICULAR SENTENCE BASED ON THE FINDING OF
3 PHYSICAL TORTURE BEYOND A REASONABLE DOUBT. NONE
4 OF THOSE PHOTOGRAPHS DEPICT POST-MORTEM INJURIES.

5 THERE WOULD BE TESTIMONY -- AND MR.
6 HARPOOTLIAN, IN FACT, I BELIEVE, BROUGHT IT OUT.
7 THE CROSS-EXAMINATION OF DR. SEXTON ABOUT NOT
8 BRUISING -- I BELIEVE I'M CORRECT IN THIS. YOU
9 DIDN'T BRUISE AFTER DEATH, YOU WOULDN'T BLEED AFTER
10 DEATH, SUCH AS THAT. FURTHER, YOUR HONOR, WHEN WE
11 SAY CAUSED OR DIRECTED -- AND HIS HONOR'S WELL
12 AWARE OF THE STATE'S THEORY OF THE CASE, SOME OF
13 THOSE INJURIES WERE INFLICTED UPON MS. BECKHAM BY
14 THE DEFENDANT. WE SUBMIT THOSE WOULD BE THE ONES
15 SHOWING THE SCALP AND THOSE INJURIES THERE UP IN
16 THE HEAD OF THIS VICTIM, MS. BECKHAM, THAT ARE
17 INCONSISTENT WITH HAVING BEEN INFLICTED BY THE BOLT
18 CUTTERS.

19 NOW, OTHER OF THOSE, WE SUBMIT, WE
20 AGREE WERE INFLICTED BY RICHARD ANDERSON WHO WAS
21 CAUSED AND DIRECTED TO COMMIT AND INFLICT THOSE
22 INJURIES UPON MS. BECKHAM, BY THE DEFENDANT.

23 YOUR HONOR, AS I SAY, I KNOW THE CASE
24 LAW IS, AS HIS HONOR WELL KNOWS, IS VERY CLEAR ON
25 THE ISSUE. AND I THINK THE PREJUDICIAL EFFECT

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1 WOULD HAVE OUTWEIGHED THE PROBATIVE VALUE IN THE
2 GUILT PROCEEDINGS.

3 MR. SWERLING: JUDGE, CAN I ALSO -- AS
4 FAR AS PHYSICAL TORTURE, RICHARD ANDERSON NEVER
5 TESTIFIED THAT BECKHAM TOLD HIM TO TORTURE HER.
6 NOW, I THINK THERE'S GOT TO BE A POINT WHERE YOU
7 HAVE TO DRAW THE LINE AS TO WHAT CONDUCT THE --
8 ESPECIALLY, UNDER THE DEATH PENALTY SCHEME, WHAT
9 CONDUCT IS ATTRIBUTABLE TO STEPHEN BECKHAM AND
10 WHAT'S ATTRIBUTABLE TO RICHARD ANDERSON. RICHARD
11 ANDERSON COULD BE TRIED MAYBE WITH THE POSSIBILITY
12 OF AN AGGRAVATING CIRCUMSTANCE OF TORTURE, BUT
13 UNDER THE CASE LAW IN THIS STATE, THERE'S GOT TO BE
14 SOME FORESEEABILITY. STATE VERSUS MOSES PETERSON,
15 FOR EXAMPLE, ON ACCOMPLICE LIABILITY --

16 MR. JONES: YOUR HONOR --

17 MR. SWERLING: -- EXCUSE ME. WHAT I'M
18 SUGGESTING TO YOUR HONOR IS THAT THE STATE HAS GOT
19 TO PROVE THAT BECKHAM INTENDED TO COMMIT A PHYSICAL
20 TORTURE HERE, OR THAT HE KNEW OR IT WAS FORESEEABLE
21 THERE WOULD BE -- OR IT WAS A NATURAL CONSEQUENCE
22 OF THE ACTS. I MEAN, THE FACT OF THE MATTER HERE
23 IS THAT RICHARD ANDERSON ON HIS OWN DID IT. THE
24 BOLT CUTTERS WERE BROUGHT DOWN TO CUT THE LOCK.
25 BECKHAM HAD ALREADY LEFT THE AREA. HE DID IT.

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1 MR. JONES: JUDGE --

2 THE COURT: WAIT A MINUTE. THE
3 TESTIMONY IN THE TRIAL WAS THAT MR. ANDERSON --
4 FIRST OF ALL, IN ONE STATEMENT HE SAID HE SAW MR.
5 BECKHAM HITTING THE VICTIM AND ANOTHER STATEMENT HE
6 DID NOT. SO THAT'S IN CONFLICT. SO THAT'S -- ONE
7 VERSION OF HIS STATEMENT HELPS THE STATE AND ONE
8 VERSION HURTS THE STATE.

9 DR. SEXTON TESTIFIED THAT THE GUN COULD
10 NOT HAVE CAUSED THE FATAL WOUNDS TO THE ESOPHAGUS
11 AREA, BUT NEVERTHELESS, COULD HAVE CAUSED BRUISING.
12 AND AS I RECALL HIS TESTIMONY THAT HAD TO DO WITH
13 ONE OF THE PLACES IN THE HEAD, HE SAID WAS
14 CONSISTENT WITH THAT .22 CALIBER. ANDERSON
15 TESTIFIED -- AND RIGHT NOW, I MEAN, THERE'S NO
16 EVIDENCE IN THE RECORD THAT ANDERSON EVER HIT HER
17 WITH THAT GUN OR HANDLED THAT GUN. AND, OF COURSE,
18 THE STATE'S THEORY WAS THAT SHE WAS -- UNDER
19 ANDERSON'S TESTIMONY, THAT SHE WAS EITHER DEAD OR
20 ALMOST DEAD WHEN HE GOT TO HER.

21 MR. SWERLING: BUT DR. SEXTON SAID THAT
22 -- I MEAN, ANDERSON'S WOUNDS WERE PRE-MORTEM. THE
23 INFLECTION OF THE WOUNDS WITH THE BOLT CUTTERS --

24 MR. HARPOOTLIAN: ARE PRE-MORTEM.

25 MR. SWERLING: -- WERE PRE-MORTEM.

1 MR. JONES: JUDGE --

2 MR. SWERLING: THAT'S WHAT FRACTURED
3 HER NECK AND HER THROAT.

4 MR. JONES: WHAT HE ALSO SAID, JUDGE,
5 WAS THAT THERE WAS AN INJURY TO THE NECK THAT COULD
6 HAVE, GIVEN TIME, RESULTED IN HER DYING AS A RESULT
7 OF ASPHYXIATION. AND WITH REGARD TO THE TORTURE
8 ARGUMENT, YOUR HONOR, I BELIEVE THERE'S TESTIMONY
9 THAT DEFENDANT BECKHAM SAID, BREAK HER NECK, MAKE
10 IT LOOK LIKE SHE BROKE HER NECK IN AN AUTOMOBILE
11 ACCIDENT. SO HIS -- HIS -- HIS EXPECTATIONS OF
12 PAIN TO THE VICTIM WAS CERTAINLY FORESEEABLE IN
13 THAT REGARD. HE DIDN'T CARE HOW IT CAME ABOUT.
14 AND DR. SEXTON TESTIFIED THAT WHEN THE NECK IS
15 BROKEN UNDER STATE SANCTIONED HANGINGS SOMETIMES IT
16 TAKES UP TO FIFTEEN TO TWENTY MINUTES FOR THE
17 INDIVIDUAL TO DIE PRIOR TO THAT. AND THAT THE --
18 YOU KNOW, I MEAN, THAT'S SURELY, YOUR HONOR, AS I
19 RECALL THE TESTIMONY.

20 THE COURT: WELL, WHEN I SAY I HAVE NO
21 PROBLEM, I MEAN FROM AN EVIDENTIARY STANDPOINT. AS
22 TO EXHIBIT 25, 31, 32 AND 33, I FIND THAT THE
23 PREJUDICIAL EFFECT -- THAT IT'S MORE PROBATIVE THAN
24 PREJUDICIAL ON THE ISSUE OF THE CIRCUMSTANCES
25 SURROUNDING THE HOMICIDE, AND I HAVE NO PROBLEM

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1 WITH THESE FOUR RIGHT NOW.

2 MR. SWERLING: JUDGE, COULD I -- I JUST
3 WANTED -- I WANTED TO CORRECT SOMETHING. I DON'T
4 BELIEVE ANDERSON SAID TO BREAK HER NECK. I BELIEVE
5 HE SAID MAKE IT LOOK LIKE AN ACCIDENT. THAT WAS
6 THE WHOLE THING ABOUT THE WINDSHIELD. I DON'T
7 RECALL ANDERSON EVER SAYING HE INSTRUCTED -- OR
8 BECKHAM INSTRUCTED ANDERSON TO BREAK HER NECK.
9 THEY HAVE TO PROVE --

10 THE COURT: WHAT I WANT TO KNOW,
11 SOLICITOR, WITH REGARD TO -- YOU CAN COME UP HERE
12 AND LOOK AT IT. I DON'T WANT THEM BEING --

13 MR. JONES: YES, SIR.

14 THE COURT: -- PASSED AROUND.

15 MR. JONES: YES, SIR.

16 THE COURT: WITH REGARD TO 27 -- 26,
17 27, 28 AND 29, ARE WE DEPICTING MORE THAN ONE WOUND
18 OR THE SAME WOUND? IS IT ONE WOUND?

19 MR. COULTER: WE THINK, YES, SIR.

20 THE COURT: ALL RIGHT, I'LL ALLOW
21 EXHIBIT 28 AND 30 IN AS BEING BEARING UPON THE
22 QUESTION OF THE PREJUDICIAL VALUE DOES NOT OUTWEIGH
23 THE PROBATIVE VALUE AS TO THE ISSUES.

24 AS TO EXHIBITS 26, 27 AND 29, I FIND
25 THAT THEIR PREJUDICIAL VALUE OUTWEIGHS THE

1 PROBATIVE VALUE AND THE DOCTOR CAN EXPLAIN THAT
2 FROM THE OTHER PHOTOGRAPHS.

3 MR. HARPOOTLIAN: YES, SIR.

4 THE COURT: LET'S MAKE SURE WE GOT THIS
5 RIGHT, SO WE DON'T SLIP UP. IN FACT, I'LL HOLD
6 ONTO IT. I'M HOLDING IN MY POSSESSION 27, 29 AND
7 26 AS BEING MORE PREJUDICIAL THAN PROBATIVE AND
8 I'LL RETAIN THEM HERE, SO NOBODY CAN SLIP UP.

9 MR. HARPOOTLIAN: WHAT TIME ARE WE
10 STARTING BACK, YOUR HONOR?

11 THE COURT: WELL, WE'RE GOING TO HAVE
12 THE JURY BACK BY TWO, SO LET'S SAY ABOUT 2:15.

13 MR. HARPOOTLIAN: THANK YOU, YOUR
14 HONOR.

15 (WHEREUPON, COURT WAS RECESSED FOR
16 LUNCH.)

17 THE COURT: FOLLINGSTAD WILL BE UP
18 FIRST.

19 MR. HARPOOTLIAN: YOUR HONOR, IN TERMS
20 OF -- CERTAINLY, WE'RE NOT TRYING TO DICTATE WHICH
21 ORDER THE STATE CALLS WITNESSES AFTER DR.
22 FOLLINGSTAD. BUT TO THE EXTENT THAT WE'LL NEED
23 WITNESSES HERE FOR IN-CAMERA HEARING ON MESSIAH,
24 FOR INSTANCE.

25 THE COURT: BETTER GET THEM HERE.

1 MR. HARPOOTLIAN: FOR THIS AFTERNOON?

2 THE COURT: WE'RE GOING TO GO TO
3 MIDNIGHT, IF NECESSARY, TO GET THOSE NON-JURY
4 ISSUES OUT OF THE WAY.

5 MR. JONES: THEN YOU WOULD WANT ME TO
6 KEEP MR. GRIGG HERE, ALSO?

7 THE COURT: YES, SIR.

8 MR. JONES: YES, SIR.

9 THE COURT: I CAN TELL YOU TODAY
10 WHETHER THEY'RE GOING TO BE ALLOWED TO TESTIFY OR
11 NOT.

12 MR. HARPOOTLIAN: YES, SIR.

13 MR. JONES: IS IT POSSIBLE THAT THEY
14 COULD TESTIFY TODAY?

15 THE COURT: I DOUBT IT. I MEAN, I
16 DON'T KNOW THAT. I HAVEN'T HAD THE HEARING. I'M
17 HAVING HEARTBURN WITH THAT ISSUE, I'LL JUST TELL
18 YOU.

19 WHERE IS MR. SWERLING? WHERE IS YOUR
20 WITNESS?

21 MR. HARPOOTLIAN: WE'RE READY. WE'RE
22 READY. DR. FOLLINGSTAD IS RIGHT HERE.

23 THE COURT: I KNOW. ARE YOU EXAMINING
24 THAT WITNESS?

25 MR. HARPOOTLIAN: WELL, HE IS, HE IS.

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1 BUT HE'S -- HE'S -- THERE HE IS. I KNEW EXACTLY
2 WHERE HE WAS. WE'RE READY.

3 THE COURT: ALL RIGHT, BRING THE JURY
4 IN.

5 (WHEREUPON, THE JURY RETURNED TO OPEN
6 COURT AT 2:18 P.M.)

7 THE COURT: ALL RIGHT, MADAM FOREMAN,
8 AND LADIES AND GENTLEMEN OF THE JURY, LET ME THANK
9 YOU FOR BEING PATIENT, AND ONE OF THE THINGS I'M
10 GOING TO HAVE TO DO TO KEEP THINGS MOVING IS ALLOW
11 A WITNESS TO BE CALLED OUT OF ORDER. THE WITNESS
12 WILL BE CALLED BY THE DEFENSE TO TESTIFY AT THIS
13 POINT IN TIME FOR A VARIETY OF PROBLEMS THAT
14 CONFLICT IN TERMS OF SCHEDULING. AGAIN, BEAR IN
15 MIND THAT THIS IS A DEFENSE WITNESS AND NOT A
16 STATE'S WITNESS, AND SO IF YOU WANT TO MAKE A
17 NOTATION IN YOUR NOTES FOR THAT PURPOSE. AND THEN,
18 WE'LL GET BACK ON TRACK AFTER THAT.

19 MR. SWERLING?

20 MR. SWERLING: THANK YOU, YOUR HONOR.
21 WE CALL DR. DIANNE FOLLINGSTAD.

22 DR. DIANNE FOLLINGSTAD, BEING
23 DULY SWORN, TESTIFIED AS FOLLOWS:

24 THE CLERK: PLEASE STATE YOUR NAME AND
25 SPELL YOUR LAST NAME.

1 THE WITNESS: MY NAME IS DR. DIANNE
2 RUTH FOLLINGSTAD. THAT'S F-O-L-L-I-N-G-S-T-A-D.

3 DIRECT EXAMINATION:

4 BY MR. SWERLING:

5 Q LET ME STAND OVER HERE. I'M TRYING TO
6 FIGURE OUT A GOOD SPOT TO STAND. DR. FOLLINGSTAD,
7 TELL THE JURY WHERE YOU LIVE.

8 A I LIVE IN COLUMBIA, SOUTH CAROLINA.

9 Q AND WHAT IS YOUR PROFESSION?

10 A I'M A PROFESSOR AT THE UNIVERSITY OF
11 SOUTH CAROLINA. AND I'M A PSYCHOLOGIST,
12 SPECIALIZING IN CLINICAL AND FORENSIC PSYCHOLOGY.

13 Q OKAY. COULD YOU TELL THE JURY A LITTLE
14 BIT ABOUT YOUR EDUCATIONAL BACKGROUND THAT BROUGHT
15 YOU INTO THE FIELD THAT YOU'RE IN?

16 A I FIRST RECEIVED MY BACHELOR'S DEGREE
17 IN PSYCHOLOGY AND SOCIOLOGY FROM AUGUSTBURG
18 COLLEGE, WHICH IS A SMALLER LIBERAL ARTS COLLEGE IN
19 MINNEAPOLIS, MINNESOTA. THAT WAS IN 1969. FROM
20 THERE, I WENT TO THE UNIVERSITY OF COLORADO. TWO
21 YEARS LATER IN 1971, I RECEIVED MY MASTERS DEGREE
22 IN CLINICAL PSYCHOLOGY. AND THREE YEARS LATER, I
23 RECEIVED MY DOCTORATE IN CLINICAL PSYCHOLOGY. IN
24 THAT PERIOD OF TIME, I ALSO HAD TO COMPLETE A ONE-
25 YEAR INTERNSHIP, WHICH I DID AT HALL PSYCHIATRIC

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1 INSTITUTE IN COLUMBIA, SOUTH CAROLINA. BUT THEN,
2 IN 1974, I COMPLETED ALL THE REQUIREMENTS FOR THE
3 DOCTORATE IN CLINICAL PSYCHOLOGY.

4 Q AND WHERE DID YOU RECEIVE THAT FROM?

5 A THE UNIVERSITY OF COLORADO.

6 Q SO YOU'VE BEEN ENGAGED -- YOU'VE BEEN A
7 DOCTOR SINCE -- DOCTOR OF PSYCHOLOGY SINCE --

8 A NINETEEN, SEVENTY-FOUR.

9 Q NOW, DO YOU -- YOU SAID YOU WERE
10 AFFILIATED WITH THE UNIVERSITY OF SOUTH CAROLINA?

11 A THAT'S CORRECT. I'M A FULL TIME
12 FACULTY MEMBER IN THE DEPARTMENT OF PSYCHOLOGY.

13 Q OKAY. AND HOW LONG HAVE YOU BEEN ON
14 THE FACULTY OF THE UNIVERSITY?

15 A I ACTUALLY BEGAN THERE IN 1973. BEFORE
16 I RECEIVED MY DOCTORATE, I WORKED FOR ONE YEAR AS
17 AN INSTRUCTOR. AND THEN THE FOLLOWING YEAR, WHEN I
18 COMPLETED MY DOCTORATE, I BECAME AN ASSISTANT
19 PROFESSOR AT THAT TIME.

20 Q OKAY. AND WHAT ARE YOUR
21 RESPONSIBILITIES AND DUTIES RIGHT NOW?

22 A I'M THE DIRECTOR OF THE CLINICAL
23 COMMUNITY PROGRAM. THAT'S AN ADMINISTRATIVE
24 POSITION. IN ADDITION TO THAT, I'M REQUIRED TO DO
25 RESEARCH. I ALSO TEACH GRADUATE COURSES RIGHT NOW

1 IN BOTH DIAGNOSIS AND TREATMENT OF PEOPLE WITH
2 MENTAL DISORDERS. AND I ALSO DO SUPERVISION OF
3 GRADUATE STUDENTS IN THERAPY AND ASSESSMENT.

4 Q AND YOU ALSO HAVE A PRIVATE PRACTICE --
5 YOU ALSO MAINTAIN A PRIVATE PRACTICE?

6 A THAT IS CORRECT.

7 Q AND DO YOU SEE PATIENTS?

8 A I SEE A SMALL NUMBER OF THERAPY CLIENTS
9 EVERY WEEK. I'D SAY THE MAJORITY OF WHAT I DO FOR
10 PRIVATE PRACTICE IS TO CONDUCT EVALUATIONS FOR
11 LEGAL PURPOSES.

12 Q OKAY. DO YOU -- HAVE YOU PUBLISHED ANY
13 IN THE AREA OF PSYCHOLOGY, CLINICAL PSYCHOLOGY AND
14 FORENSIC PSYCHOLOGY?

15 A YES, I HAVE. I'VE PUBLISHED SOMEWHERE
16 MORE THAN FORTY ARTICLES IN PROFESSIONAL JOURNALS.

17 Q AND WHAT'S BEEN THE RANGE OF ARTICLES
18 DEALING WITH CLINICAL FORENSIC AREA. WHAT SORTS OF
19 THINGS DO YOU TALK ABOUT?

20 A I WORK IN THE AREA OF PHYSICAL VIOLENCE
21 IN ADULT RELATIONSHIPS. AND I'D SAY MOST OF THE
22 OTHERS, I WOULD CHARACTERIZE BY SOMETHING ABOUT
23 ADULT INTERPERSONAL RELATIONSHIPS.

24 Q NOW, YOU SAID YOU WERE ON THE FACULTY.
25 ARE YOU A MEMBER OF ANY BOARDS DEALING WITH YOUR

1 PROFESSIONAL EXPERIENCE?

2 A YES, I AM. THE NATIONAL CERTIFYING
3 BOARD, WHICH CERTIFIES PSYCHOLOGIST AT AN ADVANCED
4 LEVEL OF PRACTICE IN FORENSIC PSYCHOLOGY IS CALLED
5 THE AMERICAN BOARD OF FORENSIC PSYCHOLOGY. I'VE
6 BEEN ON THAT BOARD FOR SIX YEARS AND I'M CURRENTLY
7 THE PRESIDENT OF THAT BOARD.

8 Q THAT'S A NATIONAL ORGANIZATION?

9 A THAT'S THE NATIONAL BOARD, YES.

10 Q OKAY. AND WHAT -- FORENSIC PSYCHOLOGY,
11 ARE THERE A LOT OF PEOPLE CERTIFIED, BOARD
12 CERTIFIED IN FORENSIC PSYCHOLOGY?

13 A NO. I WOULD SAY THERE ARE
14 APPROXIMATELY A HUNDRED AND FIFTY IN THE UNITED
15 STATES WHO ARE BOARD CERTIFIED AT THIS TIME.

16 Q AND THAT WOULD BE OUT OF HOW MANY
17 PEOPLE WHO GENERALLY DEAL IN THE AREA OF
18 PSYCHOLOGY?

19 A WELL, IN PSYCHOLOGY IN GENERAL, THERE
20 ARE PROBABLY FIFTY THOUSAND PSYCHOLOGISTS. I'M
21 TRYING TO ESTIMATE APPROXIMATELY HOW MANY. FOR
22 PEOPLE SPECIALIZING IN FORENSIC PSYCHOLOGY, I WOULD
23 GUESS MAYBE YOU'D FIND ABOUT A THOUSAND, SOMETHING
24 LIKE THAT.

25 Q BUT OUT OF THAT, THAT FIELD OR

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1 UNIVERSE, THERE'S ONLY A HUNDRED AND FIFTY WHO ARE
2 BOARD CERTIFIED?

3 A THAT'S CORRECT.

4 Q AND WHAT DO YOU HAVE TO DO TO BE BOARD
5 CERTIFIED?

6 A IT'S A THREE-STEP PROCESS. THE FIRST
7 THING IS THERE'S A REVIEW OF YOUR CREDENTIALS TO
8 SEE WHETHER OR NOT YOU HAVE THE EXPERIENCE AND
9 TRAINING THAT THE BOARD WOULD BELIEVE YOU COULD GO
10 ON TO THE EXAMINATION PROCESS. THEN THE
11 EXAMINATION ITSELF IS IN TWO PARTS. THE FIRST IS
12 THAT YOU HAVE TO SUBMIT SOME WORK SAMPLES BY WHICH
13 YOU DEMONSTRATE YOUR KNOWLEDGE IN THE AREA OF
14 PSYCHOLOGY, HOW WELL YOU UNDERSTAND LEGAL ISSUES
15 AND CAN DO EVALUATIONS FOR THAT PURPOSE. IF YOU
16 PASS THE WORK SAMPLES, THEN YOU GO ON TO A RIGOROUS
17 ORAL EXAMINATION, ABOUT A THREE-HOUR EXAMINATION,
18 THAT ESSENTIALLY LOOKS TO SEE WHETHER OR NOT YOU'RE
19 COMPETENT IN THE AREA.

20 Q AND THEN AFTER THAT YOU GET CERTIFIED
21 BY THE BOARD ITSELF?

22 A THAT'S CORRECT.

23 Q HAVE YOU RECEIVED ANY HONORS IN THE
24 AREA THAT YOU PRACTICE?

25 A YES, I HAVE. THERE IS A DIVISION OF

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1 THE NATIONAL AMERICAN PSYCHOLOGICAL ASSOCIATION,
2 WHICH PEOPLE CAN BE A MEMBER OF JUST BY VIRTUE OF
3 BEING A DOCTOR OF PSYCHOLOGY AND HAVING INTEREST IN
4 THE AREA. BUT I WAS ELECTED TO, WHAT THEY CALL,
5 FELLOW STATUS, WHICH IS AN HONORARY STATUS.

6 Q AND HOW DO YOU -- HOW DOES ONE ACQUIRE
7 THAT?

8 A THEY HAVE TO NOMINATED BY OTHER
9 FORENSIC PSYCHOLOGISTS. AND THEN THERE'S, AGAIN, A
10 REVIEW OF CREDENTIALS TO SEE WHETHER OR NOT YOU
11 BEAR A SIGNIFICANT CONTRIBUTION.

12 Q AND OTHER THAN THE ONES YOU'VE NAMED,
13 WHAT OTHER ORGANIZATIONS ARE YOU A MEMBER OF?

14 A WELL, I AM SECRETARY OF THE EXECUTIVE
15 BOARD OF THAT SAME DIVISION I WAS TALKING ABOUT,
16 THE DIVISION OF PSYCHOLOGY AND LAW. I ALSO BELONG
17 TO, AS WELL AS THE AMERICAN PSYCHOLOGICAL
18 ASSOCIATION, SOUTHEASTERN PSYCHOLOGICAL ASSOCIATION
19 OF SOUTH CAROLINA, PSYCHOLOGICAL ASSOCIATION AND
20 THE AMERICAN PSYCHOLOGY AND LAW SOCIETY.

21 Q DR. FOLLINGSTAD, ALSO, I UNDERSTAND YOU
22 HAVE ALSO GIVEN A LOT OF LECTURES TO OTHER
23 PSYCHOLOGISTS AND OTHER FORUMS AND SEMINARS AND
24 CONTINUING EDUCATION PROGRAMS?

25 A THAT IS CORRECT.

1 Q AND IN FACT, I THINK THIS WEEKEND YOU
2 ARE SCHEDULED TO GIVE ONE IN OHIO?

3 A THAT'S CORRECT.

4 Q AND HAVE YOU DONE A NUMBER OF THOSE?

5 A YES, I HAVE.

6 MR. SWERLING: YOUR HONOR, I WOULD LIKE
7 TO OFFER DR. FOLLINGSTAD AS AN EXPERT IN THE AREA
8 OF FORENSIC PSYCHOLOGY AND CLINICAL PSYCHOLOGY.

9 THE COURT: ALL RIGHT, WHO'S EXAMINING
10 THE WITNESS?

11 MR. JONES: I AM, YOUR HONOR.

12 THE COURT: DO YOU WISH TO EXAMINE HER
13 NOW ON THAT ISSUE? ARE THERE ANY OBJECTIONS?

14 MR. JONES: YOUR HONOR, JUST A COUPLE
15 OF QUESTIONS.

16 THE COURT: YES, SIR.

17 CROSS EXAMINATION:

18 BY MR. JONES:

19 Q DOCTOR, HAVE YOU TESTIFIED PREVIOUSLY
20 IN THE CIRCUIT COURTS OF THIS STATE AS AN EXPERT IN
21 THE FIELD OF FORENSIC PSYCHOLOGY?

22 A YES, I HAVE.

23 Q APPROXIMATELY HOW MANY TIMES?

24 A I WOULD SAY SOMEWHERE AROUND SEVENTY-
25 FIVE TIMES.

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1 Q AND HOW MANY OF THOSE TIMES WERE YOU
2 QUALIFIED AS AN EXPERT FOR THE STATE?

3 A I WAS ALWAYS QUALIFIED -- OH, EXCUSE
4 ME, FOR THE STATE?

5 Q YES.

6 A I DO NOT BELIEVE I HAVE EVER BEEN HIRED
7 BY THE STATE BECAUSE --

8 Q I DON'T -- THAT ANSWERS THE QUESTION.
9 WELL, YOU CAN SAY BECAUSE, BECAUSE WHY?

10 A BECAUSE THE EVALUATIONS FOR THE STATE
11 ARE TYPICALLY DONE THROUGH HALL PSYCHIATRIC
12 INSTITUTE BY THE FORENSIC UNIT THAT THEY HAVE
13 THERE. SO IT'S TYPICALLY THE DEFENSE WHO IS HIRING
14 PEOPLE FOR AN EVALUATION.

15 Q BUT THE EVALUATION CONDUCTED BY STATE
16 AND THE HALL INSTITUTE WOULD NOT PREVENT THEM FROM
17 BRINGING IN YOU AS AN ADDITIONAL EXPERT, WOULD IT?

18 MR. SWERLING: OBJECTION, YOUR HONOR.
19 THAT WOULD BE MISLEADING.

20 THE COURT: OVERRULED.

21 Q (BY MR. JONES) WOULD IT?

22 A I'M SORRY?

23 Q THAT WOULD NOT PREVENT THE STATE FROM
24 BRINGING YOU IN AS AN ADDITIONAL EXPERT WITH YOUR
25 EXPERTISE?

1 A I WOULD SUPPOSE -- I MEAN, I SUPPOSE
2 THAT COULD HAPPEN. I THINK IT'S THE RARE CASE
3 WHERE THAT IS DONE.
4 Q IT'S NEVER BEEN DONE?
5 A I'M SAYING EVEN GENERALLY.
6 MR. SWERLING: OBJECTION, YOUR HONOR.
7 THAT IS --
8 THE COURT: SUSTAINED.
9 MR. JONES: I'M TALKING ABOUT HER.
10 THE COURT: IF SHE KNOWS.
11 MR. JONES: ALL RIGHT.
12 THE COURT: SHE CAN ANSWER THE QUESTION
13 IF SHE KNOWS WHETHER OR NOT IT'S EVER BEEN DONE.
14 MR. JONES: YES, YOUR HONOR, BUT MY
15 QUESTION WAS WHETHER SHE HAD EVER DONE IT. BUT
16 THAT --
17 THE COURT: SHE ANSWERED IT.
18 MR. JONES: ALL RIGHT. NO FURTHER
19 QUESTIONS.
20 THE COURT: ALL RIGHT. I FIND SHE'S
21 QUALIFIED FOR PURPOSES OF RENDERING THE OPINION
22 SOUGHT BY THE DEFENSE.
23 DIRECT EXAMINATION CONT.:
24 BY MR. SWERLING:
25 Q DR. FOLLINGSTAD, THE SOLICITOR ASKED

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1 YOU -- YOU HAVE BEEN QUALIFIED OVER SEVENTY-FIVE
2 TIMES BY CIRCUIT COURTS IN THIS STATE?

3 A THAT IS CORRECT.

4 Q TO RENDER AN OPINION AND TO TESTIFY?
5 THE SOLICITOR ALSO ASKED YOU ABOUT -- AND I'D LIKE
6 YOU TO ELABORATE A LITTLE BIT. THERE IS A -- IS
7 THERE A FORENSIC UNIT AVAILABLE TO THE STATE OF
8 SOUTH CAROLINA THROUGH THE SOUTH CAROLINA STATE
9 HOSPITAL?

10 A THAT IS CORRECT. IT'S THROUGH HALL
11 PSYCHIATRIC INSTITUTE.

12 Q AND IS THAT WHERE THE STATE MAY SEND
13 SOMEONE FOR AN EVALUATION?

14 A THAT'S CORRECT.

15 Q AND ARE THEY STAFFED WITH PSYCHIATRISTS
16 AND PSYCHOLOGISTS?

17 A THAT IS CORRECT.

18 Q WHO EVALUATE PEOPLE?

19 A YES.

20 Q IS THAT WHY TYPICALLY, AS YOU SAID, YOU
21 HAVE BEEN HIRED BY THE DEFENSE?

22 A THAT IS CORRECT.

23 Q THAT IS NOT -- THAT IS SOMETHING THAT
24 THE DEFENSE -- WELL, THAT'S SOMETHING THAT'S
25 AVAILABLE TO THE STATE; IS THAT CORRECT, WILLIAM H.

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- 1 HALL PSYCHIATRIC INSTITUTE?
- 2 A THAT'S CORRECT.
- 3 Q AND THAT'S DONE BY GENERALLY COURT
- 4 ORDER IF THE STATE WISHES IT?
- 5 A YES.
- 6 Q NOW, WERE YOU HIRED IN THIS CASE BY THE
- 7 DEFENSE?
- 8 A YES, I WAS.
- 9 Q OKAY. AND ARE YOU BEING PAID BY THE
- 10 DEFENSE?
- 11 A THAT'S CORRECT.
- 12 Q NOW, LET ME ASK YOU A FEW AREAS -- BY
- 13 THE WAY, HAVE YOU BEEN AVAILABLE TO THE STATE TO
- 14 TALK WITH THE STATE IF YOU WANTED TO -- IF THEY
- 15 WANTED YOU?
- 16 A YES, I AM.
- 17 Q HAS ANYBODY TRIED OR ATTEMPTED TO TALK
- 18 TO YOU?
- 19 A NO.
- 20 Q AND YOU WERE ASKED BY US TO ASSIST US
- 21 IN THIS CASE APPROXIMATELY HOW LONG AGO?
- 22 A I'M TRYING TO REMEMBER. I BELIEVE IT
- 23 WAS SOMEWHERE AROUND, MAYBE MAY, SOMETHING LIKE
- 24 THAT.
- 25 Q SO, YOU'VE BEEN INVOLVED IN THE CASE OR

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1 INVOLVED IN WORKING ON THIS CASE FOR SOME FIVE
2 MONTHS?

3 A THAT'S CORRECT.

4 Q AND AS OF THIS DATE, NO ONE HAS SOUGHT
5 TO TALK TO YOU CONCERNING THIS CASE?

6 A THAT IS CORRECT.

7 Q NOW, WOULD YOU TELL THE JURY WHAT THE
8 AREA OF CLINICAL PSYCHOLOGY IS ALL ABOUT, FOR THOSE
9 OF US THAT DON'T KNOW.

10 A CLINICAL PSYCHOLOGY IS THE AREA OF
11 PSYCHOLOGY THAT HAS TO DO WITH THE DIAGNOSIS,
12 ASSESSMENT AND TREATMENT OF PEOPLE WITH MENTAL
13 DISORDERS. SO IT'S THE IDEA OF GOING IN THROUGH
14 INTERVIEWS, PSYCHOLOGICAL TESTS, LOOKING AT
15 RECORDS, THINGS LIKE THIS IN ORDER TO DETERMINE
16 WHETHER OR NOT PEOPLE HAVE SOME TYPE OF MENTAL
17 DISORDER, AND IN WHICH CASE IF THEY DO, WHAT WOULD
18 BE THE BEST WAY TO TREAT IT.

19 Q OKAY. AND DO YOU OFTEN WORK WITH
20 PSYCHIATRISTS?

21 A THERE ARE OFTEN WAYS IN WHICH
22 PSYCHIATRISTS AND PSYCHOLOGISTS WORK TOGETHER. FOR
23 EXAMPLE, IF THE PERSON MIGHT NEED SOME MEDICATION,
24 SOME KIND OF PHYSICAL EXAMINATION, SOMETHING LIKE
25 THAT.

1 Q OKAY. AND WHAT IS THE FIELD OF
2 FORENSIC PSYCHOLOGY?

3 A FORENSIC PSYCHOLOGY IS THE AREA OF
4 PSYCHOLOGY WHERE THE LAW AND PSYCHOLOGY INTERACT IN
5 SOME WAY. SAY FOR EXAMPLE, WHERE IN A LEGAL CASE
6 SOMEONE NEEDS TO BE EVALUATED TO ANSWER CERTAIN
7 QUESTIONS OF THE LAW. OR THERE ARE CERTAIN
8 FORENSIC PSYCHOLOGISTS WHO DO RESEARCH ON THINGS
9 LIKE JURY BEHAVIOR OR THINGS LIKE EYEWITNESS
10 TESTIMONY, THE ACCURACY OF IT AND THINGS LIKE THAT.
11 SO IT'S BOTH RESEARCHERS AND PEOPLE WHO DO
12 EVALUATIONS FOR COURT PURPOSES.

13 Q OKAY. AND THAT IS THE BOARD UPON WHICH
14 YOU ARE CERTIFIED --

15 A THAT'S CORRECT.

16 Q -- IS THAT CORRECT? NOW, IN CONNECTION
17 WITH YOUR BACKGROUND, DID YOU HAVE -- AT OUR
18 REQUESTS, DID YOU CONDUCT AN EXAMINATION OF STEPHEN
19 BECKHAM?

20 A YES, I DID.

21 Q ALL RIGHT. AND WHAT DID THIS
22 EXAMINATION CONSIST OF THAT YOU CAN RELATE TO THE
23 JURY?

24 A I HAD INTERVIEWS WITH STEPHEN BECKHAM,
25 DURING WHICH TIME, I NOT ONLY INTERVIEWED HIM, GAVE

1 HIM SOME PSYCHOLOGICAL MEASURES, BUT ALSO WAS ABLE
2 TO OBSERVE HIM AT THAT TIME.

3 I ALSO, BY PHONE, INTERVIEWED HIS
4 SISTER, CATHERINE BECKHAM. AND I ALSO TALKED TO
5 TWO FRIENDS OF HIS, JIM AND JENNY EDWARDS, ON THE
6 PHONE AS WELL. IN ADDITION TO THIS, I HAVE
7 CONSULTED WITH A SOCIAL WORKER WHO HAS BEEN
8 INVOLVED WITH GETTING A LOT OF FAMILY HISTORY, SO
9 THAT WE WOULDN'T BOTH DOUBLE UP ON THAT, SO I
10 TALKED WITH HER ABOUT INFORMATION THAT SHE HAD.

11 I ALSO WAS INVOLVED IN A CONSULTATION
12 WITH ANOTHER PSYCHOLOGIST WHO HAD HAD ACCESS TO
13 SOME OF THE FAMILY MEMBERS. I ALSO HAVE LOOKED AT
14 A LOT OF RECORDS. I HAVE EDUCATIONAL RECORDS THAT
15 SPAN FROM GRADE SCHOOL ALL THE WAY THROUGH HIS
16 COLLEGE.

17 Q AND YOU'RE TALKING ABOUT OF THE
18 DEFENDANT'S?

19 A YES, OF MR. BECKHAM'S. I HAVE RECORDS
20 FROM TWO DIFFERENT JAILS THAT HE HAS BEEN IN WHILE
21 AWAITING TRIAL, BOTH SALUDA COUNTY AND RICHLAND
22 COUNTY CENTER JAIL RECORDS. I HAVE MEDICAL
23 RECORDS. I HAVE RECORDS FROM LEXINGTON -- EXCUSE
24 ME, LEXINGTON MEDICAL CENTER, A DOCTOR OF HIS, DR.
25 ALLISON, AS WELL AS, SOME MATERIAL, SOME TESTING

1 AND NOTES FROM THE DR. PAUL VANWIKE WHO HAD BEEN
2 INVOLVED IN A CUSTODY EVALUATION OF MR. BECKHAM,
3 HIS WIFE AND THEIR CHILDREN. I ALSO HAVE BEEN ABLE
4 TO READ ABOUT, I WOULD SAY ABOUT TEN TO TWELVE
5 INTERVIEWS THAT THE POLICE DID WITH DIFFERENT
6 FAMILY MEMBERS, BOTH OF THE BECKHAMS AND OF THE
7 LANDERS. AND THEN I DID A VARIETY OF PSYCHOLOGICAL
8 TESTING. SO, IT WAS MEANT TO BE A KIND OF
9 EVALUATION WHERE WE GET INFORMATION FROM A LOT OF
10 DIFFERENT KINDS OF SOURCES.

11 Q DID YOU ACTUALLY INTERVIEW MR. BECKHAM
12 HIMSELF?

13 A YES, I DID.

14 Q AND HOW LONG APPROXIMATELY DID YOU
15 SPEND IN THOSE INTERVIEWS?

16 A ON JUNE 14TH OF THIS YEAR, 1996, I SAW
17 HIM FOR FOUR HOURS, THEN ON JULY 10TH, 1996, I SAW
18 HIM FOR THREE AND A HALF HOURS. I WENT BACK AGAIN
19 ON JULY 25TH, 1996, FOR THREE AND A HALF HOURS,
20 AND THEN SAW HIM AGAIN ON AUGUST 5TH, 1996, FOR
21 THREE HOURS. SO I HAVE THAT AS BEING FOURTEEN
22 HOURS -- EXCUSE ME, THIRTEEN HOURS, THIRTEEN,
23 FOURTEEN HOURS.

24 Q THIRTEEN HOURS. AND THAT'S IN ADDITION
25 -- THAT'S IN ADDITION TO THE RECORD REVIEWS --

1 A CORRECT.

2 Q -- AND THINGS OF THAT NATURE?

3 A UH-HUH.

4 Q NOW, ALL THAT INFORMATION THAT YOU GOT,
5 IS THAT NECESSARY TO GET A WHOLE PICTURE OF THE
6 INDIVIDUAL TO GO AHEAD AND GIVE AN OPINION IN
7 CONJUNCTION WITH ALSO SOME TESTING.

8 A THAT'S CORRECT. THE IDEA IS -- IT
9 WOULD BE AN ERROR IF YOU ONLY GOT INFORMATION
10 THROUGH AN INTERVIEW WITH THE PERSON YOU'RE TRYING
11 TO EVALUATE. YOU WANT AS MANY SOURCES OF
12 INFORMATION AS POSSIBLE. AGAIN, RECORDS, TESTING--
13 YOU DEFINITELY WANT TO INTERVIEW THE PERSON. YOU
14 NEED INFORMATION FROM THEM DIRECTLY, BUT ALSO, IF
15 YOU CAN GET INFORMATION FROM OTHER FAMILY MEMBERS
16 AS WELL, THAT'S REAL HELPFUL.

17 Q IS IT ALSO IMPORTANT TO GET INFORMATION
18 FROM A PRE-ARREST SITUATION, INSTEAD OF JUST POST-
19 ARREST INFORMATION?

20 A DEFINITELY.

21 Q AND IS THERE MORE VALIDITY TO
22 INFORMATION -- OR AS MUCH VALIDITY OR MORE
23 VALIDITY, THE INFORMATION YOU MAY HAVE EVEN BEFORE
24 AN ARREST OR BEFORE AN EVENT TAKES PLACE?

25 A THAT CAN WORK ONE OF TWO WAYS. I MEAN,

1 WHAT YOU'D BE HOPING FOR IS THAT THE INFORMATION
2 YOU GET, IF YOU'RE ABLE TO GET INFORMATION BEFORE
3 AN ARREST, THAT IT WOULD BE CONSISTENT WITH THE
4 CURRENT INFORMATION THAT YOU'RE GETTING. AND
5 THAT'S WHAT YOU WOULD LOOK FOR, AS WHETHER OR NOT
6 THERE'S AGREEMENT ON THAT INFORMATION.

7 Q SO YOU'VE GOTTEN A COMPLETE HISTORY,
8 SCHOOL, MEDICAL OF MR. BECKHAM?

9 A UH-HUH.

10 Q YOU'VE INTERVIEWED FAMILIES, FAMILY
11 MEMBERS AND GOTTEN SOURCES OF INFORMATION FROM THE
12 FAMILY?

13 A THAT'S CORRECT.

14 Q AND YOU ALSO SAID YOU SPOKE WITH DR.
15 PAUL VANWIKE, WHO HAD SEEN MR. BECKHAM AND THE
16 CHILDREN BEFORE THE EVENTS IN QUESTION?

17 A THAT'S CORRECT.

18 Q ALL RIGHT. AND WAS HIS CONSULTATION
19 WITH YOU AND HIS TESTING HELPFUL TO YOU?

20 A YES, IT WAS, BECAUSE I WAS ABLE TO GET
21 SOME PRIOR PSYCHOLOGICAL TESTING AND COMPARE THAT
22 WITH A SIMILAR TEST THAT I GAVE HIM THIS TIME.

23 Q OKAY. AND AS I UNDERSTAND THAT
24 INFORMATION OR THAT TEST -- THOSE TESTING
25 PROCEDURES WERE DONE IN THE SPRING OF 1994?

1 A I BELIEVE THAT'S THE CORRECT DATE, YES.

2 Q SOMETIME LATE WINTER OR SPRING OF 1994?

3 A UH-HUH.

4 Q OKAY. NOW, DID YOU DO TESTING

5 YOURSELF, I THINK YOU SAID YOU DID?

6 A YES, I DID.

7 Q AND WHAT TYPE OF TESTING DID YOU DO?

8 COULD YOU TELL THE JURY WHAT THE TESTING WAS AND
9 WHAT IT'S SUPPOSED TO REVEAL -- WHAT INFORMATION
10 IT'S SUPPOSED TO GIVE YOU.

11 A I ALWAYS CONDUCT WHAT'S CALLED
12 NEUROPSYCHOLOGICAL SCREENING. WHAT THAT IS, IS I
13 ALWAYS GIVE SOME SCREENING TESTS THAT TELL ME
14 WHETHER OR NOT THE PERSON MIGHT POSSIBLY HAVE SOME
15 KIND OF BRAIN PROBLEM WHERE THEIR BRAIN LITERALLY
16 WOULDN'T FUNCTION NORMALLY. SO THAT IF THERE WAS A
17 SUGGESTION THAT THEY MIGHT HAVE BRAIN DAMAGE, I
18 WOULD HAVE REFERRED HIM ON FOR -- TO A
19 NEUROPSYCHOLOGIST, WHO COULD DO VERY THOROUGH
20 TESTING IN THAT AREA. SO I GAVE TWO MEASURES. ONE
21 CALLED THE TRAILS A AND B AND ONE THE BENDER
22 GESTALT AND THOSE ARE JUST MEANT TO SCREEN FOR THAT
23 PURPOSE.

24 MOST OF THE TESTING THAT I GAVE IS WHAT
25 IS CALLED OBJECTIVE TESTING. AND THAT MEANS WHEN

1 YOU GIVE THE MEASURE TO THE PERSON, WE HAVE SCORES
2 THAT -- OTHER PEOPLE HAVE TAKEN THE TESTS AND WE
3 HAVE SCORES OF HOW PEOPLE NORMALLY OR USUALLY SCORE
4 ON THIS KIND OF TEST. SO THEN WE KNOW, FOR
5 EXAMPLE, WHEN A PERSON'S SCORE IS IN THE ABNORMAL
6 RANGE. SO THOSE TESTS ARE VERY IMPORTANT, BECAUSE
7 YOU NOT ONLY HAVE THE PERSON'S SCORE, BUT YOU KNOW
8 WHETHER OR NOT, COMPARED TO OTHER PEOPLE, IT'S A
9 NORMAL OR ABNORMAL SCORE.

10 Q NOW IS THIS DONE -- IS THIS PUBLISHED
11 FOR YOU, THIS TYPE OF INFORMATION PUBLISHED?

12 A YES.

13 Q IT IS DONE BY HOSPITALS, CLINICS, OTHER
14 PSYCHOLOGISTS --

15 A RESEARCHERS.

16 Q RESEARCHERS.

17 A YES. AND ALSO, THE PEOPLE WHO DEVISE
18 THE MEASURES GO TO GREAT LENGTHS TO ESTABLISH THAT
19 THEY HAVE A GROUP WHO HAVE TAKEN THIS MEASURE SO
20 THAT YOU CAN COMPARE THE PERSON YOU'RE EVALUATING
21 TO OTHER GROUPS OF PEOPLE. SOME OF THESE TESTS
22 HAVE LONG NAMES, BUT ONE IS CALLED THE MINNESOTA
23 MULTIPHASIC PERSONALITY INVENTORY. WE CALL IT MMPI
24 TO SHORTEN IT. ANOTHER, THE MILAN CLINICAL
25 MULTIAXIL INVENTORY, AGAIN, ANOTHER MEASURE TO

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1 LOOK AND SEE WHETHER OR NOT THE PERSON SEEMS TO
2 HAVE PSYCHOPATHOLOGY OR ABNORMAL BEHAVIOR. ANOTHER
3 IS A PERSONALITY ASSESSMENT INVENTORY DOES THE SAME
4 THING, LOOKS FOR WHETHER OR NOT THE PERSON HAS SOME
5 KIND OF MENTAL DISORDER.

6 I ALSO GAVE ONE INVENTORY THAT JUST
7 ASSESSES DEPRESSION, THE BECK DEPRESSION INVENTORY.
8 AND A SIMILAR ONE THAT IS THE BECK HOPELESSNESS
9 SCALE TO LOOK TO SEE WHETHER OR NOT SOMEONE IS
10 FEELING PRETTY HOPELESS IN THEIR CURRENT SITUATION.

11 I ALSO GAVE HIM A SUICIDE PROBABILITY
12 SCALE TO DETERMINE WHETHER OR NOT HE MIGHT APPEAR
13 TO BE SUICIDAL AT THIS TIME. I GAVE ANOTHER TEST
14 CALLED THE SYMPTOM CHECKLIST 90 REVISED, AND THAT
15 WAS AGAIN MEANT TO LOOK FOR ANY KIND OF CLINICAL
16 SYMPTOMS LIKE DEPRESSION, PARANOIA AND THINGS LIKE
17 THIS.

18 IN ADDITION, I GAVE TWO TESTS THAT WE
19 CALL PROJECTIVE TESTING, WHICH ARE THOSE IN WHICH
20 THE PERSON RESPONDS -- THEY GIVE ANSWERS TO VERY
21 AMBIGUOUS KINDS OF THINGS. ONE I'M SURE YOU'VE
22 HEARD OF, THE RORSCHACH INKBLOT TEST, THE KIND OF
23 FAMOUS INKBLOT TEST WHERE PEOPLE SEE DESIGNS AND
24 THEY'RE SUPPOSED TO TELL YOU WHAT THEY SEE IN THEM.
25 AND YOU GIVE THESE KINDS OF TESTS BECAUSE THE

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1 PERSON CAN'T REALLY SEE WHAT YOU'RE TRYING TO FIND
2 OUT. WHEREAS, WHEN THEY READ SOME OF THESE
3 OBJECTIVE TESTS, SOMETIMES, THEY KIND OF GET A
4 SENSE OF WHAT YOU MIGHT BE LOOKING FOR. BUT THESE,
5 IT'S MUCH HARDER TO READ INTO WHAT YOU'RE TRYING TO
6 FIND OUT ABOUT THE PERSON.

7 Q AND SO, BASED ON -- I MEAN, YOU GAVE
8 HIM, SOUNDS LIKE ABOUT SEVEN OR EIGHT TESTS?

9 A ABOUT TEN.

10 Q TEN?

11 A I THINK, YEAH.

12 Q AND WHAT CHARACTERISTICS DO YOU DEVELOP
13 -- OR CAN YOU DEVELOP ABOUT AN INDIVIDUAL? ARE YOU
14 LOOKING FOR MENTAL DISORDERS, ALSO?

15 A YES.

16 Q OKAY. AND YOU'RE LOOKING FOR SOCIAL
17 BEHAVIOR?

18 A YES. WHETHER OR NOT THEY'RE MORE
19 INTROVERTED, EXTROVERTED, SOCIABLE.

20 Q DID YOU FIND ANY EVIDENCE OF ANY --
21 FROM THE TESTING AND FROM ALL THE SOURCES THAT YOU
22 USED, ANY EVIDENCE OF A MENTAL DISORDER IN STEPHEN
23 BECKHAM?

24 A NO, I COULD NOT FIND EVIDENCE OF A
25 MAJOR MENTAL DISORDER.

1 Q AND HOW DO THOSE TESTS DETERMINE -- HOW
2 DO YOU DETERMINE THE VALIDITY OF THOSE TESTS?

3 A SEVERAL OF THE TESTS HAVE PUT INTO THE
4 TESTS ADDITIONAL SCALES TO FIND OUT THE ATTITUDE OF
5 THE PERSON TAKING THE TESTS. BECAUSE THEY KNOW
6 THAT PEOPLE CAN APPROACH THESE TESTS AND TRY TO
7 FAKE THINGS. THEY CAN TRY TO FAKE THAT THEY HAVE A
8 MENTAL DISORDER WHEN THEY DON'T, OR THEY COULD FAKE
9 THAT THEY'RE ABSOLUTELY FINE WHEN THEY'RE NOT. SO
10 FOR EXAMPLE, THE MMPI HAS THREE SCALES. ONE OF
11 WHICH, IF PEOPLE ARE VERY DEFENSIVE IN SAYING
12 THERE'S NOTHING WRONG WITH ME, I'M ABSOLUTELY FINE,
13 THEY'LL SCORE HIGH ON THAT ONE.

14 THERE'S ANOTHER SCALE WHICH IF THEY'RE
15 TRYING TO FAKE A MENTAL DISORDER, THEY'LL SAY THAT
16 THEY HAVE ALL KINDS OF UNUSUAL, BIZARRE KINDS OF
17 SYMPTOMS, SO THAT SCORE GOES UP AND THAT BECOMES A
18 WARNING TO THE PERSON EVALUATING THE TESTS AS TO
19 WHETHER OR NOT THEY THINK IT'S VALID AND YOU CAN GO
20 AHEAD AND INTERPRET IT. AND THERE'S ANOTHER ONE IN
21 WHICH PEOPLE MAY NOT BE WILLING TO ADMIT TO THE
22 KINDS OF KIND OF SOCIAL MISTAKES OR -- HOW SHOULD I
23 PUT THIS, KIND OF LITTLE BAD HABITS THAT WE MIGHT
24 ALL HAVE. AND SOME WON'T ADMIT TO THOSE KINDS OF
25 THINGS; AGAIN, IT'S A WARNING SIGNAL. SO THAT

1 MEASUREMENT -- MMPI, FOR EXAMPLE, THERE'S THREE
2 SCALES THAT IF YOU FEEL THAT THE PERSON IS SCORING
3 INTO AN ABNORMAL RANGE ON THOSE, YOU WOULD STOP AND
4 SAY I DON'T THINK I CAN GO AHEAD AND INTERPRET THE
5 TESTS BECAUSE IT'S PROBLEMATIC AND I THINK THEY'RE
6 TRYING TO FAKE THE TESTS.

7 Q SO THE TEST ITSELF HAS A BUILT-IN --
8 WELL, IS IT FAIR TO SAY IT HAS A BUILT-IN GUARANTEE
9 OF TRUSTWORTHINESS THAT A PERSON'S NOT FAKING?

10 A THAT'S CORRECT. IF THEY ARE, YOU WOULD
11 BE ABLE TO SEE THAT AND THEN YOU WOULDN'T GO ON TO
12 INTERPRET THE REST OF THE TEST.

13 Q SO THAT'S A SAFETY VALVE?

14 A CORRECT.

15 Q OKAY. AND IS THERE ANY EVIDENCE THAT
16 MR. BECKHAM WAS FAKING?

17 A NO, THERE WAS --

18 Q OR TRYING TO SHOW HE DID NOT HAVE A
19 DISORDER OR DID HAVE A DISORDER?

20 A NO. THERE WAS A SUGGESTION THAT HE'S A
21 LITTLE MORE ON THE LINE OF NOT WANTING TO DISCLOSE,
22 BUT HIS TEST WAS CONSIDERED IN THE VALID RANGE.

23 AND HE DEFINITELY DID NOT LOOK LIKE HE WAS TRYING
24 TO SAY HE HAD A MENTAL DISORDER WHEN HE DID NOT.

25 Q OKAY. AND YOU DETERMINED -- YOUR

- 1 ASSESSMENT WAS THAT HE DID NOT HAVE A DISORDER?
- 2 A CORRECT.
- 3 Q OKAY. NOW, YOU ALSO HAD THE BENEFIT OF
- 4 DR. VANWIKE'S TESTING IN 1994, CORRECT?
- 5 A CORRECT.
- 6 Q AND WAS THAT CONSISTENT OR NOT
- 7 CONSISTENT WITH WHAT DR. VANWIKE FOUND EVEN PRIOR
- 8 TO THE EVENTS AND PRIOR TO HIS ARREST?
- 9 A HIS TESTING WAS QUITE CONSISTENT ON THE
- 10 MMPI THAT DR. VANWIKE DID AND THE MMPI THAT I GAVE
- 11 HIM.
- 12 Q AND THOSE WERE ALMOST TWO YEARS APART?
- 13 A CORRECT, UH-HUH.
- 14 Q NOW, THE MMPI ALSO DETERMINES THE
- 15 PERSONALITY OR --
- 16 A IT'S MORE PRESENCE OF MENTAL DISORDERS.
- 17 THERE ARE A COUPLE OF THINGS ON THERE WHERE YOU CAN
- 18 TELL SOMETHING ABOUT PERSONALITY. FOR EXAMPLE, THE
- 19 MEASURE ON WHETHER OR NOT SOMEBODY IS SOCIAL, YOU
- 20 KNOW, KIND OF OUTGOING OR WHETHER OR NOT THEY ARE
- 21 VERY INTROVERTED, WHETHER OR NOT THEY HAVE MORE
- 22 MASCULINE OR FEMININE INTEREST, SOME THINGS LIKE
- 23 THAT.
- 24 Q WHAT OTHER ISSUES DID YOU SEE THAT WERE
- 25 CONSISTENT WITH YOUR TESTING WHICH WOULD BE

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1 RELEVANT TO THE JURY'S CONSIDERATION AND WHAT DR.
2 VANWIKE HAD FOUND?

3 A I'M SORRY?

4 Q WHAT OTHER FACTORS IN THE TESTING DID
5 YOU FIND CONSISTENT WITH WHAT DR. VANWIKE HAD FOUND
6 THAT WOULD BE RELEVANT TO THE JURY?

7 A THE MAIN THING IN TERMS OF COMPARING
8 THE TWO, THE EARLIER MMPI AND MINE, I WAS LOOKING
9 MOSTLY TO SEE WHETHER OR NOT THEY WERE CONSISTENT.
10 SO, FOR EXAMPLE, ON THE MMPI THAT HE TOOK TWO YEARS
11 AGO, HE HAD NO ELEVATIONS INTO THE ABNORMAL RANGE.
12 THAT WAS ALSO TRUE ON THE ONE THAT I HAD. ALSO,
13 THE WAY HE APPROACHED THE TEST SEEMED TO BE VERY
14 SIMILAR BOTH TIMES. SO THERE'S A REAL CONSISTENCY
15 AND THAT'S WHAT I WAS LOOKING FOR.

16 Q OKAY. NOW, WE'RE TALKING ABOUT NORMAL
17 VERSUS ABNORMAL. COULD YOU ELABORATE ON THAT FOR
18 THE JURY, WHAT AN ABNORMAL RANGE WOULD BE AND WHAT
19 A NORMAL RANGE IS AND WHAT'S THE SIGNIFICANCE OF
20 IT?

21 A OKAY. THE WAY IT'S DESIGNED FOR THE
22 MMPI IS IF YOUR SCORE GOES ABOVE A CERTAIN LEVEL,
23 LITERALLY, IF YOU HAVE SO MANY ITEMS ON A SCALE,
24 LIKE PARANOIA OR SCHIZOPHRENIA OR DEPRESSION OR
25 SOMETHING LIKE THAT, IF YOUR SCORE GOES ABOVE A

1 CERTAIN LEVEL, YOU'RE SEEN AS ANSWERING LIKE VERY
2 FEW PEOPLE WOULD DO. AND THEN IT WOULD BE
3 DETERMINED THAT YOU'RE SCORING VERY DIFFERENTLY
4 FROM MOST PEOPLE. MAYBE LIKE NINETY-TWO PERCENT OF
5 THE PEOPLE IN THE UNITED STATES WOULD NOT HAVE
6 ANSWERED LIKE THAT. SO IT APPEARS THAT YOU ARE
7 SAYING THAT SO MANY THINGS ARE TRUE ABOUT YOU IN
8 TERMS OF THIS ABNORMAL CONDITION, LIKE DEPRESSION,
9 THAT THEN THE PROFESSIONAL COULD CONSIDER
10 DIAGNOSING YOU AS HAVING THAT DISORDER.

11 Q NOW, THE TESTING YOU ALSO DO AND THE
12 BACKGROUND INFORMATION YOU ASSESS, DOES THAT ASSIST
13 YOU IN MAKING A DETERMINATION SO THAT YOU CAN
14 RENDER AN OPINION ABOUT WHETHER OR NOT SOMEONE IS
15 ADAPTABLE TO A PRISON ENVIRONMENT IF HE'S GIVEN A
16 LIFE SENTENCE?

17 A YES. ADAPTABILITY CAN BE ASSESSED IN A
18 NUMBER OF DIFFERENT WAYS, SOME OF WHICH THE TESTING
19 IS USED, SOME OF WHICH THEIR PERSONAL HISTORY IS
20 USED, AND SOME OF WHICH, IF THEY'VE SPENT TIME IN
21 PRISON, YOU CAN ALSO USE THAT INFORMATION AS WELL.

22 Q LET'S TALK A MOMENT ABOUT WHAT IS
23 ADAPTABILITY. IF SOMEONE GETS A LIFE SENTENCE,
24 WHAT DOES ADAPTABILITY MEAN? WHAT ARE WE EXACTLY
25 TALKING ABOUT?

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1 A THIS HAS BEEN SEEN AS AN IMPORTANT
2 QUESTION BECAUSE PRISONS ARE HARSH, VIOLENT AND
3 DANGEROUS SETTINGS. AND WHEN SOMEONE GOES INTO
4 PRISON, THERE'S A REAL CONCERN AS TO WHETHER OR NOT
5 THEY CAN ADJUST TO THE SITUATION. AND ADJUSTMENT
6 IS IMPORTANT BECAUSE WE KNOW THAT THERE ARE PEOPLE
7 IN PRISONS WHO CREATE ADDITIONAL PROBLEMS, WHO
8 FOMENT PROBLEMS AMONG THE INMATES, WHO ARE ALWAYS
9 INTO PROBLEMS WITH THE GUARDS. THEY HAVE WHAT WE
10 CALL AUTHORITY COMPLEX,-- THEY CAN'T GET ALONG --
11 WHO DON'T FOLLOW THE RULES, WHO ACT OUT AND CREATE
12 LOTS OF ADDITIONAL KINDS OF PROBLEM. SO WHAT WE
13 CARE ABOUT IN TERMS OF BEING ABLE TO LOOK AT THIS
14 INFORMATION IS TO BE ABLE TO TRY AND PREDICT
15 WHETHER OR NOT SOMEONE COULD GO INTO THE SYSTEM AND
16 NOT CREATE DIFFICULTY AND BE ABLE TO BASICALLY
17 SURVIVE IN THIS PRETTY HARSH ENVIRONMENT THAT
18 THEY'RE GOING INTO.

19 Q IN YOUR EVALUATION AND YOUR RESEARCH
20 INTO STEPHEN BECKHAM, DID YOU CONSIDER WHETHER OR
21 NOT -- OR ONE OF THE THINGS YOU CONSIDER IS WHETHER
22 OR NOT IF STEPHEN BECKHAM WERE GIVEN A LIFE
23 SENTENCE, WHETHER OR NOT HE WOULD BE ADAPTABLE TO
24 PRISON?

25 A THAT'S CORRECT.

1 Q ALL RIGHT. COULD YOU TELL THE JURY
2 SOME OF THE THINGS THAT YOU THOUGHT WERE
3 SIGNIFICANT AS TO WHETHER OR NOT HE WAS OR WAS NOT
4 ADAPTABLE TO PRISON?

5 A THERE ARE BASICALLY THREE DIFFERENT
6 THINGS THAT I LOOK AT. THE FIRST ONE IS, THERE IS
7 A CLASSIFICATION SYSTEM THAT EXIST THAT'S BASED ON
8 SOME EXCELLENT RESEARCH ON INMATES DOWN IN FLORIDA,
9 THAT ESSENTIALLY USING THE MMPI PROFILE OR SCORES
10 FROM THE MMPI, WE ARE ABLE TO DO PREVIEW
11 PREDICTION OF WHETHER OR NOT THEY LOOK, THE PERSON
12 LOOKS LIKE THEY'LL BE ADAPTABLE IN PRISON, SO I
13 DEFINITELY LOOK AT HOW THEY LOOK ACCORDING TO THE
14 SYSTEM.

15 THEN I LOOK AT SOME OF THE FACTORS THAT
16 WE KNOW ARE RELATED TO PEOPLE ADAPTING TO PRISON.
17 THESE ARE THINGS LIKE, IF PEOPLE ARE -- HAVE WHAT
18 WE -- THINK THEY'RE PERSECUTED A LOT. THEY'RE
19 ALWAYS KIND OF LOOKING OVER THEIR SHOULDER. THEY
20 THINK SOMEBODY'S GOING TO BE AFTER THEM, SOMEBODY'S
21 GOING TO BE PICKING ON THEM. THOSE INDIVIDUALS DO
22 NOT DO WELL IN PRISON. SO WE LOOK FOR, YOU KNOW,
23 HOW PARANOID ARE THE PEOPLE.

24 WE ALSO LOOK AT HOW SOCIABLE THEY ARE.
25 PEOPLE WHO ARE VERY ALIENATED OR VERY CUT OFF FROM

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1 PEOPLE, WHO ARE NOT BASICALLY SOCIABLE DO WORSE IN
2 PRISON. INMATES WHO HAVE VERY DISRUPTIVE FAMILIES,
3 WHO GOT INTO A LOT OF TROUBLE WITH THE LAW, SEEM TO
4 CARRY THAT ON WHEN THEY GO TO PRISON, SO WE ALSO
5 LOOK AT JUST BASICALLY THEIR FAMILY BACKGROUND.
6 JUST SEE HOW MUCH DEVIANCE WAS IN THE FAMILY
7 BACKGROUND.

8 ANOTHER THING WE LOOK AT IS HOW MUCH DO
9 THEY SEEM TO HAVE AN AUTHORITY CONFLICT. IN OTHER
10 WORDS, HOW MUCH DO THEY -- ALL THEIR LIVES HAVE
11 THEY GOTTEN IN TROUBLE WITH TEACHERS AND POLICE AND
12 ANY BOSSES, ANYBODY WHO HAD THE ABILITY TO, YOU
13 KNOW, GIVE THEM A RULE OR MAKE THEM TOW THE LINE IN
14 SOME WAY, BECAUSE IF THEY HAVE AUTHORITY PROBLEMS,
15 AGAIN, THEY DON'T GET ALONG IN PRISON.

16 WE DEFINITELY LOOK FOR THE PRESENCE OF
17 THESE MAJOR MENTAL DISORDERS BECAUSE THOSE CAN BE
18 VERY MUCH RELATED TO PEOPLE'S THINKING GETTING VERY
19 DISTORTED, AND WHEN THAT HAPPENS INDIVIDUALS,
20 AGAIN, DO NOT DO WELL IN PRISON. I ALSO LOOK AT
21 WHETHER OR NOT THEY HAVE BEEN AND CONTINUE TO BE
22 SUBSTANCE ABUSERS, BECAUSE AGAIN, THAT IS A
23 NEGATIVE PREDICTOR.

24 AND A FINAL ONE I LOOK AT IS THE NEED
25 FOR ACHIEVEMENT. IF IT SEEMS THAT PEOPLE HAVE --

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1 YOU KNOW, EVEN IF THEY ARE IN PRISON, IF THEY HAVE
2 SOMETHING OF NEED TO KIND OF DO WELL, GO TO SCHOOL,
3 WORK, DO SOMETHING WITHIN THE PRISON SYSTEM, THOSE
4 INDIVIDUALS DO BETTER. SO AS I SAID, I LOOK AT THE
5 -- HOW THEY WOULD BE CLASSIFIED UNDER THE MAGARGIE
6 SYSTEM, HOW THEY DO ON THESE CERTAIN FACTORS THAT
7 I'VE MENTIONED. AND THE THIRD THING IS IF THEY
8 HAVE BEEN IN PRISON IN THE PAST OR WERE IN JAIL
9 DURING A PERIOD OF TIME BEFORE THEY COME TO TRIAL,
10 YOU HAVE A SAMPLE OF BEHAVIOR. AND WHAT YOU ALWAYS
11 HEAR IS PAST BEHAVIOR PREDICTS FUTURE BEHAVIOR. SO
12 IF WE CAN FIND OUT HOW THEY BEHAVED WHILE THEY WERE
13 IN JAIL, THAT AGAIN, IS ANOTHER PIECE OF
14 INFORMATION THAT WE CAN USE TO PREDICT.

15 Q OKAY. NOW, THE FIRST THING YOU WERE
16 TALKING ABOUT WAS THE -- AND I DON'T KNOW IF I'M
17 GOING TO SAY IT -- THE MAJORIE?

18 A MAGARGIE.

19 Q MAGARGIE CLASSIFICATION SYSTEM.

20 A UH-HUH.

21 Q AND WHAT IS THE VALIDITY OF THAT? HOW
22 DO YOU MAKE THAT DETERMINATION?

23 A I'M GOING TO TRY AND BRIEFLY EXPLAIN
24 HOW IT CAME ABOUT --

25 Q UH-HUH.

1 A -- SO PEOPLE UNDERSTAND WHAT GOES INTO
2 IT. IT'S A SYSTEM FOR CLASSIFYING HOW INMATES
3 ADAPT TO PRISON BASED ON, AS I SAID, THESE MMPI'S,
4 THESE TESTING PROFILES. WHAT PSYCHOLOGIST MAGARGIE
5 WANTED TO DO WAS TO SEE WHETHER OR NOT THERE WERE
6 DIFFERENT TYPES OF INMATES THAT -- BECAUSE IF THERE
7 WERE, THEN THAT COULD INFLUENCE HOW YOU TREAT THEM,
8 WHETHER OR NOT THEY WOULD NEED TO BE SEPARATED IN A
9 PRISON SYSTEM, THINGS LIKE THIS.

10 WHAT HE DID WAS ABOUT A THOUSAND
11 INMATES COMING THROUGH THE FLORIDA CORRECTIONAL
12 INSTITUTION OVER ABOUT A TWO YEAR PERIOD OF TIME
13 WERE GIVEN THE MMPI. THAT'S EVERY TIME SOMEBODY
14 WALKED IN THE DOOR, THEY HAD TO TAKE ONE OF THESE.
15 AND WHAT THEY DID WAS THEY LOOKED AT WHETHER OR NOT
16 THERE ARE CERTAIN TYPES OF MMPI SCORES OR PROFILES
17 THAT SEEM TO COME UP OVER AND OVER AGAIN, AND THEY
18 FOUND OUT THAT'S TRUE. THEY FOUND TEN DIFFERENT
19 TYPES THAT THEY COULD ACTUALLY FORM RULES OF
20 CRITERIA TO SAY, YOU KNOW, IF THEY HAVE THIS SCORE
21 OR, YOU KNOW, THEIR SCORES DON'T GO ABOVE THIS
22 LEVEL. THEY FORMED RULES BY WHICH THEY COULD
23 DETERMINE WHETHER OR NOT SOMEONE WAS IN ONE OF
24 THESE TEN DIFFERENT TYPES.

25 ONCE THEY DID THAT, THEY WAITED FOR

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1 ANOTHER, I THINK IT WAS LIKE ONE THOUSAND THREE
2 HUNDRED INMATES TO COME THROUGH THE DOOR. AND THIS
3 GROUP, THEY NOT ONLY GAVE THE MMPI, BUT THEY GAVE
4 THEM ALL KINDS OF ACHIEVEMENT, APTITUDE, INTEREST
5 TESTS. THEY GAVE THEM A LOT OF TESTS ON, AS I
6 SAID, THIS PSYCHOPATHOLOGY OR ABNORMAL BEHAVIOR
7 PERSONALITY TEST, THINGS LIKE THIS. THEY HAD A LOT
8 OF INFORMATION FROM PRESENTENCE INVESTIGATIONS.
9 THEY TOLD ABOUT FAMILY BACKGROUND, JUVENILE
10 DELINQUENCY HISTORY, WHAT THEIR CRIME WAS, SO ANY
11 NUMBERS OF THINGS LIKE THIS. THEY HAD BUREAU OF
12 PRISON INFORMATION ON ALL OF THESE INMATES. ALL
13 THE INMATES WERE INTERVIEWED BY A PSYCHOLOGIST, AND
14 THAT INTERVIEW WAS TAPED AND THEN PEOPLE LATER
15 WOULD GO BACK AND KIND OF RATE THESE INTERVIEWS ON
16 WHAT THESE INMATES SEEMED TO BE LIKE IN TERMS OF
17 DIFFERENT KINDS OF ADJECTIVES. THE PSYCHOLOGISTS
18 RATED THEM.

19 IN OTHER WORDS, THEY HAD JUST THIS
20 WEALTH OF INFORMATION; THEY HAD SCHOOL INFORMATION,
21 VOCATIONAL INFORMATION. AND ON THE BASIS OF THAT,
22 THEY COULD LOOK AT THESE TEN DIFFERENT TYPES OF
23 INMATES BASED ON THESE MMPI TESTS AND THEY COULD
24 FIND OUT WHAT DIFFERENT THINGS ARE ASSOCIATED WITH
25 BEING IN THESE DIFFERENT TEN TYPES.

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1 SAY FOR EXAMPLE, YOU KNOW, IS THIS
2 GROUP DIFFERENT FROM THIS GROUP IN TERMS OF LIKE
3 HOW WELL THEY DID IN SCHOOL OR WHETHER OR NOT THEY
4 WERE IN TROUBLE IN SCHOOL ALL THE TIME? DID THESE
5 PEOPLE HAVE MORE STABLE FAMILIES THAN THESE? YOU
6 KNOW, DO THESE LOOK LIKE THEY HAVE A LOT MORE
7 PSYCHOLOGICAL PROBLEMS THAN THESE OTHER
8 INDIVIDUALS? AND THEY WERE ABLE TO COME UP WITH
9 CHARACTERIZATIONS OF KIND OF LIKE THE AVERAGE
10 PERSON IN EACH OF THESE TEN GROUPS.

11 Q TEN DIFFERENT GROUPS.

12 A TEN DIFFERENT GROUPS. AND ON THE BASIS
13 OF THAT, THEY WERE ALSO ABLE TO LOOK AT THEIR
14 ADJUSTMENT IN PRISON, THEIR WORK RECORDS IN PRISON,
15 AND THINGS LIKE THIS, AND ACTUALLY RANK THESE TEN
16 GROUPS ACCORDING TO HOW WELL THEY ADJUSTED TO
17 PRISON. AND THAT WAS THE MAIN PURPOSE TO TRY AND
18 COME UP WITH A CLASSIFICATION ACCORDING TO HOW WELL
19 THEY ADAPTED OR ADJUSTED IN PRISON.

20 Q AND DOES THAT SYSTEM RUN FROM ONE TO
21 TEN BEING THE MOST ADAPTABLE TO THE LEAST ADAPTABLE
22 OR TEN TO ONE, WHICH WAY DOES IT WORK?

23 A WELL, ACTUALLY, THEY WERE LABELED A
24 THROUGH J, AND THEY USED THE MILITARY ALPHABET.
25 ABLE, BAKER, CHARLIE, DELTA, ETCETERA, SO IT DIDN'T

1 WORK OUT QUITE THAT WAY. I MEAN, LIKE GROUP I IS
2 FIRST, E IS SECOND, BUT THERE IS A DEFINITE WAY
3 THEY RANK THE GROUPS TO SAY THAT THESE ARE MORE
4 ADAPTABLE AND THESE ARE THE LEAST ADAPTABLE.

5 Q LET ME SAY -- WHEN WE'RE TALKING ABOUT
6 ADAPTABILITY, WE'RE NOT TALKING ABOUT WHETHER OR
7 NOT SOMEONE'S GOING TO LIKE IT, ARE WE?

8 A NO, ABSOLUTELY NOT. WE'RE TALKING
9 ABOUT, YOU KNOW, CAN THEY BASICALLY SURVIVE; WILL
10 THEY NOT CREATE PROBLEMS? I THINK THAT'S THE MAIN
11 QUESTION THAT THEY'RE LOOKING AT. WHO, WITH THESE
12 PROFILES, IS GOING TO BE THE LEAST PROBLEMATIC IN
13 THE SYSTEM? NOT THAT THEY ARE GOING TO BE -- HAVE
14 A GOOD TIME, BUT WHO IS NOT GOING TO CREATE
15 PROBLEMS?

16 Q BEFORE WE GET TO WHERE THE GROUPING
17 WAS, YOU SAID THERE WAS ALSO ANOTHER FACTOR FOR YOU
18 TO CONSIDER AND THAT IS WHEN SOMEONE HAS ACTUALLY
19 BEEN IN THE ENVIRONMENT FOR SOME PERIOD OF TIME?

20 A THAT'S CORRECT.

21 Q FOR EXAMPLE, IN A JAIL. AND YOU SAID
22 YOU HAD RECORDS FROM TWO JAILS, THE SALUDA JAIL AND
23 THE RICHLAND COUNTY JAIL?

24 A THAT'S CORRECT.

25 Q AND HOW DID THAT ASSIST YOU IN MAKING

1 YOUR EVALUATION?

2 A WHAT I WAS ABLE TO DO WAS TO LOOK TO
3 SEE WHETHER OR NOT HE HAD ANY DISCIPLINARIES, YOU
4 KNOW, RULE INFRACTIONS; WHETHER OR NOT HE HAD BEEN,
5 YOU KNOW, GIVEN ANY KIND OF EXTRA RESPONSIBILITIES.
6 I WAS ABLE TO LOOK AT HIS RECORDS.

7 Q HE'S BEEN IN CUSTODY SINCE JULY OF
8 1995?

9 A THAT'S CORRECT.

10 Q AND WHAT WAS YOUR IMPRESSIONS FROM THE
11 RECORDS?

12 A FROM THE RECORDS, HE DOES NOT HAVE
13 DISCIPLINARIES. HE DOESN'T HAVE HISTORY OF GETTING
14 INTO TROUBLE. AND WHAT I FOUND OUT IS THAT AT THE
15 RICHLAND COUNTY DETENTION CENTER, HE WAS ELEVATED
16 TO TRUSTEE STATUS. I'D LIKE TO EXPLAIN WHAT THAT
17 IS.

18 Q WOULD YOU EXPLAIN TO THE JURY WHAT A
19 TRUSTEE WAS AT THE JAIL?

20 A WHAT HE HAS BEEN GIVEN ARE EXTRA
21 RESPONSIBILITIES. HE WAS SEEN AS SOMEONE WHO COULD
22 DEPENDABLY AND RELIABLY CARRY OUT EXTRA
23 RESPONSIBILITIES. HE WAS NOT GIVEN EXTRA
24 PRIVILEGES. HE WAS NOT GIVEN EXTRA -- HE COULDN'T,
25 YOU KNOW, GO OUT IN THE YARD, YOU KNOW, EXTRA

1 ANYTHING LIKE THAT. BUT HE WAS ESSENTIALLY GIVEN A
2 KIND OF LEADERSHIP POSITION TO BE RESPONSIBLE FOR
3 CERTAIN THINGS WITHIN THE PRISON.

4 Q AND THAT WAS AT THE RICHLAND COUNTY
5 DETENTION CENTER?

6 A THAT'S CORRECT.

7 Q ALL RIGHT. NOW, GOING BACK TO THE
8 SYSTEM, THE CLASSIFICATION SYSTEM, WOULD YOU TELL
9 THE JURY WHAT YOUR FINDINGS WERE AND WHAT ARE THE
10 CHARACTERISTICS OF THAT PARTICULAR GROUP?

11 A I LOOKED AT THE MMPI THAT DR. PAUL
12 VANWIKE GAVE HIM TWO YEARS AGO, AND HIS PROFILE FIT
13 THE ITEM GROUP, GROUP I. THAT IS THE BEST ADAPTED
14 GROUP.

15 Q THE NUMBER ONE ADAPTABLE GROUP?

16 A RIGHT, THE NUMBER ONE.

17 Q FOR SOMEONE WHO GETS A LIFE SENTENCE?

18 A THAT'S CORRECT. AND WITH THE IDEA THAT
19 TEN WOULD BE THE WORST, THOSE ARE THE PEOPLE WHO
20 CREATE THE MOST PROBLEMS. HE ALSO FIT THAT SAME
21 GROUP WITH THE MMPI THAT I GAVE HIM. SO BOTH OF
22 THEM HE SCORED AS BEING THE BEST ADAPTABLE GROUP.
23 AND I'M GOING TO TALK A LITTLE BIT ABOUT WHAT THOSE
24 INDIVIDUALS ARE LIKE. THE MMPI THAT I GAVE HIM
25 ALSO FIT THE SECOND BEST GROUP. SO, ESSENTIALLY,

1 HIS MMPI SCORES FIT THE TWO GROUPS, BUT THEY'RE THE
2 TOP TWO, SO THEY'RE NOT THAT DIFFERENT AS
3 INDIVIDUALS.

4 PEOPLE IN THE TOP GROUP ARE MOST
5 NOTABLE FOR NOT HAVING A LOT OF MENTAL DISORDERS.
6 AND IT'S THE BELIEF OF THE RESEARCHERS THAT THE
7 CAUSE OF THIS -- THIS IS ONE OF THE REASONS THAT
8 THEY ARE SO ADAPTABLE. THEY ALSO SEEM TO HAVE VERY
9 GOOD HOME ENVIRONMENTS. THEY TYPICALLY CAME FROM
10 PRETTY STABLE, NURTURANT FAMILIES THAT DON'T HAVE A
11 LOT OF DEVIANCE, PEOPLE NOT GETTING IN TROUBLE WITH
12 THE LAW. BUT RATHER, WERE VERY STABLE KINDS OF
13 FAMILIES. AND THE MEN IN THIS GROUP TYPICALLY
14 REPORT VERY POSITIVE FAMILY RELATIONSHIPS. THEY'RE
15 VERY POSITIVE TOWARD THEIR PARENTS. THEY ALSO
16 TYPICALLY, AS A GROUP, SHOW POSITIVE ATTITUDES
17 TOWARD ACHIEVEMENTS. SO WHEN YOU LOOK IN THEIR
18 HISTORIES, YOU FIND THAT THEY DIDN'T HAVE SCHOOL
19 PROBLEMS, THEY DIDN'T HAVE WORK PROBLEMS. THEY
20 TYPICALLY HAD GOOD ADJUSTMENT ALL THROUGH THEIR
21 LIFE. THEY ALSO HAD THE LEAST NUMBER OF JUVENILE
22 DELINQUENCY EXPERIENCES, HAD VERY LITTLE JUVENILE
23 DELINQUENCY IN THEIR BACKGROUNDS. SO THEY
24 BASICALLY HAD PRETTY GOOD ADJUSTMENTS ALL THE WAY
25 ALONG. AND THIS GOOD ADJUSTMENT SEEMS TO CONTINUE

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1 WHEN THEY GO INTO PRISON THAT THEY AREN'T CREATING
2 PROBLEMS, THEY'RE BASICALLY GETTING ALONG WITH
3 OTHER PEOPLE.

4 PSYCHOLOGISTS -- I'M GOING TO HAVE TO
5 LOOK HERE A MINUTE. PSYCHOLOGISTS RATINGS -- THESE
6 ARE SOME OF THE TERMS THAT PSYCHOLOGISTS USED FOR
7 THEM: FRIENDLY, OUTGOING, NON-AGGRESSIVE, MOST
8 ADAPTABLE, MANNERLY, INTELLIGENT, PEACEABLE,
9 REASONABLE, ALERT, CAPABLE, CLEAR-THINKING, MATURE,
10 DEPENDABLE. SO THEY'RE USING A LOT OF PRETTY
11 POSITIVE KINDS OF CHARACTERISTICS TO SAY THAT THESE
12 ARE INDIVIDUALS WHO REALLY SHOW SUPERIOR
13 ADAPTABILITY IN PRISON.

14 THESE INDIVIDUALS ARE CONSIDERED THE
15 MOST MATURE OF INMATES. THEY SEEM TO HAVE THE
16 LEAST ANXIETY. AND IN THE PRISON SETTING, WHEN
17 THEY WERE ABLE TO LOOK HOW THEY PERFORMED IN
18 PRISON, THEY HAD THE FEWEST DISCIPLINARIES OF ANY
19 OF THE GROUPS. AND THEY ALSO WERE RATED BY THEIR
20 EMPLOYERS ON THEIR WORK SETTINGS IN THE PRISON AS
21 BEING THE MOST DEPENDABLE AND RELIABLE WORKERS.
22 SO, THEY ARE DEFINITELY SEEN AS HAVING THE BEST
23 ADJUSTMENT WITHIN THE PRISON SYSTEM. AND THEY
24 THINK IT'S BECAUSE THEY'VE HAD GOOD, BASICALLY,
25 GOOD ADJUSTMENT ON THE OUTSIDE.

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1 Q WAS THE -- IS THE CLASSIFICATION THAT
2 YOU FOUND ON THE CLASSIFICATION SYSTEM, WAS THAT
3 CONSISTENT WITH -- AND THE CHARACTERISTICS,
4 CONSISTENT WITH THE OTHER CRITERIA THAT YOU USED?

5 A YES. BECAUSE SOME OF THE OTHER THINGS
6 THAT I MENTIONED ARE THINGS LIKE THAT THEY DON'T
7 HAVE MAJOR MENTAL DISORDERS, AND I WAS NOT ABLE TO
8 FIND THAT WITH MR. BECKHAM. I LOOKED AT -- THESE
9 ARE PEOPLE WHO DON'T HAVE AUTHORITY CONFLICTS.
10 THEY HAVEN'T GOTTEN IN TROUBLE IN SCHOOL ALONG THE
11 WAY, THEY'RE NOT GETTING IN TROUBLE WITH THE GUARDS
12 NOW. AGAIN, MR. BECKHAM HAS A HISTORY IN WHICH HE
13 DID -- HE WAS NOT A TROUBLEMAKER IN SCHOOL, COMING
14 UP, AND FROM ALL APPEARANCES IN TERMS OF HIS -- HOW
15 HE'S DONE IN JAIL SO FAR, HE DOES NOT HAVE
16 AUTHORITY CONFLICTS WITH THE GUARDS. HE DOES NOT
17 GET INTO PROBLEMS WITH THEM.

18 THESE INDIVIDUALS IN THIS GROUP ARE NOT
19 GOING AROUND PARANOID, THINKING, YOU KNOW,
20 EVERYBODY'S GOING TO GET THEM, SO THEY'VE GOT TO
21 REACT AND THEY, YOU KNOW, GET ANGRY QUICKLY.
22 AGAIN, THIS APPEARS TO BE TRUE FOR THE ADJUSTMENT
23 MR. BECKHAM HAS MADE IN THE JAIL TO DATE, AS WELL
24 AS NONE OF HIS TESTING SHOWS THIS KIND OF PARANOID
25 THINKING OR, YOU KNOW, WHAT THEY CALL

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1 HYPERVIGILANCE, WHERE YOU JUST THINK SOMEBODY'S
2 GOING TO GET YOU.

3 THESE INDIVIDUALS IN GROUP ITEM ARE
4 SOCIABLE INDIVIDUALS. THEY'RE BASICALLY FRIENDLY
5 AND OUTGOING. MR. BECKHAM'S TESTING SHOWS THIS,
6 THAT HE SEEMS TO HAVE AN INTEREST IN PEOPLE AND BE
7 A BASICALLY SOCIABLE KIND OF PERSON. SO THERE'S NO
8 WORRY THAT HE WOULD BE THIS VERY INTROVERTED KIND
9 OF INDIVIDUAL WHO'S OVER THERE THINKING THAT PEOPLE
10 ARE TRYING TO HURT HIM.

11 WE ALSO KNOW THAT HIS FAMILY FITS IN
12 THIS GROUP AS WELL, THAT THERE IS NO FAMILY
13 BACKGROUND -- IN HIS BACKGROUND NO PEOPLE GETTING
14 INTO TROUBLE WITH THE LAW AND HAVING A LOT OF
15 ALCOHOLISM, A LOT OF PROBLEMS LIKE THIS. SO THE
16 CHARACTERISTICS THAT I TALKED ABOUT VERY MUCH FIT
17 PEOPLE IN THIS GROUP, WHICH YOU NEED TO DO. YOU
18 WANT TO MAKE SURE THAT THE PERSON YOU'RE EVALUATING
19 DOES SEEM TO FIT THESE KIND OF AVERAGE
20 CHARACTERISTICS FOR THE PERSON IN THE GROUP. AND
21 MR. BECKHAM'S CHARACTERISTICS DO FIT REAL WELL.

22 Q SO THEREFORE, BASED UPON YOUR RESEARCH,
23 AND YOUR READING, AND THE INFORMATION MADE
24 AVAILABLE TO YOU, AND THE TESTING THAT YOU DID, DO
25 YOU HAVE AN OPINION AS TO HIS OVERALL ADAPTABILITY

1 TO PRISON SHOULD THE JURY IMPOSE A LIFE SENTENCE ON
2 HIM?

3 A YES, I DO.

4 Q AND WHAT WOULD THAT OPINION BE?

5 A AGAIN, BASED ON HIS HISTORY, THE
6 TESTING, HOW HE FITS THIS CLASSIFICATION SYSTEM,
7 HOW HE FITS THESE CHARACTERISTICS WHICH WE KNOW ARE
8 RELATED TO POOR ADJUSTMENT IN PRISON, AS WELL AS
9 THE SAMPLE OF HIS BEHAVIOR, WHICH WE HAVE TO DATE,
10 I WOULD PREDICT THAT HE WILL ADJUST WELL TO PRISON,
11 THAT HE WILL BE ONE OF THESE INDIVIDUALS WHO HAVE
12 ONE OF THE BETTER ADJUSTMENTS. AND THAT WITH HIS
13 NEED FOR ACHIEVEMENT THAT HE IS GOING TO WANT TO
14 WORK, YOU KNOW, BE IN SOME ASPECTS, YOU KNOW JOIN
15 GROUPS, WHATEVER IN THE PRISON SYSTEM BY WHICH HE
16 CAN FEEL SOME SUCCESS IN THAT SETTING AS OPPOSED TO
17 BEING SOMEONE WHO WOULD WANT TO CREATING PROBLEMS.

18 Q DR. FOLLINGSTAD, I BELIEVE THE
19 SOLICITOR MAY HAVE SOME QUESTIONS FOR YOU, IF YOU
20 WILL PLEASE ANSWER THOSE. THANK YOU.

21 THE COURT: CROSS EXAMINATION,
22 SOLICITOR?

23 MR. JONES: MAY IT PLEASE THE COURT,
24 YOUR HONOR?

25 CROSS EXAMINATION:

1 BY MR. JONES:

2 Q HOW MANY HOURS DID YOU SPEND TOTAL ON
3 THIS CASE?

4 A I'M AFRAID I DON'T HAVE THAT
5 INFORMATION. I MEAN, I KNOW THAT I SPENT FOURTEEN
6 HOURS DIRECTLY WITH HIM, AND PROBABLY ANOTHER HOUR
7 AND HALF WITH OTHER INTERVIEWS. I'VE DONE
8 CONSULTING, I'VE READ RECORDS, I HONESTLY DO NOT
9 KNOW HOW MANY HOURS.

10 Q JUST GIVE US AN ESTIMATE, A GENERAL
11 ESTIMATE, TO THE BEST OF YOUR KNOWLEDGE.

12 A MAYBE TWENTY-FIVE HOURS.

13 Q THAT'S A FAIR ESTIMATE?

14 A AGAIN, I'M GOING TO SAY THAT'S A ROUGH
15 GUESS.

16 Q WELL, THIRTEEN WITH HIM, AN HOUR AND A
17 HALF WITH OTHER INTERVIEWS, THAT'S FOURTEEN AND A
18 HALF. THE THIRTEEN YOU SPENT WITH HIM INCLUDED ALL
19 OF THE TESTS THAT YOU GAVE HIM, RIGHT?

20 A NO. A LOT OF THOSE TESTS, HE DID UNDER
21 SUPERVISED CONDITIONS WHERE I WAS NOT ACTUALLY
22 PRESENT.

23 Q PEOPLE THAT YOU SENT THERE TO CONDUCT
24 THE TESTS?

25 A CORRECT.

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- 1 Q ALL RIGHT. SO -- BUT THOSE TESTS HOURS
2 ARE NOT INCLUDED IN THE TWENTY-FIVE HOURS?
3 A NO.
4 Q ALL RIGHT. WHAT WOULD BE THE TOTAL
5 AMOUNT OF TIME THAT YOU SPENT AND THAT ANYBODY YOU
6 SENT TO WORK WITH HIM SPENT, THAT TOTAL?
7 A AGAIN, I CAN GIVE YOU AN ESTIMATE. I
8 WOULD GUESS THE TESTING MAY HAVE TAKEN HIM ANOTHER
9 THREE TO FOUR HOURS.
10 Q SO WE'RE TALKING ABOUT THEN, TWENTY-
11 NINE?
12 A TWENTY-NINE, SURE.
13 Q THIRTY BE FAIR?
14 A THAT WOULD BE FINE.
15 Q ALL RIGHT.
16 A AGAIN, THIS IS A ROUGH ESTIMATE.
17 Q SURE. ALL RIGHT. ALMOST FOUR DAYS IN
18 HOURS, AN EIGHT-OUR WORK DAY? I MEAN, IF YOU'RE
19 TALKING ABOUT TWENTY-FOUR HOURS BEING A DAY, THAT
20 WOULD BE A DAY AND A QUARTER, OR IF YOU'RE TALKING
21 ABOUT AN EIGHT-HOUR WORK DAY, YOU WOULD BE TALKING
22 ABOUT FOUR DAYS, ALMOST? THIRTY-TWO HOURS BEING
23 FOUR EIGHT-HOUR WORK DAYS, WOULD THAT BE A CORRECT
24 ASSESSMENT?
25 A THAT SOUNDS FINE.

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1 Q OKAY. NOW, YOU SAID THAT YOU WERE
2 HIRED BY THE DEFENSE AND THE DEFENSE WILL PAY YOUR
3 FEE; IS THAT CORRECT?

4 A THAT IS CORRECT.

5 Q AND YOUR FEE WILL BE?

6 A AGAIN, I CHARGE BY THE HOUR. I DO NOT
7 KNOW WHAT THE AMOUNT IS RIGHT NOW.

8 Q WELL, AS WE -- DID THE THIRTY HOURS
9 INCLUDE THE HOUR YOU'VE BEEN TESTIFYING?

10 A NO, IT WOULD NOT.

11 Q BUT YOU WOULD INCLUDE THAT HOUR?

12 A I WOULD BE INCLUDING THAT HOUR. I DO
13 NOT CHARGE FOR THE PERIOD OF TIME THAT HE IS TAKING
14 THE TEST AND WHEN I'M NOT PRESENT.

15 Q YOU KNOW WHAT YOUR FEE IS NOW
16 APPROXIMATELY. WHAT IS YOUR FEE APPROXIMATELY AT
17 THIS POINT?

18 MR. SWERLING: YOUR HONOR, WE WOULD
19 OBJECT TO THE RELEVANCY OF THE QUESTION.

20 THE COURT: OVERRULED.

21 A AGAIN, I'M HAVING TO GUESS. THE REASON
22 BEING, I JUST PUT IN MY HOURS TO MY SECRETARY AS,
23 YOU KNOW, AS I DO THE HOURS. I'M HAVING TO GUESS
24 IT'S SOMEWHERE AROUND \$3,500.

25 Q THREE THOUSAND FIVE HUNDRED DOLLARS?

1 A THAT'S CORRECT.

2 Q YOU MENTIONED THAT ONE OF THE MOST
3 IMPORTANT ASPECTS OF YOUR GIVING THIS JURY RELIABLE
4 INFORMATION WOULD BE GETTING INFORMATION PRIOR TO
5 HIS ARREST; IS THAT CORRECT?

6 A I SAID THAT IS ONE OF THE PIECES OF
7 INFORMATION, YES.

8 Q WELL, IS THAT AN IMPORTANT PIECE OF
9 INFORMATION, TO GET KNOWLEDGE OF HIM PRIOR TO HIS
10 ARREST?

11 A YES, IT'S IMPORTANT TO COLLECT
12 INFORMATION ABOUT HIS HISTORY, YES.

13 Q WHY IS THAT?

14 A FIRST OF ALL, TO KNOW IF THE
15 INFORMATION IS CONSISTENT WITH WHAT THE PERSON IS
16 TELLING YOU. IT'S ALSO IMPORTANT FOR BEING ABLE TO
17 FIND OUT WHAT THEIR EARLY ADJUSTMENT HAS BEEN AS
18 WELL.

19 Q EARLY ADJUSTMENT?

20 A YES.

21 Q AND IF IT'S CONSISTENT WITH WHAT THEY
22 DO AFTER THEY'RE ARRESTED, RIGHT? IS THAT WHAT YOU
23 SAID?

24 A I SAID IF IT'S CONSISTENT WITH THE
25 INFORMATION THAT THEY'RE GIVING YOU ABOUT THEIR

1 HISTORY.

2 Q BECAUSE THE INFORMATION THAT THEY'RE
3 GIVING YOU AFTER ARREST IS INFORMATION THAT IS THE
4 RESULT OF THEIR ARREST AND THEIR KNOWLEDGE THAT
5 THEY WILL BE FACING THEIR DAY IN COURT SOMEDAY,
6 RIGHT?

7 A THAT IS SOMETHING THAT YOU WOULD WANT
8 TO CONSIDER THAT THAT COULD BE INFLUENCING IT,
9 SURE.

10 Q COULD BE INFLUENCING A CHANGE IN THEIR
11 BEHAVIOR, IN THAT SOMEONE WHO'S BEEN ARRESTED AND
12 IS FACING THEIR DAY IN COURT MIGHT DECIDE IT'S TIME
13 TO BEGIN MAKING CHANGES AS OPPOSED TO THE WAY THEY
14 FELT ABOUT THEIR BEHAVIOR BEFORE THEIR ARREST; IS
15 THAT CORRECT?

16 A I THINK THAT'S A LITTLE DIFFERENT FROM
17 WHAT I'VE BEEN TRYING TO SAY. I THINK WHAT I'VE
18 BEEN TRYING TO SAY IS WHEN SOMEONE GIVES ME A
19 HISTORY, I WANT TO BE ABLE TO LOOK AT BACKGROUND
20 INFORMATION TO KNOW WHETHER OR NOT THE HISTORY
21 THEY'VE GIVEN ME IS CONSISTENT WITH SOME OBJECTIVE
22 INFORMATION.

23 Q OKAY. WHAT BACKGROUND INFORMATION DID
24 YOU LOOK AT ON THIS DEFENDANT?

25 A WELL, LIKE I SAID, I DID CONSULT WITH A

1 SOCIAL WORKER ABOUT BACKGROUND INFORMATION ABOUT
2 THE FAMILY.

3 Q WELL, AND THAT SOCIAL WORKER, ALL
4 RIGHT, HAD TALKED WITH BOTH SIDES OF THE FAMILY?

5 A I KNOW SHE HAS BEEN ABLE TO TALK WITH
6 THE BECKHAMS --

7 Q OKAY.

8 A -- I DO NOT KNOW WHETHER OR NOT SHE WAS
9 EVER ABLE TO TALK WITH THE LANDERS?

10 Q OKAY, WHAT ELSE?

11 A I ALSO WAS ABLE TO GET SCHOOL RECORDS.

12 Q OKAY.

13 A TO BE ABLE TO LOOK AT THAT.

14 Q WHAT ELSE?

15 A I WAS -- I TALKED TO HIS SISTER.

16 Q OKAY, SISTER.

17 A I ALSO HAD THE INFORMATION FROM DR.
18 PAUL VANWIKE.

19 Q ALL RIGHT.

20 A SOME PRIOR TESTING.

21 Q YES.

22 A I BELIEVE I HAD SOME EARLY MEDICAL
23 RECORDS.

24 Q OKAY.

25 A AND THAT WOULD BE -- AND AS I SAID THE

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1 BASIC HISTORY THAT WAS GATHERED AND RELATED TO ME
2 BY THE SOCIAL WORKER.

3 Q WHAT TEACHER DID YOU TALK TO THAT HAD
4 TAUGHT HIM IN SCHOOL?

5 A I HAVE NOT TALKED DIRECTLY WITH ANY
6 TEACHER.

7 Q PRINCIPAL?

8 A NO, I HAVE NOT TALKED TO PRINCIPALS.

9 Q GUIDANCE COUNSELOR?

10 A NO.

11 Q COULD I SEE A COPY OF THE MMPI RESULTS
12 AND INTERPRETATION THAT YOU GAVE ON HIM?

13 I BELIEVE ON DIRECT, AND YOU DIDN'T
14 MENTION THIS WHEN I ASKED YOU, THAT YOU TALKED TO A
15 COUPLE OF FRIENDS OF HIS, ALSO?

16 A THAT'S CORRECT.

17 Q YOU DIDN'T MENTION THIS JUST NOW, DID
18 YOU?

19 A I DON'T THINK I DID.

20 Q AND THOSE FRIENDS WERE?

21 A JIM AND JENNY EDWARDS.

22 Q RIGHT. AND WHEN DID THEY KNOW HIM, JIM
23 AND JENNY?

24 A IN THE INTERVIEW, THEY HAD KNOWN HIM
25 FOR AT LEAST A DECADE THEY SAID.

- 1 Q RIGHT. WHICH DECADE?
- 2 A THE DECADE GOING BACK, SO IT SOUNDS
- 3 LIKE AT LEAST ABOUT 1986. JIM EDWARDS HAD WORKED
- 4 WITH HIM AT ONE POINT.
- 5 Q WHERE?
- 6 A AT A LONG DISTANCE PHONE COMPANY.
- 7 Q IN WHAT AREA?
- 8 A DON'T KNOW.
- 9 Q DON'T KNOW WHAT AREA?
- 10 A UN-UN.
- 11 Q HAD WORKED WITH HIM?
- 12 A UH-HUH.
- 13 Q AND JENNY HAD WORKED WITH HIM, ALSO?
- 14 A I DON'T BELIEVE SO. I BELIEVE JUST JIM
- 15 DID.
- 16 Q AND DID YOU TALK TO JIM BY PHONE?
- 17 A YES, I DID.
- 18 Q WHERE DID YOU CALL TO TALK TO JIM?
- 19 A AT HIS HOME.
- 20 Q IN? HIS HOME IN WHAT TOWN?
- 21 A I'M NOT SURE.
- 22 Q DO YOU HAVE A PHONE NUMBER?
- 23 A 790--. THAT MIGHT BE -- THAT MIGHT BE
- 24 COLUMBIA, I'M NOT SURE.
- 25 Q IT WASN'T LONG DISTANCE?

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- 1 A I DON'T THINK SO.
- 2 Q YOU CALLED FROM COLUMBIA?
- 3 A YES.
- 4 Q HOW LONG DID YOU TALK TO JIM ABOUT HIM?
- 5 A FOR HALF AN HOUR.
- 6 Q HALF AN HOUR?
- 7 A UH-HUH.
- 8 Q OKAY. DID YOU TALK TO SHAWN GEHM ABOUT
- 9 HIM?
- 10 A NO, I DID NOT.
- 11 Q DID YOU KNOW THAT SHAWN HAD KNOWN HIM
- 12 SINCE 1990 AND UP UNTIL TODAY, FOR SIX YEARS?
- 13 A I DO NOT KNOW ABOUT SHAWN.
- 14 Q DO YOU KNOW WHO SHAWN IS?
- 15 A NO, I DO NOT.
- 16 MR. SWERLING: SHE ALREADY SAID SHE
- 17 DOES NOT KNOW, YOUR HONOR; REPETITIVE.
- 18 THE COURT: SUSTAINED.
- 19 Q (BY MR. JONES) DID YOU TALK TO RICHARD
- 20 MITCHELL ABOUT HIM?
- 21 A NO, I DID NOT.
- 22 Q DO YOU KNOW WHO RICHARD MITCHELL IS?
- 23 A NO, I DO NOT.
- 24 Q DID YOU TALK TO BILL HALEY ABOUT HIM?
- 25 A I DO NOT KNOW BILL HALEY.

1 Q DID YOU TALK TO MICHAEL BEATTY ABOUT
2 HIM?
3 A I DO NOT KNOW MICHAEL BEATTY.
4 Q DID YOU TALK TO BILL HOGAN ABOUT HIM?
5 A NO, I DID NOT.
6 Q DID YOU TALK TO RICHARD GEORGE ANDERSON
7 ABOUT HIM?
8 A NO, I DID NOT.
9 Q YOU KNOW WHO RICHARD ANDERSON IS, DON'T
10 YOU?
11 A I KNOW WHO HE IS, YES.
12 Q AND YOU KNOW WHERE HE IS, DON'T YOU?
13 A NO, I DO NOT.
14 Q YOU DID NOT KNOW HE WAS HERE IN
15 NEWBERRY?
16 A I DID NOT KNOW WHERE HE WAS.
17 Q YOU COULD HAVE TALKED TO HIM, COULDN'T
18 YOU?
19 A I DON'T KNOW THAT. I DON'T KNOW THAT I
20 WOULD HAVE --
21 MR. SWERLING: YOUR HONOR, I OBJECT.
22 SHE DID NOT TALK TO HIM.
23 THE COURT: SUSTAINED.
24 Q (BY MR. JONES) WELL, IT WAS IMPORTANT
25 TO YOU TO TALK TO PEOPLE THAT KNEW ABOUT HIS

1 BEHAVIOR AND ANY PERSONALITY TRAITS ABOUT HIM IN AN
2 EFFORT TO ACCURATELY ASSESS WHAT YOU -- THE OPINION
3 THAT YOU'VE RENDERED FOR THIS JURY, WASN'T IT?

4 A I WOULD SAY THAT I HAD TO -- I NEEDED A
5 SAMPLE. I DON'T NEED TO TALK TO EVERYBODY, I
6 NEEDED A SAMPLE. AND I NEEDED TO TALK TO THEM IN
7 TERMS OF THE KINDS OF INFORMATION TO SEE WHETHER OR
8 NOT IT WAS CONSISTENT WITH THE INFORMATION I HAD
9 ALONG THE FACTORS THAT I WAS LOOKING FOR.

10 Q WELL, IT IS IMPORTANT THAT THE SAMPLE
11 BE REPRESENTATIVE OF THE WHOLE; IS IT NOT? IN
12 OTHER WORDS, IN ORDER TO GET AN ACCURATE PICTURE OF
13 WHAT HE IS, YOU DON'T JUST WANT TO TALK TO HIS
14 SISTER, AND HIS COUNSELOR, AND HIS FAMILY, AND HIS
15 BEST FRIENDS? I MEAN, YOU WOULD WANT TO TALK TO
16 PEOPLE THAT HAD OBSERVED HIS BEHAVIOR IN EVERY
17 ASPECT --

18 MR. SWERLING: YOUR HONOR, OBJECT. IS
19 THE SOLICITOR ASKING A QUESTION OR MAKING A SPEECH?

20 THE COURT: OVERRULED.

21 Q (BY MR. JONES) YOU WOULD WANT TO TALK
22 TO -- YOU WOULD WANT A REPRESENTATIVE CROSS-SAMPLE
23 -- NO, YOU CAN'T TALK TO EVERYBODY, BUT YOU WANT A
24 REPRESENTATIVE EXAMPLE OF THOSE PEOPLE THAT HE CAME
25 INTO CONTACT WITH, WOULDN'T YOU?

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1 A I WOULD NEED A SAMPLE. WHEN YOU SAY
2 REPRESENTATIVE, THAT WOULD DEPEND. I MEAN, I HAD
3 INFORMATION THAT I COULD CONFIRM THROUGH THE SOCIAL
4 WORKER FROM A, YOU KNOW, A FAIRLY WIDE NUMBER OF
5 PEOPLE WHO SHE HAD INTERVIEWED. SO I FELT THAT I
6 HAD ENOUGH PEOPLE AND ENOUGH INFORMATION AND
7 ESPECIALLY ABOUT THE SPECIFIC KINDS OF FACTORS THAT
8 I WAS LOOKING AT. SUCH AS, ALIENATION, PERSECUTORY
9 IDEATION, YOU KNOW, FAMILY DEVIANCE, THE KINDS OF
10 FACTORS THAT WOULD BE IMPORTANT FOR ADAPTABILITY,
11 SUCH THAT I HAD ENOUGH INFORMATION THAT SEEMED
12 CONSISTENT THAT I WAS COMFORTABLE WITH THAT BECAUSE
13 OF THE CONSISTENCY OF THE INFORMATION THAT CAME
14 DOWN FROM THE SOURCES THAT I DID HAVE.

15 Q ALL RIGHT. WELL, THE INFORMATION THAT
16 YOU COLLECTED THEN, YOU FELT YOU HAD GOTTEN IT FROM
17 SOURCES THAT WOULD GIVE YOU A TRUE AND ACCURATE
18 PICTURE OF WHAT HE IS AND WHO HE IS, CORRECT?

19 A I WOULD HAVE TO MODIFY THAT. I FIGURED
20 THAT I WOULD GET A LOT OF DIFFERENT KINDS OF PIECES
21 OF INFORMATION FROM PEOPLE. BUT I WAS LOOKING FOR
22 BASIC CONSISTENCY, NOT THAT EVERYBODY DOESN'T HAVE
23 SOME KIND OF PERSONAL FILTER THAT THEY MIGHT, YOU
24 KNOW, GIVE YOU SOME INFORMATION ABOUT THE PERSON
25 THAT THEY KNOW. AND WE DON'T KNOW THAT ANYBODY CAN

1 EVEN ACCURATELY STATE WHAT A FRIEND IS LIKE. BUT I
2 LOOK FOR BASIC CONSISTENCY OF INFORMATION.

3 Q WHERE DID HE LIVE BETWEEN 1988 AND
4 1991?

5 A I'M TRYING TO REMEMBER. I BELIEVE THAT
6 MIGHT HAVE BEEN MYRTLE BEACH, BUT I'M NOT SURE.

7 Q DID YOU TALK TO ANYBODY THAT HE WORKED
8 WITH OR THAT HE LIVED WITH OR THAT HE SOCIALIZED
9 WITH IN MYRTLE BEACH DURING THAT PERIOD OF TIME?

10 A AGAIN, I BELIEVE I HAD SOME FAMILY
11 INFORMATION ABOUT THAT PERIOD OF TIME.

12 Q FAMILY INFORMATION?

13 A CORRECT.

14 Q FROM?

15 A I BELIEVE FROM A BROTHER OF HIS.

16 Q A BROTHER? THAT HAD BEEN THERE DURING
17 THAT PERIOD OF TIME?

18 A WHO KNEW THINGS ABOUT HIM AT THAT
19 PERIOD OF TIME. BUT AGAIN, THIS IS FILTERED
20 THROUGH THE SOCIAL WORKER. I DID NOT TALK DIRECTLY
21 WITH HIM.

22 Q ALL RIGHT. BUT YOU CONDUCTED SOME
23 TESTS ON HIM, DIDN'T YOU?

24 A THAT'S CORRECT.

25 Q AND THE TESTS THAT YOU RELIED ON, I

- 1 WOULD IMAGINE, WAS THE MCGEGORY -- MCGEGORY TEST?
- 2 A WELL, THE TEST ITSELF WAS THE MMPI.
- 3 Q THE MMPI.
- 4 A OF WHICH I -- THAT INFORMATION IS USED
- 5 FOR THE MAGARGIE CLASSIFICATION SYSTEM.
- 6 Q THE MAGARGIE CLASSIFICATION SYSTEM?
- 7 A THAT'S CORRECT.
- 8 Q SO YOU CONDUCTED THE MMPI TO GET THE
- 9 PERSONALITY TRAITS; IS THAT CORRECT?
- 10 A TO ESSENTIALLY SEE HOW THAT FIT WITH
- 11 THE SYSTEM, HOW THE SCORING FIT WITH THE
- 12 CLASSIFICATION SYSTEM.
- 13 Q WITH THE CLASSIFICATION SYSTEM?
- 14 A THAT'S CORRECT.
- 15 Q ALL RIGHT. I WANT TO ASK YOU ABOUT THE
- 16 CLASSIFICATION SYSTEM. YOU SAID THAT IT WAS BASED
- 17 FIRST ON AN INTERVIEW OF A THOUSAND INMATES WHO
- 18 WERE GIVEN THE MMPI; IS THAT CORRECT?
- 19 A IT WAS BASED ON THEIR TESTING, YES.
- 20 Q THEIR TESTING?
- 21 A YES.
- 22 Q AND THE TEST THAT THEY WERE GIVEN WAS
- 23 THE MMPI?
- 24 A THAT'S CORRECT.
- 25 Q OKAY. HOW MANY OF THOSE THOUSAND

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1 INMATES HAD BEEN CONVICTED OF MURDER FOR HIRE,
2 KIDNAPPING AND CONSPIRACY TO COMMIT MURDER?

3 A I DON'T KNOW THE EXACT PERCENTAGE, BUT
4 THEY WERE DOING ASSESSMENTS WITH EVERYBODY WHO
5 WALKED IN THE DOOR.

6 Q FROM TRESPASSING TO BAD CHECK, TO
7 SHOPLIFTING, TO DISORDERLY CONDUCT, TO OPEN
8 CONTAINER, CORRECT?

9 MR. SWERLING: YOUR HONOR, UNLESS THE
10 SOLICITOR HAS INFORMATION THAT THAT IS CORRECT, I
11 WOULD --

12 THE COURT: SUSTAINED. YOU CAN'T FISH
13 FOR THAT. YOU'VE GOT TO ASK. YOU KNOW --

14 MR. JONES: ALL RIGHT, SIR.

15 Q (BY MR. JONES) MY QUESTION THEN IS,
16 HOW MANY OF THE ONE THOUSAND INDIVIDUALS THAT WERE
17 INTERVIEWED IN THE FLORIDA STUDY HAD BEEN CHARGED
18 WITH AND CONVICTED OF HIRING SOMEONE TO MURDER
19 THEIR WIFE, AND KIDNAPPING THEIR WIFE IN ORDER TO
20 COMMIT THAT MURDER?

21 A THERE WAS NO STATISTIC STATED THAT
22 THERE WERE THAT MANY PEOPLE WHO ENGAGED IN THAT.
23 BUT THESE WERE PEOPLE WHO HAD COMMITTED FELONIES,
24 NOT MISDEMEANORS. THESE WERE PEOPLE WHO HAD COME
25 FROM THE PRISON SYSTEM AND NOT THE JAIL SYSTEM.

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1 Q AGAIN, HOW MANY OF THE INDIVIDUALS HAD
2 BEEN CHARGED WITH MURDER AND MURDER FOR HIRE FOR
3 THEIR WIFE AND KIDNAPPING?

4 A I SAID THERE WAS NO STATISTIC THAT SAID
5 HOW MANY PEOPLE HAD DONE THAT EXACT CRIME.

6 Q WHICH LEADS ME TO BELIEVE THAT THERE
7 WAS A STATISTIC THAT SAID SOME HAD DONE THAT CRIME?

8 A NO, NO. I'M SAYING THERE WERE PEOPLE
9 WHO HAD COMMITTED MURDERS IN THE SAMPLE.

10 Q UH-HUH.

11 A BUT THERE WAS NO STATISTIC THAT SAID,
12 YOU KNOW, PEOPLE WHO DID MURDER FOR HIRE OF THEIR
13 WIFE. THERE WAS NO STATISTIC LIKE THAT.

14 Q OKAY. HOW MANY OF THE THOUSAND
15 COMMITTED MURDER?

16 A I DON'T HAVE THAT AT MY FINGERTIPS.

17 Q YOU DON'T?

18 A NO, I DON'T.

19 Q WELL, I MEAN WOULDN'T THAT BE SOMETHING
20 THAT YOU WOULD WANT TO KNOW IN ORDER TO ASSESS THE
21 RELIABILITY AND USE OF THIS CLASSIFICATION SYSTEM
22 WHEN INTERVIEWING SOMEONE CHARGED WITH MURDER?

23 A NOT EXACTLY. I KNOW THAT THERE ARE
24 PEOPLE WITHIN THAT CLASSIFICATION SYSTEM WHO HAVE
25 COMMITTED MURDER. BUT THE CRIME ITSELF WAS NOT THE

1 PREDICTOR OF THEIR ADJUSTMENT, WHICH WAS
2 FASCINATING. IT WASN'T THAT, YOU KNOW, ALL
3 MURDERERS FELL IN THE WORST GROUP; IT WASN'T THAT
4 AT ALL. IT WAS THAT YOU COULD FIND MURDERERS WHO
5 ACTUALLY ADJUSTED VERY WELL IN PRISON AS WELL AS
6 MURDERERS WHO DIDN'T DO WELL. SO, THE IDEA WAS TO
7 USE THEIR MMPI PROFILE TO BE ABLE TO DETERMINE HOW
8 THEY ADJUSTED.

9 Q SO IT DIDN'T MATTER WHAT CRIME THEY
10 COMMITTED?

11 A NOT -- NOT IN TERMS OF PREDICTING THEIR
12 ADJUSTMENT.

13 MR. SWERLING: YOUR HONOR, I OBJECT.
14 THAT'S NOT WHAT SHE STATED. I OBJECT TO THE FORM
15 OF THE QUESTION.

16 THE COURT: I BELIEVE SHE CAN ANSWER
17 THAT QUESTION.

18 Q (BY MR. JONES) SO IT DIDN'T MATTER
19 WHAT CRIME THEY COMMITTED?

20 A NOT IN TERMS OF PREDICTING THEIR
21 ADJUSTMENT TO PRISON.

22 Q RIGHT. IT DOESN'T MATTER WHAT CRIME
23 THEY COMMITTED, DOES IT?

24 A I'M NOT SURE I UNDERSTAND YOUR
25 QUESTION.

1 Q WELL, DIDN'T YOU JUST ANSWER IT? IT
2 DOESN'T MATTER WHAT CRIME THEY COMMITTED?

3 A I SAID IF YOU WANT TO PREDICT THEIR
4 ADJUSTMENT, YOU USE THESE OTHER FACTORS ABOUT THEM
5 AS OPPOSED TO WHAT THEIR CRIME WAS.

6 Q RIGHT. SO IT REALLY DOESN'T MATTER
7 WHETHER MR. MCGREGORIE -- WHAT'S THE NAME AGAIN?

8 A MAGARGIE.

9 Q MAGARGIE?

10 A UH-HUH.

11 Q IT DOESN'T MATTER WHETHER MR. MAGARGIE
12 WAS REVIEWING PEOPLE THAT HAD COMMITTED CRIMES OR
13 NOT. I MEAN, HE COULD -- HE JUST NEEDED TO GET A
14 THOUSAND PEOPLE THAT HE COULD GIVE THE MMPI TO,
15 CORRECT?

16 A NO, THAT'S NOT CORRECT. HE WAS TRYING
17 TO PREDICT ADJUSTMENT TO PRISON OF INMATES.

18 Q WELL, YOU MEAN OF PEOPLE THAT HAD
19 COMMITTED CRIMES?

20 A CORRECT.

21 Q BUT IT DOESN'T MATTER WHAT CRIME THEY
22 COMMITTED?

23 MR. SWERLING: YOUR HONOR, THAT'S BEEN
24 ASKED AND ANSWERED.

25 THE COURT: SUSTAINED. COME HERE AND

1 LET ME TELL YOU. COME HERE.

2 (BENCH CONFERENCE IN THE PRESENCE OF
3 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
4 THE RECORD.)

5 THE COURT: ALL RIGHT. REPHRASE YOUR
6 QUESTION.

7 MR. JONES: JUDGE, I'LL WITHDRAW THAT
8 QUESTION AND GO ON TO THIS QUESTION.

9 Q (BY MR. JONES) ACTUALLY, FALLING INTO
10 GROUP I, THE FIRST GROUP, AND THE SECOND GROUP, AND
11 I BELIEVE YOU SAID IN YOUR LETTER AND IN YOUR
12 REPORT THAT HE FITS THE TWO GROUPS EQUALLY WELL?

13 A THAT MEANS HIS PROFILE FIT BOTH OF THEM
14 EQUALLY WELL, YES.

15 Q ALL RIGHT. EQUALLY, EQUALLY WELL.

16 A ACCORDING TO THE PROFILE, YES.

17 Q ALL RIGHT. AND ISN'T THE REAL BASIS
18 FOR FALLING INTO THAT GROUP OR THOSE TWO GROUPS
19 YOUR INTELLECTUAL ABILITY TO RECOGNIZE THAT YOU
20 JUST DON'T GO AROUND BUCKING UP ALL THE TIME WHEN
21 YOU'RE IN A SITUATION WITH BIGGER, STRONGER, MEANER
22 PEOPLE THAN YOU, DO YOU?

23 A I DON'T THINK THAT'S THE WAY IT WAS
24 INTERPRETED BY THE PEOPLE DOING THE RESEARCH. THEY
25 TALKED ABOUT THE FACT THAT THEY HAD HAD MORE STABLE

1 BACKGROUNDS, LESS DISRUPTION IN THEIR LIVES ALONG
2 THE WAY, LESS JUVENILE DELINQUENCY. SO THEY REALLY
3 ATTRIBUTED THEIR ADJUSTMENT IN PRISON TO BEING A
4 RESULT OF EARLIER BETTER ADJUSTMENT.

5 Q THEY ATTRIBUTED IT TO BEING A RESULT OF
6 EARLIER BETTER ADJUSTMENT?

7 A CORRECT.

8 Q WHICH CAN BE LEARNED AS A YOUNG PERSON.
9 DON'T BUCK UP, LET SOMEBODY ELSE DO YOUR DIRTY WORK
10 AND LET'S GET ALONG AS LONG AS YOU'RE GETTING WHAT
11 YOU WANT; ISN'T THAT CORRECT?

12 A AGAIN, I THINK YOU'RE GOING WAY BEYOND
13 THE DATA. WHAT THEY FOUND OUT IS THAT THESE
14 INDIVIDUALS, FOR EXAMPLE, DON'T START -- YOU KNOW,
15 THEY DON'T PICK FIGHTS WITH OTHER PEOPLE. THEY'RE
16 NOT THE KIND THAT IF SOMEBODY GETS IN THEIR FACE,
17 THEY REACT REALLY FAST.

18 Q RIGHT.

19 A THEY'RE NOT THE TYPE THAT, YOU KNOW,
20 WILL SET FIRE IN THEIR PRISON CELLS OR FLOOD THEIR
21 TOILETS. I MEAN, THAT'S -- THEY FOUND OUT THAT
22 THEIR ADJUSTMENT IS THE TYPE WHERE THEY'RE
23 BASICALLY FRIENDLY, OUTGOING AND MORE MATURE THAN
24 THE OTHER INMATES.

25 Q THEY DON'T GET MAD, THEY GET EVEN?

1 MR. SWERLING: OBJECTION, YOUR HONOR,
2 AS TO THE CHARACTERIZATION.

3 THE COURT: SUSTAINED. SUSTAINED.

4 MR. JONES: YOUR HONOR, THAT'S WHAT SHE
5 JUST SAID. I'M ASKING HER.

6 MR. SWERLING: OBJECTION, YOUR HONOR,
7 THAT'S NOT WHAT SHE JUST SAID. I WOULD OBJECT TO
8 THE EDITORIAL COMMENT.

9 THE COURT: SUSTAINED. COME OVER HERE.

10 (BENCH CONFERENCE IN THE PRESENCE OF
11 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
12 THE RECORD.)

13 THE COURT: REPHRASE YOUR QUESTION OR
14 MOVE TO ANOTHER AREA.

15 MR. JONES: YOUR HONOR, I'LL MOVE ON TO
16 ANOTHER AREA AT THIS TIME.

17 Q (BY MR. JONES) NOW, YOU SAID THAT HE
18 WAS A -- HAD BEEN IN A JAIL FOR ABOUT A YEAR. AND
19 HE'S FACING, YOU KNOW, THESE CHARGES THAT WE'RE
20 DEALING WITH HERE NOW, CORRECT?

21 A THAT'S CORRECT.

22 Q SO HE HAS SOME INCENTIVE TO BEHAVIOR
23 OVER THE LAST YEAR, DOESN'T HE, TO BEHAVE PROPERLY?

24 A I WOULD SAY, YES, HE DOES. BUT I'M
25 ALSO VERY AWARE OF ANY NUMBER OF PRISONERS WHO EVEN

1 WITH THAT INCENTIVE HAVE NOT KEPT THEIR BEHAVIOR IN
2 LINE.

3 Q OKAY. AND HOW MANY OF THOSE DO YOU
4 KNOW?

5 A WELL, JUST GUESSING BACK OVER THE
6 YEARS, YOU KNOW, I COULD PROBABLY THINK OF TEN OR
7 MORE WHOM THAT INFORMATION WAS, YOU KNOW, NEGATIVE
8 FOR THEM.

9 Q RIGHT. AND WOULD YOU SAY THAT THE
10 REASON AND BASIS FOR THEIR BEING UNABLE TO
11 RECOGNIZE THE ADVANTAGE TO BEHAVING AT LEAST UNTIL
12 THEIR TRIAL WAS DONE AND OVER WAS BECAUSE THEY
13 WEREN'T SMART ENOUGH OR BECAUSE THEY WERE JUST TOO
14 MEAN?

15 A NOW, I WOULD HAVE TO COME UP WITH A
16 THIRD OPTION. IT USUALLY HAD TO DO WITH SOME KIND
17 OF MAJOR MENTAL DISORDER FOR WHICH THEIR THINKING
18 WAS DISTORTED, THEY WERE, AS I SAID, MORE PARANOID,
19 THINGS THEY WERE REACTING BECAUSE OF DISTORTIONS TO
20 THEM.

21 Q SO THEY WERE CRAZY?

22 A I WOULDN'T EXACTLY SAY CRAZY, BUT I
23 WOULD SAY THAT THEY HAD SOME MENTAL DISORDERS.

24 Q OKAY. WELL -- AND WHAT GROUP DO THEY
25 FALL IN, AS FAR AS THE TEST IS CONCERNED?

1 A THEY TYPICALLY FELL INTO ONE OF THE
2 LAST THREE GROUPS, WHICH I CONSIDERED THE MOST
3 PROBLEMATIC.

4 Q NOW, YOU ALSO SAID THAT AS A RESULT OF
5 HIS INCARCERATION IN RICHLAND COUNTY HE HAD BEEN
6 MADE A TRUSTEE?

7 A THAT'S CORRECT.

8 Q BUT YOU SAID THAT DIDN'T OFFER HIM ANY
9 ADDITIONAL PRIVILEGES?

10 A I DO NOT BELIEVE HE RECEIVED ANY
11 ADDITIONAL PRIVILEGES.

12 Q BUT HE RECEIVED ADDITIONAL
13 RESPONSIBILITIES?

14 A CORRECT.

15 Q WELL, WHERE WAS HE COMMANDING THESE
16 RESPONSIBILITIES? WHERE WAS HIS -- I MEAN WHERE
17 WOULD BE HIS OUTPOST FOR CONDUCTING --

18 A LITERALLY WITHIN THE DORM.

19 Q WITHIN THE DORM. AND SO HE MAINTAINED
20 A LEADERSHIP POSITION?

21 A CORRECT.

22 Q HE'S A LEADER?

23 A IN THAT SETTING, HE WAS SHOWING SOME
24 LEADERSHIP CAPABILITIES, YES.

25 Q AND YOU'RE SAYING THAT IN ORDER TO

1 CARRY OUT THESE RESPONSIBILITIES AND THESE
2 LEADERSHIPS HE'S NOT GIVEN GREATER MOVEMENT AND
3 ACCESS WITHIN THE CONFINES OF THE PRISON?

4 A NO, IT'S MY UNDERSTANDING, HE WAS NOT.

5 Q OKAY. WELL, WHAT WERE THE ADDITIONAL
6 RESPONSIBILITIES THAT HE HAD AS A TRUSTEE?

7 A I'M NOT SURE OF ALL OF THEM, BUT I
8 THINK THEY HAD TO DO WITH THINGS LIKE TRYING TO GET
9 SOME OF THE OTHER PRISONERS TO, YOU KNOW, FOLLOW
10 CERTAIN RULES. I DON'T KNOW IF IT INVOLVED
11 CLEANING. I'M NOT EXACTLY SURE WHAT THEY ALL
12 INVOLVED, BUT I DO KNOW HE HAD ADDITIONAL
13 RESPONSIBILITIES.

14 Q BUT YOU DON'T KNOW WHAT THEY WERE?

15 A I'M NOT SURE WHAT THEY WERE, NO.

16 Q YOU MENTIONED EARLIER THAT ADAPTABILITY
17 IS IMPORTANT BECAUSE PRISONS ARE HARSH, VIOLENT,
18 DANGEROUS ENVIRONMENTS; IS THAT RIGHT?

19 A THAT'S CORRECT.

20 Q BUT WHAT ENVIRONMENT ARE YOU COMPARING
21 THEM TO WHEN YOU SAY THAT THEY ARE HARSH, VIOLENT
22 AND DANGEROUS ENVIRONMENTS?

23 A YOU MEAN AS OPPOSED TO BEING ON THE
24 STREET?

25 Q THAT'S RIGHT.

1 A I MEAN, I'M TAKING THAT FROM WHAT WE
2 KNOW ABOUT PRISONS, WHAT GOES ON IN PRISONS. I'M
3 NOT COMPARING IT TO ANYTHING, I'M JUST TAKING IT
4 FROM WHAT WE KNOW ABOUT PRISON ENVIRONMENTS.

5 Q SO YOU MADE A STATEMENT ABOUT THEIR
6 EXISTENCE WITHOUT COMPARING IT TO SOMETHING?

7 A CORRECT, JUST FROM THE INFORMATION WE
8 KNOW ABOUT PRISONS.

9 Q SO --
10 MR. SWERLING: HE'S STATED A FACT, YOUR
11 HONOR, I OBJECT TO CHARACTERIZATION.

12 THE COURT: OVERRULED. OVERRULED.

13 Q (BY MR. JONES) NOW, I'D LIKE TO ASK
14 YOU, YOU'RE NOT SAYING THAT A PRISON IS ANY HARSHER
15 THAN SOME STREET CORNERS IN SOUTH MIAMI OR SOUTH
16 CENTRAL LOS ANGELES, ARE YOU?

17 A I'M SORRY, I DON'T THINK I CAN COMPARE.
18 I HAVEN'T BEEN ON THE STREET CORNERS, I REALLY
19 DON'T KNOW.

20 Q WELL, YOU ARE A PSYCHOLOGIST; IS THAT
21 CORRECT?

22 A THAT IS CORRECT.

23 Q AND YOU STUDY PSYCHOLOGY AND THE
24 INTERACTION BETWEEN PEOPLE WITH OTHER PEOPLE AND
25 HUMAN NATURE, DO YOU NOT?

- 1 A THAT'S CORRECT.
- 2 Q YOU ARE A NATIONAL EXPERT IN THE AREA
- 3 OF HOW PEOPLE GET ALONG WITH OTHER PEOPLE, ARE YOU
- 4 NOT?
- 5 A I'M NOT SURE I'D GO SO FAR AS TO SAY
- 6 THAT.
- 7 Q BUT YOU CERTAINLY KEEP UP WITH THE
- 8 CONDITION OF THIS COUNTRY AT THIS POINT IN TIME,
- 9 DON'T YOU?
- 10 A YES, BUT YOU'RE ASKING ME ABOUT SOME
- 11 PARTICULAR STREET CORNERS IN CERTAIN PLACES, AND I
- 12 DO NOT KNOW.
- 13 Q WELL, YOU KEEP UP WITH THE VIOLENCE
- 14 THAT OCCURS ON THE STREETS OF THIS COUNTRY?
- 15 MR. SWERLING: YOUR HONOR, SHE'S
- 16 ALREADY SAID SHE DIDN'T KNOW. 403, IT'S
- 17 REPETITIVE.
- 18 THE COURT: OVERRULED.
- 19 Q (BY MR. JONES) WELL, LET ME ASK YOU
- 20 THIS. YOU'RE FROM COLUMBIA, SOUTH CAROLINA?
- 21 A THAT IS CORRECT.
- 22 Q ALL RIGHT. AND THERE'S A MAJOR MEN'S
- 23 CORRECTIONAL FACILITY IN COLUMBIA; IS THERE NOT?
- 24 A THERE WAS.
- 25 Q DO YOU KNOW WHETHER THERE IS NOW OR

1 NOT?

2 A CCI HAS BEEN MOVED OUT.

3 Q IS THERE STILL NOT A MAJOR MEN'S
4 CORRECTIONAL FACILITY IN THE AREA?

5 A THERE'S A RICHLAND COUNTY DETENTIONAL
6 CENTER OFF BLUFF ROAD.

7 Q WELL, WHERE IS THE MOST -- THE LARGEST
8 MEN'S CORRECTIONAL FACILITY IN THIS STATE NOW, THAT
9 YOU'RE AWARE OF?

10 A THAT'S AN INTERESTING QUESTION. I
11 DON'T KNOW WHETHER OR NOT, LIKE THE BROAD RIVER
12 INSTITUTION OR KIRKLAND OR SOME OF THOSE MIGHT BE.
13 I'M NOT SURE WHAT'S THE LARGEST.

14 Q WELL, WOULDN'T YOU AGREE THAT THE
15 MURDER RATE IN COLUMBIA IS HIGHER THAN THE MURDER
16 RATE IN THE --

17 MR. SWERLING: OBJECTION, YOUR HONOR,
18 RELEVANCE, 403.

19 THE COURT: YEAH, YOU'RE GOING TO HAVE
20 TO TALK TO ME ABOUT THAT ONE.

21 (BENCH CONFERENCE IN THE PRESENCE OF
22 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
23 THE RECORD.)

24 THE COURT: OBJECTION SUSTAINED.

25 MR. JONES: ALL RIGHT.

1 Q (BY MR. JONES) WELL, WITHOUT COMPARING
2 THE HARSHNESS OF A PRISON TO THE STREET ANYWHERE IN
3 THIS COUNTRY, LET ME ASK YOU THIS. THIS PLACE THAT
4 YOU TERM AS HARSH, VIOLENT AND DANGEROUS, THE
5 PRISON, YOU DO GET THREE SQUARE MEALS A DAY, DO YOU
6 NOT?

7 A YES, YOU ARE FED.

8 Q YOU ARE PROVIDED WITH CLOTHING, ARE YOU
9 NOT?

10 A YES, YOU ARE.

11 Q YOU DO HAVE ACCESS TO TELEVISION AND
12 RADIO, ANY PROGRAM YOU WANT TO WATCH?

13 MR. SWERLING: OBJECTION, YOUR HONOR,
14 UNLESS HE WANTS TO OFFER SOME EVIDENCE IN THIS --

15 THE COURT: OVERRULED.

16 MR. SWERLING: I OBJECT.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER THE QUESTION.

19 Q (BY MR. JONES) YOU ARE PROVIDED WITH
20 TELEVISION AND RADIO; ARE YOU NOT?

21 MR. SWERLING: I ALSO WOULD OFFER STATE
22 VERSUS SIMMONS AS A REASON.

23 THE COURT: ASK HER WHETHER OR NOT --
24 FIRST OF ALL, SOLICITOR, I DON'T THINK THAT --

25 MR. JONES: JUDGE --

1 THE COURT: LET ME -- YOU DON'T -- LET
2 ME JUST TELL YOU THIS.

3 (BENCH CONFERENCE IN THE PRESENCE OF
4 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
5 THE RECORD.)

6 THE COURT: SUSTAINED PURSUANT TO STATE
7 V. SIMMONS.

8 Q (BY MR. JONES) NOW, YOU SAID THAT THE
9 TESTS YOU GAVE THE DEFENDANT BECKHAM ARE
10 SAFEGUARDED; DIDN'T YOU SAY THAT? THAT THERE ARE
11 SAFEGUARDS, THAT THERE IS A MECHANISM CONTAINED
12 WITHIN THE TEST TO PREVENT THE TESTEE FROM GIVING
13 YOU MISINFORMATION, NOT TELLING YOU WHAT THE TRUTH
14 WAS; IS THAT CORRECT?

15 A NO, I SAID THE SAFEGUARDS, THE VALIDITY
16 SCALES ARE THOSE WHICH TELL YOU THE TEST TAKING
17 ATTITUDE OF THE PERSON, SO THAT IF THEY SCORE ON
18 THESE IN A WAY THAT MAKE YOU THINK THE WAY THEY'RE
19 APPROACHING THE TEST IS THAT THEY ARE TRYING TO
20 FAKE SOMETHING, THEN YOU WOULDN'T INTERPRET THE
21 REST OF IT.

22 Q RIGHT. BUT THAT SAFEGUARD, THAT
23 MECHANISM IS WHOLLY -- AT LEAST PREDOMINANTLY
24 DEPENDENT UPON THE OBJECTIVITY OF THE PERSON
25 ADMINISTERING THE TEST; IS IT NOT?

1 A NO, IT'S NOT.

2 Q IT'S NOT?

3 A AGAIN, THERE ARE -- THERE ARE --

4 THERE'S A PLACE AT WHICH YOU WOULD SAY THE PERSON

5 IS SCORING INTO THE ABNORMAL RANGE ON THESE

6 VALIDITY SCALES AND THEN YOU WOULD START SAYING WE

7 NEED TO MAKE A DECISION. IT LOOKS LIKE IT'S INTO

8 THE ABNORMAL RANGE, WE BETTER NOT CONSIDER IT.

9 Q OKAY. YOU MENTIONED THAT THE TRAITS --

10 AND YOU MENTIONED SOME OF THOSE TRAITS. WHEN --

11 AND I'D LIKE TO ASK YOU IF YOU HAVE A COPY OF THE

12 LETTER THAT YOU WROTE DATED SEPTEMBER 9TH, 1996?

13 A YES, I DO.

14 Q IF YOU WOULD TURN TO THE SECOND PAGE,

15 SECOND PARAGRAPH, NEXT TO THE LAST LINE. I WOULD

16 ASK YOU IF I READ CORRECTLY WHEN I READ, "THEY HAVE

17 LITTLE NEED FOR HIGHLY STRUCTURED SETTING AND ARE

18 DESCRIBED BY PSYCHOLOGISTS WITH SUCH

19 DESCRIPTIONS..." -- AND I WOULD POINT OUT THAT YOU

20 ARE NOW TALKING ABOUT THE CATEGORY THAT MR. BECKHAM

21 FITS IN EQUALLY WELL. THE --

22 A THE GROUP, EASY.

23 Q EASY, EASYGOING. "...PSYCHOLOGIST WITH

24 SUCH DESCRIPTIONS AS..." AND THE FIRST DESCRIPTION

25 MENTIONED IS INTELLIGENT; IS THAT CORRECT?

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1 A THAT'S CORRECT.

2 Q SO HE FITS THAT DESCRIPTION; IS THAT

3 CORRECT?

4 A THAT'S CORRECT.

5 Q WHY DO PSYCHOLOGISTS USE THE WORD

6 INTELLIGENT FIRST, DO YOU KNOW?

7 A I DON'T BELIEVE THIS IS JUST FIRST. I

8 MEAN, THIS IS JUST ONE OF A NUMBER OF DESCRIPTORS.

9 Q AND I'M GOING TO LIST THE OTHER

10 DESCRIPTIONS, BUT INTELLIGENT IS LISTED FIRST, IS

11 IT NOT?

12 A THERE'S NO PARTICULAR REASON.

13 Q NO PARTICULAR REASON?

14 A UH-UH.

15 Q OKAY. THEY ALSO SAID COOPERATIVE?

16 A THAT'S CORRECT.

17 Q OKAY. AND I SKIP OVER THE NEXT WORD TO

18 FRIENDLY; IS THAT CORRECT?

19 A CORRECT.

20 Q AND I SKIP OVER THE NEXT TWO WORDS TO

21 EASYGOING; IS THAT CORRECT?

22 A CORRECT.

23 Q AND I SKIP OVER THE NEXT WORD TO

24 SOCIABLE; IS THAT CORRECT?

25 A UH-HUH.

- 1 Q SO THOSE ARE WORDS USED BY
2 PSYCHOLOGISTS TO DESCRIBE THIS PERSON, RIGHT?
3 THESE PEOPLE THAT FIT IN THIS CATEGORY?
- 4 A CORRECT.
- 5 Q AND THEN THEY ALSO USE THESE WORDS, THE
6 WORDS THAT I SKIPPED OVER. DEFENSIVE; IS THAT
7 CORRECT?
- 8 A THAT'S CORRECT.
- 9 Q IMPULSIVE?
- 10 A CORRECT.
- 11 Q DISSATISFIED?
- 12 A CORRECT.
- 13 Q SELF-CENTERED?
- 14 A CORRECT.
- 15 Q EVASIVE?
- 16 A THAT'S CORRECT.
- 17 Q PLEASURE SEEKING?
- 18 A THAT'S CORRECT.
- 19 Q HE WASN'T DEFENSIVE WITH YOU, WAS HE?
- 20 A I THINK HE IS -- HAS A LITTLE HARD TIME
21 SELF-DISCLOSING. I DON'T KNOW IF I WOULD USE THE
22 WORD DEFENSIVE, HE DIDN'T SEEM DEFENSIVE WITH ME.
- 23 Q HE WASN'T EVASIVE WITH YOU, WAS HE?
- 24 A AGAIN, LIKE I SAID, HE'S NOT THE MOST
25 SELF-DISCLOSING INDIVIDUAL. I DON'T KNOW IF I

1 WOULD CALL HIM EVASIVE, BUT HE'S NOT REAL SELF-
2 DISCLOSING.

3 Q HE LIKED YOU ALL RIGHT, DIDN'T HE?

4 A I HAVE NO IDEA.

5 Q YOU HAVE NO IDEA? WELL, HE COOPERATED
6 WITH THE TESTS, DIDN'T HE?

7 A HE WAS COOPERATIVE WITH ME.

8 Q DO YOU HAVE CRITERIA -- DO YOU HAVE
9 INFORMATION THAT DESCRIBES HIS BEHAVIOR WHILE
10 INCARCERATED IN SALUDA?

11 A I HAVE THE RECORDS FROM THERE.

12 Q AND DID YOU TALK TO ANYBODY THERE IN
13 SALUDA TO SEE HOW HE DID?

14 A NO, I DIDN'T TALK TO ANYBODY.

15 Q DIDN'T CALL UP THE HEAD JAILER IN
16 SALUDA?

17 A NO, I DID NOT.

18 Q YOU DID NOT? WHY NOT?

19 A I WOULD HAVE ELICITED MORE INFORMATION
20 IF THERE HAD BEEN A SUGGESTION THAT HE HAD HAD
21 DIFFICULTIES THERE. BUT I DID NOT HAVE ANY
22 INFORMATION TO SUGGEST THAT HE HAD DIFFICULTIES.

23 Q SO YOUR PREDICTION IS THAT HE IS THE
24 TYPE OF PERSON THAT WOULD ADAPT TO PRISON; IS THAT
25 YOUR PREDICTION AND OPINION?

1 A YES, IT IS.

2 Q AND THAT OPINION IS BASED ON WHAT YOU

3 KNOW ABOUT HIM, ISN'T IT?

4 A WELL, AS I SAID, IT'S BASED ON HISTORY,

5 TESTING, INTERVIEW INFORMATION, HOW HE FITS CERTAIN

6 FACTORS, YES.

7 Q DR. FOLLINGSTAD, DON'T YOU AGREE THAT

8 IT WOULD HAVE BEEN HELPFUL FOR YOU IN ASSESSING HIS

9 ADAPTABILITY TO SPEND A FEW DAYS IN THIS COURTROOM

10 DURING THIS TRIAL TO WATCH THE PEOPLE TESTIFY UNDER

11 OATH --

12 MR. SWERLING: YOUR HONOR, I OBJECT --

13 Q -- AS TO WHAT THEY HAD DONE WITH HIM --

14 MR. SWERLING: OBJECTION.

15 THE COURT: IT'S CROSS-EXAMINATION.

16 MR. SWERLING: YES, SIR, BUT THE FACT

17 OF THE MATTER IS --

18 MR. JONES: YOUR HONOR --

19 MR. SWERLING: -- IF HE'S GOING TO GO

20 AHEAD AND REPEAT THIS INTO THE RECORD.

21 MR. JONES: JUDGE --

22 MR. SWERLING: SHE'S TESTIFIED TO A

23 CERTAIN SET OF CHARACTERISTICS.

24 THE COURT: I UNDERSTAND THAT. BUT

25 I'LL LET HIM ASK THE QUESTION.

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1 Q (BY MR. JONES) DON'T YOU THINK IT
2 WOULD HAVE BEEN HELPFUL FOR YOU TO HAVE SPENT A FEW
3 HOURS IN THIS COURTROOM DURING THE COURSE OF THE
4 LAST COUPLE OF WEEKS TO LISTEN TO PEOPLE WHO
5 TESTIFIED UNDER OATH ABOUT OBSERVATIONS THAT THEY
6 HAD ABOUT HIS ACTIONS AND HIS CONDUCT DURING THE
7 SPRING OF 1994?

8 A AGAIN, IT WOULD HAVE TO RELATE VERY
9 SPECIFICALLY TO THE KINDS OF FACTORS THAT I WAS
10 TALKING ABOUT, BECAUSE WE'RE NOT TALKING ABOUT WHAT
11 SOMEBODY IS LIKE IN GENERAL OR WHAT -- THAT THEY
12 MIGHT HAVE A PARTICULAR TRAIT. WE'RE LOOKING VERY
13 SPECIFICALLY AT THOSE KINDS OF THINGS WHICH PREDICT
14 ADAPTABILITY TO PRISON. AND THAT INFORMATION -- I
15 HAD LOTS OF DIFFERENT SOURCES OF INFORMATION. THE
16 INFORMATION WAS VERY CONSISTENT, WHETHER IT WAS
17 TESTING, HIS BEHAVIOR IN PRISON OR HIS PAST
18 HISTORY. HE FIT -- HIS HISTORY FIT THE MAGARGIE
19 CLASSIFICATION TYPE. SO, I MEAN, UNLESS THERE WAS
20 SOMETHING THAT WAS VERY SPECIFIC TO THOSE FACTORS,
21 THEN I DON'T THINK I WOULD HAVE NEEDED TO HAVE BEEN
22 HERE FOR THAT.

23 Q WELL, WHAT ABOUT LEARNING SOME THINGS
24 ABOUT HIM THAT HIS OWN PARENTS DIDN'T KNOW? I
25 MEAN, IS THAT ONE OF THE THINGS THAT WOULD HAVE

1 ASSISTED YOU IN LEARNING MORE ABOUT HIM AND WHO HE
2 WAS AND WHAT HE WAS CAPABLE OF?

3 A I'M SORRY, I DON'T KNOW WHAT YOU'RE
4 REFERRING TO.

5 MR. SWERLING: YOUR HONOR, AGAIN, I'M
6 GOING TO HAVE TO OBJECT TO -- SHE'S TESTIFYING AS
7 TO CERTAIN -- SHE'S ALREADY TESTIFIED WHAT THE
8 BASIS OF HER OPINION WAS. AND I WOULD HAVE TO
9 OBJECT TO THIS GOING OVER -- BROADER THAN THAT AND
10 GOING INTO OTHER AREAS THAT SHE SAYS SHE DOESN'T
11 HAVE ANY KNOWLEDGE OF.

12 THE COURT: SUSTAIN IT AS TO THE FORM
13 OF THE QUESTION. YOU CAN ASK IT SPECIFICALLY.

14 MR. JONES: YES, SIR.

15 THE COURT: YOU NEED ME TO--

16 MR. JONES: YES, SIR.

17 (BENCH CONFERENCE IN THE PRESENCE OF
18 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
19 THE RECORD.)

20 THE COURT: YOU CAN REPHRASE YOUR
21 QUESTION.

22 MR. JONES: WELL, YOUR HONOR, I'M -- I
23 DON'T HAVE ANYTHING FURTHER.

24 THE COURT: ALL RIGHT, ANYTHING ON
25 REDIRECT?

1 MR. SWERLING: NO, YOUR HONOR. WE
2 WOULD ASK THAT DR. FOLLINGSTAD BE EXCUSED, YOUR
3 HONOR.

4 THE COURT: ALL RIGHT, WITHOUT
5 OBJECTION. THANK YOU.

6 A THANK YOU.

7 THE COURT: LET'S TAKE A SHORT BREAK.
8 WE'LL CONTINUE ALONG IN JUST A MOMENT.

9 (WHEREUPON, THE JURY RECESSED TO THE
10 JURY ROOM AT 3:50 P.M.)

11 MR. MCMAHON: YOUR HONOR, MAY IT PLEASE
12 THE COURT? I HAVE ANOTHER HAND PICTURE I WANT TO
13 PUT IN.

14 MR. COULTER: THAT'S THE OTHER HAND.

15 MR. MCMAHON: MR. HARPOOTLIAN SAYS THEY
16 RAISE THE SAME OBJECTION.

17 THE COURT: ALL RIGHT, ON STATE'S
18 EXHIBIT 149, I WOULD FIND THAT THAT PHOTOGRAPH IS
19 NOT UNDULY PREJUDICIAL AND IT'S PROBATIVE UPON THE
20 ISSUES THE STATE HAS RAISED AS TO THE ASSAULT.

21 NOW, AS I UNDERSTAND IT, GENTLEMEN,
22 LET'S MAKE SURE WE AGREE. MRS. LANDER WILL BE THE
23 NEXT WITNESS. THE STATE HAS AGREED -- HAS CHOSEN
24 NOT TO PURSUE THE GRIGG/HALL MATTER. AND THEN WHAT
25 WE WILL DO IS FINISH WITH MRS. LANDER AS FAR AS

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1 LIVE TESTIMONY TODAY, WE WILL CONDUCT THE MESSIAH
2 HEARING IMMEDIATELY FOLLOWING THAT, AND AS I
3 UNDERSTAND IT, THE STATE INTENDS TO CALL THE
4 MESSIAH WITNESSES, IF THEY'RE QUALIFIED TO TESTIFY.
5 AND THEN DR. SEXTON WILL BE THE LAST WITNESS FOR
6 THE STATE IN THE PENALTY PHASE. SO QUITE FRANKLY,
7 YOU WILL BE UP ABOUT 10:30 OR ELEVEN TOMORROW?

8 MR. HARPOOTLIAN: YES, SIR. YOUR
9 HONOR, COULD YOU GIVE US JUST ONE MINUTE BEFORE
10 MRS. LANDER TAKES THE STAND?

11 THE COURT: SURE.

12 MR. MCMAHON: ONE FURTHER THING, I HAVE
13 SHOWN THE --

14 MR. HARPOOTLIAN: YOUR HONOR, THESE ARE
15 PICTURES OF VICKIE BECKHAM WITH THE CHILDREN AND I
16 SUPPOSE THEY ARE GOING TO ATTEMPT TO INTRODUCE
17 THOSE THROUGH MRS. LANDER. WE WOULD OBJECT TO
18 THOSE. THEY ARE NOT PROBATIVE OF ANY POINT. PAYNE
19 VERSUS TENNESSEE, YOUR HONOR, IS -- HAS BEEN
20 NARROWLY CONSTRUED BY OUR COURT AND THE UNITED
21 STATES SUPREME COURT IN TERMS OF VICTIM IMPACT. IT
22 SHOULD NOT BE ALLOWED TO -- PAYNE BASICALLY TALKS
23 ABOUT A GLIMPSE OF THE DEFENDANT, AND IT DOES NOT
24 ALLOW THAT TESTIMONY -- THAT TESTIMONY SHOULD NOT
25 BE ALLOWED TO MAKE THE VICTIM THE FOCUSING OF THE

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1 SENTENCING HEARING, AND THAT'S WHAT HAPPENS WHEN
2 THESE KIND OF PICTURES COME IN.

3 CERTAINLY, WE'VE GOT NO OBJECTION TO
4 THE APPROPRIATE TESTIMONY FROM HER MOTHER. BUT
5 THESE PICTURES ARE NOT NECESSARY TO PROVE --
6 CERTAINLY, NOT THAT NUMBER. I DON'T KNOW THAT I
7 WOULD OBJECT TO ONE OR TWO, BUT THEY'VE GOT SIX OR
8 SEVEN.

9 THE COURT: LET ME SEE WHAT YOU'VE GOT,
10 SOLICITOR, JUST RIGHT QUICK.

11 MR. MCMAHON: YES, SIR. I HAVE NOT YET
12 HAD THEM MARKED, YOUR HONOR. AND I CERTAINLY WOULD
13 LIKE TO BE HEARD, IF THAT WOULD BE APPROPRIATE WITH
14 THE COURT, AFTER HIS HONOR LOOKS AT THEM.

15 THE COURT: YES, SIR. ALL RIGHT, MR.
16 MCMAHON, I'LL BE GLAD TO HEAR FROM YOU.

17 MR. MCMAHON: YES, SIR. YOUR HONOR, AS
18 THE COURT -- MR. HARPOOTLIAN HAS STATED, OUR COURT,
19 I BELIEVE IN THE JOHNSON CASE, UPHELD THE HOLDING
20 OR ADOPTED AS THE LAW OF THIS STATE PAYNE VS.
21 TENNESSEE, NOW ALLOWING VICTIM IMPACT TESTIMONY,
22 WHICH, OF COURSE, WAS NOT PREVIOUSLY ALLOWED UNDER
23 BOOTH AND GATHERS. AND AS I READ JOHNSON, AS I
24 READ, I BELIEVE IT'S LUCAS VERSUS EVETT, LONGWORTH,
25 ROSHERVILLE AND VARIOUS OTHER CASES. I THINK THEY

1 TALK ABOUT TWO DIFFERENT PRONGS TO THAT. THE
2 UNIQUENESS OF THE INDIVIDUAL, THE UNIQUENESS OF THE
3 VICTIM AS AN INDIVIDUAL AND THE IMPACT OF THE LOSS
4 OF THE VICTIM ON FAMILY MEMBERS. WE ARE OFFERING
5 THOSE PHOTOGRAPHS TO CONVEY TO THE JURY THE
6 UNIQUENESS OF VICKIE LANDER BECKHAM AS AN
7 INDIVIDUAL. IT'S A VERY LIMITED NUMBER. THERE IS
8 ONLY -- I THINK THERE ARE THREE WITH CHILDREN IN
9 THEM. ONE OF THEM IS A PICTURE OF HER WITH HER TWO
10 SONS, ANDREW AND SAMUEL, AT A YOUNGER AGE, ONE OF
11 THEM IS A PICTURE OF HER WITH HER NEPHEW, I
12 BELIEVE, AND ONE OF THEM IS A PICTURE OF HER WITH
13 SAMUEL. THAT'S THE PRONG WE'RE PROCEEDING UNDER.

14 THE COURT: WHO'S EXAMINING HER?

15 MR. MCMAHON: I AM, SIR.

16 MR. HARPOOTLIAN: I'M SORRY?

17 THE COURT: I WAS ASKING WHO WAS
18 EXAMINING HER?

19 ALL RIGHT. I'LL ALLOW THE PHOTOGRAPHS
20 IN. I DON'T BELIEVE THAT THEY VIOLATE PAYNE VERSUS
21 TENNESSEE NOR ARE THEY EXCESSIVE IN NUMBER. THEY
22 DO SHOW SOME OF THE UNIQUENESS OF THE INDIVIDUAL
23 VICTIM OF THE CRIME. AND THIS IS A LITTLE
24 DIFFERENT FROM MANY OTHER CAPITAL CASES IN THAT IT
25 IS A HUSBAND-WIFE SITUATION. YOU KNOW, IT WOULD BE

1 FOOLISH TO SAY THE JURY IS NOT GOING TO CONSIDER
2 THOSE FACTORS ABOUT THE CHILDREN AND THAT SORT OF
3 THING IN THIS CASE.

4 MR. HARPOOTLIAN: YES, SIR.

5 THE COURT: AND I --

6 MR. HARPOOTLIAN: I'M SORRY, YOUR
7 HONOR.

8 THE COURT: I'VE SAID ENOUGH.

9 MR. HARPOOTLIAN: OKAY. YOUR HONOR, WE
10 HAVE SIGNIFICANT CONCERNS THAT, I'VE HAD A NUMBER,
11 NOT A NUMBER, BUT SEVERAL CONVERSATIONS, A FEW
12 CONVERSATIONS WITH MRS. LANDER. AND IN THOSE
13 CONVERSATIONS, SHE'S VERY UNDERSTANDABLY EMOTIONAL.
14 FOR THE RECORD, THERE'S BEEN A CONFERENCE IN YOUR
15 CHAMBERS WITH HER, WITH THE CONSENT AND KNOWLEDGE
16 OF OUR CLIENT ALONG WITH THE SOLICITOR'S OFFICE.

17 I WOULD ASK YOUR HONOR TO CONDUCT IN A
18 PROPHYLACTIC EFFORT A IN-CAMERA PROCEEDING TO
19 DETERMINE EXACTLY WHAT SHE'S GOING TO SAY. BECAUSE
20 I DON'T KNOW THAT SHE MAY NOT, IN THE THROWS OF AN
21 EMOTIONAL MOMENT, REFER TO A PRIOR -- REFER TO
22 THINGS THAT WOULD NOT BE ADMISSIBLE.

23 YOUR HONOR, THE REASON I ASK THAT IS
24 THAT IF SUCH MATERIAL COMES OUT BEFORE THIS JURY IN
25 THAT KIND OF EMOTIONAL CONTEXT, WE WILL BE MOVING

1 FOR A MISTRIAL AND A DIRECTED VERDICT ON THIS
2 STAGE.

3 THE SOLICITOR IS CALLING THIS WITNESS.
4 HOPEFULLY, HE HAS PREPARED HER NOT TO SAY THINGS
5 WHICH VIOLATE THE STRICTURES ON WHAT'S ADMISSIBLE
6 AT THIS STAGE. BUT SHE IS VERY VOLATILE ON THESE
7 ISSUES, AND UNDERSTANDABLY -- I'M NOT BEING
8 CRITICAL OF HER. I'M JUST SAYING UNDERSTANDABLY
9 SO. IF IT WERE MY DAUGHTER, I'D BE VOLATILE, TOO.
10 BUT I'M VERY CONCERNED. AND I WOULD STATE TO THE
11 COURT THAT MY OBSERVATION -- THAT THAT CONCERN IS
12 BASED ON EMPIRICAL OBSERVATIONS, NOT SURMISE, NOT
13 CONJECTURE.

14 THE COURT: WELL, MR. HARPOOTLIAN, I
15 ASKED AS TO WHO WAS EXAMINING THE WITNESS, AND I
16 THINK MR. MCMAHON IS AWARE OF THE NECESSITY FOR
17 ASKING VERY DIRECT QUESTIONS AND TO BEING ABLE TO
18 CONTROL THE WITNESS AND HER RESPONSES, AND--

19 MR. HARPOOTLIAN: WILL YOUR HONOR
20 INSTRUCT THE WITNESS TO BE RESPONSIVE?

21 THE COURT: I WILL IF I SEE THE
22 NECESSITY.

23 MR. HARPOOTLIAN: I JUST --

24 THE COURT: BUT RIGHT NOW --

25 MR. HARPOOTLIAN: -- AM CONCERNED ABOUT

1 THAT BEING DONE IN FRONT OF THE JURY.

2 THE COURT: WELL --

3 MR. HARPOOTLIAN: YOUR HONOR, I --

4 THE COURT: I THINK MR. MCMAHON, IN
5 LIGHT OF THE DISCUSSIONS THIS MORNING, I'M SURE HE
6 HAS HAD DISCUSSIONS WITH MRS. LANDER ABOUT WHAT SHE
7 CAN SAY AND CANNOT SAY. AND UNTIL I SEE A
8 VIOLATION OF THAT, I'M NOT GOING TO PREEMPT THAT,
9 SO...

10 MR. MCMAHON: YOUR HONOR, I HAVE
11 DISCUSSED THE PARAMETERS OF HER TESTIMONY WITH MRS.
12 LANDER. I INTEND TO BE VERY, VERY SPECIFIC AS TO
13 VICKIE. FURTHER, VERY SPECIFIC AS TO THE IMPACT OF
14 THAT LOSS ON HER, AND THE IMPACT OF THAT LOSS ON
15 THE LANDER FAMILY. THAT IS THE AREAS I'M GOING
16 INTO. I'M NOT GOING INTO ANY OTHER AREAS THAT HAS
17 TO DO WITH ANY OTHER PERSON OTHER THAN VICKIE AND
18 THE IMPACT THAT HER -- THE LOSS OF HER HAS HAD.

19 THE COURT: AND I BELIEVE YOU WILL.
20 AND I'VE TRIED TO CONVEY THIS MORNING WHEN WE HAD
21 THAT IN-CAMERA CONFERENCE. THIS IS NOT A FAMILY
22 COURT, AND I DON'T HAVE ANY JURISDICTION OVER A LOT
23 OF THINGS AS PEOPLE PERCEIVE SHOULD BE ISSUES IN
24 THIS COURTROOM. SO I THINK THAT'S BEEN CONVEYED.

25 MR. MCMAHON: AND, YOU KNOW, YOUR

1 HONOR, I CERTAINLY WOULD NOT DENY THAT MRS. LANDER
2 IS EMOTIONAL, BUT, OF COURSE, THAT HAS BEEN
3 DISPLAYED BY OTHER WITNESSES PREVIOUSLY IN OTHER
4 PARTS OF THIS TRIAL. AND, OF COURSE, IF A BREAK
5 WERE NECESSARY, I KNOW THAT HIS HONOR WOULD ON HIS
6 OWN --

7 THE COURT: WELL, LET ME SAY THIS. THE
8 SAME RULE THAT I USED WITH THE OTHER PEOPLE THAT
9 THE WITNESS -- THE ATTORNEY WHO CALLED THE WITNESS
10 CAN GIVE ME AN INDICATION AS TO WHETHER OR NOT THEY
11 THINK THEY NEED A BREAK. AND I WON'T INTERRUPT
12 UNLESS IT BECOMES UNDULY PREJUDICIAL. SO YOU MAKE
13 THE CALL, UNLESS I SEE OTHERWISE. JUST LIKE I'VE
14 DONE WITH THE OTHERS OF YOU DURING THE THING...

15 MR. MCMAHON: ALL RIGHT, SIR.

16 THE COURT: OKAY, BRING THE JURY IN.

17 (WHEREUPON, THE JURY RETURNED TO OPEN
18 COURT AT 4:25 P.M.)

19 THE COURT: ALL RIGHT, MADAM FOREMAN,
20 AND LADIES AND GENTLEMEN OF THE JURY, THE STATE IS
21 READY TO PROCEED ALONG WITH ITS CASE.

22 MR. MCMAHON, CALL YOUR NEXT WITNESS,
23 PLEASE.

24 MR. MCMAHON: THE STATE CALLS JOLENE
25 LANDER.

1 JOLENE LANDER, BEING DULY

2 SWORN, TESTIFIED AS FOLLOWS:

3 THE CLERK: PLEASE STATE YOUR NAME.

4 THE WITNESS: JOLENE LANDER.

5 DIRECT EXAMINATION:

6 BY MR. MCMAHON:

7 Q YOU'RE JOLENE LANDER?

8 A YES.

9 Q AND YOU'RE THE WIFE OF SENATOR LANDER?

10 A JIM LANDER.

11 Q MRS. LANDER, HOW MANY YEARS HAVE YOU

12 AND MR. LANDER BEEN MARRIED?

13 A ALMOST FORTY-FIVE.

14 Q WHAT YEAR WAS THAT?

15 A WHEN WE GOT MARRIED?

16 Q YES, MA'AM?

17 A 'FIFTY-TWO.

18 Q 'FIFTY-TWO. AND WHERE WERE Y'ALL

19 LIVING WHEN Y'ALL FIRST GOT MARRIED?

20 A WE LIVED IN ABBEVILLE.

21 Q NOW, Y'ALL NOW LIVE HERE ON MAIN STREET

22 IN NEWBERRY?

23 A NEWBERRY, FOR THE LAST TWENTY-FIVE

24 YEARS.

25 Q SO THAT'S BEEN SINCE THE EARLY '70'S?

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1 A YES, SIR, '71.

2 Q DURING THE COURSE OF Y'ALL'S MARRIAGE,
3 WHAT WAS THE SENATOR'S OCCUPATION?

4 A WHEN WE FIRST MARRIED, JIM WAS EMPLOYED
5 BY THE NATIONAL GUARD. BEFORE TERRY ANN WAS BORN,
6 THERE WAS A CUT BACK IN THE MEDICAL DETACHMENT AND
7 HE WENT TO WORK FOR GULF LIFE INSURANCE, REMAINED
8 IN THAT BUSINESS UNTIL 1965, WHEN HE ENTERED THE
9 ARMY. UPON RETURNING FROM VIETNAM, HE WAS ASSIGNED
10 TO THE NATIONAL GUARD, SOUTH CAROLINA NATIONAL
11 GUARD, AS AN ADVISOR.

12 DURING THAT TIME -- AFTER HE -- HE HAD
13 ALWAYS BEEN A NATIONAL GUARD OFFICER. THEY ARE --
14 IT'S NECESSARY FOR NATIONAL GUARD OFFICERS TO
15 RESIGN UP WITH THEIR INTENTION FOR THE NEXT FOUR
16 YEARS OR THREE OR WHATEVER IT MIGHT BE. IT CAME
17 THAT TIME AND JIM HAD GOTTEN HOME FROM VIETNAM. HE
18 WAS OFFERED A JOB BY GENERAL MCCRADY, KNOWING THE
19 SITUATION AT THAT TIME. HE TOOK --

20 Q HE WAS THE ADJUTANT GENERAL IN SOUTH
21 CAROLINA?

22 A GENERAL MCCRADY AT THAT TIME WAS THE
23 ADJUTANT GENERAL. HE IS THE LEADER OF YOUR SOUTH
24 CAROLINA NATIONAL GUARD. THE NATIONAL GUARD
25 ANSWERS TO THE GOVERNOR OF SOUTH CAROLINA AND TO A

1 SECOND DUTY AS A FEDERAL -- AS A REGULAR U. S. ARMY
2 SOLDIER.

3 Q HE RETIRED FROM --

4 A HE DID, BUT AT THAT TIME -- HE TOOK A
5 TRIP TO WASHINGTON AND WEIGHED ALL THE PROS AND
6 CONS. HE HAD FOUND OUT RELATIVELY LATE IN LIFE
7 THAT HE REALLY WANTED TO BE A SOLDIER. HE HAD --
8 HE WAS IN THE NATIONAL GUARD WHEN WE MARRIED, SO
9 IT'S ALWAYS BEEN A PART OF OUR LIVES. HE WEIGHED
10 THE PROS AND CONS OF A REGULAR ARMY CAREER WITH THE
11 CIVIL SERVICE MILITARY NATIONAL GUARD ASSIGNED TO
12 THE NATIONAL GUARD. AND DECIDED THAT THE
13 POSSIBILITY OF SERVING THE PEOPLE OF OUR COUNTRY
14 AND HIS FAMILY AND WITH THE ARMY, HE DECIDED TO
15 ACCEPT THE JOB THAT HAD BEEN OFFERED TO HIM HERE IN
16 NEWBERRY. A COUPLE OF OTHER PEOPLE HAD NOT CHOSEN
17 TO ACCEPT THIS JOB AND IT HAD BEEN OPEN FOR QUITE A
18 WHILE.

19 SO WE RELOCATED AT THAT TIME FROM
20 COLUMBIA TO NEWBERRY, AT WHICH TIME HE ROSE IN THE
21 RANKS TO BE THE CHIEF OF STAFF OF THE ARMY NATIONAL
22 GUARD OF SOUTH CAROLINA.

23 Q NOW, I WANT TO ASK YOU ABOUT Y'ALL'S
24 CHILDREN.

25 A YES, SIR.

1 Q Y'ALL HAD SEVEN?
2 A YES, WE DID.
3 Q SEVEN CHILDREN. AND I'VE GROWN TO KNOW
4 SOME OF THEM. LET'S SEE, I DON'T SEE TERRY. TERRY
5 IS --
6 A TERRY AND OUR SON, DAVID, ARE AT HOME,
7 JUST NOW.
8 Q TERRY IS YOUR OLDEST?
9 A OUR OLDEST CHILD, YES, SIR.
10 Q ALL RIGHT. AND AS WE GO DOWN THE LINE,
11 LET ME SEE IF I'M RIGHT. TERRY, LESLIE?
12 A BRITT.
13 Q NO, BRITT. IS YOUR SECOND OLDEST? AND
14 THEN --
15 A LESLIE.
16 Q LESLIE. AND THEN, VICKIE.
17 A VICKIE.
18 Q AND THEN GAIL?
19 A YES, SIR.
20 Q JEANNIE; IS THAT RIGHT? I'M IN THE
21 RIGHT ORDER?
22 A YES, SIR, THAT'S RIGHT. YOU'RE ABOUT
23 TO GET AN A PLUS.
24 Q Y'ALL KEPT HAVING CHILDREN UNTIL YOU
25 HAD YOUR SON, DAVID; IS THAT RIGHT?

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- 1 A WELL, NOT EXACTLY.
- 2 Q OKAY. BUT YOU HAD SEVEN CHILDREN?
- 3 A YES, SIR. DAVID IS ELEVEN AND A HALF
- 4 MONTHS YOUNGER THAN JEANNIE, IF THAT ANSWERS THAT
- 5 QUESTION.
- 6 Q NOW, HOW MANY OF YOUR CHILDREN WERE
- 7 BORN PRIOR TO MR. LANDER GOING TO VIETNAM?
- 8 A ALL OF OUR CHILDREN.
- 9 Q ALL OF THEM?
- 10 A YES, SIR, DAVID WAS FOUR AND A HALF OR
- 11 SO THEN, SAME AGE AS SAMUEL WHEN HE LOST HIS
- 12 MOTHER.
- 13 Q SO WHEN HE WAS THERE, YOU WERE HOME
- 14 WITH THE CHILDREN?
- 15 A YES.
- 16 Q HAS THAT BEEN YOUR OCCUPATION? THAT'S
- 17 WHAT YOU'VE --
- 18 A YES, UNTIL WE...
- 19 Q -- DONE IS RAISE YOUR CHILDREN?
- 20 A YES, SIR, THAT AND A PERMANENT PART
- 21 TIME JOB THAT ALLOWED ME WITH -- AT THAT TIME
- 22 BANKERS TRUST, ALLOWED ME TO BE AT HOME IN THE
- 23 AFTERNOONS, AND THIS WAS WHEN DAVID WAS IN THE
- 24 THIRD GRADE.
- 25 Q NOW, I WANT TO TALK TO YOU JUST A

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1 LITTLE BIT ABOUT THE LANDER HOUSEHOLD-- WHEN I SAY
2 THE LANDER HOUSEHOLD, I'M TALKING ABOUT JIM AND
3 JOLENE'S HOUSE. HOW MANY GRANDCHILDREN DO YOU HAVE
4 --
5 A WE HAVE --
6 Q -- AS A RESULT OF --
7 A AS A RESULT OF --
8 Q YES, MA'AM?
9 A -- FIVE OF OUR CHILDREN HAVING
10 CHILDREN, WE HAVE FIFTEEN GRANDCHILDREN.
11 Q FIFTEEN GRANDCHILDREN. NOW, WHAT IS
12 THE BIGGEST FAMILY GATHERING FOR THE LANDER HOUSE
13 -- HOUSEHOLD?
14 A I WOULD SAY CHRISTMAS BECAUSE EVERYBODY
15 IS THERE CHRISTMAS DAY. SOME ARRIVING BEFORE
16 LUNCH, SOME AROUND LUNCH AND BY THE END OF THE DAY,
17 USUALLY, MY MOTHER IS THERE AND BOTH OF MY SISTERS
18 AND THEIR FAMILIES. AND SOMETIMES, ON OCCASIONS,
19 JIM'S ONE BROTHER, HE HAS ONE BROTHER.
20 Q AND DO Y'ALL HAVE A TRADITIONAL
21 CHRISTMAS-TYPE DINNER?
22 A YES, WE DO.
23 Q AND MRS. LANDER, HOW MANY PEOPLE WOULD
24 THAT BE JUST SITTING DOWN TO EAT? IS THAT
25 CHILDREN, SON-IN-LAWS --

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1 A YES.

2 Q -- GRANDCHILDREN AND ALL? SO ABOUT HOW
3 MANY PEOPLE WOULD THAT BE?

4 A I WOULD SAY THIRTY, THIRTY-TWO, MAYBE
5 FORTY, I DON'T KNOW. THE DINING ROOM TABLE SEATS
6 EIGHT AND WE HAVE ANY NUMBER OF CARD TABLES IN THE
7 FRONT HALL, THE DEN AND THE LIVING ROOM.

8 SOMETIMES, IF THE WEATHER PERMITS, ON THE PORCH.

9 Q AND THAT'S DONE AT THE LANDER HOME --

10 A YES.

11 Q -- ON MAIN STREET?

12 A YES, SIR.

13 Q I WANT TO ASK YOU ABOUT YOUR MIDDLE
14 CHILD.

15 A YES, SIR.

16 Q ABOUT VICKIE. WHAT WAS VICKIE'S
17 BIRTHDAY?

18 A VICKIE'S BIRTHDAY IS JUNE THE 25TH.
19 SHE -- 1957.

20 Q SO AT THE TIME OF HER DEATH, HOW OLD
21 WAS SHE?

22 A SHE WOULD HAVE BEEN -- '94, SHE WOULD
23 HAVE BEEN THIRTY-SIX ON HER BIRTHDAY.

24 Q ON JUNE THE 25TH?

25 A JUNE THE 25TH, HAVING DIED ON JUNE THE

1 12TH. SHE WAS --

2 Q I WANT TO SHOW YOU A FEW PHOTOGRAPHS --

3 A YES, SIR.

4 Q OKAY? YOU DON'T MIND?

5 A I'LL BE GLAD TO.

6 Q AND I HAVE TO SAY THESE NUMBERS. I

7 DON'T MEAN IT TO BE A NUMBER, BUT THIS PHOTOGRAPH,

8 STATE'S EXHIBIT 150.

9 A YES, SIR.

10 Q WHO IS THAT?

11 A THAT'S VICKIE. SHE WAS IN THE 11TH

12 GRADE, 11TH GRADE SCHOOL PICTURE.

13 Q AND WHERE -- WHERE DID VICKIE AND YOUR

14 CHILDREN GO TO SCHOOL?

15 A NEWBERRY.

16 Q NEWBERRY?

17 A NEWBERRY HIGH SCHOOL.

18 Q AND THIS IS A HIGH SCHOOL PICTURE?

19 A YES, SIR.

20 Q DID SHE HAVE ANY PARTICULAR INTEREST

21 WHEN SHE WAS IN HIGH SCHOOL?

22 A YES, SIR, SHE WAS -- EXCUSE ME. SHE --

23 I WOULD SAY HER MAIN INTEREST WAS THE HIGH SCHOOL

24 BAND. SHE WAS VERY PROUD WHEN BOTH SHANNON AND

25 ANDREW JOINED THE BAND.

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1 Q AND THIS 150, WHO --

2 A YES, SIR, I BELIEVE -- I'M SORRY. THAT
3 IS ALSO A SCHOOL PICTURE. I BELIEVE SHE PROBABLY
4 WAS IN THE TENTH GRADE THEN, MAYBE.

5 MR. HARPOOTLIAN: YOUR HONOR, MAY WE
6 APPROACH THE SIDE BAR FOR ONE SECOND?

7 A DO WHAT?

8 THE COURT: JUST ONE MINUTE.

9 (BENCH CONFERENCE IN THE PRESENCE OF
10 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
11 THE RECORD.)

12 Q HE JUST DIDN'T HEAR THAT. THAT'S FINE.

13 A I'M SORRY.

14 Q NO, YOU'RE FINE.

15 Q (BY MR. MCMAHON) I'M SORRY, MRS.
16 JOLENE?

17 A THAT'S QUITE ALRIGHT.

18 Q NOW, VICKIE FINISHED NEWBERRY HIGH
19 SCHOOL?

20 A YES, SIR.

21 Q AND AFTER HIGH SCHOOL, DID SHE GO TO
22 ANY COLLEGE?

23 A IN COLUMBIA, THE UNIVERSITY OF SOUTH
24 CAROLINA WHERE AS HER FIRST YEAR SHE CONTINUED HER
25 INTEREST IN THE BAND AND WAS A PART OF THE RIFLE

1 TEAM OF THE CAROLINA COLLEGE BAND.

2 Q DID SHE GET A DEGREE?

3 A SHE HAS A TWO-YEAR DEGREE IN CRIMINAL

4 JUSTICE.

5 Q AND THEN, I BELIEVE, IF MY DATE IS

6 CORRECT, VICKIE WAS MARRIED IN '79?

7 A YES, DECEMBER, THE FIRST OF DECEMBER IN

8 1979, TO STEPHEN BECKHAM.

9 Q AND OF THAT MARRIAGE, OF COURSE, Y'ALL

10 -- THEY HAD THREE CHILDREN.

11 A YES.

12 Q I WANT TO SHOW YOU SOME OTHER

13 PHOTOGRAPHS. THIS ONE HERE, MRS. JOLENE, WHO IS

14 THIS?

15 A THIS IS SHANNON AND VICKIE.

16 Q SO THIS IS WHEN SHANNON WAS A --

17 A I BELIEVE SO.

18 Q -- BABY?

19 A SHANNON AND SAMUEL LOOKED SO MUCH ALIKE

20 AS A BABY, I BELIEVE I'M RIGHT IN THAT.

21 Q DO YOU REMEMBER WHAT YEAR SHANNON WAS

22 BORN?

23 A YES, SIR, SHE WAS BORN IN [REDACTED]

24 THE [REDACTED]

25 Q AND THIS PHOTOGRAPH HERE?

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- 1 A NOW, THAT'S VICKIE AND SAMUEL IN A
2 BEACH SURROUNDING, I BELIEVE. I DON'T KNOW, I
3 THINK IT PROBABLY IS ON THE BEACH WITH THAT --
- 4 Q HOW OLD --
- 5 A -- BANNISTER BEHIND HER, I'M NOT
6 FAMILIAR WITH.
- 7 Q WHAT YEAR WAS SAMUEL BORN?
- 8 A SAMUEL WAS BORN IN [REDACTED].
- 9 Q 'EIGHTY-NINE?
- 10 A UH-HUH.
- 11 Q SO HE WAS ABOUT FOUR, FIVE YEARS OLD?
- 12 A YES, HIS BIRTHDAY'S [REDACTED] THE [REDACTED]
- 13 Q AND LET ME SHOW YOU ANOTHER PHOTOGRAPH
14 HERE.
- 15 A THIS IS IN THEIR HOME THERE AT SURFSIDE
16 BEACH. THEY WERE -- THEY WERE THERE WHEN SAMUEL
17 WAS CONCEIVED AND BORN.
- 18 Q AND THERE'S TWO CHILDREN IN THAT
19 PHOTOGRAPH?
- 20 A AND THAT SHOWS ANDREW --
- 21 Q ANDREW AND SAMUEL?
- 22 A -- AS HIS USUAL SELF, VERY AFFECTIONATE
23 AND LOVING. THIS IS VICKIE AT A, I BELIEVE, A
24 CHRISTMAS PARTY FOR SBF1, WHERE SHE WORKED IN 1993.
- 25 Q NOW, SHE WAS WORKING THERE AT THE TIME

1 OF HER DEATH?

2 A YES, WHEN THEY RETURNED TO THE UPSTATE
3 MID -- MIDLANDS AREA, FIRST TO IRMO AND THEN THEY
4 MOVED TO PROSPERITY AND SHE BEGAN TO WORK FOR THEM
5 AT THAT TIME.

6 Q HOW WAS -- I MEAN, HOW WAS VICKIE AS
7 FAR AS WHERE YOUR OTHER CHILDREN LIVE? DO THEY
8 LIVE ANY OF THEM LOCALLY, LOCALLY IN THE NEWBERRY,
9 MIDLANDS AREA?

10 A WELL, YES. JEANNIE LIVES OUT ABOUT
11 TWENTY MILES FROM NEWBERRY. HER MAILING ADDRESS IS
12 KINARD. SHE'S OUR YOUNGEST DAUGHTER. AND AT THAT
13 -- AT THE TIME OF VICKIE'S DEATH, LESLIE LIVED IN
14 ROCK HILL, BRITT AND YORK. LESLIE NOW RESIDES IN
15 LEXINGTON, JUST THE LAST FEW MONTHS, AND OUR FIFTH
16 DAUGHTER, GAIL, LIVES IN LEXINGTON. TERRY, OUR
17 OLDEST DAUGHTER, NOW LIVES IN JACKSONVILLE. AT THE
18 TIME OF VICKIE'S DEATH, SHE WAS LIVING IN
19 JACKSONVILLE, FLORIDA.

20 Q ARE YOUR --

21 A OUR SON'S IN THE MILITARY, SO--

22 Q ARE YOUR DAUGHTER'S AND YOUR SON -- OF
23 COURSE, HE'S IN THE MILITARY --

24 A YES, SIR.

25 Q -- I MEANT TO ASK YOU ABOUT EARLIER,

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- 1 ARE THEY CLOSE?
- 2 A OH, YES, SIR.
- 3 Q DO THEY SEE EACH OTHER? AND WHAT ABOUT
- 4 --
- 5 A THEY'RE BEST FRIENDS, AND BROTHERS AND
- 6 SISTERS.
- 7 Q AND WHAT ABOUT THEM HAVING -- I BELIEVE
- 8 YOU SAID YOU HAD FIFTEEN --
- 9 A YES, SIR.
- 10 Q --GRANDCHILDREN? ARE THE GRANDCHILDREN
- 11 CLOSE, TOO, KIND OF --
- 12 A VERY MUCH.
- 13 Q -- PART OF THE FAMILY?
- 14 A FACT IS, WHEN VICKIE AND STEPHEN WERE
- 15 SEPARATED, VICKIE ALWAYS CARRIED THE CHILDREN WHEN
- 16 THEY WERE AT HOME OUT TO JEANNIE'S OR DOWN TO
- 17 GAIL'S. UP TO BRITT'S FOR OVERNIGHT.
- 18 Q WERE HER AND JEANNIE CLOSE?
- 19 A YES, VERY MUCH.
- 20 Q LET ME SHOW YOU THIS PHOTOGRAPH. WHO
- 21 IS THIS A PHOTOGRAPH OF?
- 22 A THAT'S VICKIE AND SHE'S HOLDING OUR
- 23 THIRD DAUGHTER AND HER HUSBAND'S THIRD CHILD, THEIR
- 24 FIRST DAUGHTER, MARY JOLENE.
- 25 Q ONE OF HER NIECES?

1 A YES.

2 Q ONE OF HER NIECES. WHAT YEAR -- DO YOU

3 KNOW ABOUT WHAT YEAR THAT WOULD BE?

4 A 'NINETY-ONE, 1991.

5 Q 'NINETY-ONE? COULD YOU DESCRIBE, FOR

6 THE JURY, VICKIE AS A PERSON? I MEAN, YOU SEE

7 THESE PHOTOGRAPHS, BUT WHAT KIND OF UNIQUENESS SHE

8 HAD.

9 A I'LL DO MY BEST. VICKIE WAS JUST

10 BARELY FIVE FOOT TALL, AND AS YOU CAN TELL SHE HAD

11 SLIGHTLY CURLY HAIR. ALWAYS SMILING. SHE ALWAYS

12 SEES, SAW THE BEST IN ANY PERSON THAT SHE MET. I

13 NEVER MET ANYONE THAT DIDN'T LIKE VICKIE. SHE IS A

14 GENUINE CARING PERSON. FATHER MOSSO DESCRIBED HER

15 WHEN WE -- WHEN THE FUNERAL SERVICE AS BEING READY

16 TO SAY YES TO ANYTHING WITHOUT HESITATION THAT HE

17 MIGHT REQUEST OF HER. SHE TAUGHT SUNDAY SCHOOL

18 THERE.

19 Q I BELIEVE SHE HAD TAUGHT SUNDAY SCHOOL

20 THAT DAY?

21 A AT ST. LUKE'S EPISCOPAL CHURCH. VICKIE

22 -- OUR FAMILY WAS BROUGHT UP IN THE BAPTIST CHURCH.

23 NATURALLY, SHE BECAME AFFILIATED WITH STEPHEN'S

24 CHURCH WHEN SHE MARRIED HIM, IN AS MUCH AS HIS

25 FATHER'S POSITION. SHE WOULD NEVER HAVE GONE

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1 ANYWHERE. SHE WAS THE PERSON IN THEIR FAMILY THAT
2 SAW TO THE CHILDREN BEING READY FOR SCHOOL, THEIR
3 NEEDS. SHANNON HAD BRACES BECAUSE VICKIE
4 SACRIFICED FROM HER PAYCHECK TO HAVE BRACES.
5 SHANNON WAS IN--

6 Q LET --

7 A NO MORE? OUR CHRISTMAS AND OUR HOME IS
8 JUST NOT THE SAME WITHOUT HER.

9 Q LET ME ASK YOU A FEW MORE QUESTIONS.

10 A NEVER WILL BE. YES, SIR.

11 Q LET ME ASK YOU A FEW MORE QUESTIONS,
12 MRS. LANDER. NOW, VICKIE, WHEN THIS HAPPENED, WAS
13 STAYING WITH Y'ALL?

14 A YES, SIR. VICKIE HAD CALLED AND ASKED
15 IF SHE COULD COME HOME --

16 Q YES, MA'AM.

17 A -- IN FEBRUARY. AND I SAID YES. SHE
18 WAS STAYING WITH US.

19 Q I DIDN'T WANT YOU TO GO INTO WHAT SHE
20 SAID --

21 A THAT'S ALRIGHT.

22 Q -- MRS. LANDER. I APOLOGIZE FOR
23 INTERRUPTING YOU. AND WHAT WERE HER -- SHE HAD
24 BEEN LIVING THERE FOR --

25 A SINCE FEBRUARY.

1 Q -- FOUR OR FIVE MONTHS?

2 A YES.

3 Q WHAT WAS HER HOPES OR HER PLANS OR WHAT
4 WAS SHE GOING TO DO?

5 A VICKIE WAS MAKING PLANS TO FIND A HOME
6 FOR -- THAT WAS HER MAIN THING TO FIND A HOME THAT
7 WAS HERS, THAT WOULD BE HER CHILDREN'S HOME. THEY
8 WERE ALL QUITE COMFORTABLE AT OUR HOUSE, BUT
9 NATURALLY, SHE WANTED TO HAVE HER OWN. AND SHE WAS
10 TRYING TO BECOME INDEPENDENT AND WAS WORKING ON HER
11 FINANCES TO ENABLE HER TO DO THAT.

12 Q NOW --

13 A HER SALARY WAS NOT SUCH THAT SHE
14 WOULDN'T NEED ASSISTANCE.

15 Q MRS. LANDER, I WANT YOU TO DESCRIBE TO
16 THE JURY, AS VICKIE'S MOTHER, HOW THE LOSS OF
17 VICKIE HAS IMPACTED ON YOUR LIFE.

18 A I HOPE I CAN DO THAT JUSTICE WITHOUT
19 TOO MUCH EMOTION. WE'LL NEVER HAVE HER AGAIN.
20 WE'RE THANKFUL FOR THE YEARS THAT WE DID HAVE HER.
21 WE WON'T SEE HER SMILE. SAMUEL -- CHRISTMAS WILL
22 NEVER BE THE SAME.

23 Q WAS IT DIFFERENT?

24 A NEVER A DAY WILL EVER BE THE SAME.

25 Q HOW IS IT, MRS. LANDER -- HOW HAS IT

1 AFFECTED THE FAMILY, THE LANDER FAMILY. WHAT
2 IMPACT HAS IT HAD ON THEM?
3 A THE AFFECT THAT IT'S HAD ON ALL OF US,
4 IT REALLY JUST CAN'T BE DESCRIBED. AND IT'S AMPLY
5 -- YOU CAN'T -- YOU CAN'T GET IT OUT OF YOUR MIND.
6 YOU WONDER HOW COULD ANYBODY DO THIS TO HER. AND
7 YOU WONDER WHAT COULD I HAVE DONE? WHY DIDN'T I GO
8 WITH HER THAT NIGHT TO CARRY THE CHILDREN HOME?
9 SHE HAD NOT BEEN ALONE TO CARRY THE CHILDREN --
10 Q YES, MA'AM.
11 A -- FOR AT LEAST EIGHT WEEKS --
12 Q YES, MA'AM.
13 A -- AND WE WONDER --
14 Q YES, MA'AM, BUT --
15 A -- WHAT HER LAST THOUGHTS WERE.
16 Q MRS. LANDER --
17 A YES, SIR.
18 Q IS THERE EVER A TIME --
19 A NEVER A TIME.
20 Q -- SHE IS NOT MISSED?
21 A NEVER A TIME THAT SHE'S NOT MISSED.
22 Q WILL THERE EVER BE?
23 A NO. SHE'S ONLY --
24 Q MRS. LANDER -- I'M SORRY, I DIDN'T MEAN
25 TO INTERRUPT YOU. MRS. LANDER, THANK YOU.

1 THE COURT: MR. HARPOOTLIAN?
2 CROSS-EXAMINATION:
3 BY MR. HARPOOTLIAN:
4 Q ARE YOU OKAY?
5 A I'LL BE FINE; THANK YOU.
6 Q DO YOU WANT A BREAK OR DO YOU WANT TO--
7 A NO.
8 Q YOU SURE?
9 A NO, THANK YOU.
10 Q OKAY. MRS. LANDER, YOU AND I HAVE HAD
11 A CHANCE AND OCCASION TO SPEAK FROM TIME TO TIME;
12 ISN'T THAT CORRECT?
13 A YES, WE HAVE.
14 Q SO THIS ISN'T THE FIRST TIME WE'VE
15 TALKED ABOUT VICKIE?
16 A NO.
17 Q AND CERTAINLY, NO ONE HAS SUGGESTED
18 THAT YOU IN ANY WAY HAVE NOT SUFFERED A TREMENDOUS
19 LOSS, HAVE THEY? I HAVEN'T?
20 A NO, YOU HAVE NOT.
21 Q OKAY. STATE'S EXHIBIT NO. 154 IS A
22 PICTURE OF VICKIE WITH WHO?
23 A ANDREW AND SAMUEL.
24 Q ANDREW AND SAMUEL. AND SAMUEL, WE'VE
25 NOT SEEN. HE IS ABOUT SEVEN?

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- 1 A HE WILL BE SEVEN NOVEMBER THE 15TH.
2 HE'S IN THE FIRST GRADE.
3 Q AND ANDREW, I THINK, IS A WITNESS THAT
4 I EXAMINED --
5 A YES, SIR.
6 Q -- IN THIS TRIAL?
7 A HE'S --
8 Q SIXTEEN?
9 A FIFTEEN.
10 Q FIFTEEN.
11 A AND IN THE NINTH GRADE, MID-CAROLINA.
12 Q AND AM I CORRECT, 152 IS SHANNON?
13 A YES.
14 Q THESE ARE YOUR GRANDCHILDREN?
15 A YES.
16 Q THEIR MOTHER, VICKIE, THEIR FATHER,
17 STEPHEN; IS THAT CORRECT?
18 A YES, SIR.
19 Q AND YOU HAVE PROBABLY, SINCE VICKIE'S
20 DEATH, BEEN SOMEWHAT OF A SUBSTITUTE MOTHER FOR
21 THEM; IS THAT CORRECT? TRIED TO BE?
22 A TRIED TO BE.
23 Q BUT THEY NEED THEIR MAMMA, DON'T THEY?
24 A YES, THEY DO.
25 Q AND TO SOME EXTENT, YOUR HUSBAND,

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1 SENATOR LANDER, HAS TRIED TO BE A SUBSTITUTE FATHER
2 FOR SAMUEL AND SHANNON AND ANDREW?

3 A WE -- I'LL SAY, YES, WE HAVE TRIED TO
4 DISCIPLINE THEM, LOVE THEM AND BE THERE FOR THEM.
5 I KNOW THAT WE CAN'T BE PARENTS.

6 Q AND THESE THREE CHILDREN NEED --
7 MR. MCMAHON: OBJECT TO THE FORM OF THE
8 QUESTION.

9 THE COURT: SUSTAINED. I MAY NOT
10 UNDERSTAND WHERE YOU'RE HEADED, BUT I THOUGHT I
11 DID. COME AROUND AND LET ME SEE YOU JUST ONE
12 MINUTE.

13 (BENCH CONFERENCE IN THE PRESENCE OF
14 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
15 THE RECORD.)

16 THE COURT: THE OBJECTION IS WITHDRAWN,
17 MR. MCMAHON?

18 MR. MCMAHON: I APOLOGIZE, YOUR HONOR,
19 I THOUGHT IT WAS SUSTAINED.

20 THE COURT: I SUSTAINED IT. DO YOU WANT
21 TO LEAVE...

22 MR. HARPOOTLIAN: OH, OKAY.

23 THE COURT: I DID SUSTAIN IT, ARE
24 YOU...

25 MR. MCMAHON: YES, SIR.

1 THE COURT: OKAY, LEAVE IT AT THAT.

2 ALL RIGHT.

3 Q (BY MR. HARPOOTLIAN) JUST A COUPLE.

4 AND I APOLOGIZE IF ANY WAY I'M MAKING YOU

5 UNCOMFORTABLE.

6 A NO, YOU'RE NOT.

7 Q SHANNON IS AT WOFFORD NOW?

8 A YES, SHE IS. SHE CHOSE TO GRADUATE

9 FROM HIGH SCHOOL IN ELEVEN YEARS. WE WERE NOT

10 CONSULTED AS TO HOW WE FELT ABOUT THAT. SHE WAS AT

11 THAT TIME LIVING AT THE BISHOP AND MRS. BECKHAM'S

12 HOUSE.

13 Q OKAY. WHAT GRADE IS SAMUEL IN?

14 A SAMUEL'S IN THE FIRST GRADE.

15 Q AND HE'S GOING TO SCHOOL HERE IN

16 NEWBERRY?

17 A YES, HE IS.

18 Q AND ANDREW IS IN THE --

19 A NINTH GRADE, MID-CAROLINA HIGH SCHOOL.

20 Q MID-CAROLINA HIGH SCHOOL. THANK YOU.

21 I DON'T HAVE ANY FURTHER QUESTIONS.

22 THE COURT: ANYTHING FURTHER, MR.

23 MCMAHON?

24 MR. MCMAHON: NOTHING FURTHER, YOUR

25 HONOR.

1 THE COURT: THANK YOU, MA'AM. YOU MAY
2 STEP DOWN.

3 ALL RIGHT, NOW, MADAM FOREMAN, AND
4 LADIES AND GENTLEMEN OF THE JURY, I KNOW YOU HAVE
5 NOT PHYSICALLY BEEN IN THE COURTROOM A LOT TODAY,
6 BUT WHAT I HAVE -- WE HAVE DONE A CONSIDERABLE
7 AMOUNT OF WORK TODAY TO PARE DOWN THE NUMBER OF
8 WITNESSES THAT WE WILL BE DEALING WITH TOMORROW. I
9 NEED TO HAVE ONE MORE HEARING TONIGHT AND IT WILL
10 TAKE US A WHILE TO DO THAT. AND HOPEFULLY, AS A
11 RESULT OF THIS HEARING, WE WILL BE ABLE TO MOVE
12 FORWARD A FULL, HARD DAY TOMORROW.

13 SO I'M GOING -- THIS WILL END THE
14 TESTIMONY IN FRONT OF THE JURY TODAY. PLEASE DON'T
15 DISCUSS THE CASE OR ALLOW ANYONE TO DISCUSS IT WITH
16 YOU OR WATCH, READ OR LISTEN TO ANY ACCOUNT OF THE
17 TRIAL. AND PLEASE DON'T MAKE UP YOUR MIND ABOUT
18 THE OUTCOME OF THE CASE UNTIL -- THE OUTCOME OF
19 THIS PHASE UNTIL YOU'VE HEARD ALL THE EVIDENCE, THE
20 LAW AND ARE AUTHORIZED TO DO SO. WE'LL SEE YOU IN
21 THE MORNING AT NINE O'CLOCK. AND IT WILL BE A
22 FAIRLY LONG DAY TOMORROW.

23 (WHEREUPON, THE JURY WAS EXCUSED FOR
24 THE DAY AT 4:55 P.M.)

25 THE COURT: LET THE RECORD REFLECT THAT

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1 DURING THE EXAMINATION OF MRS. LANDER, MR.
2 HARPOOTLIAN MADE AN OBJECTION PURSUANT TO PAYNE V.
3 TENNESSEE, AND THAT HE FELT THAT THE TESTIMONY WAS
4 GOING BEYOND THAT ALLOWED UNDER PAYNE V. TENNESSEE.
5 AND I OVERRULED THAT OBJECTION AT THE SIDE BAR, AND
6 FOR PURPOSES OF THE RECORD ALLOWED IT TO BE A
7 CONTINUING OBJECTION SO AS NOT TO DISRUPT THE
8 WITNESS'S TESTIMONY NOR CAST ANY NEGATIVE ASPECT
9 UPON THE DEFENDANT. SOMETIMES JURIES PERCEIVE THAT
10 TO BE -- COULD PERCEIVE IT TO BE THAT WAY.

11 AND I FIND THAT THERE WAS NOT A
12 COMPARISON BETWEEN THE DEFENDANT AND THE VICTIM IN
13 THIS CASE, AND THAT IT WAS APPROPRIATE TO EVALUATE
14 THE FAMILY AS WELL AS TO KNOW A LITTLE BIT ABOUT
15 THE HISTORY OF VICTORIA BECKHAM.

16 SO DOES THAT COVER YOUR RECORD FOR YOU,
17 MR. HARPOOTLIAN?

18 MR. HARPOOTLIAN: YES, SIR, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 OKAY, WE'RE BACK TO THE MESSIAH

21 QUESTION?

22 MR. HARPOOTLIAN: YES, SIR.

23 THE COURT: AND SO THE STATE IS -- AS I
24 HAD UNDERSTOOD IT, I KEPT IT OUT DURING THE CASE IN
25 CHIEF -- AND FOR WHAT PURPOSE ARE YOU GOING TO BE

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1 OFFERING IT NOW, MR. COULTER -- OR MR. MCMAHON?

2 MR. MCMAHON: I THINK BOTH AS IT GOES
3 TO THE DEFENDANT'S CHARACTER -- TO THE DEFENDANT'S
4 CHARACTER, AND FURTHER, ADAPTABILITY, FUTURE
5 DANGEROUSNESS. PART OF IT IS ISSUES REVOLVING
6 AROUND ESCAPE, PLANNING TO ESCAPE AND WANTING TO
7 KNOW HOW TO ESCAPE. HE'S TALKING TO TWO
8 INDIVIDUALS THAT ARE ALSO IN SAFEKEEPING, BOTH OF
9 THEM HAVE HISTORIES OF ESCAPE.

10 THE COURT: OKAY. WELL, LET ME --
11 LET'S JUST TAKE THE TESTIMONY.

12 MR. MCMAHON: ALL RIGHT.

13 THE COURT: SINCE WE'RE DOING IT IN-
14 CAMERA -- I KIND OF WANTED TO KNOW WHERE YOU WERE
15 COMING FROM SO I COULD UNDERSTAND IT.

16 MR. HARPOOTLIAN: YOUR HONOR, FOR THE
17 RECORD, YOU EXCLUDED THIS TESTIMONY IN THE GUILT OR
18 INNOCENCE BECAUSE THEY HAD NOT COMPLIED WITH THE
19 RULE. WE WOULD ASK YOU TO CONTINUE OR -- THE
20 DISCOVERY RULE. WE WOULD ASK YOU TO EXCLUDE AGAIN,
21 ON THAT SAME BASIS.

22 THE COURT: ALL RIGHT, WELL, AS YOU ALL
23 KNOW, BOTH SIDES HAVE PROBABLY CARTED A PICKUP
24 TRUCK LOAD OF RECORDS IN AND OUT FROM DAY TO DAY.
25 I MEAN, IT'S BEEN AN ENORMOUS TASK ON EVERYBODY'S

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1 PART. AND MR. BAILEY, OF COURSE -- OR SOLICITOR
2 BAILEY HAS CONTROL OF THOSE DOCUMENTS. AND I THINK
3 IT'S WITHIN MY DISCRETION TO HAVE ALLOWED A RECESS
4 OR TO HAVE DELAYED THE USE OF THAT MATERIAL IN
5 ORDER TO GIVE YOU A REASONABLE PERIOD OF TIME IN
6 WHICH TO REVIEW IT, AND I THINK THAT'S BEEN ABOUT A
7 WEEK, AS I RECALL. AND YOU ALSO BENEFITED FROM THE
8 RULING IN THAT IT DID NOT COME IN THE CASE IN
9 CHIEF. SO WITHIN MY DISCRETION, I WILL NOT EXCLUDE
10 IT FOR A DISCOVERY VIOLATION AT THIS POINT IN TIME.
11 NOW, WHETHER OR NOT IT'S OTHERWISE ADMISSIBLE
12 REMAINS TO BE SEEN. SO CALL YOUR WITNESS.

13 MR. COULTER: YOUR HONOR, THE STATE
14 WOULD CALL JIMMY WILLIAMS TO THE STAND.

15 JIMMY WILLIAMS, BEING DULY
16 SWORN, TESTIFIED AS FOLLOWS:

17 THE CLERK: HAVE A SEAT AND PLEASE
18 STATE YOUR NAME.

19 THE WITNESS: JAMES C. WILLIAMS, JR.,
20 CALLED JIMMY.

21 DIRECT EXAMINATION:

22 BY MR. COULTER:

23 Q ALL RIGHT, MR. WILLIAMS, WHERE DO YOU
24 WORK?

25 A I WORK AT THE FIRST CIRCUIT SOLICITOR'S

1 OFFICE IN ORANGEBURG.

2 Q ALL RIGHT, AND WHAT IS YOUR POSITION
3 THERE WITH THE FIRST CIRCUIT?

4 A I'M CHIEF DEPUTY SOLICITOR.

5 Q ALL RIGHT. AND WERE YOU ALSO WORKING
6 AT THE SOLICITOR'S OFFICE BACK IN 1993?

7 A I WAS.

8 Q ALL RIGHT. DID YOU HOLD THE SAME
9 POSITION THEN?

10 A YES, I DID.

11 Q ALL RIGHT. DID YOU HAVE AN OPPORTUNITY
12 TO COME IN CONTACT WITH AN INDIVIDUAL BY THE NAME
13 OF JERRY WARD?

14 A I DID.

15 Q HOW DID YOU COME IN CONTACT WITH HIM?

16 A HE WAS CHARGED WITH SAFECRACKING AND
17 GRAND LARCENY, BURGLARY. I'M NOT SURE WHETHER
18 THAT'S ALL, BUT HE HAD SOME SERIOUS CHARGES IN OUR
19 CIRCUIT IN ORANGEBURG COUNTY.

20 Q ALL RIGHT. AND WAS THERE A TIME THAT
21 YOU BECAME AWARE OF THAT THE DEFENDANT -- JERRY
22 WARD, EXCUSE ME, ESCAPED AFTER BEING PLACED IN
23 CUSTODY ON THOSE CHARGES?

24 A YES.

25 Q ALL RIGHT. AND AS A RESULT OF THOSE --

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- 1 THAT ATTEMPTED ESCAPE, WHAT DID YOUR OFFICE DO?
- 2 A WELL, HE WAS SENT TO SAFEKEEPING.
- 3 Q ALL RIGHT.
- 4 A WHICH IS A FACILITY, I THINK, IN
- 5 COLUMBIA.
- 6 Q WAS THAT AT THE REQUEST OF THE JAILER?
- 7 A THAT'S RIGHT.
- 8 Q ALL RIGHT. AND AFTER HE HAD BEEN SENT
- 9 TO SAFEKEEPING, DID YOU RECEIVE ANY CORRESPONDENCE
- 10 FROM HIM?
- 11 A YOU MEAN WRITTEN?
- 12 Q YES.
- 13 A I MAY HAVE, I DON'T REMEMBER.
- 14 Q ALL RIGHT. AFTER HE HAD BEEN SENT TO
- 15 SAFEKEEPING, DID YOU HAVE AN OPPORTUNITY AT SOME
- 16 POINT TO MEET WITH HIM?
- 17 A I DID.
- 18 Q ALL RIGHT. AND DO YOU RECALL
- 19 APPROXIMATELY WHEN THIS WAS?
- 20 A I DO NOT.
- 21 Q ALL RIGHT. WHO WOULD HAVE BEEN AT THIS
- 22 PARTICULAR MEETING THAT YOU HAD WITH MR. WARD?
- 23 A MR. WARD WAS THERE WITH HIS ATTORNEY,
- 24 MR. MICHAEL CULLER.
- 25 Q ALL RIGHT.

1 A HIS CO-DEFENDANT, WYLIE JEFFCOAT, WAS
2 THERE WITH HIS ATTORNEY, THOMAS SIMS. I WAS THERE
3 AND THE CHIEF OF DETECTIVES, EVERETTE LAFRANCE,
4 FROM THE ORANGEBURG COUNTY SHERIFF'S DEPARTMENT WAS
5 THERE. I BELIEVE THAT WAS ALL.

6 Q ALL RIGHT. AND WHAT WERE YOU MEETING--
7 WHAT WAS THE PURPOSE OF THIS MEETING?

8 A MR. WARD HAD SENT US WORD THROUGH HIS
9 ATTORNEY THAT HE COULD HELP US GET SOME EVIDENCE TO
10 ENABLE US TO CONVICT ANOTHER POSSIBLE CO-DEFENDANT,
11 AND HE WANTED TO MEET WITH US, SO WE WENT TO SEE
12 WHAT HE WANTED.

13 Q ANOTHER --

14 A I WENT.

15 Q ALL RIGHT. ANOTHER CO-DEFENDANT ON THE
16 CHARGES THAT WERE PENDING AGAINST HIM?

17 A THAT'S RIGHT.

18 Q AND DO YOU RECALL THAT CO-DEFENDANT'S
19 NAME?

20 A I DO. I'D RATHER NOT GIVE THE NAME,
21 UNLESS THERE'S SOME PARTICULAR REASON BECAUSE --

22 Q ALL RIGHT. WAS THAT -- THAT'S FINE.

23 A IT WAS RELATED TO THAT ONE SPECIFIC
24 CASE. IT HAD NOTHING TO DO WITH THIS CASE.

25 Q ALL RIGHT. THAT'S FINE. WOULD THAT

- 1 HAVE BEEN SOME TIME YOU BELIEVE IN 1994?
- 2 A I THINK THAT'S RIGHT.
- 3 Q WOULD IT HAVE BEEN IN THE FALL OF '94?
- 4 A I WAS GOING TO SAY BETWEEN A YEAR AND A
- 5 HALF AND TWO YEARS. I JUST DON'T HAVE ANY RECORD
- 6 OF THE EXACT DATE OF IT, BUT THAT SOUNDS ABOUT
- 7 RIGHT.
- 8 Q OKAY. AS A RESULT OF THAT MEETING, DID
- 9 YOU MAKE ANY PROMISES TO MR. WARD?
- 10 A WE DID.
- 11 Q ALL RIGHT. AND DID IT AFFECT THAT CASE
- 12 THAT HE WAS GIVING YOU INFORMATION ON REGARDING THE
- 13 CO-DEFENDANT?
- 14 A THAT'S RIGHT.
- 15 Q ALL RIGHT. DID IT HAVE ANYTHING TO DO
- 16 WITH THIS PARTICULAR CASE?
- 17 A ABSOLUTELY NOTHING, NO.
- 18 Q AFTER THAT PARTICULAR MEETING, DID YOU
- 19 HAVE AN OPPORTUNITY TO MEET WITH HIM AGAIN?
- 20 A I DON'T THINK SO.
- 21 Q YOU DON'T THINK SO?
- 22 A I KNOW I MET WITH HIS ATTORNEY, BUT I
- 23 DON'T REMEMBER MEETING WITH HIM. I MAY HAVE, I
- 24 JUST -- WELL, I DON'T REMEMBER MEETING WITH HIM
- 25 AGAIN.

1 Q ALL RIGHT. DID YOU HAVE -- DURING THIS
2 PARTICULAR MEETING, DID YOU HAVE HIM INITIATE ANY
3 CONVERSATIONS WITH ANY OTHER PEOPLE THAT HE WAS IN
4 JAIL WITH?

5 A HE CAME TO US WITH A PROPOSAL THAT HE
6 COULD -- NO, NO. ABSOLUTELY -- IT WAS NOBODY THAT
7 HE WAS IN JAIL WITH, NO.

8 Q ALL RIGHT. SO YOU NEVER INITIATED HIM
9 TO START CONTACT WITH OTHER PEOPLE IN JAIL?

10 A NO, I DID NOT.

11 Q YOUR MEETING WITH HIM WAS LIMITED TO
12 WHAT?

13 A THE CASE THAT I WAS PROSECUTING HIM ON.

14 Q ALL RIGHT. LET ME HAND YOU THIS
15 DOCUMENT AND SEE IF YOU RECOGNIZE THIS. DO YOU
16 EVER REMEMBER SEEING THAT LETTER?

17 A YES.

18 Q OKAY. AND DO YOU KNOW WHAT YOU HAD
19 DONE WITH THAT LETTER AFTER HAVING RECEIVED IT?

20 A I'M SURE I PUT IT IN THE FILE. I DON'T
21 KNOW THAT I WOULD HAVE DONE ANYTHING ELSE WITH IT.

22 Q YOUR OFFICE IS LOCATED IN --

23 A IN ORANGEBURG.

24 Q IN ORANGEBURG. ALL RIGHT. DO YOU
25 THINK YOU WOULD HAVE EVER FORWARDED THAT LETTER TO

1 SOLICITOR BAILEY?

2 A MR. BAILEY GOT MY FILE ON THE WHOLE

3 CASE AT SOME LATER TIME.

4 Q ALL RIGHT.

5 A AND THIS LETTER WOULD HAVE BEEN IN IT.

6 I DON'T REMEMBER EXACTLY WHEN THAT WAS.

7 MR. HARPOOTLIAN: WHICH LETTER IS THIS?

8 MR. COULTER: I'M SORRY, IT'S ENTITLED

9 MR. WILLIAMS IS HOW IT'S REGARDED.

10 MR. HARPOOTLIAN: WHAT'S THE DATE OF

11 IT?

12 MR. COULTER: IT SAYS DECEMBER 1, '94.

13 MR. HARPOOTLIAN: DECEMBER 1, '94.

14 Q (BY MR. COULTER) BASED ON THIS -- DATE

15 OF THIS LETTER, WOULD THAT LETTER HAVE COME

16 APPARENTLY AFTER THE MEETING YOU WOULD HAVE HAD

17 WITH MR. WARD?

18 A CAN I LOOK AT IT JUST A SECOND?

19 Q YES, SIR, SURE.

20 A YES, IT CAME AFTER THE MEETING.

21 Q AND DO YOU RECALL ANY FURTHER CONTACT

22 THAT YOU MAY HAVE HAD WITH MR. WARD?

23 A WELL, LET -- LET ME READ THE --

24 Q OKAY.

25 A -- WHOLE LETTER. IT'S BEEN TWO YEARS

1 AND I JUST DON'T REMEMBER EVERYTHING IN DETAIL.

2 ALL RIGHT, SIR, I'VE LOOKED AT IT.

3 Q ALL RIGHT. YOU RECEIVED THIS LETTER IN
4 DECEMBER OF '94?

5 A I FEEL CERTAIN THAT'S RIGHT, YES. IT'S
6 DATED DECEMBER THE FIRST.

7 Q AND DO YOU RECALL HAVING ANY FURTHER
8 CONTACT WITH JERRY WARD AFTER RECEIVING THIS
9 LETTER?

10 A I DID NOT. TO MY KNOWLEDGE, I DID NOT
11 HAVE ANY FURTHER CONTACT WITH MR. WARD. I KNOW I
12 TALKED WITH HIS ATTORNEY AND TOLD HIS ATTORNEY HE
13 NEEDED TO GET IN TOUCH WITH MR. BAILEY. BUT I
14 DON'T BELIEVE I EVER TALKED WITH MR. WARD AGAIN.

15 Q ALL RIGHT. AND IN REGARDS TO MR.
16 JEFFCOAT, YOU MET WITH HIM AS WELL, CORRECT?

17 A THAT'S RIGHT.

18 Q ALL RIGHT. AND DID YOU -- DID YOU
19 NEGOTIATE BOTH CASES WITH MR. JEFFCOAT AND HIS
20 ATTORNEY AND MR. WARD AND HIS ATTORNEY?

21 A YES.

22 Q ALL RIGHT. AS A RESULT OF THOSE
23 NEGOTIATIONS, DID YOU DIRECT HIM TO ELICIT ANY
24 OTHER INFORMATION FROM ANY OTHER INMATE IN THE
25 SYSTEM?

1 A NO, JUST THE ONE HE MENTIONED IN THIS
2 LETTER. AND HE WAS NOT -- HE WAS NOT AN INMATE.
3 THERE WERE NO CHARGES PENDING AGAINST THE MAN WHO
4 WE'RE TALKING ABOUT.

5 Q ALL RIGHT. SO IN YOUR NEGOTIATIONS, IT
6 DIDN'T DEAL WITH ANYBODY WHO WAS IN THE SYSTEM AT
7 THE TIME THAT WARD AND JEFFCOAT WERE IN THE SYSTEM?

8 A THAT'S CORRECT.

9 Q ALL RIGHT. AND YOU SAID THAT YOU HAD
10 NO FURTHER CONTACT WITH WARD AFTER THIS LETTER.
11 AFTER THE MEETING IN THE FALL OF '94, DID YOU HAVE
12 ANY FURTHER CONTACT WITH WILEY JEFFCOAT?

13 A NO.

14 Q AND DID YOU DIRECT WILEY JEFFCOAT TO
15 GAIN ANY INFORMATION FROM ANYBODY ELSE IN THE
16 SYSTEM?

17 A NO.

18 Q ALL RIGHT. THANK YOU. ANSWER ANY
19 QUESTIONS THE DEFENSE MAY HAVE.

20 THE COURT: CROSS-EXAMINATION, MR.
21 SWERLING?

22 CROSS-EXAMINATION:

23 BY MR. SWERLING:

24 Q I NEVER THOUGHT THIS WOULD BE
25 HAPPENING, CROSS-EXAMINING. I GET TO CROSS-EXAMINE

- 1 A SOLICITOR, HUH?
- 2 A JUST BE CAREFUL.
- 3 Q YES, I'LL BE CAREFUL. WE'LL SWITCH
- 4 ROLES MAYBE SOMEDAY. WHAT I WANTED TO FIND OUT,
- 5 THERE WERE SOME CHARGES PENDING?
- 6 A THAT'S RIGHT.
- 7 Q AGAINST WARD AND JEFFCOAT?
- 8 A THAT'S RIGHT.
- 9 Q AND THERE WAS A THIRD PERSON WHO WAS
- 10 INVOLVED IN THE CASE?
- 11 A WE THOUGHT SO.
- 12 Q AND AT THE TIME THAT WARD AND JEFFCOAT
- 13 WERE IN CUSTODY AT THE ORANGEBURG COUNTY LAW
- 14 ENFORCEMENT COMPLEX, THIS OTHER PERSON HAD NOT BEEN
- 15 ARRESTED YET?
- 16 A THAT'S RIGHT.
- 17 Q IS THAT CORRECT?
- 18 A YES.
- 19 Q OKAY. AND THERE WAS SOME ISSUES, I
- 20 GUESS, AT THAT POINT AS TO WHETHER OR NOT MR. WARD
- 21 WOULD IMPLICATE THIS INDIVIDUAL?
- 22 A THAT'S WHAT HE HAD OFFERED TO DO, YES.
- 23 HE SENT ME WORD THROUGH HIS ATTORNEY THAT HE WOULD
- 24 DO THAT OR WAS IN A POSITION TO DO THAT.
- 25 Q NOW, YOU'RE THE DEPUTY SOLICITOR IN --

1 A I HANDLE ORANGEBURG AND CALHOUN
2 COUNTIES.

3 Q BOTH COUNTIES, ORANGEBURG AND CALHOUN?

4 A RIGHT.

5 Q OKAY. AND SO THE INITIAL CONTACT WAS
6 CONCERNING THIS INDIVIDUAL? I MEAN, HIS NAME
7 DOESN'T HAVE TO BE MENTIONED, BUT WE ALL KNOW WHO
8 WE'RE TALKING ABOUT?

9 A THAT'S RIGHT.

10 Q AND THAT PARTICULAR INDIVIDUAL, AS FAR
11 AS MR. WARD AND MR. JEFFCOAT WERE CONCERNED, WAS
12 SOMEONE WHO POTENTIALLY COULD GIVE THEM A REDUCED
13 SENTENCE OR ASSIST THEM IN GETTING A REDUCED
14 SENTENCE?

15 A IF HE COULD PROVIDE THE INFORMATION
16 WHERE WE COULD MAKE A SUCCESSFUL CHARGE AGAINST THE
17 OTHER INDIVIDUAL, THEN, YES, WE WERE WILLING TO
18 GIVE HIM A REDUCED SENTENCE.

19 Q OKAY. THIS IS DECEMBER OF 1994 WHEN HE
20 WROTE THE LETTER. HE ESCAPED -- THERE WAS AN
21 ESCAPE ATTEMPT FROM ORANGEBURG COUNTY BY BOTH OF
22 THESE INDIVIDUALS?

23 A THAT WAS PRIOR TO THIS.

24 Q RIGHT. THIS IS -- THIS LETTER IS
25 ACTUALLY WRITTEN AFTER THEY WERE IN SAFEKEEPING?

- 1 A THAT'S RIGHT.
- 2 Q AT THE EDISTO BUILDING, CORRECT?
- 3 A IT'S IN COLUMBIA SOMEWHERE, I DON'T
- 4 KNOW WHERE.
- 5 Q IN COLUMBIA, OKAY. THE MEETING THAT
- 6 YOU HAD WAS BEFORE THE ESCAPE?
- 7 A NO, IT WAS AFTER THE ESCAPE.
- 8 Q OKAY, THAT'S WHAT I WANTED -- I WANTED
- 9 TO KIND OF GET THE TIME FRAME. SO THEY ESCAPED,
- 10 THEY WERE APPREHENDED?
- 11 A THAT'S RIGHT.
- 12 Q AND THEY WERE BROUGHT TO -- BACK TO
- 13 ORANGEBURG COUNTY?
- 14 A THAT'S RIGHT.
- 15 Q ALL RIGHT. AND WAS THE MEETING THAT
- 16 YOU HAD WITH THE TWO OF THEM AND THEIR LAWYERS
- 17 BEFORE OR AFTER THEY WERE SENT TO SAFEKEEPING
- 18 STATUS?
- 19 A AFTER THEY WERE SENT TO SAFEKEEPING.
- 20 Q ALL RIGHT. SO, THEY WERE BROUGHT DOWN
- 21 TO ORANGEBURG OR TO CALHOUN FOR THE PURPOSE OF THE
- 22 MEETING?
- 23 A TO ORANGEBURG, YES.
- 24 Q SO THEY HAD ALREADY BEEN UP IN EDISTO,
- 25 OR UP IN COLUMBIA --

- 1 A THAT'S RIGHT.
- 2 Q -- ON SAFEKEEPING STATUS, BECAUSE OF
- 3 THE ESCAPE?
- 4 A THAT'S RIGHT.
- 5 Q BOTH WARD AND JEFFCOAT?
- 6 A THAT'S RIGHT.
- 7 Q NOW, THEY HAD SOME FAIRLY SERIOUS
- 8 CHARGES IN YOUR CIRCUIT?
- 9 A YES.
- 10 Q AND SOME NEGOTIATIONS WERE UNDERWAY
- 11 BETWEEN THE TWO LAWYERS AND YOURSELF AND THE
- 12 DEFENDANTS CONCERNING THOSE CHARGES, CORRECT?
- 13 A THAT'S RIGHT.
- 14 Q ALL RIGHT. AND WAS THERE SOME
- 15 CONSIDERATION BEING GIVEN IF THEY COOPERATED
- 16 AGAINST THIS THIRD INDIVIDUAL, WHO EVERYBODY
- 17 THOUGHT WAS INVOLVED?
- 18 A YES.
- 19 Q OKAY. WAS THAT WHERE THE TWELVE YEARS
- 20 CAME FROM ORIGINALLY?
- 21 A THAT'S RIGHT. THAT'S RIGHT.
- 22 Q SO IF THEY IMPLICATED THE THIRD PERSON,
- 23 THEN THEY WOULD BE ALLOWED TO PLEAD WITH TWELVE
- 24 YEARS THEN?
- 25 A THAT'S RIGHT.

- 1 Q DID THEY IN FACT EVER IMPLICATE THAT
2 PERSON?
3 A THEY TRIED.
4 Q ALL RIGHT. WAS THAT PERSON EVER
5 ARRESTED?
6 A NO. BUT THEY LIVED UP TO THEIR PART OF
7 THE BARGAIN, SO THEY WERE ENTITLED TO THE TWELVE-
8 YEAR SENTENCE.
9 Q NOW, WHEN YOU MET WITH THEM, DID YOU
10 MEET WITH BOTH OF THEM TOGETHER?
11 A YES.
12 Q AND BOTH OF THEIR LAWYERS AT THE SAME
13 TIME?
14 A THAT'S RIGHT.
15 Q NOW, WHEN THEY MET WITH YOU ORIGINALLY,
16 MR. BAILEY WAS NOT PRESENT?
17 A NO.
18 Q AND WHEN THEY MET WITH YOU ORIGINALLY,
19 DID THEY GIVE ANY INFORMATION TO YOU ABOUT ANY
20 OTHER CIRCUMSTANCES THEY FOUND THEY COULD BE
21 HELPFUL FOR, IN EITHER ORANGEBURG, CALHOUN, OR IN
22 THE DEPARTMENT OF CORRECTIONS WHERE THEY WERE BEING
23 HOUSED?
24 A NO.
25 Q WAS THERE ANY REFERENCE AT ALL TO THAT?

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- 1 A NONE, WHATSOEVER.
- 2 Q AT THAT TIME, YOU HAD -- THERE WAS
- 3 SEVERAL DEATH PENALTY CASES PENDING IN THE FIRST
- 4 CIRCUIT, PEOPLE WHO WERE HOUSED IN COLUMBIA?
- 5 A I THINK THAT'S TRUE, YES.
- 6 Q ROGER DALE JOHNSON WAS ONE OF THEM?
- 7 A WELL, MR. BAILEY HANDLES ALL THE DEATH
- 8 PENALTY CASES --
- 9 Q RIGHT.
- 10 A -- PERSONALLY. BUT -- AND I DIDN'T
- 11 EVEN KNOW WHO ROGER DALE JOHNSON WAS AT THE TIME.
- 12 Q OKAY.
- 13 A BUT YOU'RE RIGHT, THERE WAS SOME BEING
- 14 HOUSED THERE, BUT I COULDN'T TELL YOU WHO.
- 15 Q OKAY. AND -- WELL, JUST FOR THE RECORD
- 16 -- OR, I GUESS, MR. BAILEY CAN SAY THAT, TOO.
- 17 A YES.
- 18 Q BUT JOHNSON AND A GUY NAMED GARDNER
- 19 WERE BOTH CASES THAT WERE PENDING IN THE FIRST
- 20 CIRCUIT, DEATH PENALTY CASES?
- 21 A JOHNSON WAS A CALHOUN CASE. I THINK
- 22 GARDNER MIGHT HAVE BEEN A DORCHESTER CASE.
- 23 Q SO --
- 24 A I DON'T GET INVOLVED IN THE DORCHESTER
- 25 CASES, I DON'T GET INVOLVED IN DEATH PENALTY CASES.

1 EVERYTHING ELSE I'M RESPONSIBLE FOR.

2 Q PROBABLY A GOOD THING.

3 A AND WE KEEP IT JUST THAT SEPARATE.

4 Q OKAY. DID YOU -- SO WHAT YOU'RE SAYING
5 IS AT THE TIME THAT YOU HAD THE MEETING, THERE WERE
6 NO DISCUSSIONS ABOUT ANYTHING ELSE THAT THEY COULD
7 BE HELPFUL ON.

8 A THAT'S RIGHT. NOTHING EXCEPT THE CASE
9 THAT THE TWO OF THEM WERE CHARGED IN.

10 Q AND THAT WAS AN INDIVIDUAL -- CONCERNED
11 AN INDIVIDUAL WHO HAD YET BEEN ARRESTED?

12 A WHO HAD NOT BEEN ARRESTED AND AS FAR AS
13 I KNOW HAS NEVER BEEN ARRESTED.

14 Q DID THAT PERSON WHO THEY WERE TALKING
15 ABOUT HAVE COUNSEL AT THAT TIME OR DO YOU KNOW?

16 A I DON'T KNOW.

17 Q THE LETTER THAT THE SOLICITOR WAS
18 TALKING TO YOU ABOUT DATED DECEMBER 1ST, 1994,
19 ESSENTIALLY SAYS BY MR. WARD THAT AS FAR AS HE WAS
20 CONCERNED HE WOULD BE WILLING TO CIRCUMVENT HIS
21 LAWYER AND JEFFCOAT WOULD BE WILLING TO CIRCUMVENT
22 HIS LAWYER AND JUST DEAL WITH Y'ALL DIRECTLY,
23 CORRECT?

24 A THE LETTER SAYS THAT, YES, SIR.

25 Q AND IN THAT HE WAS TALKING ABOUT ROGER

1 DALE JOHNSON IN THIS LETTER AND ALSO SOME OTHER
2 CIRCUMSTANCES THAT HE THOUGHT HE WOULD -- COULD BE
3 HELPFUL IN?

4 A YES, SIR.

5 Q IS THAT CORRECT? NOW, DID YOU EVER
6 TALK WITH HIM ABOUT THAT?

7 A NO, SIR.

8 Q DID YOU EVER TALK WITH HIS LAWYER?

9 A I TALKED WITH --

10 Q EITHER LAWYER, I'M SORRY, EITHER
11 LAWYER?

12 A I NEVER TALKED WITH MR. SIMS, WHO WAS
13 MR. JEFFCOAT'S LAWYER.

14 Q ALL RIGHT.

15 A I DID ON OCCASION TALK WITH MR. CULLER,
16 BUT NOT ABOUT THE FACTS. I JUST TOLD MR. CULLER
17 THAT I WAS NOT HANDLING THE OTHER CASE AND HE
18 NEEDED TO TALK WITH MR. BAILEY.

19 Q DID YOU EVER SAY ANYTHING TO MR. CULLER
20 THAT HE COULD -- THAT THERE WAS -- IN ANY WAY THAT
21 HE COULD CONVEY TO MR. WARD THAT HIS EFFORTS WOULD
22 BE APPRECIATED OR ANYTHING HE DID --

23 A NO, SIR.

24 Q -- WITH RESPECT TO GARDNER OR JOHNSON
25 WOULD BE APPRECIATED?

1 A NO.

2 Q AFTER -- THE LETTER REFERS TO IN
3 PARAGRAPH -- I GUESS IT'S THE FOURTH PARAGRAPH,
4 IT'S A SHORT PARAGRAPH. IT SAYS, "AS YOU TOLD ME,
5 I HAVE KEPT IN CONTACT WITH BARRY,"-- WE WON'T
6 MENTION HIS LAST NAME,-- "ON PRACTICALLY A TWO TO
7 THREE-TIME WEEKLY BASIS. OUR CONVERSATIONS HAVE
8 TAKEN MANY DIRECTIONS, MAINLY KEEPING HIM PREPARED
9 TO ACCOMMODATE ME AGAIN IN ESCAPING." SO, I MEAN,
10 AT THE TIME THAT THAT LETTER WAS WRITTEN, HE WAS
11 DOING WHAT HE COULD TO, I GUESS, CATCH BARRY FOR
12 LAW ENFORCEMENT?

13 A THAT'S RIGHT.

14 Q WOULD THAT BE A CORRECT STATEMENT?

15 A THAT'S RIGHT.

16 Q ALL RIGHT. AND THAT WAS WITH YOUR
17 APPROVAL?

18 A YES.

19 Q I MEAN, AS A DEPUTY SOLICITOR, ALSO,
20 WITH THE FIRST CIRCUIT?

21 A YES.

22 Q SO, AT THE TIME WHEN YOU HAD THE
23 MEETING A COUPLE OF WEEKS PRIOR TO -- I GUESS, IT'S
24 ACTUALLY A COUPLE OF MONTHS, TWO AND A HALF MONTHS
25 PRIOR TO DECEMBER 1ST, 1994, BASED UPON WHAT I READ

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1 HERE, I ASSUME -- OR CORRECT ME IF I'M WRONG, THAT
2 THERE WERE SOME DISCUSSIONS ABOUT WHAT HE COULD DO
3 IN CONNECTION WITH THIS FELLOW BARRY, THAT WOULD
4 ASSIST HIM?

5 A THAT'S RIGHT.

6 Q OKAY.

7 A BASICALLY, HE SAID THAT HE COULD GET
8 BARRY TO SET UP AN ESCAPE, A SECOND ESCAPE. AND
9 HAD HE BEEN SUCCESSFUL IN DOING THAT, WE WOULD HAVE
10 BEEN WAITING ON BARRY.

11 Q BUT IN OTHER WORDS, BASED UPON THAT
12 MEETING, HE HAD REASON TO BELIEVE THAT HIS
13 ASSISTING YOU AS DEPUTY SOLICITOR AND ASSISTING LAW
14 ENFORCEMENT, HE WOULD GAIN SOME BENEFIT?

15 A YES, SIR.

16 Q AND IN FACT, HE DID?

17 A YES, SIR.

18 Q BECAUSE AS YOU SAID, EVEN THOUGH BARRY
19 WAS NOT ARRESTED, HE STILL GOT THE BENEFIT OF THE
20 COMMITMENT THAT HE COULD PLEAD TO TWELVE YEARS?

21 A THAT'S RIGHT.

22 Q HE ALSO WAS COMMUNICATING WITH THE
23 SHERIFF AT THAT TIME, TOO, IN CONNECTION WITH BARRY
24 AND SOME OTHER THINGS, CORRECT?

25 A THAT'S WHAT THE LETTER SAYS, BUT I

1 DON'T KNOW ANYTHING ABOUT THAT.

2 Q YOU'RE NOT FAMILIAR WITH THESE
3 COMMUNICATIONS THAT HE'S REFERRING TO IN HERE
4 BETWEEN THE SHERIFF IN ORANGEBURG AND THE SHERIFF
5 IN BAMBERG?

6 A I'M NOT.

7 Q DID YOU AND HE EVER DISCUSS -- WELL, I
8 GUESS YOU MUST HAVE AT SOME POINT, DISCUSSED THE
9 FACT THAT HE HAD FULFILLED HIS COMMITMENT TO LAW
10 ENFORCEMENT AS FAR AS --

11 A I DON'T THINK I EVER HAD ANOTHER
12 CONVERSATION WITH HIM. I DON'T REMEMBER, OTHER
13 THAN THE ONE BEFORE THIS LETTER. I MEAN, I TALKED
14 WITH HIS LAWYER.

15 Q YEAH, WELL, I GUESS WHEN I SAY HIM, I
16 GUESS I AM REFERRING TO HIS LAWYER. YOU SPOKE WITH
17 MICHAEL?

18 A THAT'S RIGHT.

19 Q MICHAEL CULLER?

20 A THAT'S RIGHT.

21 Q AND AFTERWARDS, I GUESS INTO '95, AND
22 YOU SAID THE POSITION OF THE STATE WAS THAT HE HAD
23 DONE WHAT HE WAS EXPECTED TO DO UNDER THE PROFFER
24 THAT HE HAD MADE TO YOU, CORRECT?

THAT'S RIGHT.

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- 1 Q AND THAT AS A RESULT OF THAT AT SOME
2 POINT HE WOULD BE ALLOWED TO GO AHEAD AND ENTER A
3 PLEA AND GET A TWELVE YEAR SENTENCE?
- 4 A THAT'S RIGHT.
- 5 Q NOW, IN FACT, DO YOU KNOW WHEN THAT WAS
6 DONE?
- 7 A WELL, IT WASN'T EVER DONE.
- 8 Q NOT AS TO THE TWELVE YEARS, BUT I'M
9 TALKING ABOUT THE TAKING OF HIS PLEA?
- 10 A I'M NOT SURE EXACTLY BECAUSE I DIDN'T
11 HANDLE IT.
- 12 Q DO YOU KNOW WHEN THAT WAS COMMUNICATED
13 TO MICHAEL?
- 14 A NO.
- 15 Q THAT THE DEAL WOULD BE DONE AND THAT
16 WAS IT. HE HAD DONE -- LAW ENFORCEMENT WAS
17 SATISFIED. DID IT TAKE SIX MONTHS FROM DECEMBER
18 1ST OR WAS IT A YEAR FROM DECEMBER 1ST OR?
- 19 A NO, IT WASN'T SIX MONTHS. I CAN'T GIVE
20 YOU AN EXACT DATE, BUT --
- 21 Q YEAH, I UNDERSTAND.
- 22 A -- YOU KNOW, HE MADE THE ATTEMPT AND HE
23 FAILED AND THAT WAS THE END OF THAT. BUT, I MEAN,
24 WE HAD ALREADY MADE THE AGREEMENT.
- 25 Q RIGHT.

1 A I DON'T REMEMBER ANY CONVERSATION WHERE
2 I SAID, OKAY, MICHAEL, HE'S DONE EVERYTHING HE CAN
3 DO. I DON'T THINK WE EVER HAD THAT. I THINK WE
4 KNEW THAT HE HAD TRIED AND HE HAD FAILED AND THAT
5 WAS THE END OF IT.

6 Q HAD HE TRIED -- OBVIOUSLY, HE HAD NOT
7 TRIED AS OF THE DATE OF THIS LETTER BECAUSE THIS
8 INDICATES HE WAS STILL TRYING TO GET THAT?

9 A I THINK HE HAD TRIED, BECAUSE HE HADN'T
10 QUIT YET. BUT HE SAYS, "I HAVE KEPT CONTACT WITH
11 BARRY," SO HE WAS TRYING AT THAT TIME.

12 Q AND HE STILL FELT THAT HE WAS DOING
13 THAT TO ASSIST LAW ENFORCEMENT AND TO ASSIST
14 HIMSELF? AT THE TIME THIS LETTER WAS WRITTEN,
15 CERTAINLY.

16 A I DON'T KNOW THAT HE CARED MUCH ABOUT
17 ASSISTING LAW ENFORCEMENT, BUT HE CARED ABOUT
18 ASSISTING HIMSELF.

19 Q HE CARED ABOUT HIMSELF?

20 A YES, SIR.

21 Q OKAY. AND THEN HE -- IN THE SAME
22 LETTER THAT HE TALKS ABOUT BARRY, HE FIRST MENTIONS
23 ROGER DALE JOHNSON?

24 A THAT'S RIGHT.

25 Q CORRECT? AND BEING ABLE TO ASSIST YOUR

1 OFFICE -- OR AT LEAST THE FIRST CIRCUIT IN
2 CONNECTION WITH THAT PARTICULAR CASE?

3 A THAT'S RIGHT.

4 Q AND ALSO IN THIS LETTER WHERE HE'S
5 STILL TALKING ABOUT BARRY, THAT HE'S TRYING TO GET
6 BARRY TO DO WHAT HE TOLD YOU HE COULD GET HIM TO
7 DO, HE IS TALKING ABOUT ROGER DALE JOHNSON'S CO-
8 DEFENDANT, WHO HE UNDERSTOOD IT -- WAS ALSO MAKING
9 A DEAL WITH THE STATE TO TESTIFY, CORRECT? ON PAGE
10 THREE, THE BOTTOM OF PAGE THREE?

11 A OKAY, WHAT -- THE BOTTOM PARAGRAPH?

12 Q YES. HE WAS TALKING ABOUT SOME YOUNG
13 LADY WHO APPARENTLY WAS ALSO COOPERATING. BEGINS
14 WITH ROGER DALE JOHNSON?

15 A HE DOES SAY THAT, YES, SIR. HE SAYS
16 CO-DEFENDANT. HE DOESN'T SAY WHETHER IT'S A MAN OR
17 A LADY, I DON'T THINK. YEAH, HE DOES, HE DOES SAY
18 SHE.

19 Q RIGHT. AND HE ALSO TALKS ABOUT SOME
20 CHARGES THAT HE MAY BE GETTING IN AIKEN COUNTY?

21 A YES.

22 Q AND BARRY WAS BEING CHARGED IN AIKEN
23 COUNTY? THIS FELLOW, BARRY, HE'S TALKING ABOUT IS
24 BEING CHARGED IN AIKEN COUNTY?

25 A I DON'T KNOW IF HE EVER WAS OR NOT.

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1 Q I MEAN, WHAT I'M SAYING IS AT THE
2 BOTTOM OF PAGE FOUR, HE INDICATES THAT HE WAS--THAT
3 WARRANTS WERE BEING ISSUED, AS FAR AS HIS
4 INFORMATION WAS CONCERNED, FOR BARRY IN AIKEN
5 COUNTY?

6 A YES.

7 Q AND HE SAYS THAT HE HAS CONFIDENCE AND
8 CONTINUED CONTACT WITH DETECTIVE LAFRANCE?

9 A YES, HE SAID THAT.

10 MR. SWERLING: EXCUSE ME ONE MINUTE,
11 YOUR HONOR.

12 YOUR HONOR, I THINK THAT'S ALL I HAVE
13 FOR MR. WILLIAMS.

14 THE COURT: ALL RIGHT, ANYTHING ELSE OF
15 THIS WITNESS?

16 MR. COULTER: ALL RIGHT, YOUR HONOR, WE
17 WOULD MOVE TO HAVE THIS PARTICULAR LETTER MARKED AS
18 A COURT'S EXHIBIT.

19 THE COURT: ALL RIGHT. ANYTHING ELSE
20 OF MR. WILLIAMS?

21 MR. COULTER: NO, I DON'T THINK SO.

22 THE COURT: CALL YOUR NEXT WITNESS.

23 MR. COULTER: WE WOULD ASK THAT MR.
24 WILLIAMS BE EXCUSED?

25 THE COURT: WITHOUT OBJECTION. NOW,

1 EVERYBODY KNOWS HE'S LEAVING TOWN TOMORROW?

2 MR. SWERLING: HAVE A GOOD TRIP.

3 THE COURT: WITHOUT OBJECTION.

4 MR. WILLIAMS: THANK YOU.

5 MR. COULTER: THE STATE WOULD CALL

6 SOLICITOR WALTER BAILEY TO THE STAND.

7 (WHEREUPON, COURT'S EXHIBIT NO. 34 WAS

8 MARKED FOR IDENTIFICATION ONLY.)

9 WALTER BAILEY, BEING DULY

10 SWORN, TESTIFIED AS FOLLOWS:

11 THE CLERK: HAVE A SEAT. PLEASE STATE

12 YOUR NAME.

13 THE WITNESS: WALTER BAILEY.

14 DIRECT EXAMINATION:

15 BY MR. COULTER:

16 Q SOLICITOR BAILEY, YOU HAD AN
17 OPPORTUNITY TO BECOME FAMILIAR WITH JERRY WARD; IS
18 THAT CORRECT?

19 A YES, I DID, AT SOME POINT.

20 Q ALL RIGHT. AND WHAT WAS THE REASON FOR
21 YOU LEARNING ABOUT MR. WARD?

22 A THE FIRST I HEARD FROM JERRY WARD WAS A
23 LETTER I GOT IN FEBRUARY OF 1995, UNSOLICITED, FROM
24 JERRY WARD WHO WAS THEN IN SAFEKEEPING.

25 Q ALL RIGHT. AND DID YOU IN FACT REQUEST

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1 THAT HE BE PUT IN SAFEKEEPING AS A RESULT OF A
2 LETTER FROM THE JAIL?
3 A THAT WAS DONE BY MY OFFICE AT THE
4 REQUEST OF THE JAIL AFTER HE HAD ESCAPED. I THINK
5 HE WAS ARRESTED BACK IN JULY OF '93, HE HAD
6 ATTEMPTED AN ESCAPE IN SEPTEMBER OF '93. AT SOME
7 POINT AFTER THAT, HE HAD ACTUALLY ESCAPED AND ENDED
8 UP IN GEORGIA AND HAD GOTTEN APPREHENDED.

9 Q ALL RIGHT. LET ME HAND YOU THIS
10 DOCUMENT AND SEE IF YOU RECOGNIZE THIS.

11 A YEAH, THAT'S THE LETTER ADDRESSED TO ME
12 AT THE ORANGEBURG OFFICE FEBRUARY 10, 1994 FROM THE
13 JAIL REQUESTING THAT WARD BE PUT IN SAFEKEEPING. I
14 DID NOT RECEIVE THIS LETTER WHEN IT WAS SENT. AS
15 MR. WILLIAMS EXPLAINED, OUR OFFICE IS DIVIDED UP.
16 MR. WILLIAMS HANDLES THE FILES IN ORANGEBURG
17 COUNTY, AND I GET A LOT OF MAIL ADDRESSED TO ME
18 THAT PERTAINS TO CASES THAT OTHER PEOPLE IN OUR
19 OFFICE ARE HANDLING. SO NO MATTER WHO THE LETTER
20 IS ADDRESSED TO WHEN WE GET MAIL IN THE OFFICE IN
21 ORANGEBURG OR DORCHESTER COUNTY, IT GOES TO THE
22 ASSISTANT SOLICITOR HANDLING THAT PARTICULAR FILE.
23 SO THIS WENT TO MR. WILLIAMS AND STAYED IN THE
24 JERRY WARD CASE FILE.

25 Q I SEE. AND THAT FILE WAS KEPT IN --

1 A IN ORANGEBURG.

2 Q WHICH WAS NOT WHERE YOU WERE?

3 A THAT'S CORRECT. I WAS IN ORANGEBURG,
4 BUT MY MAIN OFFICE IS IN SUMMERVILLE AND DORCHESTER
5 COUNTY.

6 Q ALL RIGHT. BUT AS A RESULT OF THIS
7 LETTER --

8 A YES, SIR.

9 Q -- MR. WARD WAS PUT IN SAFEKEEPING?

10 A THAT'S CORRECT. HE WAS PUT IN
11 SAFEKEEPING, I THINK IT WAS IN JUNE OF 1994.

12 Q ALL RIGHT.

13 MR. COULTER: WE WOULD OFFER THIS AS A
14 COURT'S EXHIBIT AS WELL. LET'S SEE, IT'S THE
15 LETTER OF FEBRUARY 10TH, '94 TO SOLICITOR WALTER
16 BAILEY.

17 (WHEREUPON, COURT'S EXHIBIT NO. 35 WAS
18 MARKED FOR IDENTIFICATION ONLY.)

19 Q (BY MR. COULTER) NOW, BACK IN 1994,
20 WERE YOU FAMILIAR -- WERE YOU AWARE OF A MEETING
21 THAT WAS HAD BETWEEN JIMMY WILLIAMS, JERRY WARD AND
22 WYLIE JEFFCOAT AND THEIR ATTORNEYS?

23 A I'M AWARE OF IT NOW, I WASN'T AWARE OF
24 IT AT THE TIME IT HAPPENED. I WASN'T PRESENT AND
25 REALLY DIDN'T KNOW ANYTHING ABOUT IT. I DIDN'T

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1 KNOW WHO JERRY WARD WAS UNTIL FEBRUARY OF 1995 WHEN
2 I GOT THIS UNSOLICITED LETTER FROM HIM.

3 Q ALL RIGHT. SO YOU WEREN'T AWARE OF ANY
4 NEGOTIATIONS INVOLVED WITH MR. WARD OR MR. JEFFCOAT
5 THROUGH SOLICITOR -- DEPUTY SOLICITOR JIMMY
6 WILLIAMS?

7 A NO, I HADN'T DISCUSSED THE CASE WITH
8 THEM TO MY RECOLLECTION.

9 Q ALL RIGHT. AND YOU HAD MENTIONED THAT
10 YOU HAD -- THE FIRST TIME YOU BECAME AWARE OF MR.
11 WARD WAS WHEN?

12 A AFTER I GOT THIS LETTER, WHICH WAS
13 SOMETIME IN FEBRUARY OF 1995, HIS INITIAL LETTER TO
14 ME.

15 Q ALL RIGHT. I'LL HAND YOU THIS COPY AND
16 SEE IF YOU CAN IDENTIFY THAT?

17 A YEAH, THAT'S THE LETTER DATED FEBRUARY
18 THE 7TH, 1995, THAT I RECEIVED SHORTLY AFTER THE
19 DATE ON THE LETTER.

20 Q AND THAT'S THE FIRST CONTACT YOU HAD
21 WITH MR. WARD?

22 A YEAH.

23 Q AND AS OF THAT DATE IN FEBRUARY OF '95,
24 HAD YOU RECEIVED ANY CONTACT FROM MR. WYLIE
25 JEFFCOAT?

1 A NO, I HAD NOT.

2 Q ALL RIGHT. DID YOU KNOW WHO MR. WYLIE

3 JEFFCOAT WAS?

4 A NO, I DIDN'T.

5 Q AS OF FEBRUARY OF '95, DID YOU EVEN

6 KNOW WHAT CHARGES WERE PENDING AGAINST MR. WARD?

7 A I HAVE NO RECOLLECTION OF KNOWING

8 ANYTHING ABOUT WARD AT THE TIME I GOT THIS LETTER.

9 Q I SEE.

10 A IT JUST CAME IN THE MAIL.

11 Q AND DO YOU RECALL WHAT YOU DID AS A

12 RESULT OF THIS LETTER?

13 A THE LETTER MENTIONS MICHAEL CULLER

14 REPRESENTED WARD. I CONTACTED CULLER OR HE

15 CONTACTED ME AT SOME POINT AFTER THAT. MR. CULLER

16 IS CHIEF PUBLIC DEFENDER FOR ORANGEBURG COUNTY, AND

17 IN THAT CAPACITY, WE TALKED FAIRLY BRIEFLY. HE

18 REPRESENTED A DEFENDANT IN ANOTHER DEATH PENALTY

19 CASE THAT WAS SCHEDULED FOR THAT YEAR, SO WE TALKED

20 OFF AND ON. AT SOME POINT, I MENTIONED TO MICHAEL

21 CULLER THAT JERRY WARD HAD WRITTEN TO ME AND HAD

22 ENCLOSED A NOTE, WHICH I FOUND OUT LATER WAS

23 WRITTEN BY ROGER DALE JOHNSON, WHO WAS A CALHOUN

24 COUNTY DEATH PENALTY DEFENDANT, WHO BY THAT TIME

25 WAS IN SAFEKEEPING. AND WHEN I GOT THE LETTER, I

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1 DIDN'T KNOW WHO HE WAS WRITING ABOUT. MR. CULLER
2 TOLD ME THAT THE NOTE REFERRED TO ROGER DALE
3 JOHNSON.

4 Q SO THIS FEBRUARY LETTER REFERRED TO A
5 NOTE?

6 A REFERRED TO A NOTE AND IT ENCLOSED A
7 NOTE --

8 Q ALL RIGHT.

9 A -- WITH THE LETTER.

10 Q AND AS A RESULT OF THAT PARTICULAR
11 LETTER, DID YOU TAKE ANY ACTIONS IN NEGOTIATING
12 ANYTHING WITH MR. WARD?

13 A NO, I DID NOT. I DID NOT RESPOND
14 DIRECTLY TO MR. WARD BECAUSE HE WAS REPRESENTED BY
15 MR. CULLER. AS I SAID, I DID DISCUSS OVER THE
16 TELEPHONE, I THINK, INITIALLY, PROBABLY JUST IN
17 PASSING, YOU KNOW, "WHO IS JERRY WARD? WHAT'S THIS
18 NOTE ABOUT, SOMETHING TO THAT EFFECT."

19 Q ALL RIGHT, SO YOU DIDN'T DIRECTLY. DID
20 YOU INDIRECTLY MAKE ANY PROMISES TO MR. WARD
21 THROUGH HIS ATTORNEY, MICHAEL CULLER?

22 A NO.

23 Q ALL RIGHT. AND SO, YOU DID NOT DIRECT
24 MR. WARD TO ELICIT ANY INFORMATION --

25 MR. HARPOOTLIAN: YOUR HONOR, I OBJECT

1 TO THE LEADING NATURE OF THIS QUESTION.

2 THE COURT: SUSTAINED.

3 MR. HARPOOTLIAN: THANK YOU.

4 THE COURT: REPHRASE.

5 Q (MR. BY COULTER) DID YOU, AS A RESULT
6 OF THIS LETTER, DIRECT MR. WARD TO ELICIT ANY
7 INFORMATION?

8 MR. HARPOOTLIAN: OBJECT, YOUR HONOR,
9 STILL LEADING. IT'S A YES OR NO ANSWER, HE'S
10 ELICITING.

11 MR. COULTER: I DON'T THINK A YES OR NO
12 ANSWER MEANS IT'S LEADING.

13 THE COURT: I'LL LET HIM ANSWER THAT
14 QUESTION.

15 MR. HARPOOTLIAN: YOUR HONOR, THE
16 QUESTION WOULD BE WHAT, IF ANYTHING, DID YOU ASK
17 HIM TO DO? WHAT, IF ANYTHING, DID HE SAY TO YOU?

18 THE COURT: I UNDERSTAND. MR. BAILEY
19 CAN ANSWER THE QUESTION.

20 A I HAD NO DIRECT CONTACT WITH JERRY
21 WARD. MY ONLY CONTACT AFTER RECEIVING THE FEBRUARY
22 LETTER WAS WITH MICHAEL CULLER. I DID NOT ASK MR.
23 CULLER TO HAVE WARD DO ANYTHING FOR THE STATE. I
24 DIDN'T SUGGEST THAT HE WOULD BENEFIT BY DOING IT.

25 Q (BY MR. COULTER) ALL RIGHT, SIR.

1 A DIDN'T DO IT.

2 Q DID -- AS OF FEBRUARY OF '95, DID YOU
3 HAVE ANY CONTACT THEN -- I MIGHT HAVE ASKED THIS.
4 DID YOU HAVE ANY CONTACT WITH WYLIE JEFFCOAT IN
5 '95?

6 A NO, I DIDN'T KNOW WHO WYLIE JEFFCOAT
7 WAS.

8 Q ALL RIGHT. AFTER THAT LETTER OF
9 FEBRUARY OF '95, DO YOU RECALL THE NEXT TIME YOU
10 BECAME AWARE OF MR. WARD?

11 A THE NEXT TIME I HEARD FROM WARD WAS A
12 SECOND LETTER THEY GOT IN MAY OF 1995.

13 Q ALL RIGHT.

14 MR. COULTER: YOUR HONOR, I'LL GO AHEAD
15 BACK TO THIS LETTER OF FEBRUARY AND ASKED THAT THIS
16 BE MARKED AS A COURT EXHIBIT.

17 THE COURT: ALL RIGHT, SIR.

18 (WHEREUPON, COURT'S EXHIBIT NO. 36 WAS
19 MARKED FOR IDENTIFICATION ONLY.)

20 A YEAH, THIS IS THE SECOND LETTER, AGAIN,
21 UNSOLICITED, THAT I RECEIVED FROM JERRY WARD. HE
22 DOES MENTION WYLIE JEFFCOAT FOR THE FIRST TIME IN
23 THE LETTER. IN LOOKING AT THE LETTER, AGAIN, HE'S
24 TALKING ABOUT ROGER DALE JOHNSON, BUT NOT USING THE
25 NAME. BY THIS TIME, AFTER TALKING TO MICHAEL

1 CULLER, I KNEW HE WAS REFERRING TO ROGER DALE
2 JOHNSON. BUT, AGAIN, HE DOESN'T MENTION THE NAME
3 IN THE LETTER.

4 Q (BY MR. COULTER) AND THIS IS -- WHAT'S
5 THE DATE OF THIS LETTER, AGAIN?

6 A THAT LETTER IS FEBRUARY -- EXCUSE ME,
7 MAY 1ST, '95.

8 Q ALL RIGHT. AND AS A RESULT OF THIS
9 LETTER ON MAY 1ST OF '95, DID YOU MEET WITH MR.
10 WARD?

11 A NO, I DID NOT.

12 Q DID YOU MEET WITH HIS ATTORNEY, MR.
13 CULLER?

14 A I DIDN'T MEET WITH MR. CULLER FOR ANY
15 SPECIFIC PURPOSE OF DISCUSSING JERRY WARD. LIKE I
16 SAID, I MET WITH MR. CULLER -- SAW HIM ALL THE
17 TIME, IN COURT IN ORANGEBURG, ON THE TELEPHONE,
18 ABOUT ANOTHER DEATH PENALTY CASE, AND I'M SURE
19 JERRY WARD WAS MENTIONED MORE THAN ONCE IN THOSE
20 CONVERSATIONS.

21 Q ALL RIGHT. AS A RESULT OF THOSE
22 CONVERSATIONS, DID YOU MAKE ANY PROMISES OR DIRECT
23 MR. CULLER TO HAVE MR. WARD OR MR. JEFFCOAT DO
24 ANYTHING ON YOUR BEHALF?

25 A NO, I DID NOT DO THAT. I DIDN'T NEED

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1 TO DO IT BECAUSE I WAS AWARE FROM MR. CULLER THAT
2 HE WAS DOING THIS ANYWAY. I HAD ALREADY RECEIVED
3 ONE NOTE THAT HE HAD GOTTEN FROM ROGER DALE JOHNSON
4 BACK IN -- THE INITIAL LETTER, FEBRUARY. SO I KNEW
5 THAT HE WAS TALKING TO JOHNSON, AND HE DIDN'T DO
6 THAT AT MY SUGGESTION, MY ENCOURAGEMENT. HE WAS
7 PROMISED NOTHING. HE WAS SAVVY ENOUGH TO DO THAT
8 ON HIS OWN.

9 Q OTHER THAN MR. JOHNSON -- YOU SAY THAT
10 YOU DIDN'T DIRECT HIM TO ELICIT ANY INFORMATION
11 FROM MR. JOHNSON. DID YOU DIRECT HIM TO ELICIT
12 INFORMATION FROM ANYBODY ELSE?

13 A I DID NOT. I DIDN'T DIRECT HIM
14 PERSONALLY OR THROUGH MR. CULLER, DIRECTLY OR
15 INDIRECTLY, TO DO ANYTHING AT ALL ON ANYBODY.

16 Q HE WAS DOING THIS ON HIS OWN?

17 A ABSOLUTELY.

18 Q ALL RIGHT. DO YOU RECALL THE NEXT TIME

19 --

20 MR. COULTER: WELL, BEFORE I GO ON,
21 I'LL GO AHEAD AND ASK THAT THIS MAY LETTER BE
22 MARKED AS A COURT'S EXHIBIT.

23 (WHEREUPON, COURT'S EXHIBIT NO. 37 WAS
24 MARKED FOR IDENTIFICATION ONLY.)

25 Q (BY MR. COULTER) DO YOU REMEMBER THE

- 1 NEXT TIME YOU HAD CONTACT WITH MR. WARD?
- 2 A THIRD LETTER WAS SEPTEMBER OF 1995.
- 3 Q ALL RIGHT. TAKE A LOOK AT THAT
- 4 DOCUMENT.
- 5 A YEAH, THAT'S A COPY OF THE LETTER DATED
- 6 SEPTEMBER 25TH, 1995 TO ME FROM JERRY WARD,
- 7 REQUESTING A MEETING AT THAT TIME.
- 8 Q ALL RIGHT. GOING BACK BRIEFLY TO THE
- 9 MAY LETTER, YOU HAD INDICATED HE HAD MENTIONED MR.
- 10 JEFFCOAT IN THAT LETTER?
- 11 A YEAH.
- 12 Q DID YOU HAVE ANY CHANCE TO MEET WITH
- 13 MR. JEFFCOAT AS OF MAY OF '95?
- 14 A NO, I DID NOT.
- 15 Q DID YOU MAKE ANY REQUESTS OF MR.
- 16 JEFFCOAT IN MAY OF '95?
- 17 A NO, I DID NOT.
- 18 Q DID YOU MAKE ANY REQUESTS OF MR.
- 19 JEFFCOAT THROUGH HIS ATTORNEY IN MAY OF '95?
- 20 A NO.
- 21 Q ALL RIGHT. REFERRING TO THIS LETTER OF
- 22 SEPTEMBER, DID YOU DO ANYTHING AS A RESULT OF THIS
- 23 PARTICULAR COMMUNICATION FROM MR. WARD?
- 24 A EVERY TIME I GOT A LETTER FROM WARD, AT
- 25 SOME POINT AFTER THAT, I DISCUSSED IT WITH MICHAEL

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1 CULLER; I'M SURE I DISCUSSED IT WITH HIM AFTER THIS
2 LETTER, TOO. AND IN MY DISCUSSIONS WITH MR.
3 CULLER, AFTER THIS LETTER -- AND HE'S OUT HERE AND
4 CAN TESTIFY, WARD WAS GETTING NERVOUS IN
5 SAFEKEEPING, HE WANTED TO BE TRANSFERRED OUT. HE
6 WAS AFRAID. ARRANGEMENTS WERE MADE TO GO AHEAD AND
7 TRANSFER HIM TO ORANGEBURG. I THINK HE SHOWED UP
8 BACK IN THE ORANGEBURG JAIL IN EARLY NOVEMBER,
9 1995, AND I MET WITH MR. WARD AND MR. CULLER, I
10 THINK, IT WAS NOVEMBER 10TH OR 11TH, 1995. THAT
11 WAS THE FIRST TIME I HAD EVER SEEN JERRY WARD.

12 Q ALL RIGHT, SO YOU HAD NEVER HAD ANY
13 DIRECT COMMUNICATION WITH MR. WARD?

14 A THE ENTIRE TIME HE WAS IN SAFEKEEPING,
15 I HAD NEVER HAD ANY DIRECT OR INDIRECT
16 COMMUNICATION WITH HIM, HAD NEVER SEEN HIM.

17 Q SO YOU DID -- DID YOU EVER HAVE ANY
18 CONTACT WITH HIM PRIOR TO YOUR MEETING OF NOVEMBER
19 OF '95 WHERE YOU HAD COMMUNICATED WITH HIM ANYTHING
20 IN REGARDS TO THE DEFENDANT BECKHAM?

21 A NO.

22 Q ALL RIGHT. DID YOU BECOME AWARE OF THE
23 FACT THAT JERRY WARD DID HAVE CONTACT WITH THE
24 DEFENDANT BECKHAM?

25 A YEAH, THROUGH MICHAEL CULLER. AGAIN,

1 IT WOULD HAVE HAD TO HAVE BEEN THROUGH CULLER,
2 BECAUSE HE WAS THE ONLY ONE I WAS TALKING TO ABOUT
3 JERRY WARD. THE CONTACT -- MR. CULLER WOULD HAVE
4 TOLD ME THAT SOMETIME PRIOR TO LATE SEPTEMBER 1995,
5 BECAUSE I TOLD MR. JONES ABOUT THE POSSIBILITY THAT
6 WARD MAY HAVE SOME INFORMATION IN REGARD TO BECKHAM
7 WHEN WE HAD OUR SOLICITOR'S CONFERENCE, WHICH WAS
8 THE LAST COUPLE OF DAYS OF SEPTEMBER, FIRST COUPLE
9 DAYS OF OCTOBER, 1995.

10 Q FOR WHAT REASON WOULD WARD HAVE HAD
11 CONTACT WITH BECKHAM?

12 A THEY WERE ALL IN SAFEKEEPING STATUS
13 TOGETHER AT THE TIME.

14 Q ALL RIGHT. WAS HE --

15 A NOT AT THAT TIME, BUT -- WELL, I GUESS,
16 SEPTEMBER, YEAH, WARD WAS STILL THERE.

17 Q BASED ON YOUR KNOWLEDGE, WAS HE DOING--
18 WAS HE HAVING CONTACT WITH BECKHAM AT THE DIRECTION
19 OF ANYBODY IN YOUR OFFICE?

20 A NO, NOT IN MY OFFICE.

21 Q AT THE TIME OF THIS LETTER IN
22 SEPTEMBER, DID YOU HAVE AN OPPORTUNITY TO MEET WITH
23 MR. WYLIE JEFFCOAT?

24 A NO. I GUESS I HAD AN OPPORTUNITY TO
25 MEET WITH HIM, HE WAS IN JAIL, TOO. I DIDN'T MEET

- 1 WITH HIM.
- 2 Q OKAY. DID YOU MEET WITH HIS ATTORNEY?
- 3 A NO.
- 4 Q DID YOU MAKE ANY REQUESTS OF MR.
- 5 JEFFCOAT?
- 6 A NO.
- 7 Q OR THROUGH HIS ATTORNEY?
- 8 A NO, NOT DIRECT OR INDIRECT.
- 9 Q ALL RIGHT. AND YOU SAID YOU HAD
- 10 MENTIONED THE FACT THAT MR. WARD MAY HAVE
- 11 INFORMATION REGARDING MR. BECKHAM TO SOLICITOR
- 12 JONES?
- 13 A YEAH, THAT WAS THE LAST DAY OR TWO OF
- 14 SEPTEMBER '95 OR THE FIRST DAY OR TWO OF OCTOBER
- 15 '95.
- 16 Q AT THE CONVENTION?
- 17 A YEAH.
- 18 Q ALL RIGHT. AND DID YOU IN FACT HAVE A
- 19 MEETING WITH MR. WARD AFTER THE SOLICITOR'S
- 20 CONFERENCE?
- 21 A YEAH, THAT MEETING WAS, AS I SAID,
- 22 NOVEMBER THE 10TH OR 11TH OF 1995.
- 23 Q ALL RIGHT. AND WHAT WAS THE RESULT OF
- 24 THAT MEETING IN NOVEMBER OF '95?
- 25 A ACTUALLY, THE DIRECT RESULT OF THAT

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1 MEETING WAS NOTHING. I GOT SOME ADDITIONAL NOTES
2 THAT PURPORTEDLY WERE WRITTEN BY ROGER DALE
3 JOHNSON. AT THAT MEETING, MR. WARD INFORMED ME HE
4 HAD INFORMATION ON ANOTHER DEATH PENALTY DEFENDANT
5 IN THE FIRST CIRCUIT, JOE GARDNER. I DIDN'T KNOW
6 IF THESE NOTES WERE LEGITIMATE NOTES OR WHAT THEY
7 WERE. I HAD NEVER MET WARD BEFORE, DIDN'T KNOW
8 ANYTHING ABOUT HIM, EXCEPT THAT HE HAD A PRETTY
9 EXTENSIVE RECORD. SO I WASN'T IN A POSITION TO
10 OFFER MR. WARD ANYTHING AT THAT TIME. WE BATTED
11 AROUND -- MR. CULLER AND I BATTED AROUND SOME
12 POSSIBLE SENTENCES IF WARD'S INFORMATION PROVED
13 VALUABLE TO THE STATE. WE HAD NO FINAL AGREEMENT
14 ON IT UNTIL SOMETIME LATER ON IN SEPT -- IN
15 NOVEMBER.

16 Q AS A RESULT OF THIS NOVEMBER MEETING,
17 WAS THERE ANY DISCUSSIONS IN REGARDS TO THE
18 DEFENDANT BECKHAM?

19 A NO.

20 Q AND DID YOU DIRECT HIM TO DO ANYTHING
21 IN REGARD TO THE DEFENDANT BECKHAM?

22 A ABSOLUTELY NOT. IT WASN'T MY CASE, IT
23 WAS NONE OF MY BUSINESS. ALL I DID WAS HEARD FROM
24 MICHAEL CULLER THAT WARD MIGHT HAVE SOME
25 INFORMATION ON BECKHAM THAT MIGHT BE BENEFICIAL,

1 SO I ADVISED MR. JONES OF THAT. BUT I WAS NOT
2 INVOLVED IN THAT IN ANY WAY AT ALL.

3 Q ALL RIGHT. WERE YOU ABLE TO
4 SUBSTANTIATE OR AUTHENTICATE THESE NOTES THAT HE
5 HAD PASSED ON?

6 A YEAH, I SENT THOSE TO SLED. AND THE
7 VAST MAJORITY OF THE NOTES HE GAVE WERE VERIFIED BY
8 SLED AS BEING WRITTEN BY ROGER DALE JOHNSON. THERE
9 WERE ALSO SOME NOTES FROM JOE GARDNER THAT WENT TO
10 SLED, ALSO.

11 Q ALL RIGHT.

12 A SO WHEN I REALIZED THAT JERRY WARD DID
13 HAVE LEGITIMATE INFORMATION, THEN I FIRMED UP THE
14 DEAL WITH MR. CULLER.

15 Q ALL RIGHT. AND --

16 A FOR A RECOMMENDED SENTENCE.

17 Q WHAT WAS THAT?

18 A A SIX YEAR RECOMMENDED SENTENCE ON ALL
19 THE CHARGES PENDING IN THE FIRST CIRCUIT.

20 Q ALL RIGHT. AND THAT WAS IN RETURN FOR
21 WHAT?

22 A IN RETURN FOR HIS TRUTHFUL TESTIMONY IN
23 ROGER DALE JOHNSON'S DEATH PENALTY CASE AND JOE
24 GARDNER'S DEATH PENALTY CASE.

25 Q ALL RIGHT. WAS THAT DEAL THAT YOU

1 WORKED OUT, DID THAT HAVE ANYTHING TO DO WITH THE
2 DEFENDANT BECKHAM'S CASE?

3 A ABSOLUTELY NOTHING TO DO WITH
4 BECKHAM'S.

5 Q AND YOU DIDN'T DIRECT HIM AS A RESULT
6 OF HIS COOPERATION TO ELICIT ANY INFORMATION FROM
7 THE DEFENDANT BECKHAM?

8 A NO, I DID NOT. I WAS CONCERNED WITH MY
9 CASES AND THAT'S ALL WE TALKED ABOUT.

10 Q ALL RIGHT. HE DID IN FACT TESTIFY IN
11 BOTH THOSE CASES?

12 A YEAH.

13 Q AND HE RECEIVED THE RECOMMENDED
14 SENTENCE?

15 A HE ACTUALLY RECEIVED BETTER THAN THE
16 RECOMMENDED SENTENCE.

17 Q ALL RIGHT.

18 A I RECOMMENDED SIX YEARS. HE DIDN'T
19 PLEAD UNTIL THE SUMMER OF 1996 AND ENDED UP GETTING
20 TIME SERVED BECAUSE JUDGE BROWN FELT LIKE HE WOULD
21 BE IN DANGER IF HE WENT BACK IN THE DEPARTMENT OF
22 CORRECTIONS.

23 Q ALL RIGHT. THANK YOU. ANSWER ANY
24 QUESTIONS.

25 THE COURT: CROSS-EXAMINATION, MR.

1 HARPOOTLIAN?

2 MR. HARPOOTLIAN: MAY IT PLEASE THE

3 COURT, YOUR HONOR?

4 CROSS-EXAMINATION:

5 BY MR. HARPOOTLIAN:

6 Q WALTER? LET ME UNDERSTAND THIS. YOU
7 NEVER MET WITH WARD OR JEFFCOAT UNTIL WHEN?

8 A WARD -- THE FIRST MEETING I HAD WITH
9 WARD WAS NOVEMBER OF 1995 IN THE ORANGEBURG COUNTY
10 JAIL. I DIDN'T MEET WITH JEFFCOAT UNTIL SOMETIME
11 PROBABLY DECEMBER OR JANUARY AFTER THAT.

12 Q WHEN DID YOU BECOME AWARE OF THE FACT
13 THAT THEY MIGHT BE OF SOME ASSISTANCE TO YOU IN
14 PROSECUTING CASES IN YOUR JURISDICTION?

15 A I GUESS THE FIRST INKLING I HAD THAT HE
16 MIGHT BE OF ASSISTANCE WAS AFTER I GOT THE FEBRUARY
17 '95 LETTER, ENCLOSING THAT NOTE, AND CONTACTED MR.
18 CULLER AND FOUND OUT WHO SUPPOSEDLY HAD SENT THE
19 NOTE. THEN I HAD SOME IDEA THAT WARD MIGHT BE
20 BENEFICIAL TO ME.

21 Q AND YOUR DISCUSSIONS WITH MR. CULLER AT
22 THAT POINT WERE THAT MR. WARD, WHO BASICALLY HAD
23 PROPERTY CRIMES KIND OF OFFENSES, YOU WOULD BE
24 WILLING TO HELP HIM IN ASSISTANCE -- IN EXCHANGE
25 FOR HIS ASSISTANCE IN PROSECUTING THE DEATH PENALTY

1 CASE; IS THAT CORRECT?

2 A NO, THAT WASN'T REALLY THE WAY IT
3 HAPPENED. I WAS JUST -- INITIALLY, ASKED MR.
4 CULLER, YOU KNOW, WHO WROTE THIS NOTE, WHAT'S THE
5 DEAL, WHO'S JERRY WARD? THAT WAS THE INITIAL
6 CONVERSATION.

7 Q AND HOW LONG DID IT TAKE FOR HIM TO GET
8 BACK TO YOU AND TELL YOU ALL THAT?

9 A I DON'T KNOW. IT WAS LIKE I SAID, WE
10 HAD CONVERSATIONS ALL THE TIME. I MEAN, ANY MONDAY
11 THERE WAS COURT GOING ON AND I WAS IN ORANGEBURG.
12 I TALKED TO HIM FREQUENTLY, IN PERSON AND ON THE
13 PHONE, AND WARD MIGHT COME UP IN A CONVERSATION.

14 Q SO STARTING IN FEBRUARY OF '95, YOU
15 BEGAN TO HAVE THESE CONVERSATIONS WITH MR. CULLER?

16 A YEAH.

17 Q AND WHEN DID MR. JEFFCOAT'S NAME COME
18 UP? I NOTICE THAT THE ORIGINAL LETTER IS FROM
19 JERRY WARD AND THEN, IN MAY OF '95, MAY 1ST OF '95,
20 YOU GET THE SECOND LETTER.

21 A UH-HUH.

22 Q AND IN THAT HE MENTIONS WYLIE JEFFCOAT
23 AS HIS CO-DEFENDANT; IS THAT CORRECT?

24 A YEAH, THAT'S THE FIRST TIME WARD
25 MENTIONED THAT WYLIE JEFFCOAT WAS THE CO-DEFENDANT,

1 NOW, MR. CULLER MAY HAVE TOLD ME PRIOR TO THE MAY
2 LETTER THAT JEFFCOAT WAS IN THE PICTURE AND THAT
3 THOMAS SIMS REPRESENTED HIM.

4 Q OKAY. AND DID YOU HAVE -- DO YOU HAVE
5 ANY MEMORY OF HAVING DISCUSSIONS WITH THOMAS SIMS?

6 A AGAIN, ONLY IN PASSING. JEFFCOAT WAS A
7 MINOR PLAYER AS I SAW IT. JERRY WARD WAS THE
8 FELLOW WITH THE BRAINS, FROM WHAT I COULD TELL.
9 AND JEFFCOAT WAS BASICALLY, AS FAR AS THE CASES I
10 WAS INVOLVED IN, KIND OF ALONG FOR THE RIDE.

11 Q I GUESS WHAT I'M ASKING YOU IS -- AND
12 YOU SAY THAT JEFFCOAT WAS A MINOR PLAYER AND WARD
13 HAD THE BRAINS, SOMETIME BETWEEN FEBRUARY 7TH OF
14 '95 AND MAY 1ST OF '95, YOU APPARENTLY CAME TO THIS
15 CONCLUSION?

16 A SOMETIME FROM FEBRUARY OF '95 AND
17 NOVEMBER OF '95, I CAME TO THAT CONCLUSION THAT --

18 Q OKAY.

19 A -- THAT WYLIE JEFFCOAT WASN'T SOMEBODY
20 I NEEDED TO WORRY A WHOLE LOT ABOUT.

21 Q BUT WHEN YOU RECEIVED THESE LETTERS,
22 YOU READ THEM, DID YOU NOT?

23 A YEAH.

24 Q AND THEN AFTER READING THEM, YOU TALKED
25 TO EITHER MR. CULLER ON THE FIRST ONE -- OR MR.

1 CULLER AND MR. SIMS WHO WOULD KNOW THAT ON MAY 1ST
2 OF '95, THAT YOU READ THIS LETTER, THAT WHEN WARD
3 WRITES YOU AND SAYS, "I TAKE THIS OPPORTUNITY TO
4 EXPRESS A FEW CONCERNS I HAVE PERTAINING TO CHARGES
5 AGAINST MYSELF AND WYLIE JEFFCOAT --"

6 A UH-HUH.

7 Q AT THAT POINT, YOU KNOW THAT MR. WARD
8 IS TALKING ON BEHALF OF HIMSELF AND WYLIE JEFFCOAT?

9 A SURE, YEAH.

10 Q AND YOU ALSO KNEW AT THAT POINT THAT
11 BASED ON THIS LETTER THAT WARD AND JEFFCOAT WANTED
12 SOME CONSIDERATION IN EXCHANGE FOR COOPERATION?

13 A I MADE THAT ASSUMPTION, YEAH.

14 Q I MEAN, HE WRITES, "THEREFORE, I WOULD
15 LIKE TO BE ABLE TO CONFER WITH YOU BEFORE ANY MAJOR
16 DECISIONS ARE MADE CONCERNING OUR CASES."

17 A UH-HUH.

18 Q "I'M SURE THAT GIVEN AN OPPORTUNITY TO
19 DO SO WOULD ENLIGHTEN YOU OF SOME VERY FAVORABLE
20 ASSETS ON OUR BEHALF."

21 A UH-HUH.

22 Q I MEAN, HE'S BASICALLY SAYING I GOT
23 SOMETHING --

24 A NO QUESTION ABOUT IT, WARD FELT LIKE HE
25 HAD A VALUABLE ASSET THERE BECAUSE OF HIS CONTACTS

1 WITH ROGER DALE JOHNSON.

2 Q AND YOU AT THAT POINT INDICATED, I'M
3 SURE, TO CULLER AND SIMS THAT IF THEY GOT SOMETHING
4 -- I MEAN, AT LEAST MY EXPERIENCE IN THIS POSITION
5 IS, IF SOMEBODY'S GOT SOMETHING THAT'S GOING TO
6 HELP ME ON A BIG CASE -- AND YOU JUST SAID JEFFCOAT
7 IS A MINOR PLAYER AND WARD'S SMART, HE'S STILL A
8 PROPERTY CRIMES KIND OF GUY, BUT YOU'RE WILLING TO
9 WORK, YOU'RE WILLING TO DEAL?

10 A IT WASN'T THAT WAY. I DIDN'T HAVE TO
11 DO THAT BECAUSE IT WAS ALREADY BEING DONE. I KNEW
12 ABOUT THE SIXTH AMENDMENT. I KNEW I COULDN'T GO IN
13 THERE AND TELL MR. CULLER -- SUGGEST TO MR. CULLER
14 THAT I NEED THIS, THAT AND THE OTHER, THAT YOU NEED
15 TO ENCOURAGE YOUR MAN TO GET ME THESE NOTES QUICKER
16 AND I NEED MORE INFORMATION. I KNEW I COULDN'T DO
17 THAT, DIDN'T HAVE TO DO IT BECAUSE IT WAS ALREADY
18 GETTING DONE.

19 Q WELL, I GUESS -- AND I'M NOT -- AND I
20 DON'T REALLY -- I'M NOT CONCERNED ABOUT MR.
21 JOHNSON'S CASE.

22 A OKAY.

23 Q I AM CONCERNED ABOUT MR. BECKHAM'S
24 CASE.

25 A UH-HUH.

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1 Q BUT TO GET TO MR. BECKHAM'S CASE, I
2 WOULD LIKE TO KNOW -- I MEAN, IN MAY OF 1995,
3 YOU'RE RECEIVING A LETTER FROM MR. WARD, A FIVE-
4 PAGE LETTER, IN WHICH HE IS SAYING THAT HE WANTS
5 SOME QUID PRO QUO; ISN'T THAT RIGHT?

6 A YOU COULD INTERPRET THE LETTER THAT
7 WAY. AND I'M SURE THAT HE WAS EXPECTING SOMETHING
8 IF HE GAVE ME SOME INFORMATION THAT PROVED VALUABLE
9 IN OTHER CASES; THAT'S WHAT THE LETTER SAYS.

10 Q YEAH, I MEAN, HE WANTS QUID PRO QUO?

11 A I DON'T KNOW -- HE WANTED WHATEVER HE
12 COULD GET FOR JERRY WARD AND WYLIE JEFFCOAT.

13 Q IN EXCHANGE FOR THEIR COOPERATION WITH
14 YOU?

15 A I'M SURE HE DID. IT WOULD BE FOOLISH
16 TO SAY HE WASN'T EXPECTING SOMETHING FROM THE
17 STATE.

18 Q AND THAT'S WHAT HE'S COMMUNICATING TO
19 YOU IN MAY OF 1995?

20 A WELL, THE LETTER SPEAKS FOR ITSELF.
21 YEAH, THAT'S WHAT IT SAYS.

22 Q OKAY. WELL, WHAT I'D LIKE -- I MEAN,
23 THE LETTER SPEAKS FOR ITSELF. YOU READ THE LETTER
24 AND YOU'VE INDICATED THAT YOU TALKED TO MR. CULLER
25 AND YOU TALKED TO MR. SIMS ABOUT THEIR CLIENTS?

1 A UH-HUH.

2 Q THAT'S A YES.

3 A YES, SORRY.

4 Q AND IN TALKING TO MR. CULLER AND MR.

5 SIMS, YOU INDICATED TO THEM, I THINK YOU'VE

6 INDICATED JUST A MOMENT AGO, THAT THERE MIGHT BE

7 SOME CONSIDERATION EXCHANGED FOR COOPERATION ON

8 THEIR PART?

9 A NO.

10 Q WELL, WHAT DID YOU TELL THEM?

11 A BASICALLY, I WAS LISTENING. INITIALLY,

12 YOU KNOW, WHO IS JERRY WARD, WHAT'S HE DOING? AND

13 THEY -- MR. CULLER TOLD ME THAT JERRY WARD WAS IN

14 SAFEKEEPING, THAT ROGER DALE JOHNSON WAS PASSING

15 THESE NOTES TO HIM AND HE WAS KEEPING THE NOTES.

16 Q RIGHT.

17 A AND I SAID, FINE.

18 Q OKAY.

19 A AND I HAD ONE NOTE...

20 Q SO YOU WEREN'T TELLING HIM TO GO OUT

21 AND SOLICIT OR ELICIT NOTES?

22 A ABSOLUTELY NOT.

23 Q BUT CERTAINLY, YOU WERE SAYING TO MR.

24 CULLER AND MR. SIMS THAT IF HE GATHERS THIS

25 INFORMATION, WITHOUT DIRECTION BY ME, THEN HE WILL

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1 GET -- CERTAINLY, HE HAS NO REASON NOT TO EXPECT
2 CONSIDERATION?

3 A I DIDN'T SAY THAT, DIDN'T IMPLY IT.
4 BUT THEY'RE SMART ENOUGH TO KNOW THAT THAT WAS AN
5 ASSET THAT HE WAS DEVELOPING. DID THAT ON THEIR
6 OWN --

7 Q AND --

8 A -- WITH NO ENCOURAGEMENT FROM ME.

9 Q I --

10 A I DIDN'T NEED ENCOURAGEMENT.

11 Q THEY DIDN'T NEED ENCOURAGEMENT. BUT
12 YOU WOULD CONCEDE THAT AFTER YOU RECEIVED THE
13 LETTER OF MAY 1ST, 1995, THAT YOU CERTAINLY
14 INDICATED TO CULLER AND SIMS THAT YOU KNEW ABOUT
15 WHAT HE WAS DOING?

16 A I DIDN'T HAVE TO INDICATE THAT TO THEM
17 BECAUSE THEY TOLD ME WHAT HE WAS DOING. SO WHEN
18 THEY TOLD ME THAT, THEY KNEW THAT I KNEW WHAT HE
19 WAS DOING.

20 Q OKAY. AND WHAT HE SAYS IN THIS LETTER
21 IS -- TALKS ABOUT HE -- I'M SURE THAT WOULD GIVE US
22 AN OPPORTUNITY TO ENLIGHTEN YOU WITH SOME OF OUR
23 VERY FAVORABLE ASSETS ON OUR BEHALF. HE'S ASKING
24 FOR A MEETING WITH YOU PERSONALLY IN MAY.

25 A UH-HUH.

1 Q AND WHY AREN'T YOU MEETING WITH HIM?
2 A I HAD SIX DEATH PENALTY CASES SCHEDULED
3 FOR 1995.
4 Q RIGHT.
5 A ROGER DALE JOHNSON WAS SCHEDULED FOR
6 1996, IT WAS ON THE BACK BURNER. I WAS DOING OTHER
7 STUFF.
8 Q BUT --
9 A FRANKLY, YOU KNOW, I JUST --
10 Q BUT WAS MR. WILLIAMS ALSO DOING OTHER
11 STUFF, YOUR STAFF, OR LAW ENFORCEMENT OR SLED OR
12 THE SHERIFF'S DEPARTMENT? MATTER OF FACT, HE TALKS
13 ABOUT SHERIFF SMITH IN HERE A LITTLE BIT, DOESN'T
14 HE?
15 A YEAH.
16 Q I GUESS WHAT --
17 A THAT -- THAT -- THE SHERIFF SMITH
18 ASPECT PERTAINED TO BARRY AND HIS OWN CHARGES THAT
19 HE GOT ARRESTED ON. HE IMPLICATED THIS GUY, BARRY,
20 WHEN HE CONFESSED. AND THAT'S HOW SHERIFF SMITH --
21 I HAD NOTHING TO DO WITH THAT. JIMMY WILLIAMS
22 HANDLED THAT END OF IT.
23 Q I GUESS WHAT I'M GETTING AT, SOLICITOR,
24 IS DID -- IN THE PROCESS OF READING THIS -- HE
25 SAYS, ON PAGE TWO, "I'M SURE YOU'RE AWARE OF

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1 CERTAIN COMMUNICATIONS BETWEEN MYSELF AND OTHER
2 PEOPLE ON SAFEKEEPING STATUS. WHILE I'M CONSIDERED
3 TO BE ONE OF THE MORE INTELLIGENT PEOPLE CONFINED
4 HERE, I'M OFTEN TIMES ASKED TO EXPRESS MY OPINION
5 OF AND CONFIDED IN SEVERAL MAJOR CASES HERE. I'M
6 NOT A JAILHOUSE LAWYER. I'VE NEVER HAD REASON TO
7 BECOME INVOLVED IN SITUATIONS SUCH AS THIS. AS YOU
8 CAN SEE FROM THE COMMUNICATIONS BETWEEN US --," AND
9 HE'S TALKING ABOUT ROGER JOHNSON --

10 A ROGER DALE JOHNSON.

11 Q "-- HE IN FACT KILLED THE LADY." AND
12 HE GOES ON TO TALK ABOUT THAT SPECIFIC OFFENSE. HE
13 THEN GOES ON AND SAID, I WAS LOOKING AT A PLEA FOR
14 TWELVE YEARS IN DECEMBER OF '94. AND I'VE DONE TWO
15 OF THAT IN LOCKUP STATUS, SO I'M NOT MOTIVATED
16 ENTIRELY BY CONCERN FOR MYSELF, NOR JEFFCOAT, FOR
17 THAT MATTER. WHILE THE THINGS JEFFCOAT AND I HAVE
18 DONE ARE FAR FROM RIGHT AND DEFINITELY
19 UNACCEPTABLE, WE HAVE NOT OR NEVER WOULD BE ABLE TO
20 TAKE A PERSON'S LIFE LIKE THAT. IT'S BEEN A MONTH
21 SINCE I'VE HEARD FROM MR. CULLER OR SIMS. WE'RE
22 TOTALLY IN THE BLIND AS TO WHAT OUR OBJECTIVE
23 SHOULD BE. AS I INDICATED, THERE ARE MORE OF THESE
24 PEOPLE PRESENTING SIMILAR CIRCUMSTANCES. AND IN
25 VIEW OF THESE CRIMES, I WILL NOT HESITATE TO REVEAL

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1 THESE STATEMENTS -- REVEAL THEIR STATEMENTS TO ME,
2 ESPECIALLY IF I CAN HELP MYSELF ON PROVING MY
3 CONSCIENCE FOR THE THINGS I'VE DONE."

4 A UH-HUH.

5 Q NOW, HE GOES ON TO SAY, "I DO NOT WISH
6 TO MAKE MR. WILLIAMS BELIEVE WE ARE BEING EVASIVE.
7 HE HAS GIVEN US A FAIR SHAKE AFTER HE'S SEEN THE
8 WHOLE PICTURE. I COULD DIRECT MY EFFORTS IN OTHER
9 DIRECTIONS IF YOU FEEL THAT I'M NOT NEEDED IN YOUR
10 CASE. I DO NOT -- I DO NEED TO KNOW ONE WAY OR THE
11 OTHER BECAUSE I'M TAKING CHANCES HERE. I'M IN THE
12 DARK HERE AND THERE'S MUCH MORE INFORMATION
13 AVAILABLE, AND I'D LIKE TO KNOW WHETHER TO PURSUE
14 IT OR NOT, AS WELL AS MAKE SOME OTHER VERY
15 IMPORTANT DECISIONS CONCERNING OUR OWN SITUATION.

16 P.S., THERE'S BEEN A MOTION TO
17 DISCOVERY MADE TO GREENVILLE COUNTY THAT I'M SURE
18 WILL OPEN UP SOME VERY INTERESTING CONVERSATIONS.
19 I'D LIKE VERY MUCH TO KNOW MY POSITION BEFORE I
20 PARTAKE IN THIS VENTURE." WHAT'S HE TALKING ABOUT
21 GREENVILLE?

22 A GREENVILLE IS WHERE ROGER DALE JOHNSON
23 KIDNAPPED A YOUNG WOMAN AND CARRIED HER INTO
24 CALHOUN COUNTY AND HACKED HER UP WITH A MACHETE.
25 THE CRIME STARTED IN GREENVILLE AND ENDED UP IN

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1 CALHOUN COUNTY.

2 Q OKAY. WELL, HE MADE SOME VERY SPECIFIC
3 REFERENCES TO KNOWING ABOUT CRIMINAL CONDUCT.

4 A UH-HUH.

5 Q AND YOU'VE INDICATED THAT YOU WERE NOT
6 -- YOU HAD NO LAW ENFORCEMENT OFFICER CONTACT HIM?

7 A NO.

8 Q HAD NO DEPUTY SOLICITOR IN YOUR OFFICE
9 OR ANY ASSISTANT SOLICITOR MAKE ANY EFFORT TO TALK
10 TO HIS LAWYERS OR TALK TO HIM?

11 A NO.

12 Q BUT YOU DID TALK TO CULLER AND SIMS?

13 A YEAH.

14 Q AND YOU DID NOT SAY, "STOP HIM FROM
15 DOING THAT?"

16 A NO, I DIDN'T SAY STOP.

17 Q YOU DID NOT SAY, "HEY, WE'RE NOT GOING
18 TO IN ANY WAY OFFER HIM ANY CONSIDERATION, EITHER
19 ONE OF THEM, FOR DOING THIS?"

20 A DID NOT SAY THAT, BUT DIDN'T IMPLY THAT
21 I COULD DO HIM ANY GOOD IF HE GAVE ME THE NOTES,
22 BECAUSE I DIDN'T KNOW IF JERRY WARD WAS MAKING THIS
23 WHOLE THING UP TO BENEFIT HIMSELF. EVEN WHEN WE
24 MET IN NOVEMBER, I DIDN'T OFFER ANYTHING BECAUSE I
25 DIDN'T KNOW THIS WAS LEGITIMATE INFORMATION. SO I

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1 OFFERED NO ENCOURAGEMENT, NO IMPLICIT OR EXPLICIT
2 PROMISES FOR ANYTHING.

3 Q WELL, YOU THEN RECEIVE A LETTER IN
4 SEPTEMBER OF 1995?

5 A YES, SIR.

6 Q AND AGAIN, HE SAYS, "I'M WRITING YOU
7 CONCERNING CRIMINAL CHARGES AGAINST MYSELF AND
8 WYLIE JEFFCOAT. AS YOU ARE PROBABLY AWARE, MY
9 ATTORNEY, AS WELL AS MR. JEFFCOAT'S, VISITED US ON
10 AUGUST 22ND, SEVERAL VERY INTERESTING TOPICS WERE
11 DISCUSSED." AND HE GOES ON TO TALK ABOUT MR.
12 SMITH, WHO WAS HIS CO-DEFENDANT. AND HE GOES ON TO
13 SAY, "ALSO, PLEASE BE AWARE FOR THE SAKE OF
14 CONVENIENCE, THAT THE PRESENCE OF COUNSEL IS NOT
15 NECESSARY AS FAR AS WE ARE CONCERNED TO MEET WITH
16 YOU."

17 A UH-HUH. I DIDN'T FEEL THAT WAY. I
18 FELT LIKE I COULDN'T GET BACK WITH MR. WARD, IF I
19 WANTED TO, BECAUSE MR. CULLER REPRESENTED HIM. AND
20 THAT'S WHY I DIDN'T RESPOND TO ANY OF THOSE LETTERS
21 DIRECT TO WARD. I WENT THROUGH HIS ATTORNEY. WE
22 SET UP A MEETING IN NOVEMBER. I MET WITH BOTH OF
23 THEM. AND --

24 Q BUT YOU WERE CONTINUING TO HAVE AND
25 HAVE HAD, SINCE THE BEGINNING, CONVERSATIONS WITH

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1 MR. CULLER AND/OR MR. SIMS ABOUT THE INFORMATION
2 THAT MR. WARD WAS TELLING YOU ABOUT IN THE LETTERS?

3 A WE TALKED ABOUT MR. WARD, RIGHT.

4 Q AND APPARENTLY, MR. JEFFCOAT, ONCE YOU
5 BECAME AWARE OF HIM THROUGH -- EVERY MONDAY MORNING
6 YOU WOULD SEE MR. CULLER, YOU'D SEE MR. SIMS AT
7 GENERAL SESSIONS COURT?

8 A YEAH.

9 Q AND YOU'D TALK TO THEM ABOUT IT?

10 A UH-HUH.

11 Q AND YOU WERE OBVIOUSLY TALKING TO THEM
12 ABOUT THESE TWO FOLKS AND THEY WERE CONVEYING TO
13 YOU, PERHAPS, EVEN ADDITIONAL INFORMATION?

14 A SOME ADDITIONAL INFORMATION. THIS WAS
15 MORE OR LESS SOMETHING IN PASSING. LIKE I SAID, I
16 HAD OTHER FISH TO FRY AT THAT TIME AND --

17 Q WELL, I UNDERSTAND --

18 A -- THE CASE THAT I KNEW HE WAS GETTING
19 INFORMATION ON, ROGER DALE JOHNSON, WAS THE SEVENTH
20 DEATH PENALTY CASE THAT I HAD SCHEDULED WHEN I
21 FIRST STARTED GETTING THESE LETTERS. AND I KIND OF
22 DID THEM ONE AT A TIME.

23 Q WELL, I --

24 A SO IT WASN'T THAT -- I WASN'T THAT
25 CONCERNED WITH ROGER DALE JOHNSON AT THAT TIME.

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1 Q WERE YOU GIVING THEM THE IMPRESSION,
2 HOWEVER, THAT THIS WAS INFORMATION THEY SHOULD
3 CONTINUE TO GATHER?

4 A NO, I DIDN'T HAVE TO DO THAT. BECAUSE
5 THEY ARE BOTH INTELLIGENT LAWYERS AND THEY BOTH
6 KNEW THAT THIS WAS INFORMATION THAT WOULD BENEFIT--
7 OR POSSIBLY BENEFIT THEIR CLIENT.

8 Q AND THEY KNEW YOU KNEW ABOUT IT IN
9 FEBRUARY OF '95?

10 A YEAH.

11 Q NOW, IN ADDITION TO THAT, AT SOME POINT
12 YOU -- I MEAN, IT'S -- DID YOU RECEIVE A WRITING
13 FROM MR. WARD OR MR. JEFFCOAT ABOUT MR. BECKHAM?

14 A YEAH. IN FEBRUARY -- NO, NO, NO, NOT
15 BECKHAM.

16 Q WELL, HOW DID YOU RECEIVE THAT
17 INFORMATION?

18 A FROM MICHAEL CULLER.

19 Q WHEN DID YOU RECEIVE IT?

20 A I COULDN'T TELL YOU.

21 Q YOU DON'T KNOW WHAT MONTH --

22 A COULDN'T TELL YOU WHAT MONTH IT WAS. I
23 CAN TELL YOU IT WAS BEFORE EARLY OCTOBER 1995 --

24 Q BECAUSE THAT'S WHEN THE SOLICITOR'S
25 CONFERENCE WAS --

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- 1 A THAT'S WHEN I TOLD MR. --
- 2 Q AND THAT'S WHEN YOU TOLD SOLICITOR
- 3 JONES ABOUT IT?
- 4 A RIGHT, YEAH.
- 5 Q SO, THERE -- I MEAN, THIS -- YOU WOULD
- 6 CONCEDE THEN, THAT NOT ALL OF THE INFORMATION AND
- 7 NOT ALL OF THE CONTACT WITH WARD AND JEFFCOAT IS IN
- 8 THESE WRITINGS? THERE ARE ADDITIONAL -- THERE IS
- 9 ADDITIONAL INFORMATION COMING TO YOU THROUGH MR.
- 10 CULLER AND MR. SIMS?
- 11 A YEAH.
- 12 Q AND SO SINCE FEBRUARY OF '95, YOU HAVE
- 13 RECEIVED INFORMATION, EITHER IN WRITING OR
- 14 VERBALLY, FROM MR. WARD OR -- AND ALL I SEE HERE IS
- 15 STUFF FROM MR. WARD, THESE ARE LETTERS OF MR. WARD.
- 16 A UH-HUH.
- 17 Q BUT MR. JEFFCOAT IS PART OF THIS, AS I
- 18 UNDERSTAND IT; MR. WARD MAKES HIM PART OF THE
- 19 PACKAGE, IS THAT RIGHT?
- 20 A YEAH.
- 21 Q AND THAT PROCESS GOES ON UNTIL YOU SAY
- 22 NOVEMBER OF '95, AT WHICH TIME YOU MET WITH THEM
- 23 AND CONSUMMATED A SPECIFIC DEAL?
- 24 A NO -- WELL, I MET WITH THEM, WE
- 25 DISCUSSED THE NOTES, I GOT SOME ADDITIONAL NOTES

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1 FROM ROGER DALE JOHNSON AT THAT TIME. NO DEAL WAS
2 MADE UNTIL AFTER I GOT WITH SLED TO FIND OUT IF
3 THESE NOTES WERE LEGITIMATE NOTES.

4 Q NOW -- WELL, LET ME ASK YOU A COUPLE OF
5 OTHER THINGS. OTHER THAN THE JOHNSON CASE, HAVE
6 THEY GIVEN YOU INFORMATION ON OTHER -- OTHER -- I
7 WANT TO SAY GIVEN YOU INFORMATION. THEY HAVE
8 RELATED TO YOU SO-CALLED JAILHOUSE CONFESSION
9 STATEMENTS ON OTHER CASES?

10 A JOE GARDNER.

11 Q ANY OTHER CASES FOR ANY OTHER
12 SOLICITOR, OTHER THAN BECKHAM?

13 A JUST, AGAIN, FROM MR. CULLER, I
14 UNDERSTAND THAT JERRY WARD MAY HAVE SOME
15 INFORMATION ON A DEATH PENALTY CASE IN THE SECOND
16 CIRCUIT.

17 Q SECOND CIRCUIT?

18 A DON'T EVEN KNOW THE NAME.

19 Q DOWN IN AIKEN?

20 A RIGHT.

21 Q ANY OTHER -- ANY OTHER INFORMATION?

22 A NO.

23 Q SO THIS GUY HAS AT LEAST IN THE LAST
24 YEAR, GIVEN INFORMATION ON JAILHOUSE CONFESSIONS IN
25 TWO DEATH PENALTY CASES FOR YOU?

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1 A UH-HUH.

2 Q ONE IN AIKEN AND ONE HERE, FOUR, FOUR

3 CASES?

4 A THE ONE IN AIKEN, I DON'T KNOW ABOUT.

5 I MEAN, I JUST HEARD THERE MAY BE SOME INFORMATION

6 ON AN AIKEN CASE, BUT I DON'T KNOW.

7 Q AND IN FACT, WHEN HE CAME TO YOU DID HE

8 HAVE A DEAL FOR TWELVE YEARS AS HE SAYS IN HERE?

9 A YEAH, I KNEW FROM TALKING TO MICHAEL

10 CULLER, THAT THERE WAS TWELVE YEARS ON THE TABLE

11 THAT WASN'T -- NEVER DID TAKE PLACE.

12 Q AND -- BUT HE ENDED UP WITH A

13 RECOMMENDATION OF SIX BY YOU?

14 A YEAH, THAT ARRANGEMENT WAS REACHED

15 SOMETIME LATE NOVEMBER OF 1995.

16 Q WHEN DID -- WHEN DID Y'ALL MOVE HIM OUT

17 OF SAFEKEEPING?

18 A I CAN GIVE YOU A TIME FRAME, I CAN'T --

19 Q YEAH, TIME FRAME.

20 A -- TELL YOU WHEN. SOMETIME AFTER THE

21 SEPTEMBER LETTER WHERE HE SAYS I'M GETTING SCARED

22 IN SAFEKEEPING?

23 Q RIGHT.

24 A IN NOVEMBER, WHEN WE ACTUALLY MET IN

25 ORANGEBURG. HE WAS IN THE ORANGEBURG JAIL AT THAT

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1 TIME.

2 Q AND THAT CAME -- HOW DID YOU KNOW THAT
3 HE WAS, OTHER THAN HIS LETTER, THAT HE WAS SCARED
4 AND HE HAD TO BE MOVED?

5 A PROBABLY JUST TALKING TO MICHAEL
6 CULLER. HE SAID, LOOK, THIS GUY'S GETTING NERVOUS
7 THERE.

8 MR. HARPOOTLIAN: BEG THE COURT'S
9 INDULGENCE?

10 THE COURT: YES, SIR.

11 MR. HARPOOTLIAN: JUST GIVE ME TWO
12 SECONDS HERE.

13 Q (BY MR. HARPOOTLIAN) THAT'S ALL I
14 HAVE, THANK YOU.

15 THE COURT: ANYTHING ON REDIRECT?

16 MR. COULTER: JUST BRIEFLY.

17 REDIRECT EXAMINATION:

18 BY MR. COULTER:

19 Q YOU HAD TWO DEATH PENALTY CASES USING
20 MR. WARD?

21 A YEAH.

22 Q AND YOU HAD TWO MESSIAH HEARINGS, I'M
23 ASSUMING?

24 A YEAH.

25 Q INVOLVING MR. WARD?

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1 A YEAH.

2 Q AND THE COURT RULED HOW ON EACH ONE OF
3 THOSE CASES?

4 MR. HARPOOTLIAN: YOUR HONOR, I OBJECT.

5 THE COURT: SUSTAINED.

6 MR. COULTER: ALL RIGHT, NO FURTHER
7 QUESTIONS.

8 THE COURT: ALL RIGHT, THANK YOU, SIR.

9 MR. COULTER: WE ASK THAT SOLICITOR
10 BAILEY BE EXCUSED?

11 THE COURT: WITHOUT OBJECTION.

12 MR. HARPOOTLIAN: YOUR HONOR, WE ONLY
13 ASK THAT HE BE AVAILABLE IN CASE WE DECIDE TO CALL
14 HIM FOR IMPEACHMENT PURPOSES, IF YOUR HONOR ALLOWS
15 HIS TESTIMONY IN. THAT WOULD BE TOMORROW.

16 THE COURT: WELL, YOU'VE GOT TO TALK TO
17 HIM.

18 (OFF THE RECORD)

19 THE COURT: OKAY. YES, SIR?

20 MR. COULTER: COULD WE HAVE A SIDE BAR?

21 (BENCH CONFERENCE IN THE PRESENCE OF
22 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
23 THE RECORD.)

24 THE COURT: STATE RESTS ON THE PRIMA
25 FACIE SHOWING. YOUR RIGHT TO CALL WITNESSES.

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1 MR. HARPOOTLIAN: MR. CULLER.

2 THE COURT: THEY BRING YOU ALL THE WAY
3 UP HERE FROM ORANGEBURG?

4 MR. CULLER: YES, SIR, JUDGE.

5 MR. JACKSON: JUDGE, I'VE GOT SOME
6 MATTERS THAT I'D LIKE TO TAKE UP WITH YOU BEFORE
7 MR. CULLER IS CALLED AS A WITNESS. I'M HERE TO
8 REPRESENT HIM. FOR THE RECORD, I'M JAY JACKSON, A
9 LAWYER FROM ORANGEBURG.

10 THE COURT: FROM ORANGEBURG, MR.
11 JACKSON. ALL RIGHT, DO YOU NEED TO DO IT ON THE
12 RECORD, IN-CAMERA, WITH THE PEOPLE OR...

13 MR. JACKSON: IT DOESN'T MATTER.

14 THE COURT: LET'S JUST DO IT ON THE
15 RECORD WHILE WE'RE HERE.

16 MR. JACKSON: ALL RIGHT.

17 THE COURT: HE'S UNDER SUBPOENA TO BE
18 HERE AND MR. JACKSON IS -- REPRESENTS MR. CULLER.

19 SO LET ME HEAR FROM YOU.

20 MR. JACKSON: YOUR HONOR, IF IT PLEASE?
21 AS YOU'VE ALREADY, MR. CULLER REPRESENTED JERRY
22 WARD THROUGHOUT THIS WHOLE PROCESS. WE HAVE SOME
23 SERIOUS CONCERNS ABOUT MR. CULLER BEING USED AS A
24 WITNESS BECAUSE OF THE VERY REAL POSSIBILITY OF --
25 WELL, WHAT EXISTS IS AN ATTORNEY-CLIENT PRIVILEGE.

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1 I WOULD CITE TO THE COURT RULE 407, WHICH IS A RULE
2 THAT SETS OUT ALL THE RULES OF PROFESSIONAL
3 CONDUCT. AND SPECIFICALLY, RULE 1.6, WHICH SAYS, A
4 LAWYER SHALL NOT REVEAL INFORMATION RELATING TO
5 REPRESENTATION OF A CLIENT, UNLESS THE CLIENT
6 CONSENTS AFTER CONSULTATION, EXCEPT FOR DISCLOSURES
7 THAT ARE SET FORTH IN THE RULE.

8 AND WE THINK THAT CALLING MR. CULLER AS
9 A WITNESS IS GOING TO REQUIRE HIM TO REVEAL
10 INFORMATION THAT PERTAINS TO HIS REPRESENTATION OF
11 MR. WARD. THE COMMENTS IN THE RULE BASICALLY
12 REQUIRE THAT IF A LAWYER IS CALLED AS A WITNESS TO
13 GIVE TESTIMONY CONCERNING A CLIENT, ABSENT WAIVER
14 BY THE CLIENT, PARAGRAPH A, WHICH IS THE ONE I JUST
15 READ, REQUIRES THE LAWYER TO INVOKE THE PRIVILEGE
16 WHEN IT'S APPLICABLE. AND WE THINK THAT ALL OF
17 THIS HAS TO DO WITH MR. CULLER'S REPRESENTATION OF
18 MR. WARD. AND WE WOULD ASK THE COURT TO QUASH THE
19 SUBPOENAS AND TO DISMISS MR. CULLER.

20 THE COURT: LET ME ASK YOU
21 PROCEDURALLY, MR. WARD HAS PLED GUILTY TO AN
22 OFFENSE AND HE HAS BEEN SENTENCED AND HE IS IN
23 CUSTODY OR OUT OF CUSTODY?

24 MR. CULLER: OUT OF CUSTODY.

25 MR. JACKSON: HE'S OUT ON THE STREET.

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1 PRIVILEGE WHEN HE COMMUNICATES WITH A THIRD PARTY.
2 IF YOUR HONOR IS GOING TO RULE THAT WE CAN'T
3 EXAMINE MR. CULLER ABOUT WHAT WAS GOING ON DURING
4 THIS PERIOD OF TIME, WE WOULD ASK YOU TO NOT ALLOW
5 THE TESTIMONY OF JEFFCOAT AND WARD, BECAUSE WE'VE
6 BEEN DENIED THE ABILITY TO EFFECTIVELY CROSS-
7 EXAMINE, WHICH WE'RE ALLOWED UNDER THE SIXTH
8 AMENDMENT.

9 I MEAN, IF MR. WARD INDEED IS GOING TO
10 TESTIFY AS A GOVERNMENT INFORMANT IN THIS CASE, WE
11 OUGHT TO AT LEAST BE ABLE TO FIND OUT WHEN HE
12 BECAME THE INFORMANT. WE CAN'T DO THAT WITHOUT
13 TALKING TO THE LAWYER THAT CUT THE DEAL WITH THE
14 SOLICITOR.

15 MR. JACKSON: I THINK THEY CAN TALK TO
16 THE SOLICITOR AND I THINK THEY CAN TALK TO MR.
17 WARD, YOUR HONOR. I DON'T THINK THEY HAVE TO TALK
18 TO MR. CULLER TO FIND THAT OUT.

19 THE COURT. MADAM CLERK, HOW ABOUT HAND
20 ME THAT -- MY COPY OF THAT.

21 MR. HARPOOTLIAN: YOUR HONOR, WHILE
22 YOU'RE DOING THAT, MAYBE WE COULD -- MAYBE -- ONE
23 OF THE QUESTIONS --

24 MR. JACKSON: ON PAGE 256.

25 MR. HARPOOTLIAN: -- IS WOULD MR. WARD

1 IT'S UNFAIR TO MR. CULLER TO PUT HIM ON THE STAND
2 AND LET HIM TRY AND PICK OUT WHICH QUESTIONS ARE
3 PRIVILEGED -- THE ANSWERS TO WHICH ARE PRIVILEGED
4 AND WHICH ONES ARE NOT. YOU'RE BASICALLY PUTTING
5 HIM ON AN ETHICAL HIGH WIRE AND I JUST THINK IT'S
6 NOT APPROPRIATE TO CALL HIM AS A WITNESS. THE
7 SOLICITOR -- THE TWO SOLICITORS HAVE BEEN CALLED AS
8 WITNESSES, AND THEY CAN TESTIFY ABOUT ANY
9 INFORMATION THAT MR. CULLER IMPARTED TO THEM, WHICH
10 THEY'VE DONE.

11 BUT AGAIN, I THINK THE RULE SAYS VERY
12 CLEARLY, HE SHALL NOT REVEAL THAT INFORMATION
13 RELATING TO HIS REPRESENTATION. AND SO, I DON'T
14 THINK MR. CULLER CAN DO THAT.

15 MR. HARPOOTLIAN: YOUR HONOR, IF I
16 MIGHT STATE FOR THE RECORD? SOLICITOR BAILEY'S
17 TESTIMONY WAS THAT HE NEVER TALKED TO THESE GUYS,
18 THAT ALL HIS COMMUNICATION WAS BETWEEN CULLER AND
19 MR. SIMS. NOW, MR. BECKHAM HAS A SIXTH AMENDMENT
20 RIGHT TO CONFRONT HIS WITNESSES AND BE ABLE TO
21 INTELLIGENTLY EXAMINE THEM. IF MR. CULLER HAS BEEN
22 DOING ALL THE COMMUNICATION WITH MR. BAILEY,
23 CERTAINLY, IT'S NOT PRIVILEGED. I DON'T BELIEVE --
24 AND WE'RE TALKING ABOUT A PRIVILEGE HERE,
25 ATTORNEY/CLIENT PRIVILEGE. HE WAIVES THAT