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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Honorable Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2017-002281

STEPHEN C. STANKO #6022.....PETITIONER,

v.

STATE OF SOUTH CAROLINA.....RESPONDENT.

APPENDIX
VOLUME 7 OF 14

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Q. All right. Did you make Mr. Stanko aware that the check was no good?
A. Yes sir.
Q. And what date did you make him aware that the check was no good?
A. Several times following that the check was no good at the bank.
Q. And what did he tell you about -- about that?
A. That he would bring me the cash money.
Q. All right, so sometime after April the 6th, 2005, he told you he would bring you Eleven Thousand, Five Hundred Dollars?
A. Yes sir.
Q. Okay. Now, back to March 8th, 2005, I want to ask you about this check.
A. This check here was supposed to be the Martha Stewart thing that was going to make me a ton of money, that was -- it never existed.
Q. All right. Tell us a little bit about the Martha Stewart thing.
A. He came one -- that day and said his father and his family was really making some good money on the Martha Stewart split. This is when she went to jail or something and did I want to get in on it, and I told him, I said, yeah, I'd get in on it, so this check here were for Thir- -- One Thousand,

Three Hundred and Seventy Four Dollars.

Q. Where did that amount come from?

A. From my personal account.

Q. Well, I mean, how did you know to make the check out for the Thirteen Hundred and ---

A. That's what he told me to make it out for, something about the price of the stocks.

Q. All right, and did he give you a receipt for that check?

A. The only thing that he gave me was that -- where is it at -- this guarantee.

Q. And that's on your letterhead?

A. That's on my letterhead. He wrote it out, and he signed it.

Q. All right. How about read that into the record for the jury, what he wrote there.

A. I, Stephen C. Stanko, have accepted the amount of One Thousand, Three Hundred and Seventy Four Dollars this eighth day of March, 2005. I will return no less than this same amount of Thirteen Seventy Four, and he's got it slashed, on March 15th, 2005. This money will be used as an investment for profit return. Mr. Stanko signed it. I signed it, and Teresa Rower signed it.

Q. How much were you supposed to make off of this Thirteen Hundred Dollars?

A. Three Thousand. It's on the -- that's what he slashed through, Three Thousand, Eight Hundred and Eight Dollars and fifty-seven cent.

Q. So basically triple your money?

A. Yes sir; yes sir.

Q. All right, and did there come an occasion that he came back to meet with you on this Martha Stewart stuff on March 15th?

A. Yes sir, he did.

Q. And tell me ---

A. And I wrote him another check for Nine Hundred and Twelve Dollars and fifty-seven cent.

Q. All right, and what was the purpose for the -- basically a Thousand more Dollars?

A. So he could get it in and get everything done at one time and bring me the money.

Q. And he was going to add that to the Thirteen Hundred Dollar amount?

A. That would have been tripled. That check would have been tripled also.

Q. Okay. Now, you don't strike me as an individual that parts with money very easily.

A. No sir, I do not.

Q. And at this time that you gave him these two checks, he had still not picked up the special order?

A. No sir. We had -- I had taken the special order and set it in the back.

Q. All right. Had you kept on Mr. Stanko any about coming and picking up that special order?

A. Yes sir, I did.

Q. And what was his answers at that time?

A. He had different excuses, he wasn't ready, he didn't have the place fixed, secured, to set the stone; he wasn't ready for delivery, and I told him, I said, well, there's no delivery until everything is paid for.

Q. Did he ever tell you of any of the problems that he was running into in building this house?

A. Yes sir. One problem that really struck me as odd, he said he had a -- had put a jacuzzi on the second floor and it had fell through the floors and that was one of the biggest delays he had.

Q. So because of that and other problems, he was not ready for the block?

A. No sir.

Q. Okay. Did you -- how much of the -- did you really triple your money on these two checks?

A. I hadn't seen a dime.

Q. All right. About the Eleven Thousand, Five Hundred, Fifty Five Dollars, you had called him and told him that the check was no good, and that was on the 6th?

A. Yes sir; several times after that.
Q. All right. Did he ever call you back with regards to making that check good?
A. I don't remember the date that he called me back. He call- -- it was about eleven o'clock at night. We had already closed. We was finished for the day, and I believe it was raining that evening, and he said he was on his way from Charleston, he had the cash money to pay me, and we would set up delivery of the stone.
Q. Okay, and he was going to bring cash to you that night ---
A. Yes sir.
Q. --- at your house?
A. Yes sir.
Q. And tell the jury where your house is in relation to your business?
A. My home is -- is beside my house. I mean, my -- my business is right beside it. It's all on one property, so it's just steps away from the front, from the office door to the rock yard.
Q. So he knew where you lived?
A. Yes sir.
Q. And he had called you about eleven, and I'm going to bring you the cash money?
A. Yes sir.

Q. What was -- I know you don't remember the date, but what was -- what did you find out the next day?

A. That this lady had been killed.

Q. All right, and at some point, he was coming to your house?

A. Yes sir.

Q. Did he come to your house that night?

A. No sir. I told him do not come to the house, it was -- I was closed, we was ready for bed, and there's no use in coming. Don't even come around that late at night.

MR. RICHARDSON: I have no further questions. If you would answer any questions that the Defense might have for you.

THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. DIGGS:

Q. Mr. McAlister, how are you this morning?

A. Just fine, sir.

Q. When Mr. Stanko came in, describe for us his demeanor when he came in to place this order. Did he strike you as being unusual in any way at that time?

A. No sir.

Q. All right. You don't remember anything about him that stood out or that caught your attention that would separate him from other typical customers that would come into your business?

A. He was always in a hurry, ---
Q. Okay.
A. --- just fidgety, in a hurry.
Q. Now, what kind of information, contact information, did you get from him concerning this order?
A. Now, he -- he just told me he was building a new house. He never give me his location. He never told me. He just give me some dimensions. He wanted this, this, this, this. He give me some dimensions of stuff and I figured up how much he would have to have for that particular place, and that was -- that was it.
Q. Well, did he give you a telephone number so you could contact him?
A. Yes sir. I had his cell phone.
Q. And do you recall if you ever used that?
A. Several times.
Q. Okay, so it was a real number? You could contact him pretty much any time you needed to?
A. No sir. A lot of times he was not available on that phone.
Q. All right, but then you would call up or follow up and then he would answer?
A. Yes sir.
Q. Now, the day of the order is March 14th of '04, correct?

A. I -- I guess, sir. It's been a while since I've seen all this.

Q. All right, but your testimony is that would be accurate if it says March 14th?

A. If it says it on that piece of paper, ---

Q. That would be right?

A. --- it's it.

Q. And then on April the 5th, he writes you a check for the Eleven Thousand, Five Hundred and Fifty Five Dollars, correct?

A. Yes; yes sir.

Q. Is this a copy of the check?

A. Right; yes sir.

Q. Now, why the delay?

A. Excuse me?

Q. Why was there such a delay?

A. I never could get him to come by and pay it, I mean, to secure the order.

Q. Did you actually send off for the materials and spend money out of the business account for the acquisition of the special order?

A. The special order was not paid for until he paid for it. I mean, I don't order it unless it's paid for.

Q. Got'cha, so would it be fair to say you weren't literally out of pocket for Eleven Thousand, Five Hundred

Dollars?
A. Not that part. The other part that he ordered was on the yard and we set it at the back of the property with his name on it.
Q. All right, and that's the amount you said that was ---
A. Five Thousand something.
Q. Five Thousand Dollars worth of material?
A. Yes sir.
Q. But at least you didn't deliver that and lose that?
A. Did not deliver any of it.
Q. To this day, do you have any idea about where the house was or ---
A. No sir.
Q. --- what Mr. Stanko had in mind about ---
A. No sir. I have -- have not a clue.
Q. Let me ask you a little bit about his representations to you of being -- what did he say he was?
A. (No response.)
Q. What -- what kind of business did he tell you he did?
A. He said he was an associate -- was something lawyer. He give a card that had the little justice thing on it, so he presented hisself as something to do with the law system.
Q. He told you, as far as you can remember, that he was an attorney?
A. He mentioned that he was working for -- he was an

associate of an attorney.

Q. Okay, and he actually gave you a real business card or it looked -- looked real?

A. It looked real.

Q. And finally he came by in April and gave you a check. Tell me again, if you would, sir, or tell me how it came to be that he presented himself at the business and actually gave you a check.

A. You've done asked me that one time. He gave -- he just came in and said I'm going to write you this check for the materials that I've ordered.

Q. Tell me, not to cut you off, but how much did you pressure him, if at all, or how much of an effort did you get -- or did you make to get him to come and give you the check? Do you see what I'm asking?

A. I told him that if he didn't come in, that the order that he had placed would be put back in stock and that -- you know, that was the end of it, and I had never ordered -- do not order special orders until it's paid for, and he said he would be in to pay for it.

Q. All right, and so he came in and gave you an Eleven Thousand Dollar plus check?

A. Yes sir.

Q. Drawn on Bank of America?

A. Yes sir.

Q. Which is there at the community branch?
A. Yes sir.
Q. Did he seem nervous or upset at the time that you talked to him at eleven o'clock that night?
A. No sir, I don't remember if he did or not. He was just in a hurry. He said he was driving from Charleston to my house.
Q. And this was about eleven?
A. Eleven, eleven-thirty, somewhere in that neighborhood.
Q. And he told you in a voice that you thought sounded like he was in a hurry?
A. He's always talked like that. I mean, he was just -- he was always in a hurry and a phone was ringing, so ...
Q. But convincing?
A. Oh, very convincing.
Q. All right, and you gave him the investment money back in -- the 8th day of March? That's what it says on the receipt. Do you agree with me on that?
A. Yes sir.
Q. So we had gone -- you had gone from March the 8th until April the 5th, around and about, about coming in and making the payment for the special order, and he had postponed it that long?
A. Yes sir. It was always something happening at the house where it couldn't be delivered. He was being -- getting

ready for it.

Q. Okay, and you had actually given him money a couple of times, March the 8th and then again on March the -- bear with me -- March the 15th, about a week later?

A. Yes sir, what's on that.

Q. Describe for me, if you would, how your -- what your feelings were toward Mr. Stanko. Were you pretty adamant about getting some answers, both on the order and your investment?

A. I was real aggravated.

Q. Aggravated. Did you let him know about it?

A. Yes.

Q. And when you would convey that to him, do you remember what -- what tone or language you might have used, considering we're here in the ---

A. Considering where we're at right now.

Q. But you ---

A. I'm the type person that tells you like I think it is.

Q. Pretty direct?

A. Pretty direct, real direct.

Q. And you were upset at him at that time?

A. I wanted my money.

Q. And that's what you told him? You told him that?

A. Yes. I wanted my money.

MR. DIGGS: Beg the Court's indulgence.

THE COURT: Yes sir.

MR. DIGGS: Okay, Mr. McAlister, I appreciate your time. That's all we have at this point.

THE COURT: Any redirect?

MR. RICHARDSON: No sir.

THE COURT: Do you wish the witness to be excused?

MR. RICHARDSON: Yes sir, please.

THE COURT: Any objection?

MR. DIGGS: No sir.

THE COURT: All right, sir, you are released from your subpoena and may go back to your regular duties, sir.

Your next witness, please.

MR. HUMPHRIES: John Gaumer.

THE COURT: Mr. Gaumer, come around front where the Clerk is, please sir.

JOHN ROBERT GAUMER, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HUMPHRIES:

Q. Good morning, at least for the next six minutes. How are you, Mr. Gaumer?

A. Thank you. I'm doing well.

Q. Mr. Gaumer, please tell the jury what your career was in.

A. My career has been in librarianship.

Q. And what is the current status of your employment now,

Mr. Gaumer?

A. I am retired, a disability retirement, due to Parkinson's Disease, and I retired March 31st of 2008.

Q. Mr. Gaumer, prior to your retirement, what position did you hold in that career?

A. That lasted from January 1995 through March 31st of 2008. I was the Library Director of the Horry County Memorial Library.

Q. Is that the Horry County Library System?

A. Yes.

Q. Now, do you know Laura Ling?

A. Yes. She was the reference librarian at our Socastee Library.

Q. And, in fact, did you have some responsibilities in her hiring and promotion?

A. Yes; yes, I did.

Q. Did you -- beyond any contact in terms of hiring and promotion, did you work or supervise to any extent Laura Ling while she worked for the library system?

A. I did not supervise Laura Ling in her position. That was left up to the responsibility of the library branch head.

Q. But did you know her?

A. Yes.

Q. Let me ask you, had you ever had the occasion to meet Defendant Stanko in connection with Laura Ling?

A. Yes. I met Mr. Stanko through the non-fiction book discussion group that we began at Socastee Library.

Q. Let me show you what's been marked as State's 79 for identification. Can you identify that picture in that photograph?

A. That is the Socastee Library.

Q. Is this where Laura Ling worked?

A. Yes.

MR. HUMPHRIES: We would introduce it.

MR. DIGGS: Your Honor, we don't have any objection.

THE COURT: All right. It's in evidence without objection.

(PHOTO (SOCASTEE LIBRARY) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 79.)

Q. It appears to be a relatively new facility at least at the time of the photograph?

A. Yes.

Q. Now, you said that you had some contact with Defendant Stanko with this non-fiction book discussion group?

A. Yes.

Q. That was held at the Socastee Library?

A. Yes.

Q. Did you know Defendant Stanko's relationship with Laura Ling at that time?

A. Yes.

Q. And what was it?
A. He was her boyfriend.
Q. In your contact with Defendant Stanko, how did he present himself to you?
A. Very professionally, well-dressed, well groomed, intelligent.
Q. And in terms of his relationship with Laura, did you see them interact?
A. Yes.
Q. And how would you characterize their interactions?
A. Pretty much it was a worker, Laura Ling, helping the library reference needs of a patron, that being Stephen Stanko.
Q. Let me ask you, I want to take you back to the early morning hours of April 9th, 2005. Do you recall that morning?
A. Yes.
Q. Tell the jury why.
A. That was when we read the electronic version of The Sun News and discovered that there was a person within who -- within her household somebody had been murdered and somebody else had been injured quite serious -- seriously, and we felt that the information provided within the article caused us to feel that there was a good chance that at least a victim was in Laura Ling's household.
Q. As a result of learning that information, as the

director, what did you do?

A. I called the Georgetown County Police Department -- no, Sheriff's Department. I called the Horry County Police Department and the Horry County Sheriff's Department. I contacted the newspaper reporter and that's about the extent of who we know to call in case of needing information about some transaction with the police, and we weren't surprised that we were not given the information, but we felt that we needed to try to get that information as quickly as possible.

Q. Did you take any other steps?

A. Yes. We went down to -- I waited until the Deputy Director showed up. She and I went down to the Socastee Library. We wanted to inform the staff there of what our assumptions were in regards to the victims involved, and we wanted to inform the staff, which we did in a short, brief meeting with all staff. We wanted to make available to them any grief counseling that would assist them, and we told those people who needed to grieve over the incident that they were welcome to go home and do this if they would do it better by going home or by staying, whichever worked better for them.

Q. Let me ask you, did you remain at the Socastee Branch for a period of time?

A. Yes. I remained there the whole day doing circulation, checking in and checking out items, filling holds, answering the telephone, preparing book holds for being sent to the

person who had placed a hold on it.

Q. You mentioned that you were answering the phones. Mr. Gaumer, did you have an occasion that morning, that is April 9th, to receive a phone call from Defendant Stephen Stanko?

A. Yes. It was about nine thirty-five, and the person identified themselves as being Stephen Stanko.

Q. Let me ask you, did you recognize the voice from your prior contact with him?

A. Yes.

Q. And what did Mr. Stanko tell you?

A. He said that Laura Ling had contracted food poisoning the night before and would not be able to come in to work today.

Q. What did you do?

A. Well, I was stunned initially and it seemed like I needed to have him stay on the line as much as possible so I could get the attention of one of the police people who were around in the building, but no one was present and available to me at that time, and so I asked him a question of how could we get ahold of him, did he have a number that we could get ahold of him at, and he seemed to -- his voice stressed.

His response to my question was why do you want to know, and the reason that I gave him was that if Laura continued to be ill, that we would probably want to get in touch with her and we might need to do that through him, and if he could give

me a telephone number where he could be reached at, I would appreciate it, and he said well, I have Laura's phone and you can reach me through that phone number, and that was pretty much the gist of the conversation. I closed it by saying well, tell Laura, I wish or hope that she gets well.

Q. Did you relay that information immediately to law enforcement?

A. It -- it took a few minutes to get the attention of the Georgetown Police Department. It wasn't right away, but it was within minutes of the incident occurring, and I talked to Tracy Lewis of the Georgetown Sheriff's Department, and she asked me to be available to give a statement later on in the day.

Q. Mr. Gaumer, let me ask you, did you ultimately become aware that by the time Defendant Stanko made that call to you, Laura Ling had long since died?

A. I don't believe we knew it for sure, but we were fairly certain that she was the victim who had died in the situation.

Q. And ultimately did you learn that that was, in fact, the case?

A. Yes.

Q. And this was nine-thirty in the morning of the 9th?

A. It was nine -- about closer to nine thirty-five. That's at least what the clock read on the wall.

MR. HUMPHRIES: Thank you, Mr. Gaumer. Answer any

questions the Defense may have of you.

THE COURT: All right, cross-examination.

MS. WILLIAMS: Thank you, Your Honor.

THE COURT: Yes Ma'am.

CROSS-EXAMINATION BY MS. WILLIAMS:

Q. Good afternoon, Mr. Gaumer. Very briefly. So you worked at the Horry County -- you were the supervisor and director over the whole library system, that's right?

A. Right.

Q. Okay, and you said you actually had the opportunity to meet Mr. Stanko on more than one occasion, is that right?

A. Yes.

Q. And you had the opportunity to actually see him and Ms. Ling together on more than one occasion, is that right?

A. Yes.

Q. And did you know about the -- you knew about the actual intimate rela- -- nature of their relationship, is that correct?

A. Yes.

Q. You knew -- you actually knew that they were living together?

A. Yes.

Q. Okay, and can you tell me -- I think you said it earlier, but I don't know that I jotted it down. How -- how would you describe their interaction?

A. What I observed was a library -- reference librarian responding to question requests of a library patron, that being Stephen Stanko.
Q. Okay, so you never saw them -- I mean, I'm just asking, you never saw them outside of work together being boyfriend and girlfriend for lack of a better term?
A. No.
Q. Okay, and on that morning when you got that phone call, you had the forethought about you to try and get a number to contact Mr. Stanko, right?
A. Yes.
Q. And he gave you and plainly told you he had Ms. Ling's cell phone, is that right?
A. Yes.
Q. Did he actually repeat the number to you of what that phone number was, or did he just say I've got, you know, her cell phone, do you recall?
A. The assumption on his part was that I had the phone number in our records and -- but he did not provide me with, nor did I ask him to provide that number.
Q. But you can safely sit here today and say you pretty much thought he assumed you knew what the number was? That way, you could call him back if you needed to, right?
A. Yes.
Q. Okay.

MS. WILLIAMS: That's all the questions that I have, Mr. Gaumer. Thank you so much.

A. Thank you.

THE COURT: Redirect.

MR. HUMPHRIES: No sir, Your Honor. I ask this witness be excused.

THE COURT: Any objection?

MS. WILLIAMS: No sir, we don't have any objection.

THE COURT: All right, sir, you are released from your subpoena and may go back to your regular duties, sir.

A. Thank you, Your Honor.

THE COURT: Thank you. Your next witness, please.

MR. HEMBREE: The State calls Robbie Owens to the witness stand.

THE COURT: Please come up to the Clerk, please sir, right up front.

ROBERT GERALD OWENS, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HEMBREE:

Q. Good afternoon, Mr. Owens.

A. Good afternoon.

Q. Who do you work for?

A. I am the communications manager for Georgetown County 911.

Q. Georgetown County 911. How long have you been working

for 911?
A. Sixteen and a half years.
Q. And you are now the Communications Director? You're over the entire department, is that -- that your role?
A. I am the manager.
Q. The manager, okay, and you were working for them back on August -- excuse me, April the 8th of 2005?
A. That's correct.
Q. In what capacity were you working for 911 back on April 8th?
A. I was the shift supervisor.
Q. All right, and tell us how that works down there. You're the shift supervisor. What are your responsibilities when you're shift supervisor?
A. Just to -- I have my own radio to work, three other consoles. My job is to make sure to help out the other people if they have any questions and help them out and just sort of be -- make sure everything is running smoothly.
Q. And, Mr. Owens, in the early morning hours after midnight, in the early morning hours of April the 8th of 2005, did you -- did your department receive a call in connection with the Stephen Stanko case?
A. Yes, we did.
Q. Tell the jury about that call.
A. We received a call approximately three o'clock from the

daughter of Ms. Ling, and she had been bound apparently. She was barely able to talk to us. Somehow she had made it to the phone. She had called 911. She proceeded to tell us what had happened with her mother, and then she gave us some information.

Obviously we asked the victim who had perpetrated this, and when she gave us the name, we kept her on the line and the next thing I started doing and one of my other employees started doing was to start running a county scan on Mr. Stanko and get everything we could about him, how tall he was how much he weighed, what kind of vehicle he might be driving, and also notify neighboring counties, such as Horry, Charleston. In fact, at the time it may have been a statewide BOLO.

Q. Is that standard procedure in a circumstance like this?

A. Yeah, I would say so.

Q. As part of your responsibilities, did you record that conversation?

A. Yes, I did.

Q. Let me show you State's Exhibit 106 and ask if you can identify that for us?

A. Yes sir. That's the 911 tape from that night, early morning hours.

MR. DIGGS: Your Honor, we would renew the objection that I made earlier, but other than that, we don't have any additional objections.

THE COURT: All right. I'm going to allow the tape in evidence over the objection of the Defense. What number is it?

MR. HEMBREE: 106, Your Honor.

THE COURT: 106.

(911 TAPE ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 106.)

MR. HEMBREE: Your Honor, with the Court's permission, we ask to publish this tape to the jury.

THE COURT: Since it is in evidence, any objection to publication?

MR. DIGGS: The same objection, Your Honor.

THE COURT: All right, sir. I'm going to allow the publication over the objection of the Defense.

You may do so.

MR. HEMBREE: Thank you.

(STATE'S EXHIBIT NUMBER 106, 911 TAPE, IS PUBLISHED TO THE JURY IN OPEN COURT.)

MR. HEMBREE: Please answer any questions Mr. Stanko has.

THE COURT: Cross-examination.

MR. DIGGS: Your Honor, we don't have any questions of this witness.

THE COURT: Do you wish the witness to be excused?

MR. HEMBREE: Yes, Your Honor, we do.

THE COURT: Any objection?

MR. DIGGS: No sir.

THE COURT: All right, sir, you are released from your subpoena, excused to go back to your regular duties, sir.

All right, ladies and gentlemen of the jury, let's take a break. Put your pads and your pens in your seats and go back to your jury room, please.

Everyone else remain seated while the jury retires.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: Anything further from the State at this time?

MR. HEMBREE: No, Your Honor.

THE COURT: Defense?

MR. DIGGS: No sir.

THE COURT: All right. We'll take a break. Thank you very much.

(THE FOLLOWING TAKES PLACE AFTER A BREAK AND OUTSIDE THE PRESENCE OF THE JURY.)

MR. HUMPHRIES: Judge, we've got -- by our estimation, we should be finished no later than four o'clock with our testimony.

THE COURT: Okay. All right.

Is there anybody on the Defense that y'all are going to be able to go forward with, Mr. Diggs?

MR. DIGGS: We might. Now, if they finish that early, we've got Dr. Thrasher who is just down there at Waccamaw Mental Health. We can probably get him up here by that time, and, you know, he might be long enough to finish out the day.

THE COURT: Okay. Why don't you just see if you can't arrange that if you don't mind.

All right, Solicitor, are you ready to proceed?

MR. HEMBREE: Yes, Your Honor.

THE COURT: All right. Mr. Diggs -- he's calling Dr. Thrasher. Go ahead.

MR. DIGGS: Your Honor, we're going to check on that and try to make it happen.

THE COURT: All right, very good. Thank you.

All right, ask the jury to come in, please.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, your next witness, please.

MR. HUMPHRIES: The State calls Chuck Petrella.

THE COURT: Come up front to where the Clerk is, please sir.

CHARLES PETRELLA, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HUMPHRIES:

Q. Good afternoon.

A. Good afternoon, sir.
Q. You go by Chuck?
A. Yes sir.
Q. Chuck, tell the jury the benefit of your experience.
A. My career experience, sir?
Q. Career, yes sir.
A. Thirteen years on the job, ten of those as a paramedic, served time in Iraq just under a year. For the last three years, I've been working as a flight paramedic on a medical helicopter based here out of Conway. My full-time duties is a Lieutenant in Murrells Inlet/Garden City.
Q. Let me ask you, I want to take you back to April 8th of 2005, did you have an occasion to respond to a residence in connection with a call about injuries?
A. Yes sir, I did.
Q. Chuck, tell the jury how that call came in and how you responded.
A. It was early hours. I actually was functioning in the capacity as the senior paramedic on shift that day. If I'm not mistaken, sir, the call come in as an assault through our 911 dispatch center, and that's how it was given to us at that time, and as we left en route to the call, we were updated by our dispatch center that we needed to stage until the Sheriff's Office arrived on scene because the scene was unsafe, deemed unsafe at that point based on the information

they had until law enforcement cleared the residence so we could go in.

Q. And is that normal protocol?

A. Absolutely, sir.

Q. Upon staging, did you get an opportunity then to respond to the house after law enforcement secured the residence?

A. Yes sir. We staged about a block and a half, maybe two blocks from the residence. Murrells Inlet Road is a pretty dark road. There's not a lot of street lights, so trying to find house numbers was a little tricky. Yes, after the Sheriff's Office had made it, their radio call back to dispatch, dispatch then notified us that the Sheriff's Office deemed that the residence was safe to enter and that we could proceed on to the house.

Q. Chuck, tell the jury the scene as you responded.

A. As I come through the front yard, I met -- was met by Deputy Milligan, Tracy, who is a good friend of mine who I've known for a long time, a very fine officer as well. She met me as I was crossing through the yard bringing the medical bags and said Chuck, we need to step it up. This doesn't look good. I said okay.

As I proceeded into the residence and had gone to the room where I could hear screaming, I could hear a young lady asking for help. I remember catching out of the corner of my

eye, just kind of scanning as I walked through the house, what appeared to be a young lady's bedroom with teenage type material on the wall.

Q. Let me show you what's been marked as State's Exhibit 80 for identification. Tell me if you can identify that.

A. Yes sir. That is the room where I found Christina. The top here would be where her head was.

MR. HUMPHRIES: Move to introduce.

MR. DIGGS: Your Honor, we object based on the prior objection that we made.

THE COURT: What number is that?

MR. HUMPHRIES: Number 80, Your Honor.

THE COURT: State's 80 is in evidence without -- I'm sorry -- over the objection of the Defense, State's 80.

(PHOTO (LING CRIME SCENE) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 80.)

Q. Chuck, describe, if you will, the bedroom that you saw Christina in.

A. It was a small room. It was in heavy disarray. Things were moved around. Things were knocked over, a lot of clutter, and the room, it was pretty cramped quarters, and we did find -- I found her obviously in a one o'clock/seven o'clock, her head being at one o'clock and her feet being at seven o'clock, almost in a diagonal on the bed.

Q. Referring to State's 80 in evidence, I'm going to show

this to the jury in a moment, but this is the headboard?

A. Yes sir.

Q. And this is the foot of the bed. In what position would you have found her head?

A. Her head would have been up here in the -- in the top corner. I'm sorry, sir.

Q. Okay, and her feet?

A. Basically this way, almost diagonal on the bed.

Q. Tell me in what condition did you find her.

A. She was bound. If I remember correctly, sir, that she had neckties or still bindings on her hands. I noticed that she appeared to have no undergarments on whatsoever, and I found a big, bulky towel that had been wrapped around her neck and knotted. There was a lot of blood, a lot of bleeding from her head area, and I remember her having the phone right there next to where her head was, so I immediately come around, would have been Christina's left side, to come up on the left side and kneeled onto the bed, inadvertently kneeling in blood, but it was not an issue at that point.

I remember her screaming and that she was extremely upset, and I wasn't quite sure at that point what we had. I just knew there was a lot of blood and I could not pin down where it was coming from, and I remember I had to continuously repeat myself because she had a lot of blood in her ear, so it kind of sounded like she had like swimmer's ear or water in

her ear, so what I -- I'd actually have to kind of yell at her for her to hear me.

Q. Tell the jury what steps you took to initially treat her and then what you did after that.

A. We did basically a rapid assessment. We want to assess the patient and try to find the bleeding and make sure the airway is intact. We did cut the bindings from her hands. I believe Captain Gosnell actually had cut those, and then I cut the -- what appeared to be a towel from her neck, cutting away from the knot because I knew this was not normal and this was probably going to be taken into evidence at some point for some reason.

Once we removed it, we found a large laceration across the front of her throat with profuse bleeding. We immediately tried to put it back on to control that bleeding again, and there was a lot of blood coming from her ear that we couldn't pinpoint where it was. Her hair was kind of matted and congealed because of -- because of the blood, so we immediately started applying loose, bulky dressings to the airway.

We wanted to make sure that that airway was open, because without the airway, you know, it's imperative that we secure that because she's essentially choking on her own blood by the way -- the position that she was laying. We back-boarded her because we -- it looked like she had some head trauma as well.

We immobilized her, and we then were packing her for transport to the hospital.

Q. Did you, in fact, transport her to the hospital?

A. Yes.

Q. And do you recall what hospital you transported her to?

A. Transported her to Waccamaw Community Hospital in Murrells Inlet.

Q. And is it your protocol on the way to the hospital to advise waiting hospital staff what they may be faced with?

A. Absolutely, sir. We try to do the best we can as E.M.S. providers so we have that continued care, so there's no lag in patient care, so to speak. I immediately, once we started realizing more and more things, and then having stepped on Ms. Ling leaving the house to load her in the ambulance, we usually try if it's something like this not to call by radio, because everybody in the world has a scanner, so I made a personal phone call from my cell phone to the Emergency Department, and I've got a very good working rapport with the doctors in that area, and I just said, hey, it's Chuck. I need a doc, so they know when I do that I've got something pretty bad.

I told the doctor what I had, and through the assessment of Christina, I -- just a standard battery of tests or questions that we ask, I had asked, you know, if there was any chance that she could be pregnant, and she said that she

didn't know, he raped me, is what she had told me, so with that information in hand, with her injuries, I let Dr. Burns know that he may need to get the -- they call it a SANE nurse, sex assault nurse expert, in to the hospital, because they're on call, so I didn't want any delay in care there, and Dr. Burns was -- he and I have a good working rapport. Everything appeared to be in place by the time we arrived to about a three minute, four minute transport.

Q. Now, Chuck, once you -- once you dropped Christina off at the hospital, did that -- did that really end your involvement with Christina?

A. No sir.

Q. Tell the jury what transpired after that.

A. I -- I was -- it was a difficult call. She is the same age as my daughter, and I remember kind of feeling helpless, so I took it upon myself when I got off duty at seven o'clock that morning, I had to wait around because the mall didn't open at that point. I called my wife and told her, I said, honey, I might be a little bit late today. I've got -- got some things that I've got to take care of, and she says, are you okay? I said, yeah, yeah, I'll be fine. I said, I'll be home, you know, shortly.

I took it upon myself to go to K-Mart at Inlet Square Mall, and I bought her a teddy bear, a balloon, and a card, and I knew that she was basically under lock-down at the

hospital, and I took it back to Miss Kelly, who is here today, too, and I was pretty emotional about it. I asked if they could make sure that she gets this. I knew that she had just lost her mother, and I didn't know the whereabouts of her father, but the father in me wanted to make sure that she knew that somebody cared about her.

Q. Is this something you do on every call?

A. No sir.

Q. Did you have an occasion to see Christina sometime after?

A. I did, sir. I did.

Q. Did -- and how was that experience for you?

A. It was great. She is a very strong girl, and I am proud of her.

MR. HUMPHRIES: Thank you, sir.

A. Yes sir.

THE COURT: Cross-examination.

MR. DIGGS: Your Honor, we don't have any questions for this witness.

THE COURT: Do you wish the witness to be excused?

MR. HUMPHRIES: Please, Your Honor.

THE COURT: Any objection?

MR. DIGGS: No sir, no objection.

THE COURT: All right, sir, you are released from your subpoena, may go back to your regular duties, sir. Thank you.

A. Thank you, sir.

MR. DIGGS: And, Your Honor, we have a matter of law. We could do it at this point or subsequently.

THE COURT: All right, sir. No, if you have a matter you need to take up, we'll do it now.

Ladies and gentlemen, please go to your jury room, please.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Mr. Diggs.

MR. DIGGS: Your Honor, what we would ask, it's a variation on the motion that we made earlier in the day. The sentencing proceeding itself is a focus for the fact finder on the circumstances of the crime and the characteristics of the Defendant. Those are Eighth and Fourteenth Amendment requirements, I would submit, that are applicable to this particular proceeding, but what we have here and what I anticipate is that the State is going to go into significant details about the Laura Ling and the [redacted] incident, and it may, we would submit, result and be the primary driving force for a second murder -- excuse me, a second sentence of death as against Mr. Stanko.

What we would submit is that given the fact that this is an Eighth Amendment proceeding where we should be looking at reliability and we should be looking at -- focused on the

circumstances of this particular offense and the characteristics of the Defendant, I would submit as they relate to this offense and to his past history, there's no doubt about that, but the State would certainly solve the -- meet the obligation that they need to meet in order to show the jury what the circumstance or the characteristics of this Defendant are with respect to past conduct.

I would submit that it's sufficient to simply let them know that there was a trial on this case for murder and, you know, the other accompanying crimes or -- and offenses that were associated with it, that there was a trial there, there were convictions there, and there were sentences that were imposed, and to go further into the details of the particular offense again, as they were delved into certainly thoroughly in the initial trial in Georgetown with respect to the Ling offenses, would be unnecessary in order to fully explain to this jury what the circum- -- what the characteristics of the Defendant are.

As far as I know, we're kind of on uncharted territory. I understand ordinarily what the issues are in a capital case, but this is unique as far as my experience goes in that he has a prior death sentence that's been imposed that is related to this incident, to the Turner incident. It all occurred within a few hours span of time, and so it -- I would respectfully submit it's not necessary with respect to this death sentence

that the State seeks to obtain in this proceeding, it's not necessary to go through the same facts that form the basis for the initial death sentence that was imposed against Mr. Stanko, and so we are asking the Court to limit -- and I anticipate -- we've looked at some exhibits.

I anticipate that the State will go into the Ling matter, which is fine in terms of letting the jury know what the historical, legal record is in that regard, but I would certainly ask the Court to limit the use of evidence that is graphic and that is just -- it's impossible not to inflame the passions of the jury. We don't need to have that happen in this particular instance, and I'm asking the Court to limit the addition- -- any additional evidence concerning or relating to the Ling incident other than the historical fact that it was -- you know, there was a trial there. There was a conviction, and there was a sentence that was imposed, and I believe that covers it.

We had a lot of detail from this past witness, Your Honor, that goes into the precise kind of thing I'm talking about. It's going to be inflammatory, and again, the jury might well sentence Mr. Stanko to death based simply on the circumstances relating to the Ling incident, and for that reason, we're asking Your Honor to limit the specific details of that incident.

THE COURT: All right. Solicitor.

MR. HUMPHRIES: Please the Court. First of all, let me -- let me place on the record that the State does not intend to elicit that there was a previous trial, that this Defendant was convicted of murder, rape, kidnapping, and armed robbery, and that he received a death sentence, first of all, and again, as we've told the Court, that's a matter of strategy regarding appellate review, but -- but more to the point, Your Honor, here -- here's the thing.

The State did not create this Defendant's conduct and character. We were -- we were given it by virtue of the Defendant. That is, that is, his character and his conduct, are the very things that this jury is to consider, along with the evidence in mitigation, in reaching a reliable sentence.

Now, the fact that it is terrible, and it is, shouldn't be in any way limiting to the State in terms of presenting that evidence. I mean, to argue that because things are so terrible that the Defendant has done, that the jury shouldn't hear it, when the precise question they've got to answer is as a result of his character and conduct, what's the appropriate sentence, but that argument fails at its very inception.

Now, in complete fairness, we have scaled down significantly the amount of evidence and the type of evidence that we presented in the Ling case in the guilt and penalty phase in terms of photographic evidence and testimonial evidence, and I'll tell the Court just for preview so you can

understand what we intend to elicit.

The next witness will be the crime scene investigator. He will basically walk through the crime scene. There are photographs, and let me provide them to the Court just -- we might as well deal with this while the jury is out -- out of the courtroom.

MR. DIGGS: And, Your Honor, he has already ---

THE COURT: Shown those to you?

MR. DIGGS: Yes sir.

THE COURT: All right, very good.

MR. HUMPHRIES: State's 147 is a crime scene diagram.

THE COURT: All right, sir.

MR. HUMPHRIES: Which is innocuous, obviously, and then State's 81, and I'm not sure of the last number, but I believe they are consecutive, but in any event, Your Honor, it is basically a walk through the crime scene.

THE COURT: That's 81 through 95. All right.

MR. HUMPHRIES: Yes sir. It is a walk through the crime scene just like any other crime scene testimony. There are pictures of Laura Ling as she was left by the Defendant. The case law is absolutely replete as to the admissibility of victims left by defendants in the state in which they are left because it goes specifically to his character and his conduct.

THE COURT: Could you hold on one second ---

MR. HUMPHRIES: Yes sir, I sure would.

THE COURT: --- and let me -- let me look through these. (Pause.) 92, 93, 94, 95 are pictures of a hand or hands?

MR. HUMPHRIES: Yes sir. Those are the hands of -- I'm sorry. Those are the hands of the Defendant after arrest showing them -- showing injuries, and I should have noted that. That's by the same witnesses is why you got them at the same time.

THE COURT: All right, sir.

MR. HUMPHRIES: And when you get ---

THE COURT: All right, I've gone through them.

MR. HUMPHRIES: All right, very good, and, Your Honor, let me also hand up to you at this time State's 96, and I believe they've seen these as well, 96 -- yeah, yeah. Let me make sure I've got all the numbers. We've got 96 through 105 consecutively, and then we go to -- I tell you what, let me just -- to make sure the record is -- 96, 97, 98, 99, 100, 101, 102, 103, 104, 105. These are photographs of the injuries sustained by [redacted] that the doctor will testify to.

State's 110 through 113 consist of four photographs from the Laura Ling autopsy.

THE COURT: All right. Looking at 110 and 90, so I'm going to give you back 110, ---

MR. HUMPHRIES: Yes sir, Your Honor.

THE COURT: --- and then 90.

MR. HUMPHRIES: Yes sir.

THE COURT: Explain to me the necessity and purpose of having two.

MR. HUMPHRIES: Well, ---

THE COURT: But I understand one is at the scene and the other is the autopsy, but could not 90, since it goes directly to the circumstances as far as the condition -- it's at the time that the victim was left, could not -- for whatever purpose you're going to use -- what was it, 110?

MR. HUMPHRIES: Yes sir, 110 and 90, and, Your Honor, and I will tell you that we've attempted not to be duplicative in this process. 110, actually there's a laceration that the doctor will testify to on 110 that is not otherwise pictured, and 90, because it has a ligature around it, something around her neck, and that 110 is -- is not visible, so -- and the pathologist will testify that it would assist her to ---

THE COURT: All right, but is it -- was that -- what we're talking about then that's in 112?

MR. HUMPHRIES: Yes sir, it is.

THE COURT: Okay, so if necessary and if ---

MR. HUMPHRIES: I tell you what we can do, Your Honor. We will -- we can withdraw 110 if 90 is in.

THE COURT: Well, if -- if -- I -- what I'm going to have you do is at this point in time, I'm going to have you withdraw 110 unless it then becomes necessary in you exploring

it with the witness that it's absolutely necessary that the other one won't suffice, then 90 and -- what's the other one?

MR. HUMPHRIES: I'm sorry. It's 112.

THE COURT: 112. That 90 and 112 won't suffice, ---

MR. HUMPHRIES: Very good.

THE COURT: --- then -- then I'll -- and the witness needs 110, then I may very well hear you, but ---

MR. HUMPHRIES: Very good, Your Honor.

THE COURT: --- we'll see if you can't use those two photographs to make the point rather than ---

MR. HUMPHRIES: Yes sir.

THE COURT: --- having 110.

MR. HUMPHRIES: Yes sir. Your Honor, and finally, State's 114 through 117 are autopsy photographs from Mr. Turner.

THE COURT: All right.

MR. HUMPHRIES: Again, we've -- we've made efforts not to be duplicative in this process.

THE COURT: I understand. All right, sir.

MR. HUMPHRIES: The Court having then reviewed it, Your Honor, and I can refer you to really the similar leading case in regard to photographs of this nature in the crimes in the penalty phase. That is State v. Kornahrens. I am sure the Court is familiar with it. It is 350 S.E.2d 180, 1986, and the ---

THE COURT: I'm sorry, 350 S.E.2d ---

MR. HUMPHRIES: 350 S.E.2d 180, ---

THE COURT: Okay, very good.

MR. HUMPHRIES: --- a 1986 Opinion, and in this case, Kornahrens dealt with both crime scene and autopsy photographs, and of note, some of the photographs depicted knife wounds to the chest, back, and thigh of a ten year old child.

In allowing the penalty phase admission of these photographs, the Court held as follows: The purpose of a bifurcated proceeding in a capital case is to permit the introduction of evidence in the sentencing proceeding which would ordinarily be inadmissible in the guilt phase.

In the sentencing proceeding the Trial Court may permit the introduction of additional evidence in extenuation, mitigation, or aggravation. In determining whether to recommend a sentence of death, the jury may be permitted to see photographs which depict the bodies of the murder victims in substantially the same condition in which the Defendant left them. The Trial Judge is still required to balance the prejudicial effect of the photographs against the probative value. However, in the sentencing phase, the scope of the probative value is much broader.

We find no error in the admission of the sentencing phase of the photographs and slides. While not pleasant to look at,

they show that the Defendant himself did to the bodies -- what the Defendant himself did to the bodies and nothing more. The appearance of the bodies as the Defendant left them has not been altered by decomposition or by any other outside force.

While these photographs and slides most likely would have been inadmissible in the guilt phase, under the facts of this case they were relevant in the sentencing phase to show the circumstances of the crime and the character of the Defendant.

And again, Your Honor, that -- that is just one in a very, very long line of cases dealing with photographs in the sentencing phase of a capital proceeding, and we would submit under Kornahrens and a litany of other cases along that line, they are admissible. Again, we have taken great steps to make sure that we have not duplicated. In regard to the Ling case, we have pared down the photographs substantially, and we would -- we would submit that based on those efforts and the case law, with exception of 110, which we understand in terms of the Court ruling, we believe that each and every one is admissible.

THE COURT: All right, very good. Anything else, Mr. Diggs?

MR. DIGGS: Your Honor, just pointing out, I think a connection, all of those photographs were related to the crime for which he was on trial at that time or certainly did not form the basis of a prior capital sentencing proceeding which

had resulted in death, and so that's how I would distinguish Kornahrens, but otherwise, you know, it says what it says about the admissibility of those photos, but given the uniqueness of this case, the fact that there is already a death sentence with respect to those circumstances, then it would be inappropriate to again use them as part of the basis for imposing death in this case.

THE COURT: All right. Well, first, the State has indicated, and I would have so instructed them, that they are not connecting these matters to a trial, to a verdict, nor a sentence. We are going strictly as to the characteristics either of the Defendant or characteristics of the crime to show what in actuality -- though those are not the basis for the murder here, they are actions of the Defendant, and they are relevant in that regard to show to the jury.

I, as indicated, -- since I already had the State, unless it can be otherwise shown as absolutely necessary for the expert's testimony, I've had them remove one photograph, so in looking at these photographs, I want the record to be clear that I have conducted a balancing test to weigh the probative value of the photographs as against their undue prejudice to the Defendant, and by my examination of the photographs I have done that, I find that all the photographs are relevant. They are probative to the facts that the jury needs to understand in a sentencing phase trial and that those matters outweigh

any prejudice to the Defendant in that regard.

I understand that the Ling case is the subject of his prior conviction, and trial, and sentence, but the State is not -- and just to reemphasize the fact, I'm instructing them not to connect those matters to a previous trial conviction or sentence, but go directly to the characteristics of the Defendant in the matters that the jury needs to consider to decide whether or not a death sentence or a life in prison without the possibility of parole is the proper sentence in this matter, so I'm going to allow it with the restriction.

MR. DIGGS: Thank you, Your Honor. Your Honor, Ms. Williams had one ---

MS. WILLIAMS: Your Honor, there is a second matter that I would like to address at this point.

THE COURT: Yes Ma'am.

MS. WILLIAMS: Your Honor, it's my understanding that Dr. Collins is going to come testify. She did the autopsy, and obviously His Honor has the photos in front of him. I just want to make sure that we are clear or not, one of the statutory aggravating circumstances, if I understood in the first trial, was the evidence of torture of the body as a statutory aggravating circumstance.

Your Honor, we would ask that torture -- I mean, does not even describe what she saw. She can describe the wounds. She can -- you know, obviously the pictures are there. They can

see for themselves. We would submit that if the doctor is allowed to use the same -- that this is evidence of torture in her medical opinion, and to that, it would absolutely -- just the prejudicial value would totally outweigh its probative value. I mean, it's the statutory -- as well as one of those statutory aggravating circumstances, and we just -- I would just like to make sure that the testimony is limited so that doesn't come into it.

THE COURT: But so you -- talking about the word, torture, ---

MS. WILLIAMS: Yes sir.

THE COURT: I mean, she -- whoever the -- Dr. Kim Collins, that's a woman?

MR. HUMPHRIES: Yes sir, Your Honor.

THE COURT: All right. She would be testifying that these wounds came as a result of certain actions, strangulation or binding, or in some way -- is that how she would be describing it?

MR. HUMPHRIES: Here's -- here's -- and maybe we can clear it up right -- by saying this: The State will not elicit from her an opinion, a medical opinion, as to whether or not the injuries sustained by Laura Ling would meet the legal definition of torture. She is a forensic pathologist.

THE COURT: Right.

MR. HUMPHRIES: We will not elicit that. Now, having

said that, the injuries which -- we should not be limited, obviously, into ---

THE COURT: The mannerisms of how they were inflicted?

MR. HUMPHRIES: Correct, but we will not elicit an opinion from that ---

THE COURT: That they were the result of torture?

MR. HUMPHRIES: Yes sir, Your Honor.

THE COURT: All right, very good. All right.

MS. WILLIAMS: Your Honor, could I ask if that would be the case, to make sure that the doctor is informed that they -- that that word is where we need to be careful of and what the State is not going to do, because I just don't -- you know, if you ---

THE COURT: Well, I would -- why don't you just make sure that, you know, with the doctor that you're not going to be asking her that opinion, all right, ---

MR. HUMPHRIES: Yes sir.

THE COURT: --- before -- before you put her on the stand.

MR. HUMPHRIES: Yes sir.

THE COURT: Okay.

MS. WILLIAMS: Thank you, sir.

THE COURT: Now, again, obviously -- I don't know in what context it might, but if for some reason that opinion would come out as a direct response to a question by Defense,

then I'm not going to limit her from saying it at that point in time.

MS. WILLIAMS: Yes sir, we understand that.

THE COURT: All right, very good. All right. Okay, let's bring the jury in then.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, your next witness, please.

MR. HUMPHRIES: The State calls Bill Pierce.

THE COURT: All right. Please come up front, sir, to be sworn, right up here.

WILLIAM PIERCE, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HUMPHRIES:

Q. With whom are you employed?

A. The Georgetown County Sheriff's Office.

Q. How long have you been so employed?

A. Almost eighteen years.

Q. And at this point, what position do you hold?

A. I'm a captain in charge of the Uniform Patrol Division and the 911 Communication Center.

Q. And, Captain, in April of 2005, what position did you hold with the Georgetown County Sheriff's Office?

A. I was the lieutenant in charge of Criminal

Investigations and Crime Scene Processing.

Q. Let me ask you, in connection with your duties as a lieutenant over Crime Scene Processing, did you have an occasion to process a crime scene in the Murrells Inlet area, the home of Laura and [redacted]

A. Yes, I did.

Q. Tell the jury, if you will, how you received the call to respond and what you did as a result of that call.

A. It was about -- the best that I can recall, it was about four o'clock in the morning, give or take. I was in Atlanta, Georgia. I received a call from the Assistant Sheriff, Carter Weaver. He told me about the incident and asked that I get in my car and head to the crime scene, which I did.

Q. And tell the jury upon arriving in terms of your protocol, what do you do first?

A. The first thing we do when we arrive at any crime scene is to make sure that the crime scene is secured, that anyone that's injured has been taken care of, and that we have a legal -- legal right at that point to enter the crime scene and do what we need to do with respect to collecting evidence.

Q. Let me show you State's 81 through 91 and maybe you can identify those photographs.

A. I do recognize these.

Q. And are these the photographs of that particular crime

scene and the processing that occurred as a result of your duties?

A. Yes, they are.

MR. HUMPHRIES: Your Honor, at this time we move to introduce State's 81 through 91.

MS. WILLIAMS: Your Honor, we would make a -- object based on the basis we discussed at our in limine motion.

THE COURT: All right, very good. I'm going to allow them in evidence over the objection of Defense.

MR. HUMPHRIES: Thank you, Your Honor.

(ELEVEN (11) PHOTOS (LING CRIME SCENE) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, AND 91.)

Q. Now, showing you State's 147, tell me if you can identify this diagram.

A. I can identify it.

Q. And it is?

A. It's a computerized rendition of the crime scene sketch that I did depicting the areas inside the house that I processed.

MR. HUMPHRIES: Move to introduce at this time, Your Honor, State's 147.

MS. WILLIAMS: Your Honor, we would make it subject to those same objections.

THE COURT: All right. State's 147 is in evidence over

the objection of Defense.

(DIAGRAM OF LING HOME ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 147.)

Q. What I'd like to do, Captain, is to start with these photographs and as you go through each one, I'd like you to orient the jury to where they would appear on the crime scene and describe them for me, please.

A. Certainly.

Q. At this point, I'm also going to include State's 80, which is already in evidence, for your review as well. Starting with State's 81 ---

A. Do I step down or do I stand up?

Q. If you will stay right here and stay by the microphone.

A. And I show these to the jury as well?

Q. Once you do that, I will show them to the jury. Once you identify them, you can explain it to the jury from there.

A. This photograph is a photograph of the front of the residence in Murrells Inlet, the crime scene that I processed on Murrells Inlet Road.

MR. HUMPHRIES: That was State's 81, Your Honor.

Q. Now, State's 82.

A. State's 82 is a photograph of the daybed in Christina Ling's bedroom.

Q. And will you on State's 147 indicate where that room is located within the residence.

A. Sure. It would have been in this area here.
Q. And is this as you found it at the time that you began your processing of the scene?
A. Yes, it is.
Q. Now, State's 83.
A. State's 83 is another photograph of the same bed in the same room with a different perspective. A sheet or something had been removed, and this picture was taken because we located some neckties on the corner of the bed.
Q. Again, that's located in the room diagramed as C?
A. Yes sir, this area right here.
Q. And this is the teenage girl, Christina's room?
A. That is correct.
Q. Now, State's 84.
A. State's 84 is a copy -- I'm sorry -- is a photograph of the bathroom where I found some probable blood stains on the sink and the floor.
Q. And can you characterize -- let's look at State's 85 at the same time. In terms of the type of blood stains, can you determine what type of spatter is pictured on State's 85?
A. Those are typically called gravity drops, meaning that they -- there's no velocity to them. They fell in this case on the floor specifically, and in State's 85, they appear to have fallen and landed on the surface ninety degrees parallel to where they were traveling from, and I would say probably

the sink would be characterized the same way.
Q. And you will indicate ---
A. Yes sir. State's ---
Q. 84.
A. --- 84 is this sink in this area right here. State's 85 is in this area right here.
Q. State's 86.
A. State's 86 is a photograph taken of some miscellaneous items that were found on the floor in Bedroom A, which is the room where both victims were located, and it would be this area right here.
Q. Well, let me ask you, regarding Evidence Marker 12 and the items that have been designated by that, you indicated personal items. Would they be items in your experience that typically would have been located in a purse perhaps?
A. That's exactly where I would say they came from, was out of a purse.
Q. Now, State's 80, also in evidence.
A. Yes sir. State's 80 is a photograph of the top of the bed located in Room A, this bed here.
Q. Do you know, based on your investigation, if the teenager, [redacted] is also located on this bed upon arrival by law enforcement and E.M.T. officials?
A. Yes, she was. That's where she was located upon the arrival of emergency personnel.

Q. State's 87.
A. Again, that's a photograph of the top of the bed located in Room A.
Q. And designated by one and two, what are those two items?
A. Those are neckties.
Q. Did the neckties gain some significance to you once you were able to view the body of Laura Ling?
A. Absolutely.
Q. Showing you State's 88 in evidence.
A. It's a photograph of the floor of the same bedroom near -- near the area of the floor where the victim, Laura Ling's body, was located.
Q. Can you locate on 147 what that position would have been?
A. Right here.
Q. And Laura Ling's head would have been in what direction?
A. Her head was right here against the baseboard in the room and the wall.

MR. HUMPHRIES: State's 88, Your Honor.

Q. State's 89.
A. State's 89 is a mid-range photograph taken depicting the victim as she was found on the floor of the bedroom.
Q. That's Laura Ling?

A. Laura Ling.
Q. And, again, what is her position in this photograph?
A. She was laying on the floor. Her head was against the wall in this location here, and her feet were in this location here.
Q. Back to the floor?
A. She had one rai- -- one leg was raised, the knee -- knee bent approximately ninety degrees with her foot flat on the floor. The other leg was outstretched.
Q. State's 90.
A. State's 90 is a close-up photograph of the victim, Laura Ling, as she was found laying on the floor, showing the trauma sustained to her face.
Q. State's 91.
A. State's 91 is a photograph, again, of the victim, Laura Ling. Once all furniture had been removed from the bedroom, we rolled her over to get a look at behind her or what was underneath her that we had previously not been able to see.
Q. And is that -- is that protocol at some point to clear a way from the body position to determine what evidence may be surrounding it?
A. Absolutely.
MR. HUMPHRIES: State's 91.
Q. Captain, did you have additional responsibilities in terms of documentation of evidence after the arrest of the

Defendant?
A. Yes sir.
Q. I show you State's 92 through 95. Tell me if you can identify these photographs.
A. Yes, I can.
Q. And they are?
A. Those are photographs that I took of the hands of the Defendant, Stephen Stanko, in -- I believe it was in -- where he was incarcerated in Georgia.
Q. This was after his arrest in Georgia?
A. This was after his arrest.
Q. Some five, six days after?
A. Seems it -- the best I can recall, it was five or six days later, and I believe that was Columbus or Columbia -- Columbus County, Georgia.

MR. HUMPHRIES: State's 92 through 95, we move to introduce, Your Honor.

MR. DIGGS: Your Honor, the same objection.

THE COURT: All right, sir. State's 92 through 95 are in evidence over the objection of Defense.

(FOUR (4) PHOTOGRAPHS (DEFENDANT'S HANDS) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 92, 93, 94, AND 95.)

Q. 92.
A. 92 is a overall photograph depicting the top of the left and right hands of the Defendant.

Q. State's 93.
A. State's 93 is a photograph of the -- a close-up photograph of the top of the Defendant's right hand.
Q. State's 94.
A. State's 94 is, again, a close-up of the Defendant -- the top of the Defendant's right hand.
Q. And finally State's 95.
A. State's 95 is a close-up photograph of the palm side of the Defendant's right hand.

MR. HUMPHRIES: Thank you. I have no further questions. Answer any questions the Defense may have.

THE COURT: Cross-examination.

MR. DIGGS: Thank you, Your Honor. May it please the Court.

CROSS-EXAMINATION BY MR. DIGGS:

Q. Captain Pierce, how are you?
A. I'm well, sir.
Q. Good. When -- when was the first time you saw the Ling residence?
A. The first time I ever saw the ---
Q. I'm sorry. After the 911 call, when was the first time you saw the Ling residence?
A. It took approximately four or five hours, as I remember, to get from Geor- -- from where I was at in Georgia to the crime scene, so it would have been the next morning

following the 911 call.

Q. All right, and, of course, the Ling residence had been sealed off, so to speak?

A. Correct. Yes, it had.

Q. So there had not been any substantial change to that residence from the time the Defendant left until you arrived?

A. I would say not.

Q. Okay, and it was in quite a disarray?

A. Yes, it was.

Q. Now, was there any evidence that you are aware of that would suggest that this assailant, the individual that committed these acts, made any effort to conceal what had been done?

A. No. There -- no; no.

Q. All right, and, of course, based -- you were the investigating detective?

A. Yes sir.

Q. At that time, were -- were your responsibilities to basically assume control and the individual -- be the individual in charge of investigating the incident?

A. There -- there was another -- I was in charge of the crime scene processing, which would have been the area on the sketch that I had just indicated, previously indicated. There was a case agent assigned to other aspects of the case that was not myself.

Q. All right, and would you agree with me that the evidence tended to show that Mr. Stanko, or the individual who committed these acts could certainly -- they had time to stay there and make sure that Christina was dead?

A. I can say that as a result of the investigation, I think that the assailant thought that [redacted] was dead.

Q. Right, and had ample opportunity to double-check and make sure of that, would you agree with that?

A. I -- I don't know, sir.

Q. Okay. There was no hot pursuit, however, correct, of the police by -- of the Defendant?

A. No sir.

Q. And, of course, had [redacted] not been able to make that telephone call, we don't -- we can only speculate as to how much time it would have taken for that scene to be discovered, ---

A. That's correct.

Q. --- correct? And it's reasonable to assume it could have been several hours?

A. That's correct.

Q. Do we have a time of death for Ms. Ling?

A. I do not know.

Q. Refresh my memory again as to what time the police officers arrived there on the scene.

A. Without looking at some notes from that case, I would

not be able to tell you that. I'm not sure what time they arrived on scene.

Q. All right, but you've heard the 911 tape?

A. Yes, I have.

Q. And they, of course, arrived while Ms. Ling was still on the phone?

A. That's correct.

Q. All right. Now, you would agree with me that there was no effort, apparent effort, undertaken to clean up the scene or to hide the body?

A. I would agree with that.

Q. There wasn't even an effort undertaken to ensure that [redacted] was dead?

A. Repeat that question, sir.

Q. There apparently was not even an effort to ensure that [redacted] was deceased?

A. I -- I don't agree with that.

Q. But you don't have any evidence to show to the contrary, do you?

A. Well, the assailant -- it's my belief that the assailant thought he had sliced her throat and actually, in fact, sliced her jaw line, and at some point she either passed out or feigned unconsciousness to try to save her life.

Q. But it would have been pretty easy to walk over and determine if she was still breathing?

A. Again, I don't know that, sir.
Q. Do we know who owned the neckties that were used in the tying up process, binding type of process?
A. I don't recall if -- I can -- I can tell you that the Defendant was living there at the time. I don't recall if the neckties were ever identified as being his or not.
Q. Okay. Did -- are you aware if the Defendant left any of his personal items there at the home?
A. Yes, he did.
Q. And can you kind of give us an overview of what he did leave?
A. I don't know what he had there before this happened, but as I recall, most of his personal belongings were still in another bedroom located inside the house.
Q. Okay, and items that would pretty easily identify him as the owner of those items?
A. Yes sir.
Q. Now, at that time, the Defendant was on parole or probation?
A. Yes, he was.
Q. He was -- he was being monitored by ---
A. Correct.
Q. --- a State agency?
A. Yes sir.
Q. And they knew where he lived?

A. Yes sir.
Q. They had an address for him on file in their office?
A. I'm sure that they -- I feel certain that they did.
Q. Okay, and so when [redacted] said his name is Stephen Stanko, the police could have gone and checked and they would have had access -- Probation would have had access to his address?
A. Yes sir. As I recall, Probation showed up at the crime scene the next morning.
Q. And they certainly could have said, well, he lived here. Not only did the victims live here, but Mr. Stanko himself ---
A. Sure.
Q. --- lived in this residence?
A. Yes sir.
Q. And here is his stuff?
A. Yes sir.

MR. DIGGS: Captain, I appreciate your time, and that's all I have of you.

A. Thank you.

MR. DIGGS: Thank you.

THE COURT: Redirect.

MR. HUMPHRIES: One question, Your Honor.

REDIRECT-EXAMINATION BY MR. HUMPHRIES:

Q. Regarding the Defendant's attempts at concealment, by

virtue of the investigation, were you aware of the Defendant's call to Laura Ling's employer that following morning saying she was home with food poisoning?

A. Yes sir. He did call Laura Ling's place of business and say that.

MR. HUMPHRIES: Thank you.

That's all, Your Honor. I would ask that this witness be excused if there are no further questions.

MR. DIGGS: No objection to that, Your Honor.

THE COURT: All right. All right, Captain, you are released from your subpoena and may go back to your regular duties, sir.

Your next witness, please.

MR. HEMBREE: The State calls Kelly Wirdzek to the witness stand.

THE COURT: Please come around up front to be sworn, Ma'am.

KELLY WIRDZEK, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HEMBREE:

Q. Ms. Wirdzek, where do you work?

A. I work at Waccamaw Community Hospital.

Q. In what capacity?

A. I'm a Registered Nurse in the emergency room.

Q. How long have you been working in the emergency room at

Waccamaw?

A. I've been there for seven years now.

Q. And, Ms. Wirdzek, do you have any special training or certifications in a sub-specialty of nursing?

A. Yes, I do.

Q. Would you please tell this jury about that.

A. I am -- I have a certification in B.L.S., which is Basic Life Support. I have a certification in A.C.L.S., which is Advanced Life Support. I have a certification in Pediatric Life Support, better known as P.A.L.S., and I have taken the Sexual Assault Nurse Examiner's training course.

Q. And Sexual Assault Nurse Examiner's training course?

A. Yes.

Q. And that's a -- you receive a special designation for that also?

A. Yes, I do.

Q. And what's that called, typically called?

A. We're basically called S.A.N.E. nurses.

Q. S.A.N.E.?

A. Yes.

Q. And what does that stand for?

A. Sexual Assault Nurse Examiners.

Q. Now, what is the nature of that training, the nature of the training and the purpose of the training.

A. The purpose of the training is if anybody -- if a

person is assaulted sexually or physically, they can come to be examined and we will gather evidence, biological and physical evidence.

Q. And I take it that your training -- you have your regular nursing training ---

A. Yes, I do.

Q. --- to provide care for the patient?

A. Yes, I do.

Q. But you indicated that you're able to collect evidence?

A. Yes.

Q. So you receive -- is this sort of a -- what kind of training? Is that sort of a crime scene training or a -- or almost a law enforcement type training?

A. It's like crime scene training, but it's specifically directed towards sexual assault victims.

Q. Do you receive special training about, I guess, any area of how to relate to or comfort victims of sexual assault?

A. Yes.

Q. And were you consulted or called in -- are you on call in that capacity?

A. Yes, I am.

Q. Were you called in, in the early morning hours of April the 8th, 2005, in connection with this case?

A. Yes, I was.

Q. Tell the jury about how you first got -- got introduced

to -- well, to [redacted]

A. I was called very early in the morning and was told on the phone that there had been a rape, and it was a fifteen year old girl and her mother had been killed, and they wanted me to come in, along with my partner who had gone and received the same training, so I told the staff at the hospital to go ahead and call her in also, and both of us ---

Q. And this is another nurse -- another nurse that ---

A. Yes, the two of us went and received this training together.

Q. Did you respond to the hospital?

A. Yes, we did.

Q. Did you arrive before [redacted] or after [redacted] was already there?

A. After, about maybe seven, ten minutes after she arrived.

Q. Tell us how she presented herself when you first observed [redacted] Tell us what your impressions or what your impressions and observations were of her.

A. Christina was covered in blood from head to toe. Her shirt was torn. She was very alert, oriented, knew what had happened, very cheerful, and wanted to know why this had happened to her.

Q. And were the doctors with her already at this point?

A. Yes; Dr. Burns was.

Q. Dr. Burns was with her?
A. Uh huh **(indicating positive)**.
Q. What sort of care did you render at that point to Christina?
A. At the beginning, we -- we just started to make sure that where -- that she was stable enough that she could go through the sexual assault examination. We made sure that her vitals were okay and that she was medically stable that we could take care of her, and then once we realized that she was stable enough to handle that and we needed other doctors to come in and take care of her also along with Dr. Burns, Sherry and myself proceeded to explain to Christina about the examination and the kit that we would be doing, and Christina was very much so compliant with it. She was like whatever you have to do, just get what you have to do. Get him. You just need to get him.
Q. What's involved? You mentioned the rape protocol kit ---
A. Uh huh **(indicating positive)**.
Q. --- that I believe you and your partner, the other nurse, ---
A. Right.
Q. --- carried out or went through that kit. Describe for the jury what that involved step by step.
A. It involved going from head to toe collecting physical

evidence, obvious biological evidence, where we remove their clothes. We take scrapings from underneath their fingernails. We pull hair from their head and from other areas of the body. We ask the victim -- or in this case, we asked Christina if she had remembered anything in the assault of where she was touched in the wrong manner, and if there was miscellaneous type of evidence, we would collect that.

Q. Now, you indicated that you went through a process where you explained what you were about to do to Christina and that she was very compliant with that?

A. Yes.

Q. As a S.A.N.E. nurse, is -- what is the significance or the importance of explaining it in such detail to a patient?

A. It's to make them more comfortable and -- so that we can collect the evidence and so that they feel comfortable with us doing things to their body that they didn't want to have done. It's a -- a lot of people say that it's an embarrassing examination, but when you have somebody that can explain it to them and be compassionate about it in collecting it and explaining that it's not their fault, then they are more cooperative and compliant with the examination.

Q. I think I understood from your earlier testimony that you said that you had to make sure Christina was stable before you could -- could go through the rape protocol process?

A. Correct.

Q. Was she, in fact, stabilized?
A. She was stabilized with her vital signs, but she had obvious injuries that we had to attend to also.
Q. All right, and at some point were you able to conduct the rape protocol on Christina?
A. Yes, we were.
Q. And what evidence did you collect that was significant in this case and from what areas of her body?
A. We collected evidence from her vaginal area and when we collected that evidence, we also -- we -- the way that we collect it is we look for bruises, redness, abrasions, tears, scratches, anything like that, and we picture a clock, the face of a clock, and we tell where each injury is from where -- at the vaginal area, and Christina happened to have a tear at the six o'clock point in her vaginal area, and she had bruising that went between the vaginal area and her anal area.
Q. So you're looking for injuries in addition to ---
A. Right, a tear or physical evidence.
Q. Did you locate any physical evidence in her breast area?
A. Yeah. There was a miscellaneous area to the breast area that we went ahead and we swabbed, and we sent that off, and there was blood -- there was dried blood that we weren't sure if it was hers or not, so we went ahead and we swabbed that also.

Q. And was there evidence collected from her anal area?
A. Yes, there was.
Q. This evidence was turned over to law enforcement?
A. Yes, it was.
MR. HEMBREE: Thank you very much, Ms. Wirdzek. Please answer any questions the Defense may have for you.
A. Okay.
THE COURT: Cross-examination.
MS. WILLIAMS: Beg the Court's indulgence for just one moment.
THE COURT: Yes Ma'am.
CROSS-EXAMINATION BY MS. WILLIAMS:
Q. Good afternoon, Ms. Wirdzek. You've been at Waccamaw, I think you said, for seven years?
A. Yes Ma'am.
Q. And have you been a nurse longer than that?
A. Yes Ma'am.
Q. How long have you been a nurse?
A. Twelve years.
Q. Once you got to the hospital, were you with Ms. Ling continuously?
A. Yes, myself and the other nurse involved in this. Yes, we both were.
Q. And approximately how long would you say you stayed with her?

A. We stayed with her from the time that she arrived until about three o'clock in the afternoon after we secured her safely in the hospital.

Q. So it would be safe to say that any treatment she received while she was at the hospital, you were there with her, is that right?

A. Uh huh, yes Ma'am.

Q. Did she receive a C.A.T. scan of her head?

A. Yes.

Q. She did?

A. I'm pretty sure, yes. She went to X-ray for scans and stuff like that.

Q. Trying to check on what -- I'm sure, what ---

A. Her head, her neck, her body.

Q. Okay. Do you recall talking to her, I mean, while she was there with you during that time?

A. We didn't talk to her about anything that had occurred.

Q. Did she mention anything to you at all about the Defendant?

A. Not in the room, in the C.A.T. scan room, but in the room when we interviewed her behind a closed door, she did.

Q. And did she say anything to you about -- I think you said she said, I don't know why this happened to me?

A. Yes.

Q. And did she say anything like, I don't know why would

he do something like that?

A. I'm pretty sure she did. If I look at my notes.

Q. But even without looking at them, you're pretty sure of that, right?

A. Uh huh **(indicating positive)**. Yes Ma'am. I'm sorry.

Q. I'm sorry. It's for the Court Reporter.

MS. WILLIAMS: Thank you very much. I don't have any further questions of Ms. Wirdzek, Your Honor.

THE COURT: Redirect.

MR. HEMBREE: Nothing on redirect, Your Honor. We'd ask that this witness be excused.

THE COURT: Any objection?

MS. WILLIAMS: No sir, we don't have any objection.

THE COURT: All right, Ma'am, you're released from your subpoena and may go back to your regular duties.

A. Thank you.

THE COURT: Next witness, please sir.

MR. HEMBREE: The State calls Dr. Scott Burns to the witness stand.

SCOTT BERIN BURNS, M.D., being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HEMBREE:

Q. And, Dr. Burns, with whom are you employed?

A. I work for the Georgetown Memorial Hospital System.

Q. And in what capacity do you work for Georgetown

Memorial?

A. I am an emergency room physician. I work in Georgetown Memorial Hospital E.R. and in the Waccamaw Community Hospital emergency room.

Q. How long have you been an emergency room doctor?

A. I graduated from medical school in 1999, and I finished my residency in 2002, and I've been here since then.

Q. And have you been qualified as an expert in this State or in other states to testify as an emergency room physician?

A. I have, in 2006.

MR. HEMBREE: Your Honor, we would offer Dr. Burns as an expert in the field of emergency medicine.

THE COURT: Do you wish to question the witness?

MS. WILLIAMS: No sir. We don't object to his qualifications as an emergency room physician.

THE COURT: All right. I will qualify the witness to give his opinion in the field of emergency room procedure and as an emergency room doctor.

MR. HEMBREE: Thank you, Your Honor.

Q. Dr. Burns, were you on duty the night or the early morning hours of April the 8th, 2005?

A. Yes sir, I was.

Q. And did you have occasion to treat a young patient by the name of [redacted]

A. I did.

Q. Would you tell the jury how you first got acquainted or introduced to Ms. Ling.

A. Certainly. I was working the night of April the 8th, and we got a call, and if I remember correctly, it was about three-thirty in the morning from one of the paramedics with whom I'm very familiar, and ---

Q. Was it Chuck Petrella?

A. It was Chuck, and I've known Chuck for a long time and trust his judgment and his compassion. Chuck had called me personally and said, you know, he had a situation with a young girl and possibly a fatality, an assault, and, you know, he said he was concerned that she was significantly physically injured in addition to emotionally, and very likely had been sexually assaulted as well, and, you know, that is incredibly helpful for us and particularly in a small-town emergency room. We don't have a lot of -- a lot of people around, and so it was -- it's always helpful to have a little bit more information and waiting time to kind of get things ready, and so Chuck called me and kind of let us know what was -- what was coming.

And thankfully it wasn't terribly busy in the emergency room that night, so I was able to focus a lot of my attention to Christina.

Q. Is the protocol at the hospital or in the emergency room, is it -- is it a bit different when it sort of crosses

over into a criminal justice situation like this?
A. It is. You know, again, living in a small town, thankfully we don't have a lot of these type issues, but we certainly -- we certainly do and, you know, that's -- I trained in a big city and so I -- I was familiar with a lot of these things, but without question, there's not only the physical wellbeing of the patient. It's also the physical wellbeing of the other patients in the emergency room, if there's concern for possible retribution or, you know, we see this a lot, and gun and knife accidents and things of that nature, but it's not only the physical wellbeing of the patients and people in the E.R., but it's also, you know, what -- who -- who might have done this and are they coming -- coming back.
Q. Are they going to come back?
A. Sure.
Q. So were there additional steps taken to secure the hospital?
A. Yes sir. We, you know, notified Security. We had notified the Georgetown County Police, who had already been notified in the situation, and, you know, initially we didn't have any information about what had happened other than there had been a problem and we needed to kind of make sure all was safe.
Q. Okay. Now, Doctor, I'm going to have you look through

these, have you look at a diagram. It's marked as State's 148 for identification purposes. Can you identify that?

A. I can. This is a drawing that typically that our sexual assault nurses fill out. It's kind of part of the kit and it's part -- goes in the police file, and this is actually a very nice -- that I just kind of mark, you know, the areas of obvious trauma to the bod- -- to a person's body.

Q. The injuries to the victim in the case?

A. Yes sir.

Q. Would this assist you in your testimony to the jury?

A. Yes sir.

Q. And let me show you State's 96, 97, 98, 99, 100, 101, 102, '03, '04, and '05, and just generally tell us, not specifically, but generally what those are photographs of.

A. These are -- do I need to show them or ---

Q. No.

A. Okay. These are -- these are photographs of Christina shortly after she got there. I mean, this is -- all these photos are actually probably several hours after the incident happened because this -- you know, she was cleaned up considerably by the time these pictures were taken.

Q. And would these photographs assist you in presenting your testimony to this jury?

A. Absolutely.

MR. HEMBREE: Your Honor, at this point, we would offer

State's 96 through 105 into evidence and State's 148 into evidence. They have been presented to ---

MR. DIGGS: Your Honor, we would object, the same -- same grounds.

THE COURT: All right. I am going to allow them in evidence over the objection of the Defense.

(TEN (10) PHOTOS ([redacted] ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 96, 97, 98, 99, 100, 101, 102, 103, 104, AND 105.)

(DIAGRAM OF [redacted] ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 148.)

Q. Doctor, when you first -- when Christina first arrived, what was her -- what was your initial impression of her condition?

A. (ANSWER STRICKEN FROM THE RECORD BY THE COURT.)

MS. WILLIAMS: Your Honor, we object, and may we approach?

THE COURT: Yes.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: We will strike the last statement from the record and the jury will disregard it, and Doctor, if you will just stick with your observations, please. Thank you.

Go ahead, Solicitor.

MR. HEMBREE: Thank you, Your Honor.

Q. Dr. Burns, her physic- -- tell us about her physical

appearance when you first observed her.

A. Okay. She came in. She was strapped down to a board and had a collar around her neck, which is something we typically do in -- when patients who are involved in some sort of trauma. The goal is to protect their neck from any injury and to keep their spine safe and still, to rule out any obvious movement about to keep her from getting injured, so she was strapped to a board.

She was covered very loosely with a towel, and she had a collar around her neck, which again is pretty standard procedure. She had some other bandages around her neck, and her face and hair were matted with blood, and she -- and that's how she looked.

You know, any time a patient comes in the emergency room and has been involved really in any significant trauma, I mean, my first concern is, you know, is she awake and alert, you know, does she have the potential to die in the next twenty minutes, and that's kind of my first call any time I see somebody, and usually that's a question I can answer very quickly, and with her, I wasn't so sure.

Q. What was your greatest area of concern as you say you began that first question, is this patient going to die in the next twenty minutes? What is your -- was the first step you take to prevent that?

A. Well, we get into a private room. Again, by this

point, we had security and we locked down the facility, and the police were available thankfully, and we uncovered her, took the blankets off, took the bandages down and kind of assessed her injuries.

When she got there, she was awake, and alert, and speaking, which is very reassuring. It tells me that her vocal cords are working, she's able to take a breath in and speak, and she was coherent enough to make me feel like she didn't have an obvious head injury. Those are all things that I kind of get through my mind to where she might be bleeding, her brain, or if she was having difficulty breathing, and the fact that she could speak and tell me where she was, and what happened, was very reassuring.

But we uncovered her. You know, she had lots of bruises, as you can see. It was documented by the nursing staff, all over her body. My most concerning injury, she -- her ear, her left ear, was nearly cut off, but most concerning, she had two lacerations on her neck. Should I point or ---

Q. Certainly, Doctor, if you'll indicate on State's Exhibit 148.

A. Certainly. One here. The most concerning one was the one inferiorly below these two lacerations, but the lower one was deep, and if you explored it enough, I could actually see her trachea, which is highly concerning.

Q. Doctor, let me draw your attention to State's 100.

A. Yes sir. This is -- I'm not sure if y'all can see this from there or not. These are the two lacerations that kind of corresponds with the picture there. As you can see, there's a laceration that starts here and goes all the way across her neck, and I'd say it's probably seven or eight centimeters long, but this is the most concerning one. This picture doesn't truly do it justice, but basically if you put your fingers there and open it, you could see -- you could see her trachea, which is a problem, and it's difficult to tell how deep or how extensive the wound was.

Q. Doctor, what was most concerning or why were you -- you said this was the most concerning wound to you. Can you tell us why?

A. Well, just if you think about it, it looks to me like this was a knife that caused this, and I think we can -- you know, and based on Christina's testimony where she told me that it was a knife that did this, and so if you think about it, basically there's a large hole there. If you think of a knife making that hole, you know, I don't know how far across her neck this went, if it possibly injured her jugular vein or her carotid artery.

Those are the main concerns, or also could the knife have poked into her trachea causing bleeding in the trachea and swelling, and that's a hard area to get to. It's not like cutting your arm where I can just hold pressure on it and the

bleeding will stop. I can't squeeze her neck and stop the bleeding, so it's very concerning.

You know, standard emergency medicine practice really states that this needs to be evaluated by a surgeon in a very timely fashion, as this was, but this is -- again, my main concern with this injury was, you know, is she going to lose her airway or would it become swollen.

Q. What -- did she lose her airway?

A. Ultimately no, no, but, you know, this injury itself required extensive studies. She had multiple C.A.T. scans. She was seen in consult by one of our general surgeons, as well as one of our otolaryngologists, as well as one of our pulmonologists ultimately. She was in the hospital, I believe, five or six days, and this was the main injury, or the main concerning injury at least.

Q. Doctor, what were the other areas of injury that are -- I'll take you through these photographs ---

A. Okay.

Q. --- and if you will -- as I -- as I present this photograph to you, orient the jury to the diagram, State's 148, showing them where these -- where these injuries that you find significant occurred, and this is on State's 96.

A. Okay. Well, this clearly is her face and head, and again, I just want to remark that this is many hours after she had come in because she had been cleaned up significantly

after she arrived.

You could see about a three centimeter laceration that was down to her skull right here, which corresponds to this laceration right there. She had lots of -- it's difficult to tell from this picture, you can see lots of -- there's some abrasions inside her mouth. She had some bruising about her nose, which is all kind of marked obviously on this diagram right here.

We've already discussed the lacerations, but this was her general appearance. It's difficult to tell from this picture, but I think we have another picture that shows her ear that was cut through the cartilage portion of her ear called the pinna, P-I-N-N-A, which is basically -- we will show another picture, but it was pretty much cut clean off.

Q. Doctor, I show you State's 97 and ask you to describe what we see there.

A. This is the three centimeter laceration on her left forehead, which, you know, it's difficult to tell whether or not this was caused by a knife. I have a strong suspicion these other injuries were caused by a knife, but this one could have been caused by -- this one looked a little bit different. It's not quite as linear like it would have been caused by a knife. It's almost as if it could have been caused by trauma, like a blunt trauma, a fist or something of that nature, but it certainly could have been caused by a

knife, but it just doesn't appear similar to the other lacerations.

Q. So blunt force trauma could have caused it or not could have caused it?

A. Yes sir. I mean, I suspected that, because it is difficult to tell from this picture, but I remember I was looking through my dictation the other night and there's -- there was bruising around there, too, so ...

Q. And describe what blunt force trauma is to the jury.

A. It's any blunt force typically with an object, you know, enough to cause enough -- in that situation to split the skin, which is significant. I mean, it's ---

Q. And you said it split it down to the skull?

A. Yes sir.

Q. Doctor, you started to tell us about the ear laceration, and I'm not sure you can reach it from there. I'm just going to point to it. Is that the area we're talking about on the diagram?

A. Yes sir. It was the left ear.

Q. Okay. Tell the jury about the injuries to Christina's ear.

A. It looks like there's a ---

Q. And you're referring to State's ---

A. 98.

Q. --- 98, and State's 99.

A. This injury from the previous trial, you know, it's difficult to tell for me whether or not this was caused by a knife or also caused with a fist or an object, because if you see here, again the pictures really don't do a lot of justice, but there's a linear cut across through the cartilage of her ear which, you know, it's a significant injury, but you can see there's a lot of bruising around it, so it's difficult to tell whether or not there might have been some blunt force trauma there, in addition to a knife, or -- or both, or just the one, but her ear was pretty severely damaged. It took the otolaryngologist a long time to sew it up.

Q. I'm sorry; it took who?

A. Took the otolaryngologist, the ear, nose, and throat doctor, a long time to sew it up.

Q. Doctor, if you will, describe -- and let's just travel downward, and if you will, describe to this jury the other areas of trauma that were observed from Christina's body.

A. Well, as you can see from the diagram, it's multiple areas of bruising. I remember from her story she had -- the police had found her and the paramedics had found her with her wrists bound and her neck bound with some sort of -- something to restrain her, and so, you know, a lot of her other bruises, particularly on her wrists, clearly fit that, and she clearly had bruising on her neck and bruising around her wrists.

You know, she had some significant bruising around her

neck and her upper chest, in addition to her lower extremities. You can see around her knees.

Q. And let me just kind of walk you through this. There's some bruising, and I note on State's 148 in the shoulder -- appears to be on the shoulder areas?

A. Yes sir.

Q. Does that have any significance to you?

A. Well, I mean, classically those are the injuries of someone who's being forced down onto the ground. You know, that's the easy way to put some- -- the easiest way to put somebody into submission is to hold them down by their shoulders. It's hard to fight back. That -- that would be my suspicion, at least.

Q. And bruising on the back?

A. You know, that's hard to say if that's from a blow from a fist or if it's a blow from hitting an object on the floor. It's difficult to tell.

MS. WILLIAMS: Your Honor, ---

THE COURT: Yes Ma'am.

MS. WILLIAMS: --- we object to that, and may we approach?

THE COURT: I'll sustain the objection and the jury will disregard the last statement. Thank you.

Q. And bruising noted -- you've already noted the bruising on the -- on the ribs. You had a note here of defensive

bruising on the length, really the length of the left forearm?
A. If I remember correctly, her left arm was significantly more bruised than the right. If you see on the right wrist, you know, most of the bruising is down right around the wrist where you would be bound, whereas the left had bruises more up towards the elbow and, you know, again commonly in people who have been assaulted, you know, often they will raise their forearm to protect themselves. That's kind of one of the, you know, your most primitive defense mechanisms.

MS. WILLIAMS: Your Honor, we will just move to strike that as well, and I think his opinion should be limited to a medical degree of certainty, as well as what he's discussing here, Your Honor.

THE COURT: Why don't you ---

MR. HEMBREE: I'll be glad to rephrase that, Your Honor.

THE COURT: Thank you, sir.

Q. Doctor, can you say within a reasonable degree of medical certainty that this is defensive bruising?
A. No. It certainly could have been offensive bruising.
Q. Okay. Could you tell this jury what defensive bruising is?
A. Defensive bruising is trying to protect yourself from someone assaulting you either with fists, an object of some nature. It's, again, your most -- one of your more primitive mechanisms. You will sacrifice your arms to protect your face

and vital organs.

Q. And could you tell this jury what offensive bruising is?

A. Well, I think that if she had perhaps been -- I think it's basically that she was ---

MS. WILLIAMS: Your Honor, if I may.

THE COURT: All right. As best you can, a medical definition of offensive bruising.

A. Bruising without being able to fight back. That would be ...

Q. You know, in the rest of -- the remaining bruising areas are around the knees and legs?

A. Yes sir.

Q. And I will draw your attention, Doctor, to State's -- I will do this in a group of State's, 101, 102, and 103, ---

A. Okay.

Q. --- and ask if you can identify those?

A. I believe this is -- Number 101 is her right leg, right around the knee, I believe. 102 is her left leg around the knee, and 103 looks at both knees, actually the right in the foreground. You just see some abrasions and obvious bruising about the knees.

Q. Would you note it on the diagram as well?

A. Yes sir.

Q. And finally, Doctor, we have State's 104 and 105. If

you could tell us what those photographs or injuries those photographs record.

A. This 104 appears to show her lower leg and it would correspond to this area kind of right here, and there really wasn't any kind of -- I think it's probably referring to this area right here on her left lower leg. I think the mark on the diagram is a little bit high based on this picture, and this picture, I believe, is of her right wrist, but I'm not certain based on there's really nothing to guide me with it, but I'm sure it's more linear abrasions.

Q. Dr. Burns, after -- your role as an emergency room doctor fundamentally is what?

A. Well, to take care of whoever comes in, but in this situation was to ensure that we made a proper diagnosis and got her to the right place in a safe fashion.

Q. And is it you then turn essentially a patient over to other doctors?

A. In some regards, I mean, you know, yes. To answer your question, yes.

Q. In this case, is that what you did?

A. In this case, absolutely. She was not a candidate to go home, so she clearly was going to be admitted to the hospital.

MR. HEMBREE: Dr. Burns, thank you very much.

A. Thank you.

MR. HEMBREE: Answer any questions Defense counsel has for you.

THE COURT: Cross-examination.

MS. WILLIAMS: Yes sir, please. Beg the Court's indulgence for just one moment.

THE COURT: Yes Ma'am.

CROSS-EXAMINATION BY MS. WILLIAMS:

Q. Good afternoon, Dr. Burns.

A. How are you?

Q. I didn't take the note. How long did you say you had been an E.R. doctor here?

A. Since 2002.

Q. 2002?

A. Seven years.

Q. That's when you finished your residency, so you've been in the Georgetown Hospital System since then?

A. Yes sir -- yes Ma'am.

Q. Okay. Let me ask you, are you familiar with hypergraphia?

A. Hypergraphia?

Q. Yes.

A. I'm not familiar with the term.

Q. So you don't know whether or not that's a condition that results in compulsive writing?

A. No.

Q. You don't know?
A. I'm not familiar with the term.
Q. Okay. Let me ask you this: I assume that in the initial diagnosis, you said you are first concerned about making sure that a patient is stable and not going to die, correct?
A. Yes Ma'am.
Q. And then once we assure that we have the patient stabilized, then we basically go to, if you will, secondary injuries for lack of a better term?
A. No, that's a perfect term.
Q. And in this case, do you recall if you had real concerns about any type of trauma to the head, the actual cranial ---
A. For the patient?
Q. Yes.
A. Yes Ma'am.
Q. And did you do C.A.T. scans for the actual trauma ---
A. We did that. I'm sorry.
Q. That's okay. Tell me what you did.
A. We -- once we kind of assessed all of her injuries, she was sent over for a C.A.T. scan of her head and her cervi- -- and her neck, you know. You know, there's several ways to handle her neck injury, again, which was our main concern again, because when she got there, she was awake and alert,

and it's -- you know, it's often difficult to have a significant head injury when you're awake and alert, but it certainly can happen, so that's the reason a C.A.T. scan of her head, as well as her cervical spine, was ordered, or her neck.

Q. But she was awake and alert, and with you, correct?

A. Yes Ma'am.

Q. And knew the details of what had happened, correct?

A. Vaguely. I mean, she was pretty hysterical, but yes. I mean, she wasn't giving me details, and I honestly wasn't asking the details of exactly what had happened, but that we kind of had the general aspect of what allegedly happened.

Q. I understand, and let me ask you, I'm assuming in your notes you took notes about her attitude, her demeanor, and her behavior, is that correct?

A. Yes Ma'am.

Q. And do you recall in your notes writing about her descriptions of this Defendant and the fact that she was so confused as to why this had happened?

A. I don't remember documenting that personally. You know, my general recollection was that she was very confused about as to why this happened, you know. I vividly remember her telling me that she was asleep and this woke her up, and I think there's a lot of shock and a lot of -- and that's probably the best word, is shock, as to what had just

transpired in the last two hours when she arrived.

Q. Do you recall actually writing that actually her mannerisms about some of this, I think, was inappropriate, was the term that you put down?

A. No, I don't recall that.

MS. WILLIAMS: Beg the Court's indulgence for just one moment.

THE COURT: Yes Ma'am.

Q. Doctor, do you recall Ms. Ling telling you that he was a nice man and why would he do this?

A. I don't remember her using those words. I mean, she -- I do remember her questioning as why would someone do this to me.

MS. WILLIAMS: That's all the questions that I have. Thank you.

A. Thank you.

THE COURT: Redirect.

MR. HEMBREE: Nothing on redirect, Your Honor.

THE COURT: All right, Doctor, you are released from your subpoena. You may go back to your regular activities, sir.

A. Thank you, sir.

THE COURT: All right.

All right, ladies and gentlemen, we are going to take a short break, about five or ten minutes, something like that,

but if you will just leave your pads and pens and take a short break, please. Thank you very much.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, we'll take a short break, about five or ten minutes. Thank you very much.

(THE FOLLOWING TAKES PLACE AFTER A BREAK OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: Solicitor, are you ready to proceed?

MR. HEMBREE: Yes, Your Honor.

THE COURT: Defense?

MR. DIGGS: We are ready to proceed.

THE COURT: Very good.

MR. DIGGS: Your Honor, ---

THE COURT: Yes sir.

MR. DIGGS: --- we would ask to submit a list of witnesses.

THE COURT: All right.

MR. DIGGS: We are working on that, so we will have that ---

THE COURT: Shortly?

MR. DIGGS: Yes, shortly.

THE COURT: Thank you very much.

All right, bring the jury in, please.

MR. DIGGS: Your Honor, can we approach on another

matter?

THE COURT: Sure. Solicitor.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, your next witness, please sir.

MR. HEMBREE: Thank you, Your Honor. The State calls Dr. Kim Collins to the witness stand.

THE COURT: All right, Dr. Collins, if you will come up front, over here, please Ma'am.

KIM A. COLLINS, M.D., being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HEMBREE:

Q. Dr. Collins, you testified several days ago in this very courtroom?

A. Yes, I did.

Q. In the capacity of a forensic pathologist?

A. Yes.

MR. HEMBREE: Your Honor, we would once again offer Dr. Collins as a forensic pathologist to testify in the penalty phase of this case.

THE COURT: Is there any objection, or do you wish to question the witness?

MR. DIGGS: No, Your Honor.

THE COURT: All right. I will qualify Dr. Collins to give her opinion in the field of forensic pathology.

MR. HEMBREE: Thank you, Your Honor.

Q. Dr. Collins, first I want to turn your attention -- you had testified several days ago regarding conducting an autopsy on the victim in this case, Mr. Henry Turner?

A. Yes.

Q. And referred to State's Exhibit Number 70, I believe, in presenting that testimony?

A. Yes, that's correct.

Q. Now, I want to show you several photographs ---

MR. DIGGS: Your Honor, just for the record, could I have a continuing objection on this particular witness?

THE COURT: The Supreme Court frowns on continuing objections, so I will need for you to raise them at the time.

Do you want to tell me what the numbers are?

MR. HEMBREE: These would be, Your Honor, State's 66, 114, 115, 116, and 117.

THE COURT: Okay, so 66, and 114 through 117?

MR. HEMBREE: Yes, Your Honor.

THE COURT: All right, and you object to those, Mr. Diggs?

MR. DIGGS: Your Honor, the objection we have are the same grounds that we've noted in the record previous.

THE COURT: I understand that, but I'm saying you have

an objection to these photographs?

MR. DIGGS: Yes sir, based on those grounds.

THE COURT: All right, very good. I'm going to allow in evidence State's 66, and 114 through 117, over the objection of the Defense.

(AUTOPSY PHOTO (TURNER) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 66.)

(FOUR (4) AUTOPSY PHOTOS (TURNER) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 114, 115, 116, AND 117.)

MR. HEMBREE: Thank you, Your Honor.

Q. And, Dr. Collins, if you would, I would like you to take these photographs and identify them in the order -- tell us the -- what we have here is State's 114.

A. 114 is a face shot of Mr. Turner, and it has my identification number at the bottom, FA05217.

Q. And would you -- if you can show it to the jury or show on this photograph the areas of injury to the victim's face in this photograph.

A. On the photograph you've got an area of abrasion and discoloration where the skin has been worn off the outer layer to the right forehead, and to the right side of the right eyebrow is a similar abrasion on the side, and this is from blunt trauma, being hit with an object or falling against a firm object, either/or.

Q. And, Dr. Collins, I'm going to show you State's 115 and

116 together and have you describe what you are looking at in these two photographs.

A. Can I show them?

Q. Why don't you come -- would you be able to step down.

A. This is a photograph here of the chest of Mr. Turner. You are looking at his right chest. You can see his right nipple in the picture, and this is the entrance wound that we designated as A, and this is a close-up of A. It's an entrance wound, has a typical punched-out or cookie-cutter appearance with a little ring of redness or abrasion around the entrance wound. A pathway led to bullet number two.

Q. And then finally, Dr. Collins, let me show you State's 117 and 66 and have you describe to the jury what these photographs depict.

A. 117 is the back of Mr. Turner, and you can see an entrance wound to his back, to his right back, and Number 66 is a close-up of that entrance wound. Again, it's round, has a punched-out appearance, and you can see the rubbing off or tearing of the skin as the bullet enters the body. This is entrance wound B which corresponded to the path that led to bullet number one.

Q. Thank you, Dr. Collins. You can take your seat.

And, Dr. Collins, in addition to conducting the autopsy on Henry Turner, were you called upon to conduct an autopsy upon Laura Ling?

A. Yes, I was.
Q. And when did you conduct that autopsy?
A. Laura Ling's autopsy was April 9th, 2005, and we started the examination at nine o'clock in the morning.
Q. And you've already described to this jury essentially the process that's undertaken when you conduct an autopsy?
A. Yes, I have.
Q. Essentially the same procedure was used when you conducted the autopsy of Ms. Ling?
A. Yes. The same procedure was used, as well as on Ms. Ling we also conducted a sexual assault examination.
Q. And you prepared some diagrams to document your significant findings and conclusions as it relates to Ms. Ling's autopsy?
A. Yes, I did.
Q. Let me show you State's 108 -- excuse me, 107 and 108, and 109, and ask if these are your diagrams?
A. Yes, they are. Yes.
Q. Now, Dr. Collins, I think probably the easiest way to do this, if you will come down, ---

MR. DIGGS: Your Honor, we would object to that.

THE COURT: I was going to say, are those in evidence yet, Solicitor?

MR. HEMBREE: Oh, I'm sorry, Your Honor. We would move these into evidence at this stage.

Q. Doctor, would these diagrams assist you in presenting your testimony to the jury?

A. Yes, they would.

MR. HEMBREE: Your Honor, at this point we would move into evidence State's 107, 108 and 109.

THE COURT: And over the -- I'm sorry; the Defense objects?

MR. DIGGS: We do object, Your Honor. Actually, this is the objection I thought I was making previously, but now is the appropriate time.

THE COURT: All right, I appreciate that, so was there an objection to State's 66, 114 through 117, that dealt with Mr. Henry Turner?

MR. DIGGS: No -- no, Your Honor. We did not object to those. I was mistaken and I thought that at that time ---

THE COURT: All right, so State's 66, 114 through 117, are in evidence without objection?

MR. DIGGS: Correct.

THE COURT: State's 107, 108, and 109 and in evidence over the objection of the Defense. Thank you.

MR. DIGGS: Correct.

THE COURT: Thank you very much.

MR. HEMBREE: Thank you, Your Honor.

(HEAD/NECK CHART (LAURA LING) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 107.)

(FACE CHART (LAURA LING) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 108.)

(BODY CHART (LAURA LING) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 109.)

Q. Dr. Collins, I'd like you to, if you don't mind, step down off the stand, and I first want to draw your attention to State's Exhibit 109. Describe to this jury what this Exhibit reflects.

A. This is similar to the man diagram. This is the one that we use for the female, and you have an anterior view and a posterior view of the female. Some of the markings here are identifying features such as how long or height, sixty-six and a half inches, two hundred pounds. Other findings that we document on this type of a diagram are the injuries, and so we have various bruises to the body, to the arms, to the chest, to the abdomen area, as well as ligature marks about the wrists.

Q. And let me show you State's 111, 112, and 113, and ask you to identify those as well.

A. Yes. These three are photographs from the Laura Ling autopsy, and that autopsy was FA05215, and these were taken at the time of autopsy.

MR. HEMBREE: Your Honor, we would offer these into evidence at this time also.

THE COURT: And the numbers again are?

A. 111, 112, and 113.

THE COURT: And Defense?

MR. DIGGS: Objection.

THE COURT: All right. I'm going to allow State's 111, 112, and 113 in evidence over the objection of the Defense.

(THREE (3) AUTOPSY PHOTOS (LAURA LING) ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 111, 112, AND 113.)

Q. Dr. Collins, what were your significant findings and conclusions to the body, and I guess we'll start -- any injuries or trauma you may have observed to the body of Laura Ling. Let's start from the neck. We're looking down from the neck.

A. Okay. We'll start below the neck because we have a separate diagram that includes head and neck for a closer view, so what we have here, we have to the region of the upper chest near the collarbone, we've got a bruise right in this region. We have a larger bruise extending over the left chest above the breast. To the right of her arm, we have a round contusion, and interestingly on the left arm, we have three round contusions and they are similar in size and we call these coin-shape, like a coin of money, and these are consistent with grasp marks, G-R-A-S-P, grasp marks, coin lesions on the left arm.

We have a contusion to the right lower abdomen. We have a contusion to the front of both thighs, and contusions are

bruises. We have bruises to the middle of the right thigh. We have various contusions also to the front of the legs, left and right.

If we look at the ---

Q. Do we -- what are those, Doctor?

A. These are also contusions of the front of the thigh. What's not depicted here, because this doesn't really show the genitalia very well, she also has contusions on the left and right aspect of her labia, of her outer vulvar/vagina area that women have. She's got contusions left and right side in that area.

On the back of her body, we have a bruise to the left shoulder. We've got a large area of bruising to the back of the left upper arm, bruising to both buttocks. We have a large area of bruising to the left calf region and some bruising to the feet.

Moving back up to the hands, we have bruises to the knuckle areas of the hands, the back of the hands, and those are consistent with defensive wounds. Also of significance is the wrist. There is an indentation to the wrist, as well as bruising to the wrist, secondary to a ligature or tie that was around both the wrists. They were tied together behind her back, and the ligature or the tie was actually a necktie.

Q. And was that necktie still intact when you began your autopsy?

A. Yes, it was. We described it, the number of loops around each wrist, the number of knots, and we also -- I also specified where I cut it. I had to cut it twice to get it off the body, and then it was labeled as such so the investigators could understand how it was initially on the body.

Q. Would that be the scene depicted in State's 111?

A. Yes. The necktie is wrapped tightly. You can see the indentation on the wrists. Where you're looking is you're actually looking at her back because her wrists are behind her back.

Q. And let me draw your attention to State's 113. Tell us what we see in this photograph.

A. This is her lower, from mid-thigh down to the bottom of her feet, and it depicts bruising that is noted on her -- her left leg. You will see here in the photograph, as well as the bruising to her left lower leg, and you see both legs in the photo, but what's actually showing is the side area here of her left leg, the front and side of her left leg.

Q. Doctor, any other significant findings or conclusions on the body section of Ms. Ling?

A. None other than when we looked at some of the bruises under the microscope, they were acute, meaning that they were new bruises. They weren't some that had been present for a week, say, but otherwise, I mentioned the bruising that's not depicted in the cartoon that was to her bottom area, to her

labia, on the left and right side.

Q. Now, let me draw your attention to State's 107. What are we looking at here?

A. There are three illustrations here. The top left is looking at the top of her head. The left on the bottom which show the top of her skull if you took her scalp off, and we would have put any fractures if there were any. The positive findings are in this photograph or this illustration on the right, so the left side of this poster, there is not anything that I drew here. This is just the illustration as is, so your finding is on the right aspect of the poster.

What we've drawn in on her neck with her neck -- her head flexed back or extended back, we have stab wounds or in- -- we call them incised wounds if they're longer across than they are deep. That's the only difference between a stab and an incise, that terminology, so we have got an incised wound that's almost two and a half inches across her neck on the front and to the right. We've got areas of contusion here. The incised wound gapes open in this region right over her Adam's Apple.

We've got another long, three point six inch incised wound going across from left to right, or right to left, either direction, and then we've also got a puncture, which is in this region, to the left of that Adam's Apple region, which is another sharp force injury, so a stab, incised wound,

depending on if it's deeper than it is long, or longer across the body, so she has three of these incised wounds with associated bruising noted to the outside of the neck, so we're looking at the skin.

Q. And let me show you State's 112, Dr. Collins. Can you describe what we're looking at in State's 112?

A. Yes. This is her neck. In the photograph you can see her -- the top of her shoulder. You can see the incised wounds, as well as the gaping wound that's in the middle, and to her left you can see small, or puncture, or stab wounds to the neck. You can also see in the region of the center of her neck the bruising that's associated with that.

You can also see in this picture on her right shoulder there's a bruise that was depicted in the other illustration where I said there was some bruising at her collarbone, so this was the sharp force injury, incision or stab wound -- wounds to the neck.

Q. Doctor, did you go -- what significance do you draw from the bruising that is apparent in this area right here?

A. Right here?

Q. Uh huh **(indicating positive)**.

A. Bruising to the neck could be from the stab -- stabbing itself. It could be from the handle. It could be from a -- the blade causing bruising, but what we noted when we looked inside the neck region was that it was secondary to

strangulation. There was bruising left and right of the tissues, of the muscles; we call them strap muscles because they are long like a strap.

Within the neck, there was fracture within the neck of the Adam's Apple or voice box region. There was extensive hemorrhage all the way from the front of the neck through these muscles into the backbone, and so it was a strangulation that was -- resulted in her death.

Q. And, Doctor, finally I take your attention to State's 108.

A. Focusing on the top half of the face diagram, this would be -- on your right would be more of the external face or outside of the face, and we've used the diagram on your left to show injury that was within the mouth or underneath the skin.

The -- first, we'll look on your right. She's got a large area of bruising to the right forehead. There is bleeding within the whites of the eye on both sides, right more so than the left side, and that would be secondary to the strangulation. As you close off the veins within the neck during strangulation, the heart continues to pump blood to that region and it can cause bleeding or bursting of the blood vessels within the eyes, within the whites of the eyes.

We also have bruising to the right aspect of her cheek or under her eye. We've got abrasion to her nose, as well as

underlying that, she does have a broken nose. We've got splitting and tearing of the tissue to the mouth. We've got tearing at the chin, bruising at the chin, and abrasion of the chin. We've got other abrasions to the side of the face, to the bottom part of the chin. We've also got a cut here which looked like another stabbing, incised wound to the left forehead, so many bruises, many cuts to the outside of the face.

When we looked within the mouth, she had bruising to the upper lip and gum, as well as to the lower gum area around the teeth. She had contusions and a laceration or splitting to this tissue on the right lower jaw. I already mentioned that she had the nose fracture, broken nose, and she had another tearing of the tissue of the gums in the upper mouth, so not only bruising, upper jaw, lower jaw, around the teeth, but also tearing of the tissues, we call that laceration, of the upper jaw and the lower jaw.

Q. Do you have an opinion or how -- what would you -- or do you have an opinion within a reasonable degree of medical certainty of a classification of this type of injury?

A. This is multiple blunt force trauma. She also had bruising to the back of the head and to the right aspect of the head when we looked beneath the scalp. She also had some bleeding over the surface of the brain. This is multiple blows to the face, blows to the mouth, the nose, the eyes, in

addition to the strangulation.

When we see the lacerations or splitting of the skin, that is secondary to blunt trauma, to a blow. When we see the incised wounds, such as on the left forehead and the three that were on the neck earlier, that's from a knife or a sharp implement.

Q. Let me draw your attention to State's Exhibit 90. Take a look at that for us.

A. Yes.

Q. And could you explain to the jury what injuries that you diagnosed that that photograph reflects?

A. This is a same photograph of Laura Ling showing her chest, but she has a part of a shirt on, but you can see her face. You can see in this photograph the chin damage with the laceration or tearing of the tissue, the abrasion.

There's the bruised area in this region. It's difficult to see; there's some white material covering up this right half of her face, so you don't see any of this region here. She's got blood covering up some of the lacerations and abrasions of the right mouth area, as well as there's blood located over the left cheek.

You can also see the abrasion or scratching damage to the nose over which -- I mean, excuse me, beneath which is the fracture for the nose, or the broken nose.

Q. Thank you, Doctor. You can have a seat.

Dr. Collins, were there any other -- you covered -- already covered the diagram; any other significant findings or conclusions?

A. There are also some hemorrhages or bruising to the tongue in several areas. We see that with blunt force trauma to the face, also when the tongue gets in the way when there's a struggle, and I did mention that she had fracture of the voice box or the larynx, but that was on both sides and that's associated with a squeezing, a compression secondary to the strangulation.

Q. Doctor, do you have an opinion as to a reasonable degree of medical certainty as to the cause of death in this case?

A. Yes. It was asphyxia or lack of blood flow and oxygen due to strangulation.

Q. And the manner of death?

A. Homicide.

MR. HEMBREE: Please answer any questions Defense counsel may have.

Thank you, Your Honor.

THE COURT: Cross-examination.

MR. DIGGS: Yes. May it please the Court, and, of course, subject to our objection.

CROSS-EXAMINATION BY MR. DIGGS:

Q. Dr. Collins, overall how many wounds did you count on

the body of Ms. Ling?

A. Multiple, multiple bruises.

Q. And can we tell anything about the mind-set of the attacker?

A. No.

Q. Not one thing?

A. No.

Q. All right. Have you ever viewed the wounds that were inflicted upon a decedent by a person who was acting in a rage?

A. Yes.

Q. Are there any similarities in that situation to this?

A. When we see certain cases with the rage. If what you're getting at is overkill, overkill is a situation where there's more done to the body than is needed to kill a person, so there's stabbings, there's blunt force trauma, there's strangulation. We see that often associated with rage, and the only term I've heard associated with that would be overkill.

Q. All right, but we have all of those things. Eliminating overkill, we have all of those things in this case, do we not?

A. Yes.

Q. We have multiple stabbings, multiple blunt force trauma, binding, so could this particular situation be

consistent with an attacker who was in a rage?
A. It could be, yes.
Q. Did you get a time of death on Ms. Ling, Dr. Collins?
A. We were provided information, historical information, by Kenny Johnson, and we were told that the time of death was approximately 2:00 A.M.
Q. Okay. Now, you did -- did you do the autopsy on Mr. Turner?
A. Yes sir.
Q. And do you -- do you have any historical information about a time of death for Mr. Turner?
A. The coroner in that case was Dan Bellamy, and we were provided that it was in the morning, and that was all the time that we were provided. We were told that he was last seen at around 8:00 A.M.
Q. Okay, so we know it was after eight, and this was on the same day of Ms. Ling's death, correct?
A. Yes. We were told that Mr. Turner died in the morning of the 8th, and Laura Ling was at 2:00 A.M.
Q. On the 8th?
A. That's what I was told, yes.
Q. Now, did you have any contact with Ms. [redacted]
A. No.
Q. And did you have an opportunity to review the medical records that were generated in her treatment, that would be

the treatment of Ms. Ling?

A. I'm assuming that's the daughter?

Q. Yes.

A. [redacted]

Q. Correct.

A. No.

MR. DIGGS: Beg the Court's indulgence, Your Honor.

THE COURT: Yes sir.

Q. Now, on Ms. Ling, there was no indication that Ms. Laura Ling had been sexually assaulted or raped?

A. There was no ejaculation; there were no sperm, but there was bruising to her labia.

Q. All right, and was she not fully clothed?

A. I know she had a plaid shirt on. Let me see. Okay, when we received her, she had on red and black plaid pajamas.

MR. DIGGS: Dr. Collins, I believe that's all I have this afternoon.

A. Okay.

MR. DIGGS: Thank you very much.

THE COURT: Redirect.

MR. HEMBREE: Yes, Your Honor.

REDIRECT-EXAMINATION BY MR. HEMBREE:

Q. Just one thing, Dr. Collins. Would you consider binding someone consistent with rage?

A. I guess with the previous counsel, and whatever you're

referring to as rage.

Q. It's not -- is it consistent with overkill?

A. Not just the binding in and of itself, no.

MR. HEMBREE: Thank you, Doctor.

THE COURT: Do you wish the witness to be excused?

MR. HEMBREE: Yes, Your Honor, we do.

THE COURT: Any objection?

MR. DIGGS: No sir.

THE COURT: All right, Doctor, you are released from your subpoena and may go back to your regular duties, Ma'am.

Your next witness, please sir.

MR. HEMBREE: The State calls Cecelia Kotsipias.

CECELIA KOTSIPIAS, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HEMBREE:

Q. Ms. Kotsipias, how are you this afternoon?

A. I'm doing okay, as best I can.

MR. HEMBREE: Your Honor, we have some photographs, State's 120 through 127, that we would like to offer into evidence at this time, I believe without objection.

THE COURT: Is there any objection?

MR. DIGGS: No, Your Honor, no objection.

THE COURT: All right. State's 120 through 127 are in evidence without objection.

(EIGHT (8) VICTIM IMPACT PHOTOS ADMITTED INTO EVIDENCE AS

STATE'S EXHIBIT NUMBER 120, 121, 122, 123, 124, 125, 126, AND 127.)

Q. Ms. Kotsipias, were you acquainted with the victim in this case, Henry Turner?

A. Yes, I was.

Q. And how were you acquainted with him?

A. I met him when I came with a group of friends to the beach, and we went dancing, and he was also at the same place where we were.

Q. And how would you characterize your relationship with him?

A. It was wonderful.

Q. Okay, but what were you to him or what was he to you?

A. We were best of friends, and we got along so well the whole almost nine years that we were together.

Q. Now, if I were to run into Henry Turner and you, how would he introduce you to me?

A. He would introduce me as his brown-eyed lady friend.

Q. Tell this jury how y'all first became acquainted, how you first met.

A. We met at the Blue Marlin on Highway 17 when I was with a group of my friends. We went on a beach trip, and we went dancing, and I was just by myself sitting, and everyone else was dancing, and here comes Henry over to me, friendly as can be, and he said would you like to dance, and I said I would

love to dance, so we got up and we danced, and he came back, and we danced, and we danced, and we danced, and then he took a break and said I'll be back in a minute, and then some of my friends came over to me and said Cecelia, there's another lady over at the table where Henry is sitting, you know. You better see what she is, so he came back to ask me to dance again. He said that's a friend of mine, Florence. She just had surgery and she wanted to come out a little, and I thought I would bring her out to hear the band a little. She couldn't dance. She had a bad leg, so he was interested in me, he said, and he wanted to dance with me.

Q. And how long ago was that?

A. Almost ni- -- over nine years now, plus four, thirteen years ago.

Q. Where do you live?

A. I live in Charlotte, North Carolina.

Q. And what -- what kind of work do you do in Charlotte?

A. I'm an administrative receptionist with Enterprise Rent-A-Car.

Q. Let me show you a photograph and tell me -- tell me a little bit about State's Number 120. What's -- what do we see in there?

A. There is Henry about the first year when we met, and he came to my house. We went back and forth every two years (sic), and a friend of mine took this picture of us together.

Q. What do I see in the background?
A. Our Christmas tree.
Q. It's kind of small.
A. It was a table tree this year. I had a small table tree, and I have no family. I have some cousins overseas, whatever, and Henry came, and he wasn't much -- when he came, I was putting the tree out and everything. What are you doing? I'm putting up the Christmas tree. I said can you help me? And he said well, I usually don't do that, he says, but okay, I'll put it up for you, so he was real proud when he put it up, and it was a little table tree this year.
Q. Now, Cecelia, you've got -- I'm going to show you 121 and 122. Tell me a little bit about these two photographs.
A. This is Henry and I. Henry taught me how to fish. I never used to fish, but he took me fishing. He said I want you to go fishing. I said Henry, I don't know anything about fishing, and he says but I want to take you. You're my lady friend, and if we're going to go together, I'm going to teach you some new things, so he took me fishing. He took me to a small lake, and then he said we've got to put the worm on -- on now. I said oh, no, I'm not touching the worm. No, no. Now, we've got to put the cricket on.

He was trying to show me how the -- you know, and then how to cast out, and I was really doing bad, and he got a lot of laughs at me at the beginning. I was very funny to him,

but then he grew to really like the way I got those catfish and bream. I had never -- I never knew what bream was until I met Henry Turner, and boy, were they good when he fried them, and he just loved to go fishing with me, take me fishing. He said I'm taking you fishing, and we had such a wonderful time together, and I haven't been fishing since.

Q. The -- that trip, that was on the same trip?

A. The same trip. We were at a lake, and we caught all the -- we caught twenty-three catfish, and they are heavy suckers to pull up, but I got them up. He helped me, and he was just so proud that I had caught all these fish.

Q. Now, tell me about these -- this one over here in State's 122. What sort of an outfit is that that Henry was wearing?

A. Henry -- Henry was a military man, and he loved his red, white, and blue jogging pants. Everywhere we'd go, he got attention by these pants, and I grew to love them, too. At first I told him, Henry, you know, can you wear something else besides these when we go out? No, I like these, he said, so these were his favorite pants that he used to love to wear, and he wore -- almost wore them out till the end.

Q. What was -- what was it about Henry's personality that attracted you in the beginning?

A. He was very jovial, smiling all the time. He looked like he was a caring person, which I found out in the nine

years he truly loved me very much. He just cared for me. I was by myself. He'd always call me, are you doing okay? Are you sure you don't need anything? Do you need me? I'll be there. If I needed something, he would be there for me, so he was a very caring, loving person.

Q. He'd come visit you up in Charlotte?

A. Every -- about every two weeks we went back and forth.

Q. I'm going to show you State's 123, and tell the jury about this picture here.

A. This is my bigger tree. I wanted a big tree so bad, and I said well, now that Henry likes decorating a tree, I'm going to see if he's going to decorate a big tree for me, so I got this tree, and Henry was so proud, especially putting the garland around it, and he was ready for the little balls, and I had angels, wisher angels. He put angels on the tree, and this was a decorated tree. Henry Turner had done it all by himself, and he was so proud of it, and he just loved to decorate my trees, and he never used to like to do that before, but he was very caring about doing things for me.

Q. What other things around the -- around your house did he help out with?

A. I had a tree to fall in the back yard, and I had a rental home, and in our talking all the time, we talked two or three times a day, he said what's new? I said Henry, a tree has fallen in my back yard and the landlord says he doesn't

have money to cut it down, he's going to just leave it, and it was laying straight across the back yard, hitting my fence. Henry says I'm coming, so Henry took the time, and he was there. When I got home that night from work, Henry was there. The next morning, Henry was up early in the morning cutting that tree down with his drill. He had brought all his tools. He raked all day until nighttime getting that tree cut up and taken away for me.

Q. What else did y'all like to do, what sort of activities? I know you danced.

A. We loved to go dancing. Henry loved to hear me sing. I sing, and I love Karaoke, and he would love to go to Karaoke. We'd go to Wayne's over there, and we had a good time over at Wayne's, and ---

Q. Wayne's here in Conway?

A. Wayne's in Conway. That was one of our places we'd go for Karaoke, and dancing, and it was a quaint place, and people got to know me there well, too, and he loved the song, Crazy, by Patsy Cline. He loved to hear me sing that, and when Brown Eyed Girl would come on, I was Henry's brown eyed girl, and he'd always tell the deejay, play Brown Eyed Girl for my lady friend, please, and they'd always play it for me.

Q. Let's take a look at this picture, 124. What do we see -- what do we see in that picture right there?

A. This is Henry. He was tired after he had worked in the

yard one day. This is my cat, Princess, who is no longer living now. She had cancer; she had a tumor on her. Henry loved this cat as much as he loved me, and when he found out she had cancer, he would cuddle the cat, hold her in his arms with a little blanket, and she had a big lump on her head, and he would pet her and say, Princess, you're going to make it, he says. I love you, and he would call me, and when he called me, he says please tell Princess to please make it for me. He loved my Princess, too, and me.

Q. Miss Cecelia, did he always love Princess?

A. He always loved her. He always loved her.

Q. From the very start?

A. From the day he saw her.

Q. Let me take you -- show you State's 125. Do you remember that day?

A. This is Henry. He's a Shriner, and we were at a Shriner Ball, and this is a picture of us where we went, and we were dazzling. We loved to dress up. Henry loved to dress up in his tuxedo and his Fez hat, and he would -- he was proud of me, very proud of me to take me out and show me off to everybody, and we were at the dance and having a good time, and this is where our picture was taken.

Q. And this looks like it's a -- you're in a different dress here. Let me show you 126.

A. This was an Enterprise Rent-A-Car party. We had

parties every year, which we don't now because of the economy, but Henry got to be well-known with my company, all my bosses. Everyone knew Henry, always asked about Henry every day, how is Henry doing, and Henry loved to joke and have a good time with everybody, and we had just finished a dance here, and we took our picture.

Q. I see he's in his tuxedo?

A. He's in his tuxedo.

Q. And, Cecelia, tell me about 127.

A. This is New Year's Eve. We were celebrating New Year's. This was the year before he was killed, and this is his friends, Veronica and Mike. They were with us every year. We would celebrate New Year's, and this is where we were having a good time, and at this time after we had gotten with the New Year's party and we went home, Henry got ill and he was choking really bad, and Mike saved his life. If it wasn't for Mike doing the CPR, Henry wouldn't have been with us then, but we had a really great time together. This was our -- his -- our best friends.

Q. That was New Year's coming into 2005?

A. Yes.

Q. Where were y'all that night?

A. We were in Conway on 544. I think it was Pedro's, and it's closed down now.

Q. Cecelia, when was the last time you saw Henry?

A. I saw Henry in February. We always celebrated Valentine's Day together, but Henry was kind of ignoring me lately because he was busy with Mr. Stanko, trying to work for him, do things for him, and he was putting me off a lot, but he came to Charlotte, and all of our friends, we went together out dancing and to see one of his favorite bands that he liked, and he had them play Brown Eyed Girl for me, and every twenty, thirty minutes, the telephone would ring while we were trying to celebrate after Valentine's Day, and it was Stephen Stanko calling him, wanting something, telling him he had to get back home, so Henry would have to interrupt our dancing and everything to go out and talk to him constantly, called about four or five times while we were trying to have a good time.

Q. Now, did -- did you say he was working for Stanko? What -- in what way?

A. He was supposed to be serving subpoenas, he said. He was doing some kind of guard work, going out different places, trying to look for a truck, and he also was trying -- he told him about a catering job at a hotel. Henry was going to get cups and everything. He got them and when he went there, no party, no nothing, zero. Henry was out; he called me. There was nothing; we -- nothing happened, he'd tell me.

Q. To your knowledge, did he ever get any -- any ---

A. He never -- he never got any subpoenas. He kept on

giving him excuses, no, I didn't get them from the lawyer. No, we're going to get them next week, Henry. I have four or five for you. You're going to get some money; don't worry. This kept on, and on, and on, but no money. Nothing ever was given to Henry to my knowledge.

Q. Now, when was the -- how often would you talk to Henry on the phone?

A. About two or three, maybe four times a day.

Q. I mean, y'all talked all the time?

A. We talked all the time.

Q. And when was the last time that you talked to Henry Turner?

A. It was about four o'clock in the morning he had called me. He had called me previously around one o'clock and told me goodnight, because I always didn't go to bed until around one o'clock, and then he called me late, and my phone rang, and I said wonder who's calling now, and it was Henry. I said Henry -- guess who's here, brown eyes. Guess who just came to my door. I said Henry, it's late; it's late. I'm trying to get some sleep here, get up shortly for work. He said Stephen Stanko is here. His father passed away and he's crying, and I've taken him in, he said, and I'm going to let him sleep here overnight, he said, and I'm going to keep him here until he gets better where he can go back to his home, and the last words he said is I love you, brown eyes, and we hung up.

Q. That's the last time you talked?
A. That's the last time I talked to Henry.
Q. When did you -- when did you find out that Henry had passed away?
A. The police, five police cars came to my door, and I'm not a criminal or anything and I didn't know what was going on, and it was early in the morning and I was in my bathrobe, went to the door. The police said we need to come in to talk to you. Meanwhile, others were looking around my yard and everything. I didn't know what would happen, if somebody in the neighborhood -- something had happened, so they sat me down, and -- I had another cat. Princess had passed away. Smokey was there then, and Smokey wanted to meow and make a racket, so the police asked me to remove him. I had to take him to another room.

But he says do you know Henry Turner? I said yes sir, I do. He said he's been killed. He's been murdered. The first two words out of my mouth, Stephen Stanko was my first two words. That's the only person that I knew was with Henry and kept on doing these things to Henry and never giving him money. That was my first two words to the police, and then they called back to the Conway Police and talked to them.

Q. Henry was a big part of your life?
A. Henry was the idol of my life. I have nobody, and he loved me. He cared about me. He did want to marry me, but I

decided I wasn't going to marry him; we would just go together. We had a wonderful life together, and Stephen Stanko has ruined our life. He has ruined it entirely because Henry would have been living today. We would have been fishing, we would have been singing, we would have been having a wonderful time together. He really cared about me, the best man I had ever dated, good to me, very good to me.

MR. HEMBREE: Thank you. Answer any questions Defense counsel has.

THE COURT: Cross-examination.

MS. WILLIAMS: Thank you, Your Honor. May it please the Court.

CROSS-EXAMINATION BY MS. WILLIAMS:

Q. Miss ---

A. Kotsipias.

Q. Kotsipias. I want to say it right. Let me say I am sorry for your loss.

A. Thank you.

Q. You said that you and Mr. Turner used to talk a lot, is that correct?

A. On the phone, two, three, four times a day.

Q. And he was a big part of your life until Mr. Stanko -- let me rephrase that. He was a big part of your life and even when Mr. Stanko came into his life, he was still a big part of your life?

A. He was always a big part in my life.
Q. But yet once Mr. Stanko came into his life, y'all didn't get to see each other quite as much, is that right?
A. Things got a little rockier.
Q. Okay. Did you ever have the opportunity to meet Mr. Stanko?
A. I never, ever met him, but Henry would call me. Brown eyes, he says, Stanko wants to take us out to dinner. We're going out for a big steak dinner. Can you come this weekend? Most of all, he kept on calling me, please brown eyes, Stanko's brother has a yacht in Wilmington. He wants to take us on the yacht and give us a good time. I told him I was not interested. I just did not want to go, so I did not go to the many steak dinners that I was invited to with Stephen Stanko and also the yacht that I was invited to a hundred times.
Q. Ms. Kotsipias, in your opinion were Mr. Stanko and Mr. Turner friends?
A. Henry thought Stanko was a nice friend. He described him -- I had never met Stanko, and I asked Henry, what is Stanko? He said he's a clean-cut man. He's -- he's a nice man. He's trying to help me make money, he said, and I'm all for it, he said, because Henry wanted to take me on a cruise. We never went anywhere, and I was so excited to be happy to go somewhere with Henry and have a good time on a real cruise, and he was trying to make extra money to take me on the

cruise, and that's why he was trying to do Stephen Stanko's work.

Q. I will apologize for going back to that, but we've addressed it, so just let me just ask you a few brief questions, please. You said on the morning of April 8th you got a phone call at about 4:00 A.M., is that correct?

A. It was sometime after 4:00 A.M., right around there.

Q. But in the wee morning hours, no less?

A. It was wee morning, yes Ma'am.

Q. Okay, and one of the first things you said Mr. Turner said is guess who's here. It's Steve Stanko?

A. Steve Stanko.

Q. And he's here.

A. Yes.

Q. And ---

A. He told me that Steve Stanko had said he wanted to sleep overnight there, his father had passed away, and Henry let him sleep overnight with him there.

Q. Okay.

MS. WILLIAMS: Beg the Court's indulgence for just a moment, please.

THE COURT: Yes Ma'am.

Q. I believe you said if I -- I just want to make sure because I wrote it down. I think you said he said like guess who's here. It's Steve Stanko. He's crying; he's upset. His

father has died, and Mr. Turner wanted to help?

A. He did want to help him, yes. He let him into his house to sleep overnight.

MS. WILLIAMS: Thank you, Ms. Kotsipias.

A. You're welcome.

MS. WILLIAMS: I have no more questions, Your Honor.

THE COURT: Redirect.

MR. HEMBREE: Nothing on redirect, Your Honor.

THE COURT: All right. Do you wish the witness to be excused?

MR. HEMBREE: Yes, please.

THE COURT: Any objection?

MS. WILLIAMS: None from the Defense, Your Honor.

THE COURT: All right. All right, Ma'am, you are released from your subpoena and may go back to your regular activities, Ma'am.

All right, Solicitor, your next witness, please sir.

MR. HEMBREE: The State calls Debbie Gallogly to the stand.

DEBBIE GALLOGLY, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. HEMBREE:

Q. Good afternoon, Debbie.

A. Afternoon.

Q. Where are you from?

A. I am from all over actually, but I currently live in Roswell, Georgia. I grew up in the military. Dad was military, so we lived all over.

Q. And your dad was?

A. He was Henry Lee Turner.

Q. And do you have any children?

A. I do. I have two daughters. Emily is twenty-five, and my youngest daughter is Mary Alice. She's twenty-one.

Q. And you -- what kind of work do you do in Roswell, Georgia?

A. I actually hold two positions. I am an assistant project manager for a commercial developer. We build multi-family housing for the affordable community, specifically for seniors, age fifty-five and older, and I am also the C.O.O. of a non-profit foundation that was created to provide services for those seniors.

MR. HEMBREE: Your Honor, we have several photographic exhibits we would like to introduce, State's 128 through 135, I believe without objection.

MR. DIGGS: No objection.

THE COURT: All right. State's 128 through 135 are in evidence without objection.

(EIGHT (8) VICTIM IMPACT PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 128, 129, 130, 131, 132, 133, 134, AND 135.)

Q. Debbie, tell me a little bit about your dad. Just tell this jury about his upbringing, where he was from.

A. Well, dad was born somewhat locally. It was a little community called Hyman, but we always said Pamplico because Hyman was such a small, little community, we just said well, dad is from Pamplico, South Carolina, and his parents were tobacco farmers in Pamplico and he grew up with two siblings, an older brother and a younger sister, so there were three children in that family.

His father's family was actually a very, very large family. There were ultimately twenty-two children in that family from two wives, so there were lots of Turners in the community. We had large, large family reunions. Usually we had that on Labor Day weekend, and there were always more Turners than I knew who they were.

Q. Debbie, what kind of house did he -- did he grow up in?

A. Well, he was actually born in a little stick shack with a tin roof kind of house, and when we were children and we would go to visit my grandparents, that house was still standing, and when we passed by the house, we would always -- dad always said there's the house I was borned in, and so the three of us children would always repeat, there's the house daddy was borned in, and it -- the house is no longer standing today, but it was a very modest little farmhouse.

Q. Now, was the farm your dad's -- your dad's calling?

A. No. Dad had great, great respect for his parents and what they did in the farming community and always supported them in that, but he did not feel that that was his calling, and he specifically wanted to join the military, so when he was seventeen -- he graduated high school a year early. He was a very smart man, and his parents signed for him to join the Army-Air Corps at that point. It was called the Army-Air Corps. Later, he became part of the branch called the Air Force then, so he joined the military and he was stationed in places like Alaska and Japan. He served actually during the Korean War, so he's a veteran of foreign wars and was very active for years in the V.F.W. I think Cecelia talked about some of the things that they may have done with the V.F.W.

He was truly, truly a patriot. He served his country. He stayed in the military for twenty years. He had a twenty-year career. He progressed very, very quickly, in fact, in the military. Within a nine year span, he went from an -- whatever they're called when they first go in, the boot camp, to a Master Sergeant, so he progressed very, very quickly while he was in there, in the Air Force.

I know you've got some photographs in front of you there. There's an exhibit number on the front. What's that first one?

A. This one is Exhibit Number 128. This is actually a photograph of my dad on my left, and his father in the middle,

and his brother. The three of them were quite a threesome. Dad was very, very close with his brother. He loved his brother very dearly.

I have to tell a little story about my Uncle Junior, though. When they were children, dad would tell it. He had an odd scar on one of his fingers, and I asked one day, dad, how did you get that scar? It almost went into the fingernail. It was on this finger, the ring finger, and he said well, my brother put that there. He said we were cutting -- trimming off the ends of corn and Junior had an axe, and we started fussing with each other about whatever one had to do and the other one didn't, and I wanted to do something with the axe and Junior said no, I've got it, and Uncle Junior said well, I could just cut your finger off with this axe if you don't behave yourself, and dad said well, go ahead, and he stuck his finger down there and, I'll be darned, if Uncle Junior didn't just about cut his finger off, so as young kids, they were probably nine and ten years old when that occurred, but they were quite an ornery pair.

Q. Tell me about that next picture.

A. This next picture is my dad when we were stationed in London, England, and he actually received the Commandant's Award, and so he's standing in his full uniform posing with that award in his hand. It's a prestigious award. I wish I really knew more about that award in particular.

Q. Now, where else was your dad stationed, other places that he -- while he was in the miliary?

A. Well, we -- when we -- I was almost a year old when we moved to London, England, and I was five when we left there, had turned five, and from there, we were stationed in Nebraska, in Omaha, at SAC Headquarters there, and my two brothers were born there pretty close together. They were, I think, sixteen months apart, so one came pretty quickly after the other, and my mother had her hands full with those two boys.

And after that, we moved to Puerto Rico. I think my youngest brother was probably two when we moved to Puerto Rico, or there about. I was in the third grade, just before entering the third grade, so we were there for three years. I was in the third, fourth, and fifth grades when we stayed there. That was a great tour of duty. Basically that's -- I mean, I remember one incident, maybe the first time I went fishing with dad when we lived in Omaha. You will hear this theme of fishing more and more often with my dad, but mom was dealing with babies, and so I had to get out of the house. He was taking me out of the house, and he took me fishing.

Well, the water was pretty rough, and apparently when I went to cast my pole out, I threw the whole pole in the water, but it was a good pole and dad didn't want to lose that pole, so he stripped down to his -- what they called the skivvies,

but it was his underwear, and dove in that cold water and got that pole, or he tried to. I really don't remember if he retrieved it or not, but I knew I was sort of in trouble for that, but he was pretty good about it.

Q. He loved to fish?

A. He loved to fish, and when we lived in Puerto Rico, as a family we did an awful lot of fishing together. That was a big thing. My mother wasn't particularly interested in fishing, especially -- when we were out one day, all five of us would get in this little five-man boat, and dad had a big ol' Johnson motor. He was so proud of that motor. He had bought it off of another airman. In fact, he lost the motor one day. We got to the dock and he went to take the motor off and it fell in the lake, so he dove down and he got that motor back. I don't know how he got the motor back, but somehow he got that motor back and had to clean it all up, but my mother was not as keen on fishing.

We were out one day and it started hailing. I mean, we're in Puerto Rico, and you wouldn't think it would hail, but it did, and I think that may have been one of the last times she went with us to go out. She was a pretty good sport about it, but when hail is hitting you ---

Q. Everybody has got their limit?

A. Yeah, and she -- she didn't like not catching fish. If she wasn't catching, then it wasn't as interesting.

Q. Now, tell me about your mom. Where did he meet your mom?

A. They met in Missouri. Dad was stationed at Whiteman Air Force Base in Missouri, and that's, in fact, where I was born. I did have a photo here of that. This is Exhibit -- State's Exhibit 130, and this is a photo of me and my mom and dad in front of the trailer that we lived in.

In fact, I went back there not -- oh, maybe ten years ago, and that trailer was still there. I couldn't believe it, so we were stationed -- and the town is called Knob Noster, Missouri. Nobody ever seems to know where Knob Noster, Missouri is, but they know about Whiteman Air Force Base because it's now the home of the B-2 Bomber.

Q. How old were you in the picture?

A. I was just a few months old. I was born in February, and that's a summer photo, so just several months old.

Q. Now, at some point your dad retired from the military?

A. He did; he retired from the military. I was entering the sixth grade when he did that, so I must have been about eleven, and we moved to Florence -- actually, we first ended up in Pamplico, and then dad was looking for work. He had been in accounting when he was in the military and, in fact, ran the first IBM machine that the military had. He would work with the payroll, so the little punch -- they had all those big punch cards, and he -- he ran that machine.

Q. Once he got -- well, let's -- let me ask you about his other -- did he have another hobby when he was -- other than fishing?

A. Well, he did. He was an avid golfer. Military courses back then had wonderful golf courses. I remember him telling stories, when we lived in Omaha especially. It was a S.A.C. Headquarters, which meant there were a lot of upper military people that were there, that were serving there.

It was a Strategic Air Command, so it's an important base to be stationed at, and he would frequently get a call and say, Sarge, can you call your officer and see if you can get off-duty now so you can join our foursome, and these were usually the Generals and the Colonels that would call him to come and join their foursome because he had a really, really good golf handicap. He was a -- he was very, very short. Dad was just barely five, six, but he had kind of long arms and he had a real, real powerful swing, so he was a good golfer. He was a really good golfer.

Q. Now, you mentioned that he moved -- y'all moved to Florence?

A. We moved, yes.

Q. And tell us about that, that chapter in your dad's life.

A. Well, that was -- the boys were getting a little bit older and Rodney was starting first grade. Roger was about to

start kindergarten, and I started sixth grade. I don't think then they called it middle school. I do have a photo here that's about that time frame, too, if I may. It's State's Exhibit 131, and this is just as a family. You can see how dated it is with all of our hair-dos, but I think we're kind of a nice looking group actually.

Q. What sort of work did your dad do after he got out of the military?

A. Well, he did -- he held several positions. It's kind of hard for me to remember actually all of his work history. I know that he worked for Prudential Insurance Company for a while. He vowed he would never sell insurance, and when he got out of the military he sold insurance, which was kind of funny.

He also worked -- ended up in the hotel industry as well and did that for a number of years. He had a little store for a while. Then he went into the real estate business, and he ended up basically commuting back and forth to Myrtle Beach while he was in the real estate business then.

Q. Let's see, and oh, yeah, tell me about this picture, 133.

A. Well, this is when I was getting married, my mom and dad and me. This was at the rehearsal dinner for my wedding. Actually on my wedding day, my dad gave me away, and there was great consternation between my mother and my father because my

dad wanted to wear red socks with his tuxedo, so we were a little bit concerned about dad walking down with his red socks.

And, you know, I was so nervous that day, at this point I don't really remember if he had on his red socks. Quite frankly, if he did, he just did. It was just dad's way of saying I'm here, too, and I'm supporting everybody, but he liked to kind of tweak things a little bit and pick a little bit at folks. He was a jokester. He enjoyed that.

Q. What sort of a dad was he? I mean, you know, as a girl growing up, what -- tell me about what he was like around the house with you.

A. Well, I think this is probably typical of dads all across. Dads tend to have a different relationship with their daughters, I think, than they do with their sons, and I would say that about my dad with me.

My mother was more the disciplinarian in our house. Dad infrequently -- this is going to be -- in fact, I really can only recall two times when he disciplined me, and one time was I may have been in the first or second grade and I'd gotten a really good report card, but on the report card it said she talks too much in class, so my mother said well, you're going to have to spank her because she cannot sit in class and talk too much.

And I must have heard something about Tom Sawyer getting

a spanking, and I put a book under my nightgown. Well, by the time dad realized what was going on with the book under my nightgown, I did not get much of a spanking. He was so -- laughing so much about that.

And the only other time I really remember a dad-discipline was I was learning to drive, and my dad had a white LTD Ford. It was a real nice car. My mother drove a pea green Corvair. I don't know if any of you remember Corvairs, but they're kind of yucky cars, but it was a stick shift, and if you're a young driver, by golly, he was of the school that you need to learn how to drive a stick shift, so I was backing in and out of our parking area at home, and one of the times I backed out, that pea green car just did scrape along the side of that white LTD Ford and a big ol' long green mark got left on that car.

So I went in and told my mother, and she said you're going to have to clean that up, so I cleaned off the green mark, but there was still a dent. She said you've got to tell your dad. Well, we just don't want to disappoint dad. It's not that he yelled and screamed. He was never that way with his discipline. In fact, he just was never a loud man period unless he was having a good time and laughing.

So I went in and I said dad, I ran into the LTD with the Corvair. He never said a word. He turned around and walked down the hall. I followed behind him, my heart pounding, and

pounding, and pounding. He goes outside. He walks all the way around the car, walks all the way around the car again, and then just looks at me. Where is it? I said well, it's right over here, and I showed him the spot where I had dented in a little bit on the car. He said damn it. You've got to be -- and I just burst into tears as soon as those words came out of his mouth, and I ran into our shed.

And he came in there and he said you know what, when I was a teenager, I turned the tractor over in the ditch and I sweated for two weeks waiting and waiting for my dad to chew me out and give me the whipping of my life, and it never happened, but I sweated and sweated for those two weeks. He said by me going ahead and chewing you out, we've gotten it done and over with and we can move on from here, and that's pretty much how dad was.

Q. Not a man to hold a grudge?

A. He did not hold a grudge, never held a grudge.

Q. Let me ask you about this photograph, 134.

A. Well, that's all of our family basically, my dad's parents, Grandma and Granddaddy Turner, his brother and his wife, and their child and her husband, and his sister and her husband, and my husband and my two brothers, and my mother, so that's probably one of the last big family photos really that we had taken of all of us there.

Q. And your dad is ---

A. He's way at the back behind my brother with the glasses.

Q. He's got a full beard, like a beard ---

A. He's got a beard on. He was always changing his hair or his facial hair.

Q. And you're down there in front?

A. I'm at the most forefront, uh-huh.

Q. Where was that picture taken?

A. That was taken at their home. They had a home at Forest Lake that mom and dad had built. Both of them put in a lot of specific personal labor into that home. They did a lot of the work themselves, both of them did, on that home.

When I would go home to visit at Forest Lake, I was married at the time, but I'd call dad and say okay, dad, I'm coming home for the weekend. He said all right, I'll get the battery ready. Well, that meant that he would charge up the battery. We had a little -- we usually had a one-man boat and/or a one -- a two-man boat at the house, so we had a little trolling motor and he would get the battery charged up so that I could go and fish because I like to fish.

My husband would be inside watching T.V., football on T.V. I was out on the lake fishing. Sometimes I was fishing with dad, but, well, one time we went fishing and he was catching a lot of fish, and catching them and catching them, and I wasn't catching anything, and I said dad, what's -- you

know, what's the deal? Why are you pulling in so many fish? He said oh, I'm sitting over a bed right here. I said well, let's swing the boat around so I can get my -- throw my line over in there. He said no, we're good just like we are.

Q. So fishing is good ---

A. Fishing is fishing, but -- I love you daughter, but I'm not going to share ---

Q. That's it.

A. --- share the bounty.

Q. Tell me about 135.

A. Well, this is really a funny story. Actually, my -- my brother, Roger, reminded me of this. My girls and I had gone to visit dad while he was living here, and he was babysitting the girls. I can't remember why I had asked him to watch the children. I may have just gone out to go shopping, but it was just maybe a couple of hours, and dad fell asleep while he was watching the girls.

Well, they needed to entertain themselves, so they took every book that he had and took them off the shelves, and he called my brother and said I can't believe these children. They have strewn every single book off of my shelf while I was sleeping, but that's what you get when you get -- when you get caught napping.

Q. And which daughter -- which daughter, his granddaughter, your daughter?

A. Yes. That's my youngest daughter, Mary Alice, in the photo. He took Emily out; he was going to show her how to go shrimping, and so he and Emily toddled off and when they came back -- dad wore dentures, but one of his teeth was gone. I said my gosh, dad, what happened to your teeth? He said you're not going to believe this. He said I was showing Emily how to throw the net out, and you hold the net in your mouth; well, when he threw the net out, his tooth went flying out with the net, but he got the tooth back and he super-glued it back in.

Q. He's persistent?

A. He's persistent. He got his tooth back. It was kind of a funny story.

Q. He slung a fishing pole, a motor, and a tooth into the lake?

A. He -- he is a man who could do just about anything. He was very curious about life, very curious about life. He wanted to know how the world worked. He took all kinds of classes when he was in the military and even after the military. In fact, that is what introduced him to Laura Ling, was he was taking a computer class to learn how to work the computer at the public library.

Q. Tell me about when you found out that your dad had been killed.

A. How do you get news like that? It's probably four-

thirty in the morning and I was dead asleep, and my mother call- -- the phone rang, and when it rings at four-thirty in the morning, you just -- that's not a good sign, and my mother called and said Debbie, your dad is dead, and it was like the room got brilliant light, bright, bright light, and I just sank to the floor, and I said what, what, what do you mean? What do you mean? She said your dad is dead, and so she proceeded to tell me the circumstances about Roger, realizing that dad had not shown up for a family dinner and he heard on the news that there was a manhunt out for Stephen Stanko and he was scared, and called a neighbor and went there to see about our dad, and they wouldn't let him in the house.

I mean, my poor brother sat there. He had to sit outside of that house for hours waiting and waiting for somebody to let him go in there to find our dad and know the whole time in his heart. In his heart, he knew our dad was in there, but the police, I know they had to do what they had to do, but as a family member to sit there and know that your father is there and that there's got to be something wrong with this picture, I feel so bad for Roger that he's had to live through that.

It is a terrible thing to lose your dad. My oldest daughter is getting married December the 6th this year, and she is the oldest grandchild, and he will not see her walk down the aisle. I mean, how can you say in five minutes what

you lose when someone kills a member of your family.

You lose a part of your life, too, because he would have been with us, and he would have been engaged in what we were doing, and we have that no longer. We don't have his laughter, or his humor, or his intelligence, or his compassion. All of that is erased when you lose a family member, and to lose someone the way that he died is so -- it hurts my heart so bad to know the circumstances surrounding my father's death. There is no way to describe what it is to lose someone, but if you could see inside of our hearts, you would see what we've lost.

Q. Do you reckon he would have worn those red socks to the wedding?

A. You know, I really, really think he's worn his red socks right today. I think as he sits in heaven, he still wears his red socks, yeah.

MR. HEMBREE: Thank you, Debbie.

A. You're welcome.

MR. HEMBREE: Answer any questions Defense counsel may have.

THE COURT: Cross-examination.

MS. WILLIAMS: Your Honor, we have no questions for Ms. Gallogly.

THE COURT: All right, Ma'am, you may step down.

Further witnesses on behalf of the State?

MR. HEMBREE: Our final witness, Your Honor, is Roger Turner.

THE COURT: Come around and be sworn.

ROGER TURNER, being first duly sworn, states as follows:

MR. HEMBREE: Your Honor, we have a number of photographs that we intend to introduce through Mr. Turner, State's 136 through 144, and 146, which we have provided to Defense.

THE COURT: Is there any objection?

MR. DIGGS: No objection.

THE COURT: In evidence without objection.

(TEN (10) VICTIM IMPACT PHOTOS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 136, 137, 138, 139, 140, 141, 142, 143, 144, AND 146.)

DIRECT-EXAMINATION BY MR. HEMBREE:

Q. Hey, Roger.

A. Hey, Greg.

Q. You are Henry Turner's son?

A. That is correct. I'm the youngest.

Q. The youngest son. How old are you?

A. Forty-seven.

Q. Where do you live?

A. Myrtle Beach.

Q. And how many children do you have?

A. I have just one.
Q. All total, how many grandchildren did your -- did your dad have?
A. Actually, he's got six.
Q. Your one; Debbie has got two?
A. Uh huh **(indicating positive)**.
Q. And your brother ---
A. Rodney has got three.
Q. Okay. Is Rodney here today?
A. Rodney is here, yes.
Q. Now, tell me a little -- and we've kind of learned a little bit about your dad from your sister, and Cecelia, so we kind of know his background. He was in the military and worked after that. You were the youngest, so you sort of followed him along kind of after the military, is that fair to say?
A. Yeah, that's -- that's fair to say. I mean -- I mean, dad was -- of course, he was a father. He was a grandfather. He was a, you know, a great husband, a great friend. He was not just my father. He was a friend, and he was my best friend, and -- and, you know, our relationship was something to be sought after by many, and ---
Q. You're the only child that lives here locally, I believe?
A. That is correct, so I spent lots of time with dad, lots

of time.

Q. As a kid growing up, what sort of a dad -- I know the way he was with the girl, with the daughter. How was he with -- with his boys?

A. Actually, he, you know, he was like any father should be, you know. He set examples for us how to live our everyday lives, and he led by example as far as mannerism, how you treat one another, the Golden Rule pretty much, do unto others, and -- and, you know, he again was military. You know, I learned a lot of things to do from my dad and a lot of things not to do from my father, so -- and -- and I use that in my everyday life today.

Q. I'm going to show -- I'm just going to give you some of these photographs also and ask you to go through some of those. Where did you -- where did you end up going to high school?

A. Actually, West Florence. I grew up pretty much in Florence, South Carolina, which is not far from here, then moved to Myrtle Beach right after that.

Q. All right, and that first photograph you've got there, what number is on that photograph?

A. That number is 136, and this is a photograph of my lovely wife, and myself, and my father, who she is here now also, and he gave away -- my wife's father was not here when we got married, so, you know, they ask, well, who gives this

woman to this man, and, of course, my father says his mother and I do, so that's -- that's our wedding picture.

Q. Now, tell me a little bit -- I found this rather interesting. Tell me a little -- tell this jury about how you were introduced to your wife.

A. Yes, it seems kind of strange. My dad was dating her mother for years, two years, before I met my wife, and he was -- introduced us pretty much. I had gone fishing that day and -- with a friend of mine and came to his house, and my wife happened to be there and -- with her mother and my dad, and that's how we met.

Q. So you -- he was dating your wife's -- your mother-in-law?

A. Right.

Q. And introduced you to the daughter?

A. That's correct.

Q. You married the daughter, and he didn't marry the mother?

A. That's correct.

Q. Now, somebody got a woman out of the deal?

A. Yeah, yeah, yeah.

Q. Somebody got a woman out of the deal.

A. He -- after he dated Rose, he started dating Cecelia.

Q. Now, you've got -- you mentioned your son. What's his name?

A. His name is Sam, Sam Turner.
Q. All right.
A. Samuel Allen Turner.
Q. I think there's a photograph there, maybe looking at it right there?
A. Yeah. This is him as a baby. Dad was really, really proud to have a grandson and to carry on, of course, the Turner legacy and the Turner name, and man, this is a great photo because these are great times. We lived a block from the ocean on 18th Avenue South in Myrtle Beach, and were just about a block from the ocean, and in our back yard, oh, man, it was wonderful.

We had a great back yard, and dad helped me build a sandbox for our -- his grandson and my son, and that's what this is. He would spend many hours coming over spending time. That was his pride and joy, and that was his -- seemed like his sole purpose at that time was to spend time with his grandson, Sam.

Q. Was your dad retired at this point?
A. Oh, yeah; oh, yeah, yeah. He had been retired. He retired in 1967, by the way, with -- from the Air Force.
Q. But he worked after that for some period of time?
A. Oh, yeah. He did some private investigating work. He also did real estate. He did some sales business. He also sold Encyclopedia Britannica. He was in a numerous amount of

businesses and actually at the time that he met Stanko, he was doing some private investigating work and also some real estate things, and they were supposed to -- then he was trying to form a company that he was in the Herbal-Life business to sell vitamins and things like that, and supplements, dietary supplements and things like that. He always ---

Q. What about that next photograph?

A. This next photograph here, this is the Christmas I gave dad a guitar, and that's what that is there, and, of course, you can tell his appearance -- through the years, dad would, you know, grow his hair different or do something a little different. He was not always the same there, and with that guitar, he couldn't play real well. I mean, he could play it, but he could do like Little Brown Jug or something like that, you know. I mean, he could pick a few.

Q. How about that, is that his natural hair color there?

A. That is after probably some Hair Club -- I mean, some just for men kind of additives there. A couple of those photographs, you may see like some shoe polish moustache-looking type -- he was good at doing that every now and then.

Q. Let me show you this one right here, 139.

A. Okay. This one is, oh, man -- of course, here he is wearing a Shrine shirt, and he never wanted to miss a party. This is my son's -- I think is probably his fifth, fourth or fifth year birthday party, and, of course, Sam was wearing a

birthday hat, and so dad needed to also, part of the festivities, you know.

Q. I can't help but notice you've got some -- is this your house?

A. This is my house, yes.

Q. And you've got some trophies there on the wall?

A. There's a few, couple of small fish that I had caught. One was -- my wife let me go fishing on our honeymoon, caught a very -- it was very nice of her, spent a day fishing, and caught a very large bass and ---

Q. Sounds like your dad gave you some pretty good advice?

A. Oh, yeah, yeah.

Q. You married the right woman.

A. And actually the other bass sitting next to it was we went back on our first year anniversary, so I caught even a larger bass my second year anniversary, so I named one the honeymoon bass, and I named the other one, the even larger one, the anniversary bass, so I caught some very large fish.

Q. I know the answer to this, but who taught you how to fish?

A. Who would have thought that? You know, actually I -- of course my dad did obviously, and in -- in the latter part of the years, you know how children go through stages, and, of course, I know everything, he knew nothing, and so I became then the expert, you know, so I took the expert's knowledge

and made it even better.

Q. It sounds like fishing at your house is a pretty big -- a family deal. I mean, everybody was in except for your mom. After the hail storm, she backed out of that deal, but ---

A. Well, she liked to cook and eat them, too, you know, so -- so she was all about cooking and fish. She was still part of the fishing part, you know.

Q. But your sister fished, your brother fished, ---

A. Yeah.

Q. --- you fished, the whole crowd?

A. Uh huh **(indicating positive)**.

Q. The grandchildren?

A. Yeah, yeah, yeah, oh yeah. Dad actually used to take -- he had all the grandchildren fishing pretty much. I mean, that was a common interest we had. I mean, when you build a bond with somebody and you have these -- this common thing, I mean, that was a -- that was a discussion in our family quite often, so, I mean, I even wrote a -- my graduating year, I know my mother won't want to hear this, but I will release it, but my senior year graduating high school, I wrote my term paper on how to catch the freshwater large mouth bass, so I did pass.

Q. You got out of school?

A. Yeah.

Q. Good for you. Okay, now this picture, Number 140, what

is that a picture of?

A. This is a picture of my brother and I, Rodney, and myself and dad and I and Rodney. We all went to this place called Short Stay and went striper fishing, and this was probably -- I don't know if this was the last time that we fished together as the three of us or not. I'm not real sure on that one, but that's what that is. Rodney, I think he out-fished me that day.

Q. Rodney out-fished you?

A. Yeah, I believe so, maybe, maybe his second time in his life or something like that.

Q. But it had to happen?

A. Yeah.

Q. Take a look at 141 and 142.

A. Yeah. What these are, Rodney invited us up to Lake Oconee in Georgia, I believe is the name of the lake, and he had a friend of his that had a house on the lake, so dad and I packed up and took a road trip and met Rodney and his family there at the lake and, of course, dad went fishing with his grandchildren. That was Reaves and Griffin, and these were Rodney's children, and just wonderful times, wonderful times, and he's kind of passing on the legacy.

Q. How often would you see your dad, Roger? I mean, you know, here in town and ---

A. Well, I saw him, yeah, very often, pretty much. It was

probably three, four, maybe sometimes five, five times a week, you know.

Q. Go to dinner? I mean, what did y'all ---

A. Well, it wasn't always going to dinner. It was always something, you know, either I needed help doing something or he needed help doing something, or we would just see each other, or he'd just come by to visit with my wife, and he was always johnny-on-the-spot there, and actually I would go fishing a lot with -- sometimes without him, you know, and I would catch spots during the season, and if anybody is from around this area, you know, you catch hundreds of those at the time, and I would always catch way too many, and dad was always on call to come help me clean them.

And that was something that -- of course, he taught me everything that I killed or I caught, I would have to clean and eat it or something there, so, I mean, whether or not if I shot a squirrel, I -- you better bet that I was going to skin it and eat it, or somebody was, and it wasn't just for killing or doing something like that. Somebody was going to benefit.

Q. What other interests, I guess, big interests did he have in addition to fishing?

A. The -- his big interest, oh, man, he was big in the Shrine, and he was a Jester. He was a Mason, a Shriner, and a Jester, and he made it to -- once you go -- if y'all don't know the history around that, but you have to be a Mason

before you're a Shriner. Then you're a Shriner, and then to get into the Jester Court Number 113, you have to be invited into that also, so he was real active in that, along with he was proud of it.

During the -- his time when he was in the Omar Imps, he was actually a clown and he rode the bike with the tires that were warped, so he went up and down, up and down, and just ---

Q. Do you mean like the parades and ---

A. Oh, yeah, he was in the parade and, yeah, like the hillbillies, and he had his group, and his groups was called the Imps, and they were the clowns and, of course, he would always wear his clown outfit and his make-up, and, of course, he wouldn't shave knowing that there was going to be a parade so when he put his make-up on, it wouldn't run off and it would stick, you know, with his whiskers and everything, so something I always remember was my brother and I, and, of course, my sister when she was there, we would always get the face burn. When he would see us and spot us in the crowd watching the parade, he would always come over to us and scrape us with his make-up and ---

Q. You went and saw -- you went and saw him in parades all the time when you were growing up?

A. Oh, yeah, yeah, yeah. That was a major thing, and we'd take trips all over Charleston, or here because they used to have the Shriners Convention here and have a parade and stuff.

That was actually popular in this area. I don't know if they do it any more.

Q. And the Imps -- I mean the Imps -- not Imps, the Jesters, what is it? What is the significance of that?

A. Well, the Jesters, it's a step up above the Shrine pretty much, and you have to be invited into the Jesters, and that is to -- once you get to a high level in the Shrine and pretty much have paid your dues -- the Shrine is such a great organization. They help so many people. This is just another level of that, and really the only way to get into this, as far as I know, because there was kind of secrecy, you know.

There's still Masons and Shrine. There's a secret about that, so I don't know because I'm not one myself, but I still plan on doing it, and it was always a goal, and he said always if I wanted to go in, he would support me on that and make sure that that was going to happen, so, I mean, I will carry out that still hopefully, but anyway, you have to be invited in, and his court was Number 113, and you could only have a hundred and thirteen members, and at the time he was killed, I think he was like Number 16 or something, so the only way to get in was for people to die, because you had a hundred and thirteen members, so when he joined, he was like Number 113, but -- so he lasted all the way to being like Number 16.

Q. And the photograph you've got there, Number 143.

A. 143, what this is, yeah, this particular day I had

taken dad to the V.A. Hospital in Charleston to get his eyes dilated and so he couldn't drive, and he was worried, oh, man, we have to hurry up and go there, get back, drive to and from Charleston, because right over here on the other side is the Shrine Club, and he was supposed to get his portrait made, so this is the year before he was killed here, so this is his last Shriner's portrait here.

And, of course, he wore always his outfit, his Shrine. He had stickers on his car, emblems. I mean, that was his life, and he was helping others, and again, he wasn't just my dad. He was a father and my best friend, you know, so -- and not only to me, but to so many others. I mean, my wife looked -- spent -- you know, he looked at her as a daughter and her family, too, as his family, and it -- I mean, if you ask my brother-in-law, my wife's brother, you know, who is your best friend, he says Henry Turner.

And that was really no blood relation, but only through my wife, and she looked at him -- dad loved everybody like that and he had open arms, and so he wasn't just a father, and he was my best friend, and he was also a grandfather, and he was a husband, and he was just a fine, upstanding person in the community, and that's what he noticed.

Q. Let me ask about 144.

A. All right. 144, man, that's a tough one. The day before he was murdered, he stopped by my house. I was not

home, and at my house, my mother-in-law, my wife's mother, had been diagnosed with lung cancer, and her family was here. We were going to take family photos and everybody was at my house, and we were going to have a cookout that night, and dad come by that day and stopped by.

And my sister-in-law, Sheila, said oh, Henry, you look so pretty in that shirt and you look so good, because he had just survived cancer himself and gone through, and he was in great shape. Golly, you're looking really, really good. You're happy. Let me take your picture. He was like, oh, no, no, no. She said oh, no, Henry, you look so good, so -- and this was taken the day before he was murdered, in my back yard, and, of course, you can tell by what he was wearing what type person he is right there. It really says it all, and actually you can probably ad-lib on that.

Q. He's got a fishing hat on, ---

A. (NODS HEAD AFFIRMATIVE.)

Q. --- and a Jester's shirt, had a big smile on his face?

A. And a Shriner's watch.

Q. And a Shriner's watch.

A. That was my dad, if you met him. It about says it all.

Q. He, among his many qualities, your dad was sort of a philosophical man?

A. Very much so. He had some great sayings, and yeah, he has read them on to me and my family. I mean, one of his

sayings to me, I'll remember that always, is if you make your business a pleasure and your pleasure a business, then you've mastered the art of living, and that's -- that's one of his.

Q. Did he have one in particular that -- that he memorized that comes to mind when you think about your dad?

A. He did, and my dad was a man of many words, and he -- at my brother's wedding, he remembered a toast per se and he stood up. He knew this toast verbatim, and this is the way -- really describes my dad and the way he lived his life, and it's really called Man In The Mirror, and I'd like to share that with you now because it really says it all, and it's when you get what you want in your struggles for self and the world makes you king for a day, and then go to the mirror and look at yourself and see what that man has to say, for it isn't a man's father, mother, or wife whose judgment upon him must pass, the fellow whose verdict counts the most in life is the man staring back from the glass. He's the fellow to please, never mind all the rest, for he is with you clear up to the end, and you passed your most dangerous, difficult test if the man in the glass is your friend. You can fool the whole world down the pathway of years and get pats on the back as you pass, but your final reward will be heartache and tears if you've cheated the man in the glass. That's my dad.

MR. HEMBREE: Thanks, Roger. Answer any questions the Defense has for you.

THE COURT: Cross-examination.

MS. WILLIAMS: The Defense has no questions for Mr. Turner. Thank you.

THE COURT: All right. Mr. Turner, you may step down, sir. Thank you.

MR. HEMBREE: Your Honor, that concludes the State's presentation in the penalty phase of the case. The State rests.

THE COURT: All right, sir.

Ladies and gentlemen of the jury, if you don't mind, if you would leave your pens and your pads and go to your jury room for a moment, please. Thank you.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: So that I can have some idea regarding scheduling, Mr. Diggs, how many witnesses do y'all plan on calling?

MR. DIGGS: Your Honor, we have ten.

THE COURT: All right.

MR. DIGGS: They should not be long witnesses. However, -- so I don't -- I certainly don't expect it to go beyond tomorrow.

THE COURT: All right, so if we start it as we have every morning, we will be able to go through all of those witnesses tomorrow?

MR. DIGGS: Yeah, without a doubt. From my perspective, probably maybe a half a day actually.

THE COURT: All right. All right. It's been sort of a long day with a lot of witnesses today, so I think the jury probably needs to conclude for today, so we will resume tomorrow morning at -- I will have y'all here, please, eight-thirty.

The jury is going to be here at eight-thirty. If there's any issues that we need to take up, please so we can do that, I would anticipate that probably we will start sometime between eight-thirty and nine o'clock. There's no sense waiting if we're all here and ready to go, and the jury has been here every morning by eight-thirty, so let's do that and be prepared to go forward in the morning then.

Anything further from the State at this point in time?

MR. HEMBREE: No, Your Honor.

THE COURT: Anything further from the Defense?

MR. DIGGS: No sir.

THE COURT: All right. Is there any necessity to call the jury back out? I think we could just let the agents take them on to the motel. Is there any problem with that?

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

THE COURT: All right.

MR. DIGGS: None from us.

THE COURT: All right. Thank you very much.

(THE FOLLOWING TAKES PLACE ON NOVEMBER 19, 2009, OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, is the State ready?

MR. HEMBREE: The State is ready, Your Honor.

THE COURT: Defense?

MS. WILLIAMS: The Defense is ready, Your Honor.

THE COURT: All right, very good, and Mr. Diggs is?

MS. WILLIAMS: He stepped -- he's right outside that door, Your Honor.

THE COURT: All right, very good.

Why don't you go ahead and start the jury in.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, good morning ladies and gentlemen.

And the State having finished the presentation of its evidence in the sentencing phase, we will now start with the Defense presentation.

All right, Mr. Diggs.

MR. DIGGS: Your Honor, we would call Dr. James Thrasher.

THE COURT: All right. All right, Mr. Thrasher, if you would come up to the Clerk, please sir.

JAMES W. THRASHER, JR., M.D., being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. DIGGS:

Q. Now, Dr. Thrasher, you've been qualified as an expert in the field of psychiatry in this case, have you not?

A. Yes.

Q. And could you remind us, please sir, what you do and how you are employed.

A. I am a physician licensed to practice medicine in the State of South Carolina. My specialty is psychiatry. My sub-specialty is forensic psychiatry, and I -- I used to have an office on 48th Avenue for sixteen years, ---

Q. Okay.

A. --- and I sold that and now I am employed by the Waccamaw Center for Mental Health in Conway here.

Q. All right. Now, at the time that you were in private practice, did you encounter or did you have an opportunity to examine Mr. Stanko?

A. I did.

Q. And can you tell us when that was? Do you have a recollection?

A. It was near four years ago.

Q. All right. Now, he had been -- and we had been -- or you had been asked to do an evaluation of him, is that correct?

A. Yes, I had, by you.

Q. All right, and that was following the Laura Ling

situation, is that correct?
A. Yes.
Q. Now, let me ask you did you evaluate him?
A. I did.
Q. Tell us what you did, please sir, to go about doing that.
A. Well, I examined the available records and I interviewed Mr. Stanko personally.
Q. Okay, and do you remember what records were available?
A. I don't.
Q. Do you have a recollection as to whether or not you learned about the events involving his first arrest and following the -- I think her name is Ms. McLendon down in Moncks Corner, were you familiar with that?
A. Oh yes; yes, I -- I am.
Q. And so did you have an opportunity to look into the allegations of that case?
A. I did.
Q. And did you take -- let me ask you this. What all did you take into account in reaching an opinion in this matter?
A. Those things that I could glean from the records and from an interview with Mr. Stanko.
Q. All right, and were all of the records that you asked for made available to you?
A. As far as I recall.

Q. All right, and did you reach an opinion as to his mental state at the time of the Laura Ling incident?
A. I did.
Q. And what was that?
A. Well, you mean a diagnostic ---
Q. Yes.
A. --- decision?
Q. Yes.
A. He -- I found that he had a anti-social personality.
Q. Okay. Now, in terms of a legal sense, did you render an opinion on his legal capacity at the time of the incident?
A. I did.
Q. And what was that opinion?
A. I felt that he was not able to form the requisite capacity to know that what he -- to know the difference between right and wrong as concerns moral and ethical standards.

MR. HEMBREE: Your Honor, may we approach?

THE COURT: Yes, absolutely.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

Q. Now, let me -- let me direct your attention to -- back to the diagnosis part of your interview with Mr. Stanko and thereafter. Now, he was charged or accused of murder with respect to Ms. Ling, is that correct? Is that your understanding?

A. Yes.
Q. Now, did you render an opinion about whether the murder was committed while Mr. Stanko was under the influence of a mental or emotional disturbance?
A. I did.
Q. And what was that opinion?
A. That he was.
Q. Okay.
MR. DIGGS: Bear with me for just a second.
THE COURT: Yes sir.
MR. DIGGS: Elizabeth took my list. Could I -- could I look at that for a second?
THE COURT: Yes sir, you certainly may.
Q. And let me ask you did you render an opinion about the Defendant's capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law and whether it was substantially impaired?
A. Yes, I did, and it was substantially impaired at the time of the ---
Q. Incident?
A. --- commitment of the act.
Q. Yes sir. All right, thank you very much. And is that still your opinion today with respect to that incident?
A. To that trial at that time, at that point, yes.
Q. Okay.

MR. DIGGS: Dr. Thrasher, I appreciate your time this morning. I believe that's all that I have at this point, and I would ask you to answer any questions the Solicitor may have.

THE COURT: Cross-examination.

MR. HEMBREE: No questions, Your Honor. Thank you, Your Honor.

THE COURT: You may step down, sir. You are released from your subpoena and may go back to your regular activities.

A. Thank you, Your Honor.

THE COURT: All right, Mr. Diggs, your next witness, please.

MS. WILLIAMS: The Defense would call Ms. Wanda Brooks.

THE COURT: All right, Ms. Williams.

MS. WILLIAMS: Wanda Brooks.

WANDA REED BROOKS, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MS. WILLIAMS:

Q. Ms. Brooks, will you please tell the jury where you live and what it is that you currently do.

A. I live in Goose Creek, South Carolina, and I am an attendance clerk at Goose Creek High School.

Q. And, Ms. Brooks, do you know the Defendant in this case, Steve Stanko?

A. Yes Ma'am.

Q. Can you please tell the jury how it is that you know him.

A. Steve and his family moved in across the street from us in -- in the eighties when he was in middle school.

Q. Does -- did his -- do his parents still live across the street from you?

A. His father does. His mother is deceased.

Q. So his father is still your neighbor, is that correct?

A. Yes Ma'am.

Q. Now, can you please tell us -- describe the Steve that you knew as a child.

A. We met Steve, like I said, when he was in middle school. He was very friendly, very outgoing. He was at my house a lot. I had smaller children, but as most men know, they never grow up, and my husband would get out in the street and play football with him and his brother and some of the other kids in the neighborhood. Our son would also.

They played baseball. He would come over and go swimming in our pool. He would play with the kids. There was a time also when my youngest daughter had hurt her foot and needed to go to hospital. Jeff went with me, who is Steve's brother, and Steve stayed with my children. I had no problems with that. Steve was always very nice, very polite, went out of his way to help if he could. If my husband needed something done around the yard, he would always come over and help him,

so he was-- he was a friend, and at times kind of felt like a child because he was over at the house a lot.

Q. Can you tell me about your relationship, if any that you have, with your neighbors.

A. Well, they've come and gone. We've kind of more or less stayed there the most with Steve's parents and the people across the street, but we have an open relationship with them. We are there if they need us, and they are there if we need them.

Q. They being your other neighbors or specifically the Stankos?

A. No. I have no -- Mrs. Stanko was the only one that I really spoke with or talked with. She was the one, not Mr. Stanko.

Q. Can you give me any impressions that you may have formed about the Stanko household?

A. It was a very unfriendly -- I just felt very uncomfortable when I was over there. I very seldom went into the house. I went over when they were there. I would speak with Mrs. Stanko in the front yard or like if the kids were getting home from school or things like that, or she would come over to the house, but I very seldom went over. I felt very uncomfortable.

Q. Tell me this, did you have any expectations for Steve?

A. Oh, yes. Everyone did that knew Steve.

Q. Tell me why.

A. Because he is so smart and so -- his school was so important to him and his education was so important to him. The academy was something that he had dreamed of. He -- that's just about all he talked about was going into the academy, and his education, and going on to be a -- it was a pilot, I think. I think it was a pilot, and then he was unable to get in and it was very upsetting because that was his dream, but I had no doubt in my mind that Steve was not going to go on and accomplish a lot. He had set goals for hisself and ---

Q. Do you know if he got into any -- was actually accepted into any universities?

A. I -- I'm not sure. I think he was accepted into Clemson, but I'm not sure. All I can remember is the Air Force Academy.

MS. WILLIAMS: One moment. We don't have any further questions. Thank you, Ms. Brooks. Will you please answer any questions that the Defense (sic) may have.

THE COURT: Cross-examination.

MR. HEMBREE: Thank you, Your Honor.

Ms. Brooks, we don't have any questions for you. Thank you.

THE COURT: Do you wish the witness to be excused?

MS. WILLIAMS: Please, Your Honor.

THE COURT: All right, Ms. Brooks, you are released from your subpoena and may go back to your regular activities. Thank you.

Your next witness.

MS. WILLIAMS: Your Honor, we would call Clarissa Wenz, Ms. Wenz.

THE COURT: All right, Ms. Wenz, you come up front right over here on this side, please Ma'am.

CLARISSA WENZ, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MS. WILLIAMS:

Q. Ms. Wenz, would you please tell the jury where you live and what it is that you currently do.

A. I live in Summerville, South Carolina, and I am a retired teacher.

Q. Where did you teach and what -- where and what did you teach?

A. I taught at Goose Creek High School and I taught physics and chemistry.

Q. Ms. Wenz, do you know the Defendant in this case, Stephen Stanko?

A. Yes, I do.

Q. Can you please tell us about how you know him.

A. I taught him in school. He was in my chemistry and physics classes, and I worked with him on several

extracurricular activities.

Q. Ms. Wenz, can you please just tell us what, if anything, you remember about Steve.

A. What I remember about Steve, he was an excellent student, worked well with his peers on various activities. He was, like I said, an excellent student in class and did what he was supposed to. That's basically it.

Q. Ms. Wenz, can you tell me approximately if you recall the number of students you may have taught in your career?

A. I taught thirty-four years, and let's say I taught an average of close to a hundred and fifty a year.

Q. So a lot of them?

A. A lot.

Q. That's fair to say. Can you please tell me in your mind if you at all have any comparisons of Steve compared to the students that you had taught?

A. I certainly remember Steve. He's certainly one of those students who stood out for his achievements in school, as well as for the way he interacted with me as a teacher and his peers in the classroom.

Q. Did you as a teacher have any -- well, let me ask -- one moment, please.

MS. WILLIAMS: I'd like to mark this for identification as Defendant's Number 43, I believe.

(NOTE FROM YEARBOOK MARKED DEFENDANT'S EXHIBIT NUMBER 2875

43 FOR IDENTIFICATION ONLY.)

Q. Ms. Wenz, I'm going to hand you this and ask you if you can identify what that is you are holding.

A. It's a yearbook, one of Goose Creek High's yearbooks, and the page here has a note from me.

Q. Hold on for one moment.

A. Okay.

MS. WILLIAMS: Your Honor, ---

Q. I'm going to ask you what's been marked for identification as Exhibit Number 43, do you recognize that?

A. Yes. It's this page from the yearbook.

Q. It's a photocopy of that particular yearbook?

A. Yes.

MS. WILLIAMS: Your Honor, at this time, we would like to move into evidence Defendant's Exhibit Number 43.

THE COURT: Any objection?

MR. HEMBREE: Without objection, Your Honor.

THE COURT: All right, you may do so. It's in evidence.

(NOTE FROM YEARBOOK ADMITTED INTO EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER 43.)

Q. Can you please tell us what you are seeing.

A. I see a note from me that I wrote in his yearbook, as well as from some friends of his.

Q. Could you please tell us what your note says.

A. Steve, it has been a real treat having you in chemistry

this year. You have a tremendous amount of potential. Don't waste it. Be sure to come by to see me next year. It's been great. C. Wenz.

Q. And that was your note?

A. Yes, it was. I wrote that.

MS. WILLIAMS: Beg the Court's indulgence just one moment.

THE COURT: Yes Ma'am.

MS. WILLIAMS: Your Honor, I would like to have the yearbook itself actually marked as Defendant's Exhibit Number 44, please.

MR. HEMBREE: No objection, Your Honor.

THE COURT: All right.

MS. WILLIAMS: And I'd like to enter it into evidence without objection. Thank you.

THE COURT: All right. Defendant's 44 is in evidence without objection.

(YEARBOOK ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 44.)

Q. Ms. Wenz, are you familiar with something at the school called Olympics of the Mind?

A. Yes. I sponsored it for many years.

Q. Can you tell us what that is?

A. Olympics of the Mind, now I think it's called Odyssey of the Mind, or vice versa, is a competition for academically

talented students, really for any students. It involves two phases. In one -- and they -- in one phase a team works on a project. They could build something. They could put on a play, just depended on what they decided they wanted to do of their choices, and the second part was a little academic competition in which they were asked questions, just kind of general type questions. I don't remember exactly, but they -- it was academic as well as some kind of hands-on thing, and it was team -- the purpose of it was team-building.

Q. And do you recall if Steve was involved in that?

A. Yes, he was.

Q. Can you -- do you have any recollection of his involvement in that, I mean, anything just specific about that that may stand out?

A. I remember the team and I think that he and the guys he worked with, I think it was an all male team, the one I remember, they built a structure to see how many weights it would hold, and I think they -- I think they made it to the state competition, placed in the regional competition. I know they won some kind of trophy because I had pictures of that.

Q. Okay.

MS. WILLIAMS: That's all the questions that I have for you, Ms. Wenz. Thank you so much. If you would please answer any questions that the State may have.

A. Okay.

MR. HEMBREE: No questions, Your Honor. Thank you.

THE COURT: All right, very good. Do wish the witness to be excused?

MS. WILLIAMS: Please, Your Honor.

THE COURT: All right, Ma'am, you are released from your subpoena. You may go back to your regular activities, Ma'am.

MS. WILLIAMS: Your Honor, may I beg the Court's indulgence for just one moment?

THE COURT: Yes Ma'am.

MS. WILLIAMS: Your Honor, the State would call Ms. Barbara Boland -- the Defense would call Ms. Barbara Boland to the stand. I apologize.

THE COURT: All right. Thank you.

Come forward right up here, Ma'am, to where the Clerk is, right up here, right up front.

BARBARA BOLAND, being first duly sworn, states as follows:

THE COURT: All right, Mr. Diggs.

MR. DIGGS: Thank you, Your Honor. May it please the Court.

THE COURT: Yes sir.

DIRECT-EXAMINATION BY MR. DIGGS:

Q. Ms. Boland, how are you this morning?

A. Pretty good, thank you.

Q. Good; good. Would you tell us where you live, please

Ma'am.

A. I live in Goose Creek.

Q. And are you employed?

A. Yes, I am.

Q. What do you do?

A. I am a Christian counselor for Covenant Counseling Center part-time, and I also work for Clinical Solutions, which is a dually diagnosis treatment facility. The people there are -- they have an alcohol or drug diagnosis, and they also have a mental illness.

Q. I see. Now, how long have you been doing that?

A. Three years.

Q. And were you employed prior to your involvement in these current projects?

A. Yes, I was.

Q. And how so?

A. I was working as a vocational counselor at Vocational Rehabilitation.

Q. And prior to that?

A. Before that, I was a teacher.

Q. Okay, and where did you teach?

A. I taught at Sedgefield Middle School in Goose Creek.

Q. Now, can you give us an approximate time frame of when you were a teacher?

A. I taught there from 1977 until 1990.

Q. And through those years, did Stephen Stanko come into your class?
A. Yes, he did.
Q. And I want to ask you if you have any independent recollection about Mr. Stanko as a student at that time?
A. Yes. He was a very good student always, very well-behaved.
Q. And specifically what grade would this have been?
A. This was the sixth grade.
Q. Okay. Does anything about Stephen stand out in your mind in terms of that might set him apart from other students?
A. Well, he was very intelligent, very highly motivated well-behaved, got along very well with the staff and the students.
Q. Okay. Did he have friends?
A. Yes, he did.
Q. Would you describe Stephen as popular, or how would you describe him?
A. He was very popular. He was, I think, a role model to the other students. I think the other students really did look up to him.
Q. Did you see anything in him at that time, looking back now with hindsight, that you could see at that point that might be an impediment to him succeeding in life?
A. I didn't. The only thing that I think about now is

that there was very little parental involvement. His mother was involved a little bit, but I never saw any involvement from his dad. I never met his dad, and I believe I met his mother on one occasion.

Q. Now, also looking back, you've described him as intelligent, and motivated, and well-behaved. Do you remember him exhibiting at that time any anger or emotional problems?

A. No, he did not at that time.

Q. Okay. Now, did you come into contact with Stephen thereafter?

A. I actually saw him a few times at Circuit City. He worked there. This was after high school, and I would go in there on occasion and he was, I think, a sales associate maybe. Yes, I did see him in there.

Q. Okay.

A. I kind of lost track of him as an adult.

Q. Okay.

A. Yeah, I saw him several times in Circuit City.

Q. All right. Now, you've had an opportunity to meet with him and visit since he's been locked up ---

A. Right, I have.

Q. --- in the Department of Corrections. What have you -- can you describe us for -- can you describe for us what you see in Stephen at this point compared against the young man that you knew in the sixth grade when he was there.

A. He is very remorseful for what's happened. He really is. I don't believe that anything he has said is jailhouse religion, as they call it. I believe that he is actually saved, and I believe that his heart has been convicted, and I do believe that it's not something that just -- I know some people do say that when they are incarcerated, but I believe in his case, I believe it's legitimate.

Q. When you would see him, were you able to see him in the same room or was it through a partition?

A. It was through a partition.

Q. Okay, so you don't know how you would feel -- you don't know if you would be afraid to be in his presence?

A. I wasn't afraid.

Q. Okay. Now, approximately when was the last time that you saw him before today?

A. It's probably been maybe a year and a few months I'm thinking.

Q. Okay, but fairly recently in the overall scheme of things when compared against the sixth grade that you saw ---

A. Oh, yeah, right.

Q. Okay. Did you have any doubt at the time that you were teaching that Steve had every ability to become not only a contributing member to society, but a very successful one?

A. I absolutely thought if they had had superlatives in middle school, I would have thought ---

Q. The sixth grade?
A. Yes. I would have thought he would have probably been the most likely to succeed.
Q. All right, and how does he stack up against all of the students that you've had in terms of overall intellect?
A. One of the brighter students.
Q. Okay. All right, Ms. Boland, ---
MR. DIGGS: Excuse me.
Q. And when you were able to see Stephen in the prison setting, did he initiate that conduct -- contact or did you initiate it?
A. I did. I had heard on the news that ---
Q. Okay, that he was locked up?
A. Yes, and I wrote him a letter.
Q. Okay, and from there, you went over and visited him actually in the prison?
A. Yes, I did.
MR. DIGGS: All right, Ms. Boland, I appreciate your time this morning. Thank you very much, and answer any questions that the Solicitor may have.
A. Okay.
MR. HEMBREE: Hey, Ms. Boland.
A. Hi.
THE COURT: Solicitor.
MR. HEMBREE: Thank you, Your Honor.

CROSS-EXAMINATION BY MR. HEMBREE:

Q. Ms. Boland, you contacted Mr. Stanko after you heard he was incarcerated?

A. Yes, I did. I wrote him a letter.

Q. And did you -- did you share your faith with him?

A. I did that in person. I did some of it in the letter, but I -- I think I did more probably in person.

MR. HEMBREE: Thank you for that. I have no further questions for you. Appreciate it.

THE COURT: Anything else, Mr. Diggs, on this particular witness, of this witness?

MR. DIGGS: No, Your Honor.

THE COURT: All right. Do you wish the witness to be excused?

MR. DIGGS: Yes sir.

THE COURT: Any objection?

MR. HEMBREE: No objection, Your Honor.

THE COURT: All right, Ms. Boland, you are released from your subpoena and may go back to your regular activities, Ma'am. Thank you.

Your next witness, please.

MR. DIGGS: Could you bear with us, please sir, a second?

THE COURT: Yes sir.

MR. DIGGS: Your Honor, we would call Frank Shealy.

HERBERT FRANK SHEALY, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. DIGGS:

Q. And, Mr. Shealy, how are you this morning?

A. Okay.

Q. All right. Let me ask you this. Where do you live?

A. I live in West Ashley in Charleston.

Q. All right, and how are you employed? Tell us what you do.

A. I am a retired public school teacher, biologist, from Charleston County Schools, retired military, and I technically am an employee of the Department of Corrections.

Q. Okay, and how long have you been so affiliated with or associated with the Department of Corrections?

A. It's been several years.

Q. All right, and what do you do in that role?

A. I assist the Chaplain in some spiritual matters with inmates.

Q. And can you give us an example typically of how you might be involved with a particular inmate?

A. First, it's general population and large groups generally, hundreds at a time.

Q. Okay.

A. Sometimes, one on one. In death row, it's small groups or one on one.

Q. All right, and let me ask you if you have had in any capacity an opportunity to meet with or get to know Mr. Stanko?

A. Yes sir.

Q. And how would you describe him?

A. Stephen, I would say, is an exceptional, extraordinary person as an inmate. Among the population on death row, we have a wide range of personalities, and he's, I think, very different than the average.

Q. All right, and in general population, how would Stephen rank?

A. I think he would be head and shoulders above the majority of the people in the general population.

Q. Okay, and when you say that, why do you say that?

A. The way he behaves, his intelligence, his ability to articulate himself, his interactions with both corrections officers, the administration, as well as other inmates.

Q. All right, and have you had an opportunity to observe and to let us know whether or not Mr. Stanko serves a useful purpose, you know, in communicating, forming a basis of a conduit for communication, for example, between inmates and prison administration?

A. Certainly.

Q. How -- how would he do that?

A. He doesn't have, that I know of, any particular

authority, but when there's a problem of some kind, Stephen is oft times the go-between or the buffer between the administration or between the officers and other inmates.

Q. All right, and does he have -- does he seem to have an ability in that respect that maybe is a little superior to that had by other inmates?

A. Yes sir, he does. He -- he's a peacemaker ---

Q. Okay.

A. --- among other inmates on the row. When things get a little testy or out of hand, there could be violence or things along that lines, Stephen is often the one who will step in and have a calming effect.

Q. Okay. He has the ability to be a leader in that situation, would you agree with that?

A. It may be a strange thing to say, but he is probably the leader on death row.

Q. All right. Now, how long have you known Steve?

A. Probably a couple of years.

Q. All right. In your experience, and I know you're not an expert in this area and I'm not asking you for an opinion about it, but has Stephen been a problem -- excuse me -- has he been a problem in terms for the institution and being able to handle him? Do you have any knowledge about that?

A. When you have people who are in the constricted environment, a very high pressure environment, it's oft times

conducive to a lot of stress, and any human being in that kind of situation from time to time is irritated by whether it's something that an officer does or says to them, or a fellow inmate, or some administrative matters. That, I consider to be normal. Other than that, Stephen is extraordinary in terms of his ability to deal with circumstances and situations there.

Q. Okay.

MR. DIGGS: Bear with me for just a minute, please sir. Beg the Court's indulgence.

THE COURT: Yes sir.

MR. DIGGS: Mr. Shealy, I appreciate your time, but I believe I've covered basically everything that I wanted to cover with you this morning. We appreciate your coming up, and I would ask you to answer any questions the Solicitor may have.

THE COURT: Cross-examination.

MR. HEMBREE: No, Your Honor.

Thank you, Mr. Shealy. Appreciate your time.

A. Thank you very much, sir.

THE COURT: All right, Mr. Shealy, you are released from your subpoena and may go back to your regular duties, sir.

MS. WILLIAMS: Your Honor, may we approach?

THE COURT: Yes. Counsel, y'all come around.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

JURY OUT
JURY IN

THE COURT: All right, ladies and gentlemen, we are going to take a short break, and we'll be with you shortly. All right, let you go to your jury room. Leave your pads and pens, please.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, we'll be at ease for a short while, while the Defense locates the next couple of witnesses. Thank you very much.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, is the State ready to proceed?

MR. HEMBREE: Yes, Your Honor.

THE COURT: Defense?

MR. DIGGS: Yes sir.

THE COURT: All right, very good. Ask the jury to come in, please.

(THE FOLLOWING TAKES PLACE AFTER A BREAK AND WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, Mr. Diggs, your next witness, please, sir.

MR. DIGGS: Thank you, Your Honor. The Defense would call John Fulmer.

THE COURT: All right, Mr. Fulmer, if you would come

forward and be sworn right -- come right over here, sir.

JOHN FULMER, being first duly sworn, states as follows:

DIRECT-EXAMINATION BY MR. DIGGS:

Q. Good morning, Mr. Fulmer. How are you this morning?

A. I'm fine, thank you.

Q. Good. Thank you for being here. Where do you live, sir?

A. Where do I live? I live in Lebanon, South Carolina.

Q. Where is that?

A. That's between Moncks Corner and Ridgeville.

Q. Okay. Now, what do you do for a living?

A. I'm retired.

Q. Okay, and prior to your retirement, what did you do?

A. I was at Goose Creek High School for thirty-four years as a football coach, and then an assistant principal, and then retired as the principal.

Q. All right, and so you were -- your career there spanned for the thirty-four years?

A. Yes sir.

Q. And during your tenure with Goose Creek, did you have an opportunity to meet Stephen Stanko?

A. Certainly.

Q. And tell us about when that happened and in what -- in what way did it come about?

A. Well, when I was assistant principal, you get to know a lot of students, maybe not as close as their teachers, but especially you get to know the top students and you get to know the bottom students, but in my dealings with Steve, he was one of the top students. I would say he was probably in the top twenty, twenty-five percent of the class at least, and was involved in a number of organizations, like the Beta Club, and one thing that comes to mind, I knew -- I know he was asked to escort in the Miss L'Esprit Pageant, which was, you know, quite an honor for the male students there.

Q. Okay. What pageant was that?

A. It was the Miss L'Esprit Pageant, which is -- is the name of our yearbook.

Q. Okay. Let me show you what's been marked into evidence as Defendant's Exhibit Number 44. Is that a copy of the yearbook you are speaking of?

A. Yes sir, it is.

Q. All right, and I want to ask you to kind of thumb through that book, Mr. Fulmer, and if you run across something that you are talking about right now in your testimony, if you could point that out for us.

A. You will have to excuse me for one second, if I can find my glasses. I see as I look here, this is a yearbook when Stephen was a junior ---

Q. Okay.

A. --- at Goose Creek High School.
Q. And are there -- as you look through that book, are there pictures there of club organizations or the like that Stephen might have belonged to, to your recollection?
A. Yes sir. This is a picture of the Spanish Club where Stephen was vice president of ---
Q. Could I get you to come down here so we can look at that together with the jury as you're talking about it. I think we have some microphones over here so the Court and everyone can hear us, so show us, if you would, please sir, what you're speaking of, and maybe I can ask you about it as we look at it.
A. Well, this is a picture of our Spanish Club, and these are the officers, and this is Stephen here. He's the vice president of the Spanish Club.
Q. Okay. Are there any other things that strike or that come to your attention involving Mr. -- or involving Stephen?
A. And this is the JETS Club, the junior engineering club basically, our better math and science kind of students, you know, that would -- a club that worked on projects and maybe students who were looking at maybe going into engineering in the future.
Q. Okay. Steve was in that club?
A. Steve was in that club.
Q. What else comes to mind, if anything? Now, you said he

-- you mentioned the Beta Club. Was Steve in the Beta Club?
A. Steve was in the Beta Club. I don't -- yeah, here it is right here. I think that's Steve right there as a junior in the Beta Club.
Q. All right, you can return to the witness chair.
I want you to think back and to the best of your recollection tell us what you remember generally about Steve. How would you explain him in the school?
A. I would say Steve was a promising college prep student who was very involved in school activities, a good school citizen.
Q. Okay. Did you have any doubt about his ability at that time to succeed ---
A. No sir. I ---
Q. --- after graduation?
A. None.
Q. Okay. How was he with the other students there?
A. He was fine. He was good with the other students.
Q. Was he well-received, or was he unnoticed by the other students?
A. No, he was well-received. He was active. When you're involved in that many things, then you're going to be pretty well-received by -- by the student body. You know, the top students usually are well-received amongst each other. Some of those others that are not top students might not have

received him well, but he was received real well.

Q. And any doubt in your mind Stephen was a top student at that time?

A. No doubt in my mind he was one of our top students at that time.

Q. Okay. Did he display any special qualities in your opinion as a student?

A. Well, I think that you see that he was an officer in a club, and I think the leadership -- he had leadership qualities, and he had, you know, good character. I mean, he was -- like I said, as assistant principal, I dealt with most of the students that did not have good character, and I never had to deal with Stephen in that.

Q. Okay, so he was not a disciplinary problem ---

A. No sir.

Q. --- in school?

A. None.

Q. Do you remember any of the friends that would associate regularly with Stephen?

A. A few of them, yeah.

Q. Can I throw out some names here and see if they ring a bell?

A. Sure.

Q. Was there a young man, Hokun Sewell? Do you recall him?

A. Say that again.
Q. Sewell, ---
A. Yeah.
Q. Hokun?
A. Hokun.
Q. Yeah.
A. Yes.
Q. Or Eddie House, Randy Bishop, Tim Baldwin, do those names ring a bell with you?
A. Eddie House and Tim Baldwin. Tim Baldwin still works at Goose Creek -- he works at Goose Creek High School.
Q. Really. What does he do there?
A. He's the head girls' basketball coach and the offensive line coach, and a special needs teacher.
Q. All right, and have you been able to follow the careers of any of those?
A. Hokun, I don't -- I know Eddie House went to West Point, and the last time I heard, he was a colonel, Colonel House.
Q. Colonel House?
A. Yes sir.
Q. All right. Randy Bishop, do you have any knowledge of where he is?
A. No sir.
Q. Is there anything that you would have expected at that

time that would prevent Stephen from being able to do the same things in life that those young men are doing?

A. I think that at that time if he set his mind to it, he could have done most anything he wanted to.

Q. If things had been different with the talents and abilities that Stephen had in school as you saw them, where would you have predicted Steve to be at this time in life?

A. With the talents that he had?

Q. Yes.

A. I would say, you know, a college graduate and successful in whatever he chose to be doing.

Q. Did you ever see in your wildest dreams a Stephen Stanko in a courtroom being accused of murder and subject possibly to the death penalty for that?

A. Not -- no, sir, not at all.

Q. It's a surprise to you?

A. Very.

Q. Did you ever have an opportunity to observe whether or not Stephen would observe or assist other students in school?

A. I can't answer that.

Q. Did Steve participate in any other activities? I know you've mentioned some of the club memberships that he had. Did he do any athletic -- involved in athletics?

A. I know he was involved in athletics early in school, maybe ninth and tenth grade. I'm pretty sure he played J.V.

football. I don't recall him playing after that. He may have, but I don't recall him. I know he was on the J.V. team. It seems like to me -- I think -- now, this is -- I'm not a hundred percent sure on this, but I think he went to work in high school, ---

Q. Okay.

A. --- you know, a part-time job.

Q. All right, Stephen did?

A. I think so. I'm pretty sure I remember that.

Q. Do you have any knowledge about Stephen receiving a head injury during high school?

A. No, I don't.

Q. You don't have any information about that?

A. No sir.

Q. All right. Did Steve -- well, you testified -- let me ask you again, and maybe I missed this. You remember him involved in J.V. athletics as a player, as a participant?

A. Right.

Q. Did he ever assist any of the other teams there at the school, maybe not as a player, but, you know, in a support role?

A. I don't recall that.

Q. Okay.

MR. DIGGS: Bear with me, please sir, if you would, and I beg the Court's indulgence.

THE COURT: All right, sir.

Q. Do you remember ever giving Stephen detention for going off-campus to Hardee's to have breakfast?

A. I might have done that. It would have been a lot of people that got that during my thirty-something years there, but I don't remember that specifically.

Q. So you wouldn't deny that?

A. I certainly would not deny that.

MR. DIGGS: Mr. Fulmer, I appreciate it. Steve appreciates it, and I would ask you to answer any questions the Solicitor may have.

A. Sure.

THE COURT: Cross-examination.

MR. HEMBREE: No, Your Honor.

Thank you, Mr. Fulmer.

THE COURT: All right, do you wish the witness to be excused, Mr. Diggs?

MR. DIGGS: Yes sir.

THE COURT: Any objection?

MR. HEMBREE: No sir.

THE COURT: All right, Mr. Fulmer, you are released from your subpoena and may go back to your regular activities, sir.

A. Thank you, sir.

THE COURT: Your next witness, please.

MR. DIGGS: Your Honor, we would call Lieutenant Roger

Stewart.

THE COURT: All right, sir, if you would come up front to where the Clerk of Court is, please, right up front.

ROGER STEWART, being first duly sworn, states as follows:

MR. DIGGS: Your Honor, may we approach very briefly on a matter before I begin to examine?

THE COURT: Yes sir.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: If you want to, Lieutenant, if you don't mind, if you would step down for a second and accompany Mr. Diggs outside the courtroom and then we will resume. Step down for a second, please, sir.

MR. DIGGS: Thank you very much.

(WITNESS EXITS COURTROOM WITH ATTORNEY DIGGS.)

THE COURT: If you would just bear with us for just a minute, ladies and gentlemen.

Can you ask Mr. Diggs to step back in, please.

(WITNESS AND MR. DIGGS ENTER THE COURTROOM.)

THE COURT: All right, Lieutenant, if you would come back up and resume the witness chair, please sir, and obviously you are still under oath.

All right, Mr. Diggs.

MR. DIGGS: Thank you very much, Your Honor.

DIRECT-EXAMINATION BY MR. DIGGS:

Q. Lieutenant Stewart, where are you employed, please, sir?
A. The South Carolina Department of Corrections.
Q. And how long have you been employed with the Corrections Department?
A. Twenty-three and a half years.
Q. All right, and where are you currently -- would stationed be -- or assigned?
A. Institution?
Q. Yes sir.
A. Leiber Correctional Institution.
Q. All right, and is that presently where Mr. Stanko resides?
A. Correct.
Q. All right, and in your capacity at Leiber, can you tell us what your job category is?
A. I'm a Lieutenant over a unit that houses approximately a hundred and seventy -- seventy-seven people.
Q. Okay. Now, in your work in that capacity, I would like to ask you if you have had an opportunity to meet Mr. Stanko?
A. Yes.
Q. And let me ask you if you've had an opportunity to observe him as an inmate in the institution?
A. Yes. That's part of my job.
Q. All right. It would be part of your job?

A. Correct.
Q. And let me ask you how Steve is in terms of -- well, let me ask you this -- let me ask you this way. Observing him, has it been a problem housing Mr. Stanko at Leiber?
A. No.
Q. All right, and I wondered if you had an opportunity to observe him in his communication with other inmates or with members of the administrative staff?
A. Yes.
Q. And I want to -- I want to ask you if it's -- you have an opinion as to whether or not he has any good qualities in that respect and if he's been able to offer positive things towards the communication between inmates and administration?
A. Yes. He has a good rapport with both sides.
Q. All right, and I appreciate your observation about that. Has he been a threat, in your opinion, to others or to staff at the institution?
A. No.
Q. All right, and I understand there's a -- it's a restricted and controlled environment there at the institution?
A. Correct.
Q. Have you had an opportunity whether to observe other inmates at the institution respect Stephen? How is he received, if you know, by the other inmates?

A. In a respectable manner.
Q. All right. Does he ---
A. Yes. As he gives respect, he gains respect.
Q. I see, and how about with the staff personnel?
A. Same.
Q. All right, and generally does he have a good relationship or rapport with the staff?
A. Yes.
Q. Have you decided whether you respect Mr. Stanko as an inmate?
A. Like I said, he gives respect, I give him back respect.
Q. Got'cha. Has he then indicated that he has respect for you and the other staff at the institution?
A. Yes.
Q. Are you aware of any problems that Stephen has caused?
A. No.
Q. All right. Do you believe that if he were permitted to live, that he could -- that he has an ability that he could offer to not only the institution where he is now, but any other institution where he may be housed, that would be -- that could contribute -- do you believe he could contribute in a positive way to that prison environment?
A. Described as a model inmate?
Q. Yes.
A. Yes.

Q. And your description of him is that he is a model inmate?

A. Yes.

Q. Listen, I appreciate that, and I know you came here today from Leiber?

A. Yes.

Q. And you're under subpoena? We made you come up here?

A. Yes.

MR. DIGGS: All right, and listen, I appreciate that, and I appreciate your time, and I would ask you to answer any questions the Solicitor may have for you. Thank you.

A. You're welcome.

THE COURT: Cross-examination.

MR. HEMBREE: Just one, Your Honor.

CROSS-EXAMINATION BY MR. HEMBREE:

Q. Lieutenant Stewart, how are you today?

A. Fine, thank you.

Q. The -- is it bene- -- in your judgment, is it beneficial for Mr. Stanko to show respect to you and the other guards?

A. Very.

Q. Very beneficial to him to show you respect?

A. As -- yes, as all inmates gain respect from us if they show it to us, and then you have the ten percent that you're not going to get no respect from, so ...

MR. HEMBREE: Okay. Thank you, Lieutenant. I appreciate it.

A. You're welcome.

THE COURT: All right, anything else?

MR. DIGGS: Not at this time, Your Honor.

THE COURT: All right, sir. Do you wish the witness to be excused?

MR. DIGGS: Yes sir.

THE COURT: Any objection?

MR. HEMBREE: No objection, Your Honor.

THE COURT: All right, Lieutenant, you are released from your subpoena. You may go back to your regular duties, sir.

Next witness, please.

MS. WILLIAMS: Your Honor, the Defense would call Ralph Beardsley.

THE COURT: All right, Mr. Beardsley, come right up front, all the way up here, sir, all the way up here right next to the Clerk, sir.

RALPH STEVEN BEARDSLEY, being first duly sworn, states as follows:

THE COURT: All right, Ms. Williams.

MS. WILLIAMS: Thank you, Your Honor.

DIRECT-EXAMINATION BY MS. WILLIAMS:

Q. Mr. Beardsley, can you please tell us where it is you live and what you currently do?

A. I currently live in Wedgefield, South Carolina, and I am retired.

Q. And prior to your retirement, what did you do?

A. I worked with the South Carolina Department of Corrections.

Q. Can you tell us specifically where you were, what -- in what capacity that you worked for the Department of Corrections?

A. Yes. My last assignment was Warden of the Turbeville Correctional Institution.

Q. I'm sorry; you were the ---

A. Warden.

Q. So you were the Warden at Turbeville?

A. Yes Ma'am.

Q. And how long were you the Warden there?

A. Eight years.

Q. Eight years, and during your time as Warden, or let me just ask you, have you had an opportunity to meet Steve Stanko?

A. Yes, I have.

Q. Can you please tell us about that.

A. I'm not sure exactly when Stephen came there. It was after I opened the institution in 1994, had to be sometime around '96, '97, and he was there until I retired in 2002.

Q. Can you give this jury an idea of your interaction with

Steve at Turbeville.

A. I had -- my interactions with Steve were much more than they were with other inmates on the yard. Stephen served in a capacity where he was an inmate relations council, and at some time he was the chairman of it, too, so I had contact with him probably two, three times a week, either on the yard or in my office.

Q. Can you tell us what observations, if any, you made about Steve?

A. Well, he certainly was a -- appeared to me to be a very well-adjusted inmate. He adapted well to Turbeville. He would -- in his position as chairman of the Inmate Relations Council, he was pretty instrumental in helping us get some things done within the institution for accreditation.

He could work with the other offenders, both the youthful offenders that I had there, and I had almost eight hundred of those at that institution. He could work with those, as well as the other three hundred straight-timers that I had at the institution, too. He was just a very well-rounded, mature individual.

Q. Can you give us an example if you can recollect of anything about those interactions of some of the things that you found to be helpful?

A. Well, during the time shortly after I became Warden at Turbeville, we changed directors in the Department of

Corrections, and there were a lot of policy changes that were occurring that directly impacted on the inmate population and how we dealt with them.

The I.R.C. was a voice that I would use at times to help me get across the policy changes that were necessary. Sometimes it's easier for inmates to hear something from other inmates on why things need to be done instead of hearing it from the staff. Stephen did pretty good in that role. He could explain things to inmates and why we were needing to make the changes and the impact that it would have on them probably in some cases than we could.

Q. Warden Beardsley, can you tell us what, if anything, when you retired, did you do anything out of the ordinary or any action that you may have taken with regard to Steve?

A. Well, because of the access that Stephen had with me on a weekly basis, some staff resented that, that an inmate could come up and have access to the Warden or talk to the Warden, and his custody level at the time I retired, his classification level at the time I retired all warranted transfer to a less secure institution, and I also felt like once I retired that there might be some retaliation against him by some of the staff that were there, meaning that they may try and get him in some trouble. They were resentful towards him, or some of them were resentful towards him that he had the kind of access that he had to me.

Q. Did you ever feel like in any way he abused that access or tried to take advantage of it with you?

A. No, I don't, because a lot of times the access that I had with him was when I was just walking on the yard, too. I would walk on the yard to see how things were going in the prison, in the different areas of it, and I would run up on Stephen or he would run upon me and we would discuss things that were of mutual interest of the inmate population of the institution.

Q. Let me ask you this, and it may be a wild guess. Do you have any idea of the number of inmates you supervised during your career with the Department of Corrections?

A. As Warden at Turbeville, it was approximately twelve -- twelve hundred inmates. Like I said, I had about three hundred straight-time inmates, which were regularly sentenced inmates, and about eight hundred inmates sentenced under the Youthful Offender Act.

Q. And inmates would come and go, is that a fair statement?

A. Oh, inmates would transfer in and out very frequently.

Q. And can you give this jury, if you have any, I'm going to say a ranking, if you will, or something of that nature that you would say about Steve with regard to, say, your typical inmate?

A. He was certainly one of the better inmates that I've

ever been associated with during my career. It's very seldom that you find an inmate like Stephen that had not only the interest of other inmates, the interest of the institution, and his own interest at heart. I mean, you know, usually in my experience, inmates are all about themselves, but Stephen was very -- pretty well-rounded in terms of trying to think about other inmates and their concerns and the concerns of the institution.

MS. WILLIAMS: Thank you. I beg the Court's indulgence for just one moment.

Q. Warden Beardsley, are you familiar with a program called Operation Behind Bars?

A. Yes, I am.

Q. Can you tell me about that?

A. The Operations Behind Bars program is a program that's set up by the agency in several institutions whereby there's a panel of inmates, maybe six or eight, that are selected based on their record and, I guess, some other criteria, I'm not sure what it was, to meet with at-risk youth that are -- that come to the institution from various schools and places throughout the State, and they would put on a program just discussing why you don't need to come to prison type thing, and what they did wrong, and how the young kids should try and avoid it, and stuff like that.

Q. And did Steve participate in that?

A. Yes, he did.
Q. Can you tell us about that?
A. I don't know much about it because I didn't see many of the programs, but I know that Turbeville had one of the better Operation Behind Bar programs in the State, and I think some of that probably had something to do with Stephen's being on it.
Q. Okay. Let me ask you this. Do you have any recollection about any of Steve's work in cleaning the institution?
A. Yeah. He was very helpful with that. He'd often go out of his way to not only work himself, but to also organize other inmates to help do work. Turbeville was fortunate in the early -- early -- or the mid-nineties and late nineties to go through what we call an accreditation process to the American Correctional Association, and in large part due to the efforts of the inmates and the efforts of the staff, we scored the highest score in the State on our initial accreditation that any institution has ever scored before, and our re-accreditation three years later, we had the second highest score in the State that any institution had ever scored, us being the first, too, so -- and a large part of that is due to the inmates' cooperation in trying to help you get the institution spruced up and making sure that you're doing the right things for the accreditation process, and

Stephen played a big part in that.

MS. WILLIAMS: I have no further questions. Thank you for being here today. Would you please answer questions that the State may have.

THE COURT: Solicitor.

MR. HEMBREE: No questions, Your Honor.

THE COURT: All right. Do you wish the witness to be excused?

MS. WILLIAMS: Your Honor, please.

THE COURT: Any objection?

MR. HEMBREE: No objection, Your Honor.

THE COURT: All right, Mr. Beardsley, you are released from your subpoena and may go back to your regular duties, sir.

Your next witness, please Ma'am.

MR. DIGGS: Your Honor, we would call -- or we would call Evelyn Califf.

THE COURT: All right. Please come around and be sworn, Ma'am.

EVELYN C. CALIFF, being first duly sworn, states as follows:

THE COURT: All right, Mr. Diggs, you may question the witness.

MR. DIGGS: All right. Thank you very much, Your Honor.

DIRECT-EXAMINATION BY MR. DIGGS:

Q. Now, give us the benefit, please Ma'am, of your educational background and your training.

A. Just to make it briefer, I will say that I have a Doctorate in Christian Counseling, which also led to a licensure as a minister. I also before that had a Master of Education with a special services related to that. Before that, we have a Bachelor of Arts and so forth. Then I move on to getting more of various things.

I am certified as a psychometrist, that would be with children who are high school level, for testing. I went to Mississippi State University and received that, as well as a Master's. I then became a L.M.S.W., which is a Licensed Master Social Worker, and I do clinical involvement for the last -- I have completed clinician work since '83 here in this area. I also have, for benefit of the jurors, I do a lot of parenting and work very hard with a Parents Anonymous Group, which is a non-profit group, trying to assist parents who really are having difficulties with children.

I also have a non-profit Teens At Risk program, which is one that is working and helping kids who have law enforcement or rebellion, other issues, and I do -- I am certified as a divorce mediator here, and I also have certification as a sex offender treatment specialist. As you can see, I've lived a long time.

Q. All right. Let me ask you this. You had -- we came

and asked you to assist us in this case?

A. Yes.

Q. Now, what were you asked to do, please Ma'am, and tell us what you did.

A. You asked me to provide information, as much as I could, from the normal -- the normal developmental side where it is from his development early up through the school, just the general stuff like that.

Q. All right, and what did you do?

A. I did that. I went; I found out a lot of the issues related to that, talked to as many as I could, including as many of the children as I could in the family, looked at all the materials that were available, and decided that it was easier for me to explain it in the way of more of the family systems work, ---

Q. Okay.

A. --- which is what is normally done when you're looking at assessing a family and the children. It's like you have a mobile and if one part of the mobile moves in this family, which represent parents and children, then things are out of whack, and you have to figure out why that is happening.

Q. Now, did you put together a presentation ---

A. I did.

Q. --- to help with your testimony, and would it help to -- for us to look at that?

A. I think it would be informative, hopefully.

MR. DIGGS: And, Your Honor, I think, without objection, we are asking that we be permitted to publish her presentation at this point.

THE COURT: Is there any objection to that, Solicitor?

MR. HEMBREE: No, Your Honor.

THE COURT: All right. You may do so.

MR. DIGGS: Thank you.

(DVD PRESENTATION MADE IN OPEN COURT.)

Q. All right, now as you go through your testimony, Dr. Califf, I have the control over here, and you want me to change pages, you just tell me to advance the page. All right, are we ready to move?

A. Right. As you know, we are looking at the life and the circle of life of Stephen Christopher Stanko, and circle meaning that we all live within a beginning and throughout the issues of our life, and we go to an ending. Certainly I could not go or move toward the ending, so I began at the birth and the pre-school. You can change.

When you think about the picture that we have with the circle -- that's the one, Mr. Diggs; if you will move on, yes.

Q. Okay.

A. You will look to see birth, pre-school, elementary school. You will look at high school, and you will look after graduation. Move on.

Then there is a geneogram, which is what we usually do in looking at families, and we have most all of the people thereon in this family, and I'm looking on mine so I can see it a little bit easier here.

Q. Yes Ma'am.

A. You will note that Stephen is a part of four children in the family that are still living.

Q. Yes Ma'am.

A. We have one that is not living, and that is his brother, William A. Stanko, and that caused a lot of dysfunctions within the family due to the fact that there was a lot of circumstances that preceded that with alcoholism and other things.

Q. Tell us a little bit about that. What were you able to discover or learn?

A. He lived away from the home some, but there was a lot of issues related to a member of the family. If you will remember the mobile, ---

Q. Yes.

A. --- if one is out, then others are having some difficulty with what is happening, and quite naturally, families do care about each other different ways, but they do care about each other, so the issue that you have is that this man and his brother, which was the older, was using drugs, alcohol, started, I believe, with the alcohol and just went to

a lot of very addictive behaviors which caused a lot of problem for the parents, number one, and the whole family as such, because they had sadness for him as well.

Q. Right.

A. Then he died in a fire under suspicious issues. They still have problems with that. They don't understand exactly why that happened, and it's still a big -- it was a big sorrow for his parents. His mother, of course, died.

Q. Now, when did she pass away?

A. I don't remember the exact date, but it was during the time -- I failed to put it down here, but it was during the time he was at Leiber, and ---

Q. Okay, recently?

A. Yes, and so she passed on. His father is still living, and his father is a man who has always been -- I think this best describes him in that he says there is only one opinion in this house and it is mine, and so he was pretty firm, didn't do an awful lot of talking to you unless his language was tough.

Many of -- all the children that I spoke to, they had some issues with the father's mannerisms and ways, but they also realized that he was not an alcoholic that was angry or mean, but he did drink a lot, and basically what he did was he drank, was quiet, and watched television unless there was a problem.

Q. What did he do for work? How was he employed?
A. He was a Navy man who had a career therein, and the other thing that he did with his career, he was away most of the time, so Mrs. Joan Stanko had to take care of the kids and manage all the things that were there, and I am sure most of us know how hard it is to be a single parent. Sometimes you do well, and sometimes you don't, but the issue that we had was that she had a lot of strength and a lot of problems to be able to deal with.

So you then had his older sister, after the brother that passed, was Peggy, ---

Q. Okay.

A. --- Peggy Cliss, and she currently lives, as several children, in California. She is very sad still with all the things that have happened and how they are happening. She feels very sad for the way things came up, wish she could have done something about it, but explained something really interesting, and that was because of the distance in the ages of the children, she and Cindy were like one family, and they raised them, and then there was approximately seven years between the other two, which would be Jeff, his brother, who is still living, and Stephen, and Jeff is two years older than his brother.

Q. All right, so Peggy and Cynthia are the older ---

A. Peggy and Cynthia are the older.

Q. --- children in the family, and Jeffrey and Stephen are separated by seven years, ---

A. Right.

Q. --- at least from their sisters?

A. And they explained that they felt like two different families almost.

Q. All right.

A. The grandparents are not alive, and the -- so the father out of all of this is the only one that is still living, and he is not in good health. He does not want to talk about all of this with me, and I understand the issues that he has. He's pretty sad about it from all I can tell with it.

Q. Have any of the family members to your knowledge attended the trial here?

A. No, and it was sad to talk with them about it and to ask them to come, and they were not -- not just myself, but others ---

Q. Okay. Without having -- you know, repeating specifically what they said, do you have any idea why no one in the family would come and attend this proceeding?

A. I really think that they had some deep issues maybe of sadness that maybe they had not done more, as well as some of the things that have happened during the years after his school that he has -- his interaction with them, a couple of

things.

Q. All right. Tell me when you're ready to advance.

A. I'm ready.

Q. Okay.

A. So if you look at this one, it's like the normal young child.

Q. That's Stephen?

A. It is, and ---

Q. Where did you get this photo?

A. It was from some of the evidence that I went to Georgetown to be able to look for, and there were a few pictures hither and yon, but it was very, very difficult to gain it.

Q. All right. Continue on. Tell me ---

A. And so if you look, he is at one of the vacations that they had. I could not identify that there was a lot of vacations, but if they did, they went to visit Peggy or other places whereby the father may not have been with them at all, so the mother would go most of the time. Next.

You will notice his tooth is out, so you can probably understand that we've got kindergarten here.

Q. Yeah.

A. And he's quite a smiley guy when he's young. Move on. He still has smiles, still is like most of our children when they are in kindergarten, first and second grade, and you will

go further, the next one. He did enjoy ball in a lot of ways. He was not a person when he was young to be able to want to go into actual sports. Later on he became one who would enjoy doing that, you will find out, but he did enjoy playing ball with his brother.

Q. Okay.

A. Over. And here, you will see his brother, Jeff, and he is standing in the back.

Q. Stephen is standing in the back?

A. Yes. I'm sorry. He is standing behind him, and he is looking very proud of his brother who is on the team.

Q. Where does the brother live at this time, do you know?

A. He lives now in Fayetteville with his two children.

Q. So pretty close by?

A. And he is a single parent.

Q. Okay.

A. Yes, he is close by, talked to him about that, but he was not able to get here, he said.

Q. Okay. Do you want me to move?

A. Yes, please. Now you're getting into the grammar school, elementary we call it. We had up through three, and now we're going to go on into the sixth, seventh, and eighth, and he is still smiley, ---

Q. Yes.

A. --- still doing well, and he as always -- I had a lot

of the -- had a lot of those -- what are they called, the report cards, ---

Q. Yes.

A. --- and there was never a report card, nor a packet of them, that they did not have some other kind of certificate in. He always had top-notch things as far as ---

Q. Accomplishments in his school?

A. And grades, and he always excelled that way, which was rather interesting, and was said that all the kids liked him, and I know in speaking with one who may have already testified that he was very well-liked.

Q. What age is this, do you know?

A. This one -- I never did have any ages, but I put it within this area which was the sixth, the seventh, and the eighth grade.

Q. Okay, got'cha. Are you ready to move?

A. I am. Here is a picture where he began to -- the next one -- there he is. Now he is playing -- he didn't play on a team in school with this, but he did play in the -- like the Rec. departments we have, YMCAs and so forth, ---

Q. Right.

A. --- and he enjoyed that. Then we move on to the Beta Club, junior high here, when he was in the Beta Club this year. It was the junior high year. Move on to the Beta Club.

Q. All right. Now, that is the cover of the book that's

in evidence. That doesn't show up very well in the display, but are you ready to move?

A. I am. Then you get into the high school, and you are again seeing him playing on a team, and this team is pretty well involved in friends, and he has the individual picture there, but if you will note, he's not smiley in this one, and I want you to watch that as you go forth.

Q. Okay.

A. When you're looking again at the junior picture, it's not like those that we had before where you appear to be having a good time ---

Q. Right.

A. --- and so forth, and he's got a half-smile here, but not fully. I'm sorry; I had two of the Beta Club pictures in it, but he was junior and senior involved.

Q. Yes.

A. Go ahead. The high school picture you have next, 1986, Volume 19. Behind that you will show another junior Engineering Technology. I can't see from here, but I'm assuming I have the right one over there.

Q. Yes Ma'am, it's there.

A. That's the JETS, and that was important to him.

Q. I want to -- I want to draw your attention to Stephen now. He's on the front row.

A. Uh huh **(indicating positive)**. You see the same view.

Q. Yes Ma'am.
A. That's why I asked you to take a look at those as you go through.
Q. Yes. I ---
A. He's very happy -- he's very happy about doing the things that he does and was quite brilliant in all the things that he did. He never did not excel, never.
Q. That's interesting.
A. Never did not excel.
Q. All right. Are you ready to go to the next page?
A. I am. There's the JETS again. Then the junior J.V. football, if you can find him on there.
Q. Let's see if we can ---
A. Down, very small.
Q. Can you hold -- bear with me here.
A. Uh huh **(indicating positive)**.
Q. He's kind of right there in the center, almost impossible to see.
A. But if you were able to see it, you will find the same kind of view that ---
Q. The facial expression?
A. The same thing, and I have many, many other pictures of different things, and the only time there was ever any smiles after junior high was if there was something related to graduation or something with his friends, and even then it was

just very different.
Q. All right. You tell me when you want to go ---
A. The senior picture.
Q. All right. Now, this is -- we're looking at the senior picture at this point?
A. Right.
Q. Are you ready for me to move forward?
A. I am. Now, in the senior picture you had only a little bit of expression. Now you come to all the things that all the women wanted him to do who were going to be in the Court.
Q. Right.
A. And he's got a third runner-up there. I noticed he's not smiling.
Q. Right.
A. Does not look like he is very pleased, whatever it is. Then you go on to where you have all the pictures, Miss Congeniality, freshman, junior, senior, and I have missed seeing any change in the facial ---
Q. Over those years?
A. Uh huh **(indicating positive)**.
Q. Expressionless?
A. Exactly.
Q. Okay.
A. And that's important to someone who has worked with people a lot, like me, when you're looking to understand how

they are and what they are, and what they are feeling, because that's an important thing, too. Spanish Club, we've got the Spanish Club there.

Q. Yes Ma'am.

A. Okay.

Q. Can you see his expression there?

A. It -- it really is the same, but a little worse maybe there. It seems more depressed, if I could put a word on it, sad or depressed. Now, it was amazing again. He was put in Who's Who, and this is a letter that indicates that he actually was a person who was asking to receive this anyway.

Q. Yes.

A. And then the next one is U.S.A.A., which is the United States Achievement Academy. They are indicating in this letter that he is chosen to do this, or he is being selected to do this, and that was quite an assessment, quite an honor. There were only a few who did that.

Q. Less than ten percent of American high schools, ---

A. Right.

Q. --- it says in the letter?

A. Less than ten percent.

Q. Okay.

A. And then if you'll look onto the next one, ---

Q. The family photo?

A. Yes. I had hoped that I had gotten this one in the

right place in the beginning, which I didn't, but it's okay.
Q. That's okay.
A. If you will notice, this is his first family, the picture of the father and the mother, and these are the three children, William, Peggy, and Cindy, and they were on some kind of trip together.
Q. And this was prior to Stephen's birth?
A. Correct; correct. That was prior.
Q. And that's why you called this his first family?
A. As they do. It's his first family. Seven years difference does seem to be a break.
Q. It's in a different category?
A. A different break. You may have ---
Q. Tell me when you want to move.
A. --- different times of your life and then different times with new babies coming back.
Q. Yes Ma'am.
A. And, of course, remember now, here the next one you will find out is the -- a picture of his father and his mother.
Q. All right.
A. Now, his father there is receiving his assignment, which is not the assignment for work, but he is retiring, ---
Q. Yeah.
A. --- and so he received ---

Q. That's when Mr. Stanko was retiring?
A. Right. The award, I understood, was retiring, and that's his mother there.
Q. That's Mrs. Stanko?
A. Joan Stanko there, right.
Q. Steve's mom?
A. Yes.
Q. Okay.
A. And the next one was a little closer up to let you see the two of them again.
Q. Okay.
A. They seem very happy at this one and at the other one. Now, on the next one you'll find a picture of Peggy, who is in California, and her husband.
Q. Peggy?
A. And her husband, and I believe that this was Peggy's mother, from all I could tell, but I could not get an answer to that.
Q. This, you believe, is Mrs. Joan Stanko, okay, Stephen's mom?
A. Possibly. I could not tell that, but it looked like to me that it was his mother.
Q. That's Peggy, Steve's older sister, ---
A. Yes.
Q. --- and her husband?

A. Right.
Q. And they live in California?
A. They do.
Q. Okay.
A. And then if you'll go to the next one where you have -- you're seeing people at the table, those -- this was a picture that I don't usually get to see where you have a lot of the folk there. That's Cindy, from all I understand, in the back, because I did not have a picture ---
Q. Okay. That's his older sister, ---
A. Uh huh **(indicating positive)**.
Q. --- but she's younger than Peggy?
A. Correct, and then I don't know what the actual occasion was.
Q. Now, where does she live at this time, do you know?
A. Yes. Cindy lives in -- I'll have to look her up because I have forgotten where she lives. She lives here in South Carolina, I believe.
Q. Okay, so pretty much still close to her home?
A. Right.
Q. All right.
A. But you will see that Mrs. Stanko, it looks like, is over here to the right, but there was very few of those things. I liked the next one because it looked like most families at Christmas when you are having some kind of joyous

time. Mrs. Stanko, I didn't see her too often smiling.

Now, we are after graduation almost. We have a picture here which is after graduation, when not directly after, but after he has graduated.

Q. Yes.

A. And he's looking at a -- this is Stephen, but you will notice the age on him much more than when he was in school.

Q. Right.

A. The next one is -- the next one is he and Jeff. That looked like all of our families when they do some kind of funny thing and enjoy each other.

Q. Now, that's the brother ---

A. Uh huh **(indicating positive)**.

Q. --- that's -- okay.

A. Right. And then this one, I really thought was marvelous because we see his father, and we see him, having graduated, and we see his brother, and you can tell that his father is very, very proud, and the one thing I always saw was that he was very proud of him, in all the information I saw, when he excelled.

Q. Yes Ma'am.

A. But words spoken and unspoken sometimes can cause a lot of problems for a child, and so if you speak the words of happiness, as he looks there, it does help the kids, but he was pretty stern, pretty stern with him.

The next page, you will see Jeff, and he's on a motorcycle. He has that kind of personality. He loves fun, and he enjoys very much activities that he does.

And my last one, or basically last, is as I looked at all of this, I began to think of how we look at motivating kids and what is said, so in looking at the dynamics of this family, I had tried to see early in Steve's life.

He was born in Cuba. As a child he had jaundice. Peggy, his sister, described how he was a week later coming home. He had to stay in the hospital, so he was separated from his mother during that period of time, and then the whole year, I understood, he was sickly, so if you look at that -- if you have a dysfunctional, as we call it, problem in the family, it can be the health of a child where everybody is working around trying to do what you can do to help a child and be concerned, so I think maybe some of that had a lot of issues in this family.

As far as looking at the safety, I don't think any of the children ever expressed feeling really happy and safe, and that was interesting because one of the things moving up, when I teach it, I see that you do -- you lose one motivation and one developmental level if you have not met one of the others, and, of course, love and belonging was important, and it's how we parents do provide that for our children, and something just as simple -- and I did not find this, as having your

name on your room door says that I belong, and so if we were to take a geneogram and look at which child played which part, ---

Q. Yes.

A. --- then you would be able to probably see some of the things that we are seeing that have been missed here, so it all develops into self-esteem, if you develop it, or a lack of it, and your self-actualization then would be beyond that, where you are going on with your life and your jobs, and that was where I felt that a lot of things -- there was not a firm foundation in what I saw to go forth with him being able, you know, to do the things that he could do.

MR. DIGGS: All right, Dr. Califf, I appreciate your time this morning, and I would ask you to answer any questions the Solicitor may have.

A. I will.

THE COURT: Cross-examination.

MR. HEMBREE: Thank you, Your Honor.

CROSS-EXAMINATION BY MR. HUMPHRIES:

Q. Good morning, Dr. Califf.

A. Hello. How are you?

Q. The three remaining siblings, their names and ages?

A. I can't remember everything without ---

Q. I understand.

A. You have -- we do know that there's seven years

difference ---

Q. Yes Ma'am.

A. --- between Peggy, and I know that she is in -- in her forties. I did not put them down ---

Q. Which one?

A. Peggy.

Q. Peggy, okay.

A. And ---

Q. And you've got Cindy?

A. Cindy is two years difference than her, as I recall.

Q. Okay, and then you've got Jeff?

A. Excuse me?

Q. Then you've got Jeff, who is two years older?

A. He's two years older, and then we have Stephen.

Q. What does Peggy do for a living?

A. Excuse me?

Q. What does Peggy do for a living?

A. She is secretarial more than anything else, she told me. She comes home and rides the bus home, or the train home, whichever.

Q. She lives in -- this one lives in California?

A. She does.

Q. And Cindy, what does she do?

A. She -- I don't know what she did. Cindy would not speak to me. She spoke to somebody else, but she was really

down and out, and so she would not speak to me.

Q. Okay, and Jeff, what does he do?

A. Jeff is retired. She was in service as a security person, and he now is retired and he and his children live together in Fayetteville.

Q. Any significant criminal history among the three of those individuals?

A. Not that I know of. No one would say that, but I do know that they've had some difficulties. Each one would tell different things.

Q. Yes Ma'am, but no criminal history that you're aware of?

A. Not that I know of.

Q. And I think you indicated that in speaking with all of the -- all of the kids, that all of them without exception didn't feel safe in the home, is that right?

A. That's correct, from early.

Q. Sure, which is basically the same environment that Defendant Stanko grew up in?

A. That's true, but there was difference in the family toward each child, the father and/or the mother toward each child.

Q. Sure, but, I mean, you know, we're talking about they all had food or shelter and health in general?

A. Well, you have to look at that in ---

Q. I mean, well, I mean, if you -- if you'll answer my question, and then you can explain.
A. Okay. It -- I think ---
Q. Yes or no, I mean, and then you can explain.
A. Yes, that they had two parents who were trying to give the same thing, I feel, but it was different times in their life, so different issues were there.
Q. Yes Ma'am, and then you said none of the children, you know, really met that -- that second stage, they didn't have that feeling of safety?
A. Safety within their home, but not just home, safety within the world, safety that you can go to school. It involves a lot of things.
Q. Certainly. I'm -- I don't mean to minim- ---
A. But I hear what you're saying, yes.
Q. Sure, so it's the same, yeah, but they all experienced that, including Defendant Stanko, which meant that the -- as you go up the hierarchy, those other things suffered ---
A. They do ---
Q. --- developmentally?
A. --- if it's not met in motivation, right, and the older brother had the same thing, too, if you recall, and then he went into other things, but he was in the first family.
Q. Uh huh **(indicating positive)**. The older brother, he didn't kill anybody?

A. Excuse me?

Q. The older brother didn't kill anybody? William didn't kill anybody?

A. No, he didn't, not that I know of, he did not.

Q. Right. He didn't rape anybody? No?

A. I hear you.

Q. Okay.

A. And I do understand that.

MR. HUMPHRIES: Thank you, Ma'am.

THE COURT: Any redirect?

MR. DIGGS: Not -- Your Honor, we don't have any redirect, but I would like to introduce a hard copy of this particular presentation if I could as Defendant's Exhibit forty- ---

MR. HUMPHRIES: By all means. No objection.

MR. DIGGS: Thank you.

THE COURT: What number is that?

THE REPORTER: 45.

MR. DIGGS: 45.

THE COURT: All right, so Defendant's 45 is in evidence without objection.

(HARD COPY OF DR. CALIFF'S PRESENTATION ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER 45.)

THE COURT: Do you wish the witness to be excused?

MR. DIGGS: Yes sir.

THE COURT: Any objection?

MR. HUMPHRIES: No, Your Honor. Thank you.

THE COURT: All right, Ma'am, you are released from your subpoena and may go back to your regular activities, Ma'am. Thank you very much.

All right, Mr. Diggs, further witnesses on behalf of the Defense?

MR. DIGGS: Your Honor, the Defense rests.

THE COURT: Ladies and gentlemen of the jury, if you would go to your jury room for a few moments, please.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Counsel, in this where we are now, it would be my intention that we have the arguments to the jury and then we would probably break for lunch at that point in time, and then I would come back and give them their final instructions before the jury would retire to impose the sentence in this particular matter.

In that regard from the State, what would be your plans as far as making an argument to the -- to the jury?

MR. HEMBREE: Your Honor, my expectation would be that the argument would take about thirty-five to forty minutes.

THE COURT: All right, very good. All right, and from the Defense, Mr. Diggs, Ms. Williams?

MR. DIGGS: Your Honor, I think Ms. Williams is going to

do this. I don't know at this time that we're going to split it up, so we'll probably just let one -- one of us do, and I think Steve, Mr. Stanko, plans to make a statement.

THE COURT: All right. Mr. Stanko, if you would stand up for just -- just one minute, please, sir. You understand that you have the right to argue before the jury regarding the imposition of the sentence in this particular matter, you understand that?

MR. STANKO: Yes sir.

THE COURT: All right, sir, and you understand that we obviously are in the sentencing phase of the trial. The jury, despite whatever feelings you may have about it, the jury has spoken as far as the issue of guilty or not guilty, or the other -- the verdicts that were open to them, and that would not be what we would be arguing to the -- to the jury, but you understand those parameters?

MR. STANKO: Yes sir.

THE COURT: All right, sir. For the Court's purposes in planning only, and certainly if you decide to change your mind, that's certain- -- you're welcome to do so. That is your choice in this particular matter. Do you believe at this point in time you intend to address the jury in closing?

MR. STANKO: Yes sir.

THE COURT: All right, sir. Approximately do you -- have you discussed with your attorneys what the length of this

might be?

MR. STANKO: Yes sir. I actually had kind of prepared it and had read it. I would say between twenty-five and thirty-five minutes.

THE COURT: All right. Thank you very much.

MR. STANKO: Yes sir.

THE COURT: All right, y'all may sit down.

MR. HUMPHRIES: Your Honor, just one thing from the State's perspective. Obviously you've counseled Defendant Stanko regarding an inability to address the verdict of the jury as to guilt. I would ask the Court to counsel him regarding his requirement to confine his comments to the evidence presented and the reasonable inferences therefrom, and that no new information would be permitted.

THE COURT: All right. Mr. Stanko, and I should have covered that with you, regarding this particular matter, obviously as the attorneys would also, you would be commenting upon the -- what has been presented in the sentencing phase, either by the State or the Defense, your request of them regarding the sentence, but this is not an opportunity, since you have declined, and it's certainly your option to, you have declined to testify. It is not an opportunity to testify before the jury but obviously to make arguments to them based upon what has been presented in the sentencing phase, as well as obviously your request of them regarding the sentence in

this matter. Do you understand those parameters?

MR. STANKO: Yes sir, I do.

THE COURT: All right, very good. All right, thank you. You can have a seat.

If you don't mind, Mr. Diggs and Ms. Williams, when we take a break, Mr. Stanko had indicated that he had written out maybe not an entire presentation but certainly notes and what he intended to review with them, so if you might cover that with him and make sure that if you have any questions or matters that you may want to discuss with him, I'd just ask you to take the opportunity to do so, all right?

MR. DIGGS: Thank you, Your Honor.

MR. HUMPHRIES: Your Honor, and I apologize for continuing to jump up. If there's going to be a -- if the Court is going to address the charging conference later, I won't mention it now, but at some point I believe we at least need to place on the record those statutory aggravating circumstances and the statutory mitigating circumstances.

THE COURT: We are; we are. What I was intending was if y'all don't mind, probably what we'll do is let's take a -- let's take a short break and then I'll come back and review with you my intentions as to the charge that I have prepared so that you have an idea of what it is the Court is going to be talking to them about prior to giving your arguments to them, all right?

MR. HUMPHRIES: Very good. Thank you, Your Honor.

THE COURT: So let's just take a short break and we'll come back and review that. Thank you very much.

(THE FOLLOWING TAKES PLACE AFTER A BREAK AND OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, is the State ready?

MR. HEMBREE: The State is ready, Your Honor.

THE COURT: Defense?

MS. WILLIAMS: The Defense is ready, Your Honor.

THE COURT: Very good. Ask the jury to come in.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, ladies and gentlemen, we have concluded the testimony to be received in this matter regarding the sentencing phase of this trial. What we are now going to proceed into will be the arguments of the Counsel and arguments to be made regarding the sentence in this particular matter.

Has there been any change regarding the Defense's presentation at all?

MR. DIGGS: No, Your Honor.

THE COURT: All right, very good.

I am informed that the Defendant, as his right, will address you as to the issues presented in the sentencing phase in the sentence that you will impose in this particular

matter. When we have concluded the arguments, considering the time that it is now and the arguments that you will receive, we will then break for lunch at that point in time. When you have finished with your lunch, we will come back into the courtroom. I will give you your closing instructions as to this sentencing phase, and then I will submit the matter to you for the imposition of a sentence in this particular matter.

So with that, Solicitor.

MR. HEMBREE: Thank you, Your Honor. May it please the Court.

THE COURT: Yes sir.

MR. HEMBREE: Counsel. Mr. Foreman, ladies and gentlemen, days ago each one of you was individually questioned by the Court. Each one of you put your hand on the Bible, you swore an oath, and you took the witness stand.

In the course of that questioning, Judge John, and most of the time one of the lawyers, asked you this very critical question, a question that now as you sit here today you can fully understand the impact and import of. That question was given sufficient evidence and under the right circumstances, can you impose the death penalty. You now understand why that question was so critical to our -- to our process and to that individual questioning that you undertook.

Each one of you, every man and every woman, answered

under oath, yes, I can. I submit to you, ladies and gentlemen, this is that evidence. These are those circumstances, and this Defendant deserves the penalty that he has earned through his conduct and through his character.

Let me deal with one legal issue with you. It will be a fairly straightforward issue, quite simple. There was a very critical step that took place early in the case, the State's case, in the penalty phase. One of the very first steps was Deputy Solicitor Fran Humphries standing up at the beginning of our case and stating that we move all of the evidence from the first phase into the second phase. That happens by operation of law anyway. It happens by statute, but it was important for you to hear that because that essentially says everything you had in the first phase, every piece of evidence, every word of testimony, has been now incorporated, has been moved into this second phase for your consideration.

This is why that's important, because the statutory aggravating circumstance that the State relies on in this case, in the penalty phase of this case, is armed robbery, that the murder was committed during the course of an armed robbery. That's critical. It really is quite simple, because you, as a jury, have already considered that evidence. You've evaluated it. You've looked at it, and you've decided beyond a reasonable doubt that Stephen C. Stanko is not only guilty of murder, but he's also guilty of armed robbery.

Now, as a technical matter, you'll have to answer that question a second time. You will be required to go to your jury room at the appropriate time and make the decision, is there the presence of a statutory aggravating circumstance. I submit to you you've already decided it. You need to decide it again.

The statutory aggravator is present. The murder was committed during the course of an armed robbery. Henry Turner's truck, taken. The Defendant was captured in the possession of Henry Turner's truck. Henry Turner's checkbook, in the Defendant's possession when he was arrested. And Henry Turner's body at the crime scene, his pockets are turned out. His change, but no cash is present. All currency is gone. There's no doubt, no question, that we have the presence. We have proven beyond a reasonable doubt the presence of a statutory aggravating circumstance. That leaves you with the second part of your analysis, the second question, what penalty has Stephen Stanko earned.

The Defense has asked why. They tried to put that on you. Why did he do all this? What's the reason? It's so foreign to -- to the way that normal people behave in society, that none of us would do any of that, you know, none of us would kill, and rob, and rape, assault, tie people up. We wouldn't do that, try to escape, steal, trick people, lie constantly, so he must be crazy.

Here's the flaw. There is a fundamental flaw in the Defense's logic. I don't know if they are going to argue it to you again or not; I'm not sure, but here's how it goes. They say it like this. If you want to boil it all down, take all that stuff, all that mental stuff, all those psychologists, all those psychiatrists and boil it down to its essential elements, they say because I do bad things, I have a personality disorder and if I have a personality disorder, I'm crazy, and if I'm crazy, I don't have to suffer the consequences for the bad things I do.

That's the logic they use in making their argument to you. Because I do bad things, I'm crazy, I don't suffer consequences. I get a free pass. Under that line of thinking, that same logic, no one who has ever done anything wrong should be held accountable. It's that simple. There's no accountability in that system.

It's a great system if you are a Defense lawyer or if you are a Defendant charged with murder. Yeah, that's a great plan if you are in that category, but in a society with rules that we have to have to get along with one another and to provide safety for one another, so we can count on one another and get through this earth, on this earth with one another, we have to have rules, and the rules have to have consequences or they are not rules. Fundamentally flawed.

They said that because his family has rejected him, that

this is -- means something. It means he must be insane, he must not be responsible because his family rejected him. We heard an awful lot of argument about that. It's sad, I admit. I think maybe the argument is more geared toward your sympathy than your intelligence, and there's no doubt that no matter what you've done, no matter how horrible the sin, how evil the crime, it's tragic when a family or family members have to turn their back on one of their other family members.

But there comes a time in families, in societies, that the damage that has been done, the pain that's been inflicted on that family by one of its members, the suffering that that person has caused to that family has been so great that the other family members simply cannot continue to have that connection. They have to worry about -- they have to be concerned about the rest of the family.

When one leaves so far away and leaves that fold and goes off on their own in such a manner that that family has to cut those ties, and it's always a tragedy, but it's a reality for that family's survival, for that family's health, so that family can continue to get along and help each other and pull each other along, they just have to let that one go. I submit to you that's what this situation with Mr. Stanko's family is about. They just can't take it any more. They can't take the pain. They can't take the damage that he's done not only to so many, but to his own family.

The Defense has tried to, as I said, say that because it's so bad, that it must mean insanity. Folks, here's what it boils down to. I'll tell you why. You want to know why? Defendant Stephen Stanko is just plain evil. He has in his core down deep inside something that makes him evil. He's a bad man. He knows it, and he likes it. He doesn't turn away from it. He will hide it. He's very, very, very good at hiding it, but you cannot equate evil with insanity. It's your job to call evil evil when you see it, to use your good common sense, your good judgment. Just as you did in the guilt phase, you use it in the penalty phase, and recognize evil for what it is.

He has been diagnosed with a personality disorder, anti-social, doesn't follow the rules, has trouble following the rules. He knows how to follow the rules when he wants to follow the rules and when it benefits him to follow the rules, but there's another part of this, an important part that his psychiatrist, his psychologist told us about, Einhorn. You remember Einhorn from Georgia. Einhorn was a psychologist that first -- that first diagnosed him for the Defense team, for the Defense team now, and said anti-social personality. Nobody is fussing about that. He doesn't want to follow the rules, but he's got a very well, highly socialized veneer, well-developed veneer, and this, folks, is the real frightening, scary thing about this Defendant.

You know, some people are bad and they act bad. They behave bad to everybody, and you know when you're dealing with them, that's a bad guy; that's a bad girl. You can spot them. You see them coming. As another citizen, as another human being, when you interact with them, you know what to do. You have some sense of how to deal with this person. You recognize them for what they are, and, therefore, you can take steps.

You can -- you can say, hey, I don't know about that guy. I think I'm going to stay clear of him. You know, I don't like dealing with that woman. She's not honest; she lies all the time, and I'm not going to -- you know, I stay -- you know, I'm going to keep my distance from her and not get around that person, so as -- we know how to relate to people like that.

That's the danger in Stephen Stanko because he has such a well-socialized veneer. He's smart. He's charming, and he knows how to push somebody's button. Folks, in this case, you need to measure the evil of Stephen Stanko by his character, and especially by his conduct.

Just remember Elizabeth McLendon, a young lady, lived down in the Goose Creek area, worked with Stephen Stanko. He was charming; he was sweet. He loved her. She loved him. She thought he loved her. She let him live with her. He had a place, let him drive her car, you know, helped him any way

she could. He'd get into trouble. She'd try to help him out, try to get him counseling, try to -- you know, tried, and tried, and tried.

People, I'll tell you something about this guy right here. He has had people through his life -- you saw a bunch of them, a handful of them today, but there was a lot more. There are people throughout his entire life that have been offering that man a helping hand, trying to give him a break, a guy who grew up in a -- in a two-parent home, brothers and sisters that loved him, all the advantages, didn't want for anything, intelligent, a good education, college material. The list goes on and on, and plenty of people, whether they be neighbors, teachers, principals, coaches, all there for him, willing to help, eager to help.

Elizabeth McLendon, willing to help, eager to help. Ripoffs, con games, not good enough, you know. He -- he just can't -- he just won't play it straight. He just won't play it straight because he doesn't like to play it straight, because he's a little smarter than everybody else. He's a little more clever than everybody else. The things that he does, he likes to get over on people, because when he does, when he gets one over on somebody, he shows them he's a little smarter than them. It makes him feel good. It makes him feel superior. One thing he believes, he's superior; he's exceptional; he's entitled. That's what he believes, so if he

can't earn it by getting a job and showing up at eight in the morning and working hard until six at night, well, he'll do it another way, a way that's really more fun to him, a way that really suits him a little better, a way that's a little quicker, a way he can kind of show off on somebody. He got them today. He got somebody else tomorrow, and that's kind of neat to him. Despicable. Con games.

They finally catch up to him, all the -- all the silliness, all this stealing, and lying, and conning. You know, they always run the string out, and that's what's happening in -- that's what's happening down in Goose Creek. It's all starting to crash in on him, all the car business, his neighbors putting pressure on him. It's all starting to -- it's all starting to come to a head, and he knows it.

He's got Elizabeth McLendon, a single mom. Take a look at that. Who does he always pick on. He's got a single mom, got a child, trying to get along the best she can, working, putting up with him, providing for him, but trying to get along, trying to help him, vulnerable, all the things crashing in at one time.

He's got no job; he's got no money. He's got no car, and he's got no excuses. It's run out for him. He's got to go. It's time to make a plan. This isn't some guy who's -- he may not be making good plans. I'm not telling you they're the smartest plans in the world, but he's a planner. He's

thinking; he's preparing, working on one right now. I can assure you, ladies and gentlemen, as he sits there this moment, he's working on one right now. You'll find out.

It comes to a head. He can't leave any witnesses. He can't have her talking to the police about what she knows, so what does he do? He jumps her early in the morning. She's still half asleep, tries to kill her, or knock her out, or something with a rag filled with bleach and 409. I thought this worked in the movies. I saw this work in the movies.

Like I said, they're not the best plans, but they're plans. That takes an effort. You've got to go get the stuff, put it together, get your ties laid out there so you can jump on her and tie her up, drags her all over the house tied up. She thinks she's going to die. Her life flashes before her eyes. She knows this is the end. Then he leaves. For whatever reason, he changed his mind. But he learned a lesson. He did learn a lesson. Some of these psychiatrists say he didn't learn. I disagree.

His last line of this nine page -- nine pages of statement when he got caught by the police, I had no sexual relations with anyone. I had no gun. I robbed no one. That was Elizabeth McLendon. He went to prison for that, and folks, he learned. He learned.

He leaves prison, gets out. Let's talk about prison just a minute. He gets to prison and he gets along with the

guards, and he gets along with the administrators, and he becomes a go-between, and he does absolutely fine in prison. He adapts very well to the circumstances, and I appreciate that. That's fine. That's Stephen Stanko all the way down the line, because -- and I asked one question that -- of the correctional officer who was here, did it benefit him, did it benefit Stephen C. Stanko to get along with the guards and get along with the administration, and he said greatly. Of course it did.

Stephen Stanko can get along fine when it suits him. That day, on those days, in that circumstance, at that time, it was beneficial to Stephen Stanko, because everything is about Stephen Stanko. He's the center of his own universe, but it suited him, so he got along, didn't have all these outbursts, didn't have these explosive triggering mechanisms under high stress situations that we heard of, never, not one, eight and a half years. Nobody can say that. He's controlled. He's thinking. He's making a plan.

Gets out, and here we start back with the lies and the cons, the same old two and two. Maybe he's gotten a little better at it. He's pretty smooth, folks. He's pretty smooth, walks into a furniture store, tells them he's going to buy furniture, desks, gets on the cell phone, never talks to -- never talks to the lady, never says anything to her about it. Oh, yeah, oh, yeah, oh, thank you so much for your -- thank

you so much for your generous contribution, oh, yes, yes. The Cancer Institute will sure appreciate it. That's smooth stuff, folks.

He never brought it up. It's such a passive, beguiling, clever, really intelligent way to put a con on somebody that's running a small business, that really doesn't have a lot of money, and she said we've got to be really careful with the contributions that we make. Not only does he get a Hundred bucks out of the business, he gets Twenty Five out of the individual. It just shows the level of his ability. He enjoyed it, went down the road. He's hitting them all over the place, but we know the story. We've seen it before. The string runs out. Things are closing in.

Steve Lee wants his Three Hundred and some Thousand Dollars in insurance, uh huh. Don McAlister wants to see his Martha Stewart investment that's supposed to get him three or four times his money, uh huh. These are some fellows that are not to be trifled with. They're not guys you want to go ripping off and, you know, laughing in their faces. Time to move on. Time to get out of town. It is coming to a head. I got to make a plan, but he learned. He learned.

You know, he had met Laura Ling. She, again, interesting, a single parent, had several children, one in the house, working, has her a little house there, got a little car, an older car, but she's got one, trying to get along in

this world the best way she can, vulnerable, certainly was an easy prey for the charm, the guile of Stephen Stanko, thought he was wonderful, but Stephen Stanko had -- well, he had run out of time with his cons. He had run out of money, didn't have any money, didn't have a car, didn't have his own place to live, didn't have a -- didn't have a thing, and didn't have any more excuses. Time to pull up and go, got to do something different.

He assaulted her in the early morning hours of April the 8th. Dr. Collins' testimony was clear, rather graphic. The bruising was literally all over her body. Her hands were bound behind her with a necktie. She was beaten savagely, savagely.

You've seen enough pictures of that. Stephen Stanko has an ability somewhere in there to commit acts of violence that are so horrific, it really does defy words. The experience that Laura Ling went through as she was beaten, her throat was cut, her -- ultimately she was strangled, was an experience that was not quick. It was protracted. One can only imagine the thoughts that went through her mind, certain thoughts of her children.

He took her car and he went immediately to the ATM machine, about three, a little after three o'clock in the morning, and cleaned out her bank account, Seven Hundred Dollars worth of cash. Now he's got some -- now he's got a

little bit of traveling money, can use a little more getting out of town money.

Her car was a -- although it was an older car, it was easy to spot, and it was -- it was a situation where he left -- in my view, he left two people behind dead whose bodies were likely to be recovered rather quickly, and he knew that vehicle would be immediately traced back to them, back to Laura Ling.

He didn't count on the miracle that occurred, one of the miracles that occurred in this case, so he goes to his cell phone. He's trying to make a plan. He's left Laura Ling's home. He has a car. He's got some money now. That's a step. He's got some transportation, but it's transportation that he may be spotted rather easily, so he's got to do something about that.

He calls his friend, seventy-four year old Henry Turner. Mr. Turner, a veteran, a Shriner, a fisherman, lived by himself, nobody around to miss him for, you know, a while. They would find him pretty -- you know, soon enough, but he doesn't have anybody living at the house that's going to miss him straightaway, and he says Henry, I am so broke up. My daddy just had a heart attack and I need to talk to somebody. Do you think maybe you could let me stay over for the night and talk to you about this?

Henry Turner is the kind of guy, four o'clock in the

morning now, that's a pretty good friend, opened up the door and get up out of his bed and drink a beer with you, and let you tell your tale of woe, but that's the kind of man Henry Turner was. You got to meet Henry Turner a little bit yesterday. You got to meet him through his children, through his friend, Cecelia. A friend, a friend indeed, he was. Come on over, Steve. Come on over.

The conversation takes place presumably. Stephen Stanko stays over. Henry even calls his girlfriend, Cecelia, to say Stephen is here. His dad has passed away. You know, I'm kind of looking after him, holding out that hand, extending that hand of friendship, of compassion, of mercy.

The next morning, Henry follows his routine. He goes down to McDonald's, and that morning he orders and pays for two breakfasts, hotcakes and bacon for two, extending that hand of friendship. Break bread with me. You're my friend. Let me help you out. I'll go get some breakfast for us. Stay and take it easy. Stay right here.

It appears they ate breakfast. There was no breakfast there left on the counter in the crime scene photographs. They had their breakfast, and Henry goes back into the -- back into the bathroom. He's got his little electric shaver, and he stands in front of the mirror, I'm sure he's done how many times, every day, every morning, just a routine, the same ol' thing he does for the last however long, going to shave, and

the last thing that he sees, he's had his breakfast, everything is fine, is his friend, Stephen Stanko.

As he looks up in the mirror, he sees himself, but he also sees his friend, Stephen Stanko, come up behind him with a pillow, placed a .357 magnum against that pillow and fired. Can you imagine the confusion, the shock that went through his mind. My God, what just happened? This is my friend, Steve. He wheeled around. Stanko fired another shot into his chest, killing Henry Turner.

His friend lived alone, an older man, maybe a little vulnerable, maybe looking for some company, extending that hand. Folks, leaves, has drinks, goes to Augusta, and meets Dana Putnam. It's a fascinating part of the story. I submit to you that is miracle number two in this case. That is miracle number two, that Dana was here, could testify, but if there is any doubt in your mind, any shred of doubt at this point about the evil that is Stephen C. Stanko, listen to this tape in your jury room.

You know, it's absolutely unconscionable to brutally murder Laura Ling the way he did, and to sneak up on his good friend, Henry Turner and shoot him in the back. It's unconscionable, but folks, why drag a fifteen year old girl out of her bed in the middle of the night after you've killed or about killed her mama and rape her. It's evil. It's because he wanted to. There was no purpose to be served other

than to satisfy the savage desires of that Defendant right there at that moment. He wants what he wants when he wants it.

I can't help but wonder when he was living there in the Ling house when he started thinking about that, when that little fantasy popped into his head. He had the chance to carry it out. Good Lord, there's evil in this world. He beats her, ties her up, too, just like her mama, slits her throat, and it is unbelievable the similarity here. It's almost -- it's so intentional. It's almost as if he wanted it to be exactly the same for some purpose, but if you just look at the injuries to the mother and the daughter, if I wasn't telling you this, you would think they were coming from the same person. That's an autopsy photo. That's a hospital photo of Laura Ling. There is evil in this world.

There comes a time -- well, I'll say this. There's a miracle in this case, too. There are two of them, but the miracle is that [redacted] could make that call, because that wasn't the plan. That was not this man's plan.

There comes a time, and I touched on this earlier, when a person's conduct has caused so much damage, has caused so much suffering, the conduct is so reprehensible, it is so evil, it is so brutal, it exceeds the rules of our community and society to such an extent that that person gives up their right to remain among us. This is that conduct.

There is a lesson and many lessons in this case, so many, but there's one that -- that I think jumps out, or it jumped out at me when I talked to Roger Turner before trial, and he told me -- he was telling me about his dad, and he said you know, my dad had this saying, he had a bunch of these sayings, but he had this one that he had memorized, and this like his sort of ---

MS. WILLIAMS: Your Honor, I would object to the hearsay nature of that testimony there.

MR. HEMBREE: I will rephrase my statement, Your Honor.

THE COURT: Very good.

MR. HEMBREE: As you heard from the witness stand, Roger Turner shared with you that his father had a statement, a saying, that was like his motto, and he -- he had it -- you know, it was a long statement, and he had it memorized, and he did it at his brother's wedding, and it was his dad, you know, it was the way his dad lived his life, and it was called Man In The Mirror, gives you chills, and there's such a lesson in that, because we -- you know, we look at that, those two men, the last image, the very last image by Henry Turner when he drew his final breath, were two men in that mirror.

You had Henry Turner, you know, a guy who grew up in humble beginnings. The farm wasn't for him, joined the military at seventeen. He served his country honorably. He worked hard. He was promoted quickly. He raised a family.

He was a friend. He was kind. He was compassionate. He liked to have fun. He joined the Shriners. He served others, you know, all the qualities in a human character, all the conduct that says, you know, that's a pretty good fellow there, Henry Turner. I'd like to know that guy, you know, I'd like to hang out with that guy a little bit. He's a good man.

There was another man in that mirror, a man who had all the abilities and had all the advantages, but chose not to take them, turned aside, turned away from those, turned away from those people, turned away from those principles, and conducted himself in a way that violates every rule we can think of, rape, murder, robbery, lying, conning. That's what we saw, a dangerous man, dangerous because he uses the gifts, the gifts that he has been given, his charm, his intelligence. He uses regular weapons, too. He'll use a knife. He'll tie you up. You know, he'll choke you. He'll use a gun. I mean, he'll use the more traditional weapons when the -- when the situation calls for it, but really, he wants to use his cleverness, his sneakiness, and his charm, his dress. He'll even go to church with you.

He -- he is a con man's con man. He can talk to you at some point today or not. That's his prerogative. That's his right, but I will assure you, ladies and gentlemen, this will be, if he chooses to do so, this will be the performance of his long and horrible career. It will be fascinating to

watch.

We have had one witness say that he is remorseful. We've had every doctor that testified saying he can feel remorse. I don't really know. I know this; he's a liar, and he's charming, and he's smart.

Folks, it is my call to you that when you retire to your jury rooms, you consider the evidence in this case. You consider it all, mitigation and aggravation. Consider all the evidence in the first phase. Consider all the evidence in the second phase, and you reach a verdict that satisfies the oath that you gave to this Court, that you gave to that Defendant, that you gave to the State of South Carolina, a verdict that every day while Stephen Stanko remains on this earth, a verdict that when he wakes up in the morning and he goes to the mirror and he looks at himself, although he may like what he sees, he will know in his heart that there were twelve people in Horry County on November 19th of 2009 that he didn't fool, that there were twelve people in Horry County on November 19th, 2009, that held him accountable, there were twelve people in Horry County on November 19th, 2009, that said the appropriate sentence for you is death.

THE COURT: Ms. Williams.

MS. WILLIAMS: Thank you, Your Honor. May it please the Court.

THE COURT: Yes Ma'am.

MS. WILLIAMS: At this point, ladies and gentlemen, it is our turn to present our version of the closing argument, and at this time, the Defendant, Stephen Stanko, in this case wants to address you, and he will go first, and then I will present my closing argument.

THE COURT: Mr. Stanko.

MR. STANKO: Mr. Diggs wanted me to take a break if y'all wanted that, and we will ask, but I wanted to come up immediately after Mr. Hembree. I felt that you would be mad and I felt that you would be upset. The reason that I wanted to do this was to apologize. I don't know that it will make a difference to the family. I met Roger on a couple of occasions. I never met Ms. Gallogly, and I never had a chance to meet Rodney, but I met Roger, and whether they accept it, whether they want to accept it, I hope that they someday will, but I am sorry.

No matter what the Solicitors attempt to portray, I'm not all that it was like. Not all of it was deceptions. I'm going to tell you that right now to your face. Henry and I were friends. He was my friend. He was much more. Henry and I rode motorcycles together. He let me ride his while he rode Roger's, not this Roger, but another Roger. He wore those pants that Miss Cecelia spoke of, the United States flag, and he even wore the red socks on several occasions.

We played pool constantly. Henry was one of the best

pool players at seventy-four years of age that I had ever seen. We played a lot and he won all the time. They didn't talk about that. I wish they had, because it was one of the things that he truly loved doing.

Henry needed some lattice put on his trailer one day. He called me, and I ran over there. At a time when my dad and I were at terrible odds, Henry was there. He treated me like a son. Roger told no story there. He treated everybody that he cared about as if you were his son, or his daughter, or his best friend, everybody.

One day we went to -- we went to have lunch. It was a Saturday. We went to -- just went to a pier to have lunch, and we sat there at about -- we got some hotdogs at about eleven-thirty, and we didn't leave until five o'clock. Laura was on the phone calling, saying where are you at, because we were supposed to have dinner, the three of us, pizza and some beer, but we were just sitting there at the same place we had sat for five and a half hours, absent a couple of restroom breaks. I'm sorry.

That was the main reason I came up here, and I'm going to say some other things, and if Mr. Hembree thought that I wasn't going to get up here and at least say a few things, I'm sure all of you either expected that I would or expected that I wouldn't say anything at all. I'm not going to inflect my voice and do all that stuff like he did. I'm just going to

talk to you, and then I'm going to go sit down, and then it's up to you, after Ms. Williams.

When I was sixteen -- sorry. When I was sixteen, Ms. Wenz, the lady you saw, my calculus teacher, was -- you guys might remember that NASA had a shuttle that went up, was going to go up in space. They had this big contest; there was going to be a teacher. I think it was the Discovery.

A lot of you will remember that because as soon as it started lifting up, it exploded, and the teacher that was on there passed -- she died. Everybody did. That might be why some of y'all remember that shuttle. I remember it because my other teacher, Ms. Wenz' best friend, was -- she was my calculus teacher. She was one of the finalists, so NASA came out to see us, and they said -- you know, they wanted to know what our teacher was like and what made her a great teacher, and the guy, he was a physicist, one of the astronauts, he said he wanted us to understand what basically would go on in space, the decisions.

And he said if you took a penny and you laid it flat, and he gave us the height of that penny, and he said if you stack a stack of pennies from the earth to the moon, and he gave us the distance, he said how much money would that be? And he said you've got three minutes. Go.

And there was about thirty-five of us in that class, and at the end of the three minutes, about three of us had it. I

mean, we didn't have it. Hokun Sewell, which is one of the guys that Mr. Diggs questioned Mr. Fulmer about, he missed it by like seventy-five cents, and he's the lead engineer now at BMW North America.

Eddie House, which was my best friend at the time, he missed it, give or take Three Dollars one way or the other, and he's the Colonel that Mr. Fulmer talked about. And I missed it by about the same amount, either more or less, and I'm standing here in front of you. When it comes to things like that, I can do it, and I can do it as good as anybody.

The Olympics of the Mind thing that Ms. Wenz talked about, the structure was a bridge that was thirty-five centimeters in length, made of balsa wood, and weighed less than an ounce, and it held seven hundred and forty-pounds. Things like that I've always been able to do. Things like that have never been a problem. In all honesty, association has never been a problem.

But there have been some problems. I mean, you know, I'm not going to stand up here -- the one -- the one thing that Mr. Diggs and Ms. Williams and I promised in this case is we were going to stick to honesty, and we were going to play no games with lies or deceptions, and we weren't going to fall into any lawyer tricks. We weren't going to do stuff like that.

My feelings were -- and I was facing the death penalty,

and all you know my situation now anyway. It's been said, but in this, I was going to honor Henry. I was going to honor Christina and Laura, because I felt like that case would get in here and we weren't going to play any games or try and deceive you or ruining their memory.

About three or four years ago, Diggs came to me, Mr. Diggs, and I was sitting in the detention center, and he would come there for these things and we'd have these conversations, and he would ask me these questions. He had all the academic records that y'all have seen and everything, and he would -- he would get mad and frustrated. He even called me a couple of names one time, I mean nothing bad, just -- but he would get mad, you know, Beta Club, Honor Society, all this crap, and he'd yell at me, why are you doing this?

He saw the same thing y'all saw. He saw me leaving my name on stuff, giving my real phone number, things like that, and he couldn't figure it out, and he would get mad at me, and at that point, you know, you're stupid if you don't think you know what you're facing at that point. I mean, it's real stupid. It has nothing to do with intelligence. It's just common sense. You've done things. You're looking at what you're facing, and you decide how you're going to deal with it.

Are you going to face it? You can't get out of it. You know, contrary to all that stuff he says, you and I, anybody

here that didn't have all that evidence and understand about getting out or getting in, that doesn't make sense, so I decided I wasn't going to do anything more to disrespect the memory of the people that didn't deserve that, the lives that were lost here, and we haven't.

We haven't tried to deceive you. We haven't played games with you. We haven't objected to things that they brought up here. The State has a job to do, and I respected that from the beginning, and we made a conscious decision that we weren't going to put people up here that would display things that would make you do one thing or another, and we weren't going to -- I've had to grab Bill a couple of times because I wanted people to say things that were coming out, and I probably shouldn't have, because I think if he would have objected, I think the Judge would have stopped him, but I think that things needed to be said.

The Solicitors, I understand they had a job to do. I understand that I had to deal with it, but I think if you're going to put someone to death, if you're going to try to, then you should be fair, too. This case could have been tried, as you all saw, with the evidence as it was.

You made a decision already, and I think that's great, but you can't put in an aggravating circumstance and say, well, he's a lying, deceiving son of a gun, and then you do the same thing. This case didn't have to be tried that way.

The twelve of you and the four others could have made a decision well upon your own just by putting the truth up on there. Roger told the truth about everything he said. Ms. Gallogly told the truth about everything she said. A lot of others did, but there was others that did exactly what I used to do.

Mr. Hembree started talking about the other -- the experts and all that, and, my God, I know y'all are tired of it because I am, and my life depended on it. My life depended on all those experts getting up here and saying what's wrong with my brain, and I believe it. I don't know if some of y'all do. I don't know. I know that we were honest about it. I know that much.

When they compared my brain, they did it with people that had taken that test, and the reason that you do that is so you compare the apples to the apples. They put -- they put -- they compared me to guys that were sleeping, and yet my brain, according to their expert, was the same, and I'm not going to go through all that, but all I'm saying is if you're going to try to kill a man, be honest.

If you're going to ask twelve people to go into a room and make that decision, and I believe that all of y'all, no matter what it is, are going to make the right decision, but do it fairly. Don't put me in that position and say I'm going to kill you, and do the same thing that you're accusing me of.

I'm not going to talk about all this, and originally I had -- I'm going to show you. I mean, I had all kind of stuff written about this doctor did this, and this doctor did that. I saw y'all taking notes. I think that -- I think that y'all have what you need on that stuff.

I am going to say two things. If you heard Dr. Wu, Dr. Wu said, and I quote, Medicare is now paying for P.E.T. scans for senior citizens for diagnosis of early onset Alzheimers, and that's because they showed that they could find the Alzheimers in senior citizens' brains, early onset, okay?

There's an opportunity for that here, too, okay? It's already been said. It was said today. You know I'm on death row. You know that in the Laura Ling case, you know what happened. It was already said, okay, so -- but there's an opportunity for the twelve of y'all to make another decision. The twelve of y'all can make a decision to stop things like this from ever happening again. I'm not going to get out of prison. My best case scenario is life in prison, and that's if I even get resolution in the other case, a best case scenario resolution, which would still be ...

The key to this reason -- the key to this and the reason that I didn't plead to this, the reason that I didn't go ahead and plead in this case and just take the death sentence or something like that is because there would have been no opportunity to show this evidence again. There would have

been no opportunity to let twelve people look and make a decision that might change the world, and I don't care what anybody says, I mean, I know the Solicitor's job, but remember Dr. Crawford, she came up and said we're not there now with the technology. The other -- Brannon said we're not there now. We are there. The world is there.

When the truth and the honesty was told about my brain, the truth was there, and we're in a position now where a fifteen, or a sixteen, or a fourteen, or a thirteen, or a twenty year old can have a P.E.T. scan done and when they find anomalies and defects in the brain, they can say wait a minute, let's -- let's save -- let's stop something else from going on later. What if we could begin scanning people earlier and looking at their brains. We can. We're doing it for Alzheimers. It's no different for frontal lobes, the amygdala, or anything else, and my deal was why not make lost lives worth something.

Mine is not worth anything. I'm not afraid to say that to you. That is honesty. The Solicitors will say that to you, mine is not worth anything, but what happened in this instance is.

Some people see things as they are and say why. Some people see things as they can be and say why not. I took that quote from a book. I didn't think of that. I'm not that smart, and I'm intelligent and I'm not going to deny that.

I've always been intelligent, but that's the truth. He called it veritas at the beginning. I know everybody remembers that, veritas liberat, means the truth will set you free, and I believe it will for me, whatever the end is, but it can for you, too, because what if we could just -- you know why the -- you know why the -- the -- you know why the legal cases aren't there yet to support this? Because it's an uncomfortable decision for y'all to make, not y'all, but every other jury that has sat in front of any kind of situation like this.

and there's only been four that I know of where this has even come into play, but it requires you to defy a logic. It requires you to look beyond the emotions and look beyond the incident and say as much as I want this guy to die for what he did, what can come of it.

I'm not going to talk about all the -- I'm not going to go through all the doctors and all that stuff. It's not worth it. I mean, that was my goal here. Remember -- I mean, do you remember when cell phones came out and they were these big, huge, clunky things, and they cost Five Hundred Dollars a month to pay, and you could only get a hundred and ninety-nine minutes, and all that kind of stuff. I mean, that's what technology does. They made a decision and they got better.

I know that some of y'all have -- some of y'all aren't old enough. I know there's a couple of you that weren't even around when the original Star Trek came out, but for those of

you that are, do you remember the old telecommunicator where they would flip them out and they would talk into them. There's not a place you can go now in the whole world where there's not a cell phone that you flip open and somebody talks on. Ninety-nine percent of the world has a cell phone that has a computer on it. It hasn't always been that way. P.E.T. scans are the same way.

I was scared to death when I took that test. I was scared to death. Bill came to me after we had those arguments. Bill called me and said he was so mad at me and couldn't figure out why I was doing the things I was doing, and I wouldn't give him a good an- -- not a good answer, but not the one that he wanted to hear, which was an explanation for why these things occur, and he finally -- yeah, he said there's something wrong with you, and I didn't see him for like two months. Then when you're in the detention center and you don't see a lawyer for two months, you start getting worried. You start freaking out, you know.

And then he came to me and he said, well, we're going to have some tests run on you, so he asked the Court. We did -- he had to do this big affidavit and all this other stuff and submit it to the Court, and the Court decided that those P.E.T. scans could be done. We didn't decide that. I didn't pay for it. Mr. Diggs and Ms. Williams, they didn't pay for it. The Court decided it. They're the ones that sent me

there. They're the ones that made these things possible, not me, not Mr. Diggs, as he liked to say, the Defense team. We did ask for it, we did motion it, but we didn't pay for it.

And then Bill came and saw me another two months later after I took the test. Again, I was freaking out, and we sat down in a little room and he said I've got some good news and I've got some bad news, and he said the bad news is you've got a brain defect. The good news is you've got a brain defect, and then he tal- -- we went through all the information about it, and he said we can go into Court. I just didn't want to hurt anybody else. I didn't want my family here. I didn't want the victim's family here because I didn't want them to go through it, but then again, that's not my place to say, too. They probably wanted to see this go on. I don't know, but the one thing I did describe was that if I could make a difference in any way, shape, or form for them, I felt that was worth it, that I could at least try that.

You watched -- you watched the evidence when it got presented. You saw if we reacted or if we tried to stop things that were being said. All of you saw that. I'm not going to -- I'm not going to recreate it for you. I'm just asking you to think about that. A lot of you took tons of notes, you know.

Ms. Crolley didn't lie. I did that. Don McAlister didn't lie. I did that, but I know you saw some

inconsistencies with like Steve Lee. Why would I sign a receipt for one man for Four Thousand Dollars, but not sign one for a Thousand. Where is it? It was lawyer tricks, and I don't think they -- I don't think they set Steve up, but I know Steve, and I tried to help Steve, but Steve didn't tell you a lot.

Mr. Jackson didn't tell you a lot. He didn't tell you what that man accused him of, and he didn't tell you why I stopped helping him. Those things didn't get to come out, and I don't think those two things are going to weigh your decision, because there was a lot of honesty in here and there was a lot of deceptions, but my point is, again, if you're going to kill me, then do it fair. He didn't have to do all that other stuff, you know.

And you talk about breaking the rules, but Mr. -- Mr. Humphries is sitting over there with a four and a half inch knife in the back of his pocket. He might have it today. He had it the other day. He talks about if things are good for me. You know, I know y'all saw it when he opened up the evidence. I know some of you did because one of you said something. I saw it, and they talk about how things are comfortable for me or not comfortable, that's when I act out. He's got a four and a half inch knife in the back, I mean, the blade, long. I bet he's got it right now, and he's been walking by me twenty-five, thirty times, and if I was worried

or fearful of what I was facing, it wouldn't be worth it to take a shot at that.

I haven't sat at that table and made a bunch of crazy remarks. I haven't acted out. I haven't done anything. I've been upset. I've been mad at some of the things that got said and some of the things that they presented up here. I can show you though that the State is worried about an impulse out of me. I can show you that beyond a shadow of a doubt. I can show you that all those little stories that he told you about, he only does this when he wants to. Do you see that? If I did act out, they'd electrocute me. Don't tell me they're not -- they don't think that it could happen any time.

It's your decision right now by just looking at the proof, and that's all I'm asking. It could make more of a difference than whether or not I live or die. It just can. I don't know if you believe that. I don't know if you don't, but I had to say it, and I had to say that I did it, and I'm sorry that you got put through it.

I'm sorry that Ms. Gallogly, and Rodney, and Roger, and Cecelia all had to be put through this. I hope that any hate and anger that they have for me can be cured with the memory of Henry because this wasn't right. It wasn't, and I'm sorry, and I miss Henry. Henry -- Henry was never afraid to tell you what you're doing is stupid.

We are there. We are where they say that we're not, and

you all can make that decision. You all have that ability. I'm not going to read any more of this. I can tell you this, that all of you sit in a position right now where you can make a huge change in the world. You have to defy the comfortable thing then. You would have to. You would have to go against probably every ounce of feeling that you have right now. I know that, and I respect y'all's decision no matter what it is, but you can make a difference. I would hate to -- I'm not going to walk away from here without saying that.

There was a -- Solicitor Hembree liked talking about movies. There was a movie called Minority Report, and it had either Tom Cruise or Keanu Reeves. I don't know if any of you saw it, but it was -- it had the ability to -- it was actually -- it had the ability to see the future kind of and see when people were going to hurt other people or commit crimes.

It wasn't murder always, not always, I mean when they were going to steal, when they were going to rob banks, and they had these people that could see it, and so what they do is when they knew it was coming, they would send somebody into the future and stop it, and this is that -- it's -- it's -- with every movie, every fictional movie, there's some truth, and this is it, because if you could -- it's just like the cell phones.

The cell phones were Five Hundred Dollars, a Thousand Dollars. Now they're -- now they're -- you can get them for

free, but what if you could get P.E.T. scans done, and that's where it's going. Remember the first computer that was the size of a garage. It's just like y'all saw that picture of that P.E.T. scan that Dr. Wu has, and the next thing you know, they're in your hand. Well, what if you could scan people and just look at things and say we can fix that. We can; we can.

In order to do that, you would probably have to go against what's comfortable, and I understand that. I mean, this is like Roe versus Wade. It's like Brown versus Board of Education. It's one of those cases where people have to go against things that are the public norm. You are the jury. You know the emotion that gets involved, and I understand that, but I had to do this, too. I think I owed that.

They paraded people in here to say everything they want, and I'm not going to blame this on my family, you know. We weren't really trying to do that. Every family is kind of screwed up, you know. Everybody has times when, you know, you've got your black sheep or whatever they want to call it. I'm not going to let a deception go on either.

I talk to my sisters now, I mean my one sis, Peggy. My brother hasn't talked to me because we had an argument, you know, and it was about the stuff like this. He felt that after the first trial, he felt -- he thought that we had tried a little bit too much to avoid things and go around it, and I was trying to get him to understand that by presenting the

brain evidence, that's not what we were trying to do completely. I mean, any time you present evidence that shows why you did something, I think that is trying to show a reason or whatever, but when Jeff and I fought, he felt that I was trying to avoid it, and that was why I made the decision to do this.

I didn't talk at all last time because, you know, and I prob- -- I don't know if I should have this time. Some of you might be mad. Some of you might not. I don't know, but I had to tell them I was not -- I was not going to go back there and not let those people know that I was sorry, and I felt that -- thank you, and to Rog- -- Roger and Rodney, and Ms. Gallogly, and Cecelia, I am sorry. I am.

Ms. Williams is going to talk to y'all now. Thank you.

THE COURT: All right, Ms. Williams.

MS. WILLIAMS: Beg the Court's indulgence.

THE COURT: Yes Ma'am.

MS. WILLIAMS: Good afternoon, ladies and gentlemen of the jury. You know the Solicitor gave a very compelling argument. There is no doubt that what you have seen in this case has been horrible. What you have witnessed and had to see pictures of is just shocking, and heaven forbid it is a shame that it ever happened in the first place. I don't dispute that. We, the Defense team, don't dispute that, you know, and he gives you the compelling argument that this is

the case to put that man to death, but I will tell you and submit to you that it's not his choice. It's yours. You are the ones that have to make the individual and then collective decision to do it.

You know, I went home last night and I thought, what in the world can I stand here and say. What can I say, you know, and I thought, well, Brana, when you looked at this case, what did you think? Now, part of my job as a lawyer is to assess a case. I have to go into it; I have to look at it; I have to think about it. I have to think like a prosecutor. I have to think like a defense lawyer and then figure out where it all stacks up.

And I -- and I started trying to decide, you know, we're at -- we're at this stage now, so what we're looking at is were there aggravating circumstances and if there were, do we sentence him to life without parole, which, by the way, really does mean that. It means that forever he will never get out of prison, never, ever, ever. Every birthday he has, he will be in jail. Every Christmas that comes, he will be in jail, forever, or do we put him to death.

The Judge will charge you. He's going to tell you what the aggravating circumstances are. He's going to tell you what the mitigating circumstances are. The statute lists -- there's actually ten that the statute lists, and then there's actually everything else. Now, there's three that we've asked

him to charge, and I'm going to tell you what those are.

The murder was committed while the Defendant was under the influence of mental or emotional disturbance. The second one, which is actually number six, the capacity of the Defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired. And number seven, the age or mentality of the Defendant at the time of the crime, and then there's everything else.

And I thought, you know, let's look at it. Let's go back through it and let's look at it, and the Solicitor would have you believe he planned, he conned, he deceived. I -- I would pause for a second. Now, there's been a lot of talk about who paid for this, how much did you make, where did you come in, who funded this.

Ladies and gentlemen, I submit to you we all understand that if an expert had something terrible to say against my case, I would be an idiot as a lawyer to put him on that stand. If this expert had something terrible, for the State, to say, the State wouldn't put him on the stand. We know that. What you guys got to do is figure out where you want to slice it at, what part you want to pick out, what part you don't, if you want to take it all, if you want to take none of it. That's what you're doing, so, I mean, we understand that, okay?

Now, but I will submit to you, let's go back and look at it, the very first horrible thing you heard about. Ms. Buckner sat on that stand and told you he stuck a 409 and Clorox rag on her face, and made comments about, Lord, it works in the movies. Why isn't it working now? He then ties her up and brings her to -- in the shower while he's taking a shower and singing like everything is hunky-dory.

And do you recall what she said? The oddest thing I thought that she said out of all of it, even though it's all awful, but the oddest thing was, and he said to me, I've got to stage this so it doesn't look like you're a part of it, and she said but I'm not a part of this, to herself, because, you know.

She left -- he left her, went up to Greenville. Now, we're from South Carolina. We know the map. That's two and a half hours away, three hours max, depending on how fast you drive, and he called his friend who works for the Police Department twice. Was he really trying to get away?

He then comes to make a statement for his friend. I entered it into evidence, and you know why I did that, because it was nine pages, front and back, full of more detail than y'all wanted to know, but you heard the question that I asked. Officer, how many people have you investigated? How many statements have you taken? Do you get nine pages full of the detail? No, I don't.

There's a lot to come, Two Hundred Dollars here, Five Hundred Dollars there, a car here, a car there, a car yonder, a car. He comes to Myrtle Beach, a Thousand Dollars from this person, Five Hundred Dollars from that person, Four Hundred Dollars over here. I mean, he's taking cons. There's no doubt about that, but I would submit just because you take Four or Five Hundred Dollars, or Eight Hundred Dollars, or whatever, isn't no reason to elevate all of this to the death penalty, okay?

Now, let's take a second and look at what happened when we get to the actual incidents and stuff we've discussed. The first one, Ms. Laura Ling and [redacted] awful. I'm the first to say it. You guys heard that awful 911 tape that was played, but did you hear when the operator asked you had he ever done anything like this before, and she says no, no, God, no. The operator later on asked her again, did you expect this? Has he ever done anything like this before? No, no, never, no.

She also even said, in fact, he woke me up. How awful, but my land, why, why in the world would you do that? Now, the Solicitor said we -- we're trying to confuse it by asking why, but ladies and gentlemen, I submit there's -- you know what, we have a duty to ask why. You know, I put my little skull up here and I'll tell you why. I'll come back to it. Let's go on to Mr. Turner's incident.

Stephen Stanko leaves the Laura Ling house with a red convertible Mustang. You know, I'll tell you this. I sat there last night trying to figure out, let me explain it to myself. Let me make it sense why it would have happened. He leaves that house, and if we -- we follow the Solicitor's logic, he thinks he's killed both of them. He has no idea that, thank goodness, [redacted] did not die, okay? We know that. We know. You heard from the stand that he called after Mr. Turner's death and called the library to tell them Ms. Laura Ling would be sick so she wouldn't come in until Friday. Nobody should have missed her until Monday. We can safely assume that, okay?

He lived with her. He knew her habits. He knew her routine. At best, you can figure he figured he had until Monday to get away, okay? Now, a hundred and forty IQ, a hundred and forty-three, depending on how you do the math. It doesn't matter. That's way up there, way up there. The doctor testified that's three standard deviations, meaning it's way up there.

He's smart enough to know that he doesn't need to go to Columbia, two hours away, and be up there running his mouth and talking and flashing because he's got to know that they're going to come and chase him. He's got to know that even if they aren't chasing him that night, he's leaving the trail, he's leaving the trail, he's leaving the trail for everybody

to find him.

Now, do you recall, do you remember what the bartender said? They left the one bar where he was throwing money around and they went over to that car -- truck, and Steve got in the spat with that other boy who was in the group, and I think Mr. Diggs asked him, well, tell me about that reaction, and he said he got -- he got so mad. It was like -- wasn't something -- a normal person shouldn't have reacted like that. I mean, you know, he was running his mouth and the other boy was challenging his stor- -- his lies, but he got above -- over -- quote -- a normal person wouldn't have got that mad.

I say -- now, I'm going to tell you this. My version is my version. You guys actually did a great job of taking notes. Go back and look at your notes. Don't -- don't -- don't trust me. Trust what you heard, but I know he commented on the -- his ac- -- his reaction was above board, you know, just out of whack.

We leave Columbia. We go to Augusta, and they're where, I submit, the most ridiculous of all, if you want to say it, why in the world would you get up and go to church on Sunday morning and be on the camera for everybody to see you, and he knew it, because you heard Ms. Putnam testify that she told him she wanted to sit in that spot so her grandma would know she was in church on Sunday morning.

He had his things at Laura Ling's house. He had his name

on things. He had his -- Laura's car at Henry Turner's house. He took Henry Turner's truck. He knew that Mr. Turner's girlfriend knew he was at his house at four o'clock in the morning. He knew this. He -- she said they talked four or five times a day. They talked all the time. He had to know that when she started calling and he didn't answer, she would get worried.

I was trying to decide if I could explain it. You guys have already decided he's guilty, not insane by your understanding and your evaluation of the law. You know, the Solicitor moved all of that evidence in. It's here, and I would submit to you that maybe we've got to at least acknowledge there's something not right there.

You know, you heard Dr. Gur come testify, Dr. Gur who has at this point with the Childrens Hospital a Twenty Million Dollar grant to study genetics in our children to try and help for the future, testified that here there's a physical smaller. That's what I got out of it. Inside, it's physically smaller. That's why all of that fluid is in there, because your brain has to have fluid, so if there's not an actual matter, fluid fills it up because it's got to be full inside your head.

You heard Dr. Wu testify that not only is it based on Dr. Gur, it's kind of smaller, but it doesn't function the same way. It doesn't function. The doctors got on there and

testified that, yeah, he does. It's just fine. Dr. Spicer said it's just fine. It's -- our normal stuff, but I would submit we did point out and he did say that his normal is sleeping in the dark room with a barcalounger.

You know, we progress, and thank goodness we do. You know, it was only a hundred -- I would say a hundred and fifty years ago. I wasn't that much of a history buff. You know, when women used to think they had the right to vote, their husbands could say they had hysteria and get them locked up in the crazy house, you know.

Back in the early nineteen hundreds when children were mentally retarded, if they didn't know -- families didn't know what to do with them, they could have them locked up in the crazy house, you know. Forty years ago, we didn't know really what autism was. Thank goodness, today we do. Thank goodness, today we can do things to help, and you know why, medicine has to advance. Things have to advance, and it's because of people like Dr. Gur and Dr. Wu that it does.

The perfect example, Steve said it, I was going to show you. You realize I can sit here right now and I can call anybody all over the world. I can sit here if I want to, talk to my secretary while I'm talking to you if I were good enough at it.

These were horrible, horrible crimes, and he will be punished. There is no doubt about that. What I want to ask

you guys to do is to realize that it is your decision as an individual and as a group to think about what, if anything, we could learn from this, and maybe we don't know now -- in fact, it was said. Dr. Crawford said we aren't there yet, we don't know it yet, but you know what, in five to fifteen, twenty years, we might be. We might just be.

And can we as a society sit here and think it's okay to kill people who we sometimes just don't understand, and we don't understand this. We don't know. You heard his teachers tell you he should have been there, he should have gone. He had all the potential. He came to the path in the road, and you know what, he didn't go down the one he was supposed to.

I take this time to thank you. I said it once, I've said it before, and I'll say it again. I think sitting in those seats has to be the most difficult position in the entire world. I hope you will never have to be in that position again.

I thank you for your attention, your diligence. Mr. Diggs thanks you. Stephen Stanko thanks you for being a part of our system, and I want to remind you, as the Judge will tell you, that even if you find that that aggravating circumstance was there, you can still choose to vote for a life sentence without the possibility of parole for any reason, for no reason whatsoever.

You know, Steve said up here, and I quote, he said his

life is not worth anything. I would disagree. I think his life could be very useful to us. He's proven it in prison. He's helpful to some of the other prisoners. You heard the warden say he was helpful with some of the youth in prison. He was helpful with people that came in to understand, my God, why? You don't want to be here, too.

I think his life is worth something, and I would ask you to decide that it is worth something as well.

THE COURT: All right, ladies and gentlemen, we are going to break for lunch at this point in time. If you would go to your jury room at this point in time. Thank you very much.

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Counsel, let me go over some things that I am going to charge to the jury and when we take a break then y'all can see if there's anything else that you wish me to charge them.

I will just remind them at the very beginning again about the note-taking that I did at the first part of it and again if the Court told them to disregard something, that was something they were supposed to do.

We'll talk to them about the things that we normally talk about, again reminding them of those things again that we talked about before, about their duties, the credibility and

believability of witnesses, expert witnesses, direct and circumstantial evidence. We'll talk about all of those things again.

I am going to, in a modified sense, talk again about the Defendant did not testify. I am going to use virtually the same language that I did in the first part, the first part of this trial, about the fact the Defendant did not testify, and I'll talk to them about that.

Talking to them about reasonable doubt as to the existence of a statutory aggravating circumstance. I will charge them again the definition of reasonable doubt. Regarding the statutory aggravating circumstances, the two that I will charge to the jury are robbery while armed with a deadly weapon and larceny with use of a deadly weapon. Those are the two statutory aggravating circumstances that the Court intends to charge to the jury in this particular matter.

In 16-3-20 in the statutory aggravating circumstances, those are Subsection (C)(a)(1), and then it goes down to (d) and (e). Those are the two, so those. Again, if there's anything in here that y'all have a question about or objection to, when we come back y'all let me know.

I need, I believe, to define to them again what armed robbery and larceny are, that they have an understanding of that, and define deadly weapon to them as I did before, that deadly weapon is any article, instrument, or substance which

is likely to cause death or great bodily harm, and whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case.

We will then go into and talk to them about if they don't find beyond a reasonable doubt that one or more of the statutory aggravating circumstances existed at the time the victim was murdered, then they would cease their deliberations and advise the Court by having the Foreperson sign the form that indicates No Finding Of Aggravating Circumstances, and then go on to talk to them if they did what their considerations would be, and then we'd talk about mitigating circumstances, and as presented by the Defense to me, the three mitigating circumstances that the Defense has presented to me in this particular matter are the murder was committed while the Defendant was under the influence of mental or emotional disturbance, the capacity of the Defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired, and the age or mentality of the Defendant at the time of the crime, and those would be, again, in 16-3-20 in Subsection (C), and then it goes to (b), mitigating circumstances, and then it would be Subsection 2, Subsection 6, and Subsection 7.

The Defense did not submit to me any non-statutory mitigating circumstances, so I do not have any here. Again, if you have some non-statutory mitigating circumstances that

you want me to charge to them, you need to give those to me, but I am charging the ones that have been submitted to me by the Defense and I have just enumerated those.

I will tell them that they are not allowed -- they should not allow passion, prejudice, or any other arbitrary factor to influence their decision, and they cannot allow themselves to be governed by sympathy, prejudice, passion, or public opinion.

I will go over the forms, basically reiterate those. We will hand to the jury the forms, the first one being the Statutory Instructions. In determining to -- whether to recommend that the Defendant, Stephen C. Stanko, be sentenced by the Court to life imprisonment without the possibility of parole or to death, you may consider the following statutory aggravating circumstances, and again those two, and has that you may also consider the following statutory mitigating circumstances, and putting those three, and I have put also that you may consider any non-statutory mitigating circumstances you deem relevant, and though I haven't enumerated any, I did add that to put to that.

We do have the form about No Finding Of Aggravating Circumstances that I talked about. I have the form for Aggravating Circumstances that we talked about in there, but it does have we, the jury, in the above entitled case find beyond a reasonable doubt the following statutory aggravating

circumstance, has a blank for them, and then it has a blank for all twelve jurors to sign on that particular form.

There is a form that is stated life imprisonment without the possibility of parole and says we, the jury, in the above entitled case recommend to the Court that the Defendant, Stephen C. Stanko, be sentenced to life imprisonment without the possibility of parole, and that is solely for the Foreperson to sign if that's their verdict.

Then we have the form of the recommendation of a death sentence. We, the jury, in the above entitled case having found beyond a reasonable doubt the existence of the following statutory aggravating circumstances, to wit, and have them to write that out again, now recommend to the Court that the Defendant, Stephen C. Stanko, be sentenced to death, again twelve lines for all the jurors to sign. Though the forms do say recommend, I do say in the charge, I make it clear to them, that the Court will follow any recommendation that they make, indicating to them that the sentence they impose will be the sentence that will be imposed by the Court in this particular matter.

At the present time, is there anything further from the State that you would like the Court to charge?

MR. HUMPHRIES: Your Honor, I'm certain that it's included in your charge, just was not specifically mentioned, but in regard to the mitigating circumstances, I -- I'm sure

the Court is also going to charge that they can -- that the jury can give life for any reason or no reason at all.

THE COURT: It's in here. I didn't read the whole thing, ---

MR. HUMPHRIES: Yes sir.

THE COURT: --- but that's -- it is definitely -- and I'll read that part to you. Well, going back, there's no evidentiary burden placed on the Defendant to establish mitigating factors. More over, you are authorized to impose a sentence of life imprisonment regardless of whether you find that any mitigating circumstances exist. Simply stated, you may sentence the Defendant to life in prison for any reason or no reason at all, or simply as an act of mercy.

MR. HUMPHRIES: Thank you, Your Honor, and the only other thing, and I know you didn't read through all the definitions, but in regard to the armed robbery, the State submitted State's Request To Charge Number 1 in the guilt phase regarding the continuous acts, even if the victim was dead it would be considered a robbery.

THE COURT: Yes sir.

MR. HUMPHRIES: Yes sir.

THE COURT: All right, very good. Anything else from the State that you know of?

MR. HUMPHRIES: No, Your Honor. Thank you.

THE COURT: All right. From the Defense, anything? As

I've explained it to you, any objections, deletions, additions to it, or anything else, especially in the -- well, not especially, but anything obviously, but -- and again, I'm asking you about, you know, mitigating circumstances, anything else other than the three that you have presented to me?

MR. DIGGS: Well, Your Honor, the evidence will be reviewed by the jury as it is, and I don't know of any instruction -- I'm sure Your Honor is not going to give an instruction that they are limited to the three mitigating factors that are outlined in the Court's ---

THE COURT: No, but, I mean, I ---

MR. DIGGS: So in terms of specific written additional instructions, no, sir, we don't have any.

THE COURT: Let me -- when I read those three and I tell them that we will give them those three, it goes right after that and says in addition you may find mitigation evidence in any aspect of the Defendant's character, or record, or any of the circumstances of the offense or otherwise from this record of evidence which you find offers a basis for a sentence other than death. In other words, you may consider any relevant mitigating factors or circumstances as enumerated in the Code of Laws or otherwise as you may find.

MR. DIGGS: Exactly.

THE COURT: So that will be part of it, all right. Again, we'll break now. When the jury is done with lunch,

we'll come back in. If y'all think of anything else, if there's anything else you want to bring to my attention, you know, please indicate that to me when -- when I come back in, all right?

MR. DIGGS: Thank you, Your Honor.

MR. HUMPHRIES: Thank you, Your Honor.

THE COURT: Thank you very much.

(THE FOLLOWING TAKES PLACE AFTER A BREAK OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: All right, Solicitor, over the break did y'all think of anything else that you wanted added to the Court's instructions to the jury?

MR. HEMBREE: No, Your Honor.

THE COURT: All right. And the Defense, Mr. Diggs, was there anything that y'all thought about that you wanted added to the Court's instructions to the jury?

MR. DIGGS: No sir. It appears that the Court has gone through everything, and so ---

THE COURT: All right.

MR. DIGGS: --- at this point, we would say no.

THE COURT: Well, obviously y'all pay attention to what it is I tell them, and I will give you an opportunity at the end if there's any exceptions, deletions, or additions, y'all bring that to my attention, okay?

MR. HUMPHRIES: Your Honor, let me ask this just so we

don't have to cross this bridge again.

THE COURT: Yes sir.

MR. HUMPHRIES: Just so we don't have a repeat of the -- of the charge in the -- in the first phase. Is the Court going to charge the jury that they should determine the evidence based solely -- or determine their sentence based solely on the evidence as presented in this courtroom instead of having to bring them back in for that additional charge?

MR. DIGGS: Your Honor, we've agreed -- well, I mean, not agreed, but we would ask you to go ahead and give that charge again.

THE COURT: All right. Okay. All right. I'll make a note to put it in here somewhere.

All right, ask the jury to come in, please.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY.)

THE COURT: All right, ladies and gentlemen, it is now my responsibility to give you the instructions that you are to follow regarding the sentence you are to impose in this particular matter. Now, some of the things that I will talk to you about will be similar to or I might repeat a little bit of what I have already told you because there are some aspects, general aspects, of the law that I need to remind you about again and that I've already talked to you about, but there will be portions of my instructions that you have not

heard before. I am asking you to pay attention to all of it. It is important that you listen to it and follow the instructions as I give them to you.

I told you I allowed you to take notes during the course of these proceedings, and again I remind you that some people are better note-takers than other people, and just because one person has something written down should not be used to trump the collective knowledge of the jury or another juror's remembrance of that. It is your collective memory, your collective remembrance of these events that governs in this particular matter as to the facts and evidence.

If I directed you to disregard any statement or any matter, again please remember that you may not use that statement or matter in arriving at your decision in this particular matter. You're going to make your decision based solely and completely upon the facts and evidence that have been presented to you in this sentencing phase and from no other source.

I told you that I would not at any point in time give you any indication or tell you what I thought the facts of the case were because that's not my job. That is not my responsibility. That is your job and your responsibility.

Again, as I told you before, if you came to this courtroom with any preconceived ideas of what the law is, what it ought to be, what it should be, what you hope it would be,

again you will disregard that. You will take the law as I now give it to you and apply it to the facts and evidence as you so find it to be in this particular matter.

Again, one of your jobs is to judge credibility and believability. We are again asking you to use your good common sense and your good judgment that you use in conducting your own affairs and apply it to the facts and evidence that you have heard in this particular matter, remembering again that you can believe one witness against several, several against one. You can believe a portion of what a witness says and disregard the remaining portion of it. If you've got a good and sound reason for doing so, you could disregard its entirety, the testimony of a particular witness.

You look at whether or not that witness has exhibited to you any kind of motive, bias, prejudice that they might have in giving you the information they gave you from the witness stand and, of course, any opportunity for knowledge, how did they come about that particular information that they gave you from the witness stand. Again, you job is to search for the truth, finding those facts and evidence which convince you of their truth.

Regarding any witnesses that the Court qualified to give their opinion, again I remind you just because the Court qualified someone to give their opinion, which we don't normally allow people to do, and we allowed them to do that

because of their experience, training, education, their work in a particular field, that doesn't give them any special status. We have created an exception to allow them to give their opinion, and that is evidence that you weigh with all the other evidence in the case. You judge all the evidence the same and find that evidence which convinces you of its truth.

Remembering that direct and circumstantial evidence -- remember direct evidence is the testimony of a person who claims to have actual knowledge of a fact. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact, and the law doesn't make any distinction between the two. You judge all the evidence the same. You weigh all the evidence the same. You find, again, that evidence which convinces you of its truth.

Any decision you make with regard to the sentence in this matter must be unanimous. Understand, again, and I'll remind you more than once, means all twelve of you, not eleven-one, ten-two, any combination thereof. Whatever your decision is, it is the decision of all twelve of you, and if there is -- and I'll more fully explain this again, but if there is a sentence of death in this matter, it has to be based upon proof beyond a reasonable doubt.

The Defendant did not testify during the sentencing phase of the trial. As I told you at the end of the first phase,

this is not a factor to be considered by you in your deliberations with regards to the sentence to be imposed in this matter. It must not be considered by you in any manner whatsoever. It should not even be discussed in the jury room. It is not part of the sentencing procedure in this matter.

In determining the appropriate sentence for the Defendant, you may consider any statutory aggravating circumstances that are supported by the evidence. You may also consider the particular nature of the crime and the particular characteristics, if any, of the Defendant. You may also consider any evidence presented with regards to the Defendant's prior criminal record and any other alleged acts, although such evidence must not be considered evidence of any statutory aggravating circumstance. Rather, the Defendant's prior criminal record and any alleged prior acts must be considered by you only as evidence of the Defendant's character and characteristics.

In arriving at your decision, you must first determine from the evidence presented during this sentencing phase and again remember we have incorporated all the evidence that was presented in the guilt phase, so all that evidence, plus any that was presented in the sentencing phase, to determine whether or not there was a statutory aggravating circumstance that existed beyond a reasonable doubt at the time that the victim was murdered by the Defendant.

Again, reasonable doubt. Reasonable doubt is the kind of doubt that would cause an ordinary, reasonable person to hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced. I remind you again there are very few things we can know with absolute certainty and the law doesn't put that burden on the State of South Carolina. What is required is if based upon your consideration of the evidence you are firmly convinced of the matters presented, the aggravating circumstances, then you would so find. If you are not firmly convinced that the State has proved an aggravating circumstance to you beyond a reasonable doubt, you must find -- you must give the Defendant the benefit of the doubt and find that the State has not proved that aggravating circumstance to you beyond a reasonable doubt.

Now, a statutory aggravating circumstance is any fact, incident, detail, or occurrence which the General Assembly of our state has declared by statute to aggravate or make worse the offense of murder when that fact, incident, detail, or occurrence accompanies the act of murder. A statutory aggravating circumstance increases guilt or the enormity of the offense and adds to the injurious consequences of the offense.

Before you can impose a death sentence on the Defendant, all twelve of you must first agree and find beyond a

reasonable doubt that the evidence in this case establishes that a statutory aggravating circumstance exists. Unless you so find, you cannot sentence the Defendant to death.

The statutory aggravating circumstances alleged by the State will be submitted to you in a writing -- in a document entitled Statutory Instructions, which you will have with you in the jury room when you begin your deliberations, and that document will have not only the statutory aggravating circumstances, but it will have also the mitigating circumstances as presented by the Defense, and that's a document that has a caption, has Statutory Instructions. It will be in there with you in your jury room.

The State has alleged in this matter and has to prove to you beyond a reasonable doubt that one or more of these, there's two of them, one or both of them of these statutory aggravating circumstances existed at the time the murder was committed, robbery while armed with a deadly weapon, or larceny with use of a deadly weapon, and again, the statutory aggravating circumstances will be in that document.

And I'm going to define to you again those matters as to armed robbery and a larceny with use of a deadly weapon. Armed robbery, the State has to prove to you beyond a reasonable doubt the Defendant took personal property from the person or presence of another. Property is in the presence of a person if it is within the person's reach, inspection,

observation, or control so that the person could, if not overcome with violence or prevented by fear, keep possession of that property.

The State also has to prove beyond a reasonable doubt that the Defendant carried the property away, intending to permanently deprive the owner of the property and to keep the property for the Defendant's own use. The slightest removal or the complete possession of that property even for an instant is sufficient to show a taking and carrying away of the property, and the taking and carrying away of the property must have been done with violence or putting the owner of the property in fear of violence.

And finally, the State has to prove to you beyond a reasonable doubt that the Defendant was armed with a deadly weapon during the robbery. A deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case.

The State has to prove beyond a reasonable doubt the victim's death and the taking from the person. If the death and the taking are so connected as to form a continuous chain of events, the offense is robbery regardless of whether the victim died before or after the taking of the property.

As to larceny with use of a deadly weapon, the State has

to prove beyond a reasonable doubt the Defendant took and carried away the property of another against the will or without the consent of the other person while armed with a deadly weapon. The slightest removal of property or the complete possession of the property even for an instant by the Defendant is enough to show a taking and carrying away of the property.

The State must also prove beyond a reasonable doubt the Defendant intended to permanently deprive the owner of the property. It also has to prove beyond a reasonable doubt the Defendant was armed with a deadly weapon. Again, a deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case.

Now, if all twelve of you agree and find beyond a reasonable doubt that one or both of the alleged statutory aggravating circumstances existed at the time the victim in this case was murdered, then you would be authorized to impose either a sentence of life imprisonment or a sentence of death. A sentence of life imprisonment means life without the possibility of parole. In that situation having found a statutory aggravating circumstance, under a sentence of life imprisonment, the Defendant would never be released from prison.

If you do not find beyond a reasonable doubt that one or more of the alleged statutory aggravating circumstances existed at the time the victim was murdered, then you would cease your deliberations, advise the Court of your decision by having the Foreperson sign the required form entitled No Finding Of Aggravating Circumstance, and again, there's the form. You will have it in your jury room, and it has the caption of the case, and it says No Finding Of Aggravating Circumstance. It says we, the jury, in the above entitled case, find no aggravating circumstances in conjunction with the murder of Henry Lee Turner, and the Foreperson would sign that document if that's the decision of the jury.

If you have found an aggravating circumstance before arriving at your sentence, you must first consider, if you find from the evidence that they exist, any statutory mitigating circumstances. A statutory mitigating circumstance is a fact, detail, incident, or occurrence which the General Assembly of this state has declared renders less severe or mitigates the offense of murder. It is an incident or circumstance which in fairness and mercy may be considered as extenuating or reducing the degree of culpability for the commission of the murder.

These mitigating circumstances would not constitute justification or excuse for the murder. It would only and simply lessen one's guilt, that is make him less blameless.

The Defendant alleges the statutory mitigating circumstances are as follows: The murder was committed while the Defendant was under the influence of mental or emotional disturbance; the capacity of the Defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired; the age or mentality of the Defendant at the time of the crime, and again, these will be in writing in the Statutory Instructions that will come into your jury room.

In addition, besides these three that will be written down, you may find mitigation evidence in any aspect of the Defendant's character or record and any of the circumstances of the offense or otherwise from this record of evidence which you find offers a basis for a sentence other than death. In other words, you may consider any relevant mitigating factors or circumstances as set forth in our Code of Laws or otherwise as you may find from the evidence.

A mitigating factor is treated equally under the law whether it is found in the statute or it is found simply by you based on the evidence before you. You must consider mitigating circumstances before you arrive at a sentence in this matter because if you are to make an individualized assessment of this particular Defendant, which the law of the State of South Carolina requires you to do, evidence about the Defendant's background and character is relevant.

While it is necessary that you find beyond a reasonable doubt that one or more of the alleged statutory aggravating circumstances existed at the time the victim was murdered, in order to impose a sentence of death it is not necessary that you unanimously find that any mitigating circumstances exist in order to impose a sentence of life in prison.

Unlike the aggravating circumstances which the State must prove to you beyond a reasonable doubt, there is no evidentiary burden placed on the Defendant to establish mitigating factors. More over, you are authorized to impose a sentence of life imprisonment regardless of whether you find that any statutory mitigating circumstances exist. Simply stated, you may sentence the Defendant to life imprisonment for any reason or no reason at all or simply as an act of mercy.

A decision to impose a sentence of life imprisonment, like a decision to impose a sentence of death, must be unanimous. If you find beyond a reasonable doubt the existence of a statutory aggravating circumstance and if you further find any mitigating circumstances in the evidence in this case, you must give thorough and meaningful consideration to all the factors before making a decision.

When deliberating on whether to recommend that the Defendant, Stephen C. Stanko, be sentenced to death or life imprisonment, you are not to allow passion, prejudice, or any

other arbitrary factor to influence your judgment. You must decide the issue involved in this proceeding without bias and without prejudice to any party.

You cannot allow yourselves to be governed by sympathy, prejudice, passion, or public opinion. Both the State and the Defendant have the right to expect that each of you will carefully and impartially consider all the evidence in the case and that you will follow the law as the Court has given it to you in determining your unanimous sentence recommendation.

Again, now please remember, and I've told you this several times, the Court will follow your recommendation. Your verdict will be the sentence that will be imposed in this matter.

I showed to you the Statutory Instructions, and those set out the aggravating circumstances and the mitigating circumstances and again tells you that you may also consider any non-statutory mitigating circumstances you deem relevant that you found in the evidence, and I showed you the No Finding Of Aggravating Circumstances. If you find that, the Foreperson has to sign.

If you find beyond a reasonable doubt that a statutory aggravating circumstance exists, and again, they are spelled out in writing in the Statutory Instructions, if you find one of those exists, then Mr. Foreman, you will have to write that

on the Aggravating Circumstances.

It's got a blank here. We, the jury, in the above entitled case, find beyond a reasonable doubt the following statutory aggravating circumstance. It's either going to be one or two, if that's your view of the evidence, been proved to you beyond a reasonable doubt, and everybody unanimously agrees, but if that's the case, then you write it in there. And then you see there is a line for each and every one of you to sign. There's one that says Foreperson, and all the rest of the them say Juror. If you find an aggravating circumstance beyond a reasonable doubt and the Foreperson, Foreman, writes it on there, then everybody has to sign because it has got to be unanimous.

If you found an aggravating circumstance beyond a reasonable doubt, again I tell you that gives you the ability to consider both sentences. If you don't find it, you can't consider the death penalty. If you found it, you can consider both of them, and obviously there's two forms again. One of them is life imprisonment without the possibility of parole, and it says we, the jury, in the above entitled case, recommend to the Court that the Defendant, Stephen C. Stanko, be sentenced to life imprisonment without the possibility of parole. If that is your view of the evidence and that is your unanimous decision, then the Foreperson signs that verdict, just the Foreperson.

The other possibility is the death sentence. It says Recommendation Of Death Sentence. We, the jury, in the above entitled case, having found beyond a reasonable doubt the existence of the following statutory aggravating circumstance, and again, if you found it, you've got to write it in there, now recommend to the Court that the Defendant, Stephen C. Stanko, be sentenced to death. Again, there is twelve lines, the Foreperson, and then everybody else, a named Juror. You must sign. It has to be a unanimous decision, and again, I tell you though you say recommend, whatever your sentence is, that's the sentence the Court will impose in this particular matter.

In conclusion to this, I reiterate that regardless of the sentence you decide to impose, you must first determine whether the State has proven to you beyond a reasonable doubt at least one of the alleged statutory aggravating factors. Any decision you make must be unanimous. You may impose the death penalty only if you unanimously first find beyond a reasonable doubt the existence of at least one of the statutory aggravating circumstances and you further unanimously find and agree beyond a reasonable doubt that the sentence should be death.

The existence of one or more statutory mitigating circumstance is not a bar to the death penalty, but you cannot impose the death penalty unless you find beyond a reasonable

doubt the -- a statutory aggravating circumstance that existed at the time of the murder.

A finding that there was one or more statutory aggravating circumstances beyond a reasonable doubt does not bar you from deciding the proper sentence is life imprisonment. After you have considered all the evidence and should you find one or more mitigating circumstances existed at the time of the murder, you may find the Defendant should be sentenced to life imprisonment even though you also find beyond a reasonable doubt one or more statutory aggravating circumstances existed at the time the victim was killed.

You consider the aggravating circumstances, the mitigating circumstances based upon what I have explained to you as the burden and then you make your decision as to the sentence to be imposed in this particular matter, remembering, of course, unanimous means exactly what you think it means, twelve-zero, not eleven-one, ten-two, any combination thereof.

All right, Mr. Foreman, what I'd ask that you do is take the twelve members of your jury to your jury room. Obviously y'all can take your pens and pads at this point in time, but do not begin any deliberations until the bailiff or a court official brings in to you the Statutory Instructions, the No Finding Of Aggravating Circumstances, the Aggravating Circumstances document, the Life Imprisonment Without The Possibility Of Parole document, and the Recommendation Of

Death Sentence document, along with all the evidence that has been presented in this matter.

When all that has been brought into your jury room, Mr. Foreman, then your jury may begin their deliberations as to the sentence to be imposed in this particular matter, so please take your jury to the jury room.

Will the four alternates please remain with us.

(THE FOLLOWING TAKES PLACE AT 2:35 P.M. OUTSIDE THE PRESENCE OF THE JURY, BUT IN THE PRESENCE OF THE ALTERNATE JURORS.)

THE COURT: As required, I have signed the Statutory Instructions and as indicated, will submit all of those to the jury with the forms that I indicated.

Exceptions, deletions, additions to the charge, from the State?

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

THE COURT: From the Defense?

MR. DIGGS: No sir, Your Honor.

THE COURT: Very good. All right, ladies, the alternates in this matter, as we did in the other matter, again your job is to step in their shoes if somebody can't proceed. Mr. Deputy, if you would take them to a separate jury room for the moment, please. Thank you very much.

(THE FOLLOWING TAKES PLACE AT 2:37 P.M. OUTSIDE THE PRESENCE OF THE ALTERNATE JURORS.)

THE COURT: All right, Solicitor, and Mr. Diggs, Ms. Williams, I want to take the opportunity now at the end of these proceedings to say to all of you that I appreciate -- Mr. Richardson, I appreciate very much what y'all have put into this case, both on behalf of the State and the Defense, the enormity of the work. The Court fully understands, having participated in them as a trial counsel.

You have done everything that the Court expected of you. You have done everything that would be expected of you regarding your oath as officers of the Court. I commend each and every one of you for all of your efforts and work in this matter and thank you for that.

All right, please get with the Court Reporter and make sure that all the exhibits are going into evidence, and Madam Court Reporter, I will give you these instructions and forms to go to the jury. Thank you very much.

(AFTER A REVIEW OF THE EXHIBITS BY COUNSEL FOR THE STATE AND COUNSEL FOR THE DEFENDANT THE EXHIBITS, AND FORMS AND INSTRUCTIONS, WERE TAKEN TO THE JURY ROOM BY THE BAILIFFS.)

(THE JURY WAS INSTRUCTED TO BEGIN DELIBERATION AT 2:54 P.M.)

(DURING JURY DELIBERATION, A NOTE FROM THE JURY IS MARKED COURT'S EXHIBIT NUMBER 110.)

(THE JURY DELIBERATED AND THE FOLLOWING TAKES PLACE AT 4:05 P.M. OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: Thank you very much. You may be seated.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: All right, in this particular matter, the Court is informed that the jury has reached a sentencing decision in this particular matter.

Is the State ready to receive it?

MR. HEMBREE: Yes, Your Honor.

THE COURT: The Defense?

MS. WILLIAMS: Yes, Your Honor.

THE COURT: All right. Thank you.

I'll just speak to anyone who is in the courtroom observing this particular matter. As I indicated at the end of the trial phase of this particular matter, I do not know what the result of the jury deliberations are. Whatever the sentence is that is imposed by this jury in this particular matter will be received with respect and will be received with silence. The Court will not tolerate any outward display of emotion regarding the sentence.

If you are not able to follow these instructions, I'm giving you an opportunity now to leave the courtroom. If you do not, please understand that I intend to enforce these instructions through the contempt powers of the Court that could subject a person to a year in the Department of Corrections.

If you would like to leave, please do so at this time.

Ask the jury to come in, please.

I assume they are bringing the alternates in from their separate room.

MR. HUMPHRIES: They are now.

THE COURT: Very good.

(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE JURY AT 4:15 P.M.)

THE COURT: All right, Mr. Foreman, has your jury reached a unanimous decision in this matter?

THE FOREMAN: Yes sir, we have.

THE COURT: All right. Could you hand the forms to the Clerk, please sir.

All right, Madam Clerk, you may publish the verdict.

DEPUTY CLERK OF COURT: This is indictment number 2550-GS-26-2927, The **State of South Carolina versus Stephen C. Stanko**. We, the jury, in the above entitled case, having found beyond a reasonable doubt the existence of the following statutory aggravating circumstance, to wit: Number one, the murder was committed while in the commission of an armed robbery. Number two, the murder was committed while in the commission of larceny with use of a deadly weapon, now recommends to the Court that the Defendant, Stephen C. Stanko, be sentenced to death. Dated 11/19/09.

Mr. Foreman, ladies and gentlemen of the jury, if this is your verdict, so signify by raising your right hand.

(AT THIS TIME EACH AND EVERY JUROR RAISED HIS OR HER RIGHT HAND AFFIRMING THE VERDICT AS PUBLISHED.)

DEPUTY CLERK OF COURT: Thank you.

THE COURT: The record will reflect that the recommendation of the death sentence was properly signed and executed by all the members of the jury as required by law, as well as the requirement that the statutory aggravating circumstances be found in a separate document that correspond with the recommendation and again signed by all members of the jury in this particular matter.

Anything further as to the jury in this matter from the State of South Carolina?

MR. HEMBREE: No, Your Honor.

THE COURT: Anything further as to the jury from the Defendant in this particular matter?

MR. DIGGS: Your Honor, I'd like them polled, please sir.

THE COURT: All right.

Madam Clerk. Do your have their numbers, Madam Clerk?

DEPUTY CLERK OF COURT: No. All she had there was names.

THE COURT: All right. If you will hold on a second, I will give that to you.

DEPUTY CLERK OF COURT: I will ask you two questions. When I call your name, please stand, answer the two questions,

and please be seated.

Thirty three. Is this your verdict?

JUROR NUMBER 33: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 33: Yes Ma'am.

DEPUTY CLERK OF COURT: Fifty three. Is this your verdict?

JUROR NUMBER 53: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 53: Yes Ma'am.

DEPUTY CLERK OF COURT: Sixty four. Is this your verdict?

JUROR NUMBER 64: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 64: Yes Ma'am.

DEPUTY CLERK OF COURT: Ninety nine. Is this your verdict?

JUROR NUMBER 99: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 99: Yes Ma'am.

DEPUTY CLERK OF COURT: One zero two. Is this your verdict?

JUROR NUMBER 102: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 102: Yes Ma'am.

DEPUTY CLERK OF COURT: Three forty three. Is this your verdict?

JUROR NUMBER 343: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 343: Yes Ma'am.

DEPUTY CLERK OF COURT: Three forty seven. Is this your verdict?

JUROR NUMBER 347: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 347: Yes Ma'am.

DEPUTY CLERK OF COURT: Five. Is this your verdict?

JUROR NUMBER 5: Yes, it is.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 5: Yes, it is.

DEPUTY CLERK OF COURT: Four eighty. Is this your verdict?

JUROR NUMBER 480: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 480: Yes Ma'am.

DEPUTY CLERK OF COURT: Five zero eight. Is this your verdict?

JUROR NUMBER 508: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 508: Yes Ma'am.

DEPUTY CLERK OF COURT: Six zero one. Is this your

verdict?

JUROR NUMBER 601: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 601: Yes Ma'am.

DEPUTY CLERK OF COURT: Six eighty five. Is this your verdict?

JUROR NUMBER 685: Yes Ma'am.

DEPUTY CLERK OF COURT: Is it still your verdict?

JUROR NUMBER 685: Yes Ma'am.

THE COURT: The jury having been polled and affirmed their sentence in this matter, is there anything further as to the jury from the Defense?

MR. DIGGS: No.

THE COURT: Thank you very much.

All right, ladies and gentlemen, if you would give me your attention, please. The Court having received and accepted your sentence in this matter, the Court is able to discharge you from your oath and release you from those restrictions. I am going to go through some matters with you and I would appreciate it if you will just bear with me a little bit while I give you these instructions.

You are free to talk about the case or not talk about the case as you individually decide. This case obviously has been closely followed since it was started regarding various aspects of the media and the public in general.

In this process, you understand that and I understand that you did not volunteer for this service. You received a summons. You did your civic duty, accepted your responsibility, and responded to that summons.

Now, the Court previously issued what's called a protective order which assisted all the participants in this matter in the preparation of this case and obviously that is as of this moment no longer in effect.

I will tell you that I was very impressed with the Court's questioning of each and every one of you. I am including the alternates in this. Please do not take this as not including you. I was impressed with every single one of you indicating that you could follow the law, that you could be fair, that you would be open-minded, that you were able to do the work that the Court was imposing on you, and would be unbiased and unprejudiced and willing to look at a tough case and make the decisions when they were called upon.

You heard and saw the evidence, and they are the law of this particular matter. The verdict is what we asked you to do, and that is to fairly and honestly look at all the matters presented and to keep all outside influences from your decision.

I will tell you that other people not having to sit in the seats and occupy them as you, other individuals will probably think that they had a better idea of what was

presented or what was going on. Obviously that is not the case. The fact of the matter is people rarely understand what juries do until they are actually engaged in the process because they were not here, they did not hear what you heard, and they do not understand the intricacies as you do. They may have a different idea of what should have happened in this case.

Some people will agree and some people will disagree. We selected you to be fair and unbiased, and you were sworn to do that and you have done that. You were chosen through a very careful process.

There may be individuals that decide to talk to you. It's a free country. People can ask and you can answer, or you may choose not to answer. You can either talk to them or not, or say my verdict says it all. No one is allowed to force you or pressure you in any way to communicate with them. The Court and the attorneys, everyone involved, respects your service, your duty, and your privacy.

I have done my best to ensure that everyone has complied with the law and to keep your personal information as secure as possible. If you are communicated and you receive unsolicited inquiries, you may choose to respond or not to respond. Obviously you can hang up your phone or shut your door, or whatever that may be.

I do not anticipate that this will last very long

because, as you know, the news changes quickly. People's attention goes somewhere else quickly, but I will tell you if anybody bothers you, if anybody harasses you, if they do not leave when you tell them to leave and say my verdict says it all, or I do not want to talk to you, and they continue to try to communicate with you, call the Clerk of Court's Office and tell them of the situation, and I assure you the Court with law enforcement agencies will take care of that matter. I will not tolerate in any way anybody communicating with you or harassing you if you do not want to talk to them.

I can't tell you how much I appreciate your service, your sacrifice, your hard work in this matter. Without the honest people of the community serving on juries, none of the citizens of this great state and our great nation would have the liberties that we all enjoy.

I'm sorry that the circumstances of this case required us to sequester you. I told you at the very beginning I know that was a hardship. I appreciate the fact that it was a hardship on you, but I did it because I felt it was the best way that I could be confident that you would be secure in the process and that there could be no complaints of any undue pressure or bias or outside influence.

So I tell you again how proud I am of you regarding your service and your dedication as citizens of this county and our great state. I want to tell you that you are now discharged

as jurors. You are released from the Court's instructions. Thank you very much.

Everyone else remain seated.

You may now leave.

(THE JURY BEING DISMISSED, THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: I want the record to also reflect that the jury did leave blank in accordance with their imposition of the death sentence in this matter, they left blank No Finding Of Aggravating Circumstances, that form, and also left blank the Life In Prison Without Possibility of Parole form.

Before the Court imposes sentence in this matter, is there anything further from the State?

MR. HEMBREE: Nothing further from the State, Your Honor.

THE COURT: Anything further from the Defense?

MR. DIGGS: Not at this time, Your Honor.

MR. HEMBREE: Your Honor, I have the sentencing sheet.

THE COURT: All right, sir.

As the Trial Judge in the above entitled action and prior to the imposition of the sentence upon the Defendant, Stephen C. Stanko, the Court finds as an affirmative fact that the evidence of the case warrants the imposition of the death penalty.

The jury found as aggravating circumstances the murder

was committed while in the commission of armed robbery, the murder was committed while in the commission of larceny with use of a deadly weapon, and I so concur, and I so find those to be present in this case and were proved by the State of South Carolina beyond a reasonable doubt.

I further find the imposition of the death penalty is not the result of passion, prejudice, or any other arbitrary factor and so hereby sign the affirmation of death sentence in this particular matter.

Mr. Stanko, if you would please stand, sir.

(MR. STANKO STANDS.)

THE COURT: The Defendant, Stephen C. Stanko, having been found guilty of murder by verdict of the jury herein, and the said Defendant, Stephen C. Stanko, being now duly arraigned before the bar of this Court, and it being solemnly demanded of him whether he now has anything to say why the sentence of law should not be pronounced upon him.

He, thereupon saying nothing, save as heretofore said. Therefore, the sentence of the Court as fixed by the law is that you, the prisoner at the bar, Stephen C. Stanko, be conveyed hence to the County Jail of the County of Horry, and there to be kept in close and safe confinement until you shall be thence conveyed to the South Carolina Department of Corrections as required by law, and there to be kept in close and safe confinement until the first day of February, 2010,

between the hours of one o'clock in the forenoon thereof and the hours of one o'clock in the afternoon thereof upon which day and between which hours you, the prisoner at the bar, Stephen C. Stanko, shall suffer death by lethal injection at the hands of the officers of the law and in the manner provided by the laws of the State of South Carolina. May God have mercy on your soul. Take the prisoner away.

(MR. STANKO IS TAKEN FROM THE COURTROOM.)

MR. HEMBREE: May we approach, Your Honor?

THE COURT: Yes sir.

(BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

THE COURT: Have Mr. Stanko come back, please.

(MR. STANKO IS RETURNED TO THE COURTROOM.)

THE COURT: Mr. Stanko, it has been brought to my attention that I did not, though I had executed the sentencing sheet, did not formally state that the sentence of the Court regarding the armed robbery charge is the maximum of twenty years, and I have it concurrent with the sentence the jury imposed regarding the murder. Thank you very much.

Anything else from the State?

MR. HEMBREE: No, Your Honor.

THE COURT: Anything else from the Defense?

MR. DIGGS: Not at this time, Your Honor.

THE COURT: Again, Counsel, I want to tell you as I told you earlier, y'all did everything that the Court expected of

you. You did, all of you, and I am being as -- I am just telling you that y'all did everything that could be expected. You upheld the finest traditions of the bar regarding your exceptional service, both as to the State and Defense, and I thank you and commend you for that. Thank you very much.

MR. HEMBREE: Thank you, Judge John.

MS. WILLIAMS: Thank you, sir.

THE COURT: This matter is now ended.

-----END OF REQUESTED TRANSCRIPT OF RECORD-----

C E R T I F I C A T E

I, the undersigned, DIXIE COX EUBANK, Official Court Reporter for the Fifteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the **TRIAL** of the captioned case, relative to appeal, in the **COURT OF GENERAL SESSIONS for HORRY COUNTY, SOUTH CAROLINA**, on the **14th, 15th, 16th, 18th and 19th days of November, 2009.**

I DO FURTHER CERTIFY that I am neither of kin, counsel nor interest to any party hereto.

December 8, 2010

DIXIE COX EUBANK

CIRCUIT COURT REPORTER

FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY	)	05-GS-26-2927
The State,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	
	)	
Stephen C. Stanko,	)	November 15, 2006
	)	
Defendant.	)	

B E F O R E :

Honorable J. Michael Baxley
Georgetown County Courthouse
Georgetown, South Carolina

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

Greg Hembree, Esquire
Fran Humphries, Esquire
Attorneys for Plaintiff

William Diggs, Esquire
Orrie West, Esquire
Attorneys for Defendant

Grace L. Hurley, CVR-CM
Circuit Court Reporter

S-1 8-18-06 Letter from Hembree

(On the record, Wednesday, November 15, 2006.)

THE COURT: All right, let me begin by introducing myself for the record to the parties here. My name is Judge Baxley and I'm here to preside by special appointment of the Chief Justice over this matter and, Mr. Solicitor, you may call your case, please, sir.

MR. HEMBREE: Thank you, Your Honor, we are here on indictment 2005-GS-26-2927 State versus Stephen Stanko. Mr. Stanko is accused of murder and armed robbery of Henry Lee Turner that occurred on April the 8th, 2005, in Horry County. On August the 18th of 2006 Mr. Stanko - the State served upon Mr. Stanko its notice of intent to seek the death penalty in this case. The purpose of our hearing today, Your Honor, is for the appointment of counsel for Mr. Stanko on this death penalty matter.

THE COURT: All right, anything further, Mr. Solicitor?

MR. HEMBREE: No, Your Honor. I have a copy of the indictment and the notice of intent to seek the death penalty that I'll pass up to the Court.

THE COURT: All right, thank you. All right, is there any objection to or dispute about the notice that's been served here? I'll ask you, Mr. Diggs, I'll note you're seated at counsel table.

MR. DIGGS: Your Honor, there's no dispute about it.

So, it seems to be in order from my perspective.

THE COURT: All right, sir, and let me ask you, if I may, do you have a position as to whether you would be an appropriate individual to be appointed to represent Mr. Stanko?

MR. DIGGS: Your Honor, I don't know of any reason, of course, on the way down here today and for the last several days I've been thinking about this issue and thinking what would be in the best interest of this Defendant at this time, I don't know of any reason that would exclude me being available for appointment in this case; and so, I think, you know, I can put it in the Court's hands and say, you know, it's in the discretion of the Court. Being pretty familiar with this case, you know, and the process that's going to take place both with respect to this particular indictment and the former indictment that is now in the appellate process, I really don't know of any reason that would again preclude me from serving in this case if the Court were so inclined.

THE COURT: All right, thank you. Our record should also reflect that Ms. Orrie West, Public Defender of Horry County, is also seated at defense table. The Court has reviewed the statutes in this matter, specifically 16-3-26(B) which refers to appointment of the public defender. What's your position, Ms. West, about your representation or ability to represent Mr. Stanko?

MS. WEST: Your Honor, my office at this point has seven attorneys in General Sessions. To the extent we find ourselves a little overwhelmed with the caseload that we presently have, we have a substantial portion of the criminal cases in Horry County. I have even hired two attorneys on contract to try to help with the overload. We're, we're overwhelmed at this point, and if the Court could see fit to not have our office involved in this particular case because of, one, the caseload that we have it would be greatly appreciated.

THE COURT: All right, counsel, and I think the statute which says that the public defender shall be appointed in all cases where no conflict exists I believe the statute is probably referring not necessarily to a caseload problem but a legal conflict. I ask you are there any legal conflicts from your office to this matter to your knowledge?

MS. WEST: To my knowledge at this point I don't know of any specific legal conflict. I do know that at this particular point I think the Court's aware of the names of the attorneys in my office and I don't know if the Court's aware of the names of my contract attorneys but Mr. Axelrod is a contract attorney and Barbara Pratt, and if I could talk about what Mr. Diggs and I have discussed previously, should I discuss that at this point?

THE COURT: Go ahead, ma'am.

MS. WEST: Mr. Diggs has indicated that while I don't know if the Court's aware that at one point Mr. Diggs and Mr. Axelrod actually were practicing law together. A conflict has arisen with them and I don't know how much of a conflict that continues to be but he is an employee of my office on contract.

THE COURT: All right, very good, thank you.

MS. WEST: You're welcome.

THE COURT: Do you have anything further you wish to offer on that issue, Mr. Diggs?

MR. DIGGS: Your Honor, there is a - there was a motion filed previously in the first case in Georgetown County to have me relieved as counsel in the case. That's been resolved, but it was based on a, an inquiry by Mr. Axelrod into the possibility with respect to the issue of possibly representing Mr. Stanko in the Georgetown case and that it encouraged Mr. Stanko at that time to make a motion on the record to have me relieved as his attorney and have Mr. Axelrod appointed in lieu of my representation. A hearing was held in the, in, in the matter and Judge Jefferson denied that request. I think that the underlying factual scenario that played out in that situation has created a conflict that would prevent Mr. Axelrod from working on this particular case simultaneously with me. I mean, I think it's a situation where certainly Mr. Axelrod is a good attorney, fine attorney

and he's got a good relationship with Mr. Stanko. I have a good relationship with Mr. Stanko. It probably would work well from Mr. Stanko's perspective if Mr. Axelrod and I worked together on the case but I don't, you know, and on the surface of it I certainly wouldn't have any objection to that but I think there is a legal conflict based on the history simply and it's not really of anyone's making, it's just where we find ourselves at this point; and so, I mean, I make the Court aware of that so the Court can take all of those matters into account when a decision is made about who's going to provide the representation in the case.

THE COURT: All right, counsel, you commented that your motion to be relieved was denied but what action if any did Judge Jefferson take with Mr. Axelrod and his, if I understood correctly, either contact to or efforts to represent Mr. Stanko?

MR. DIGGS: The - I think Judge Jefferson felt that she had made up her mind as to who she wanted in that case to provide representation. She did not take any action with respect to, you know, sanctions or anything like that in terms of what had transpired but she certainly denied - I made the motion to be relieved as counsel. Judge Jefferson denied that motion and that kind of put the matter to rest; and so, we proceeded on. Of course, Mr. Kelly and I represented Mr. Stanko in the Georgetown County case, and ---

THE COURT: All right, and of course our ---

MR. DIGGS: --- that's where we are today.

THE COURT: Sir?

MR. DIGGS: That brings us to where we are today.

THE COURT: All right, and so our record will be clear this Court is aware that Mr. Stanko has previously had a prosecution for another murder in, for which he was accused of committing in Georgetown County, that that resulted in a conviction and a sentence of death. That is the reference to the Georgetown County case that is being referred to. The Court should also note that this matter today by consent of the parties is meeting in Georgetown here in the 15th Circuit although this is an Horry County case because this Court is assigned this week to hold court here in Georgetown County and is not assigned to Horry County for another month and felt it was necessary to go ahead and proceed in this matter.

Now, referring back to the Georgetown case in which you represented Mr. Stanko, Mr. Diggs, is there of your knowledge any benefit or any negative component to your being appointed now in the second case?

MR. DIGGS: Your Honor, when - Stephen and I have known each other now for over a year, Mr. Stanko and I have, and both of us approached the first case in Georgetown with a desire to understand how something like this could happen, and I believe that we undertook a credible effort to genuinely

explain how these kinds of things, this particular incident could have occurred. We developed some testimony, I believe, from or some evidence from experts who are leading experts in the world on the issues that are raised by this particular case, and in my opinion I believe it is the way to defend Mr. Stanko in this case. I think it's a legitimate, credible defense. It would be my opinion that the prosecution in Horry County would incorporate necessarily, because of the meritorious nature of the evidence, I think, I would submit that that evidence needs to be incorporated into the prosecution and used at or into the case, Horry County used as part of the defense that is to be raised in the or should be raised in the case. To that extent I think it would be beneficial to keep some continuity, either myself or Mr. Kelly, in the defense of the, you know, use us in the defense of the Horry County case. My role in the Georgetown prosecution was to develop the medical evidence as opposed to Mr. Kelly's role. He had other responsibilities that I had asked him to work on; and so, I think in terms of Mr. Kelly and myself it would make more sense to have me in that role. That - those would be benefits. The negatives would be, you know, there - unless there's some - unless there's success in the direct appeal, which I would say there is a reasonable possibility for, the issue is whether or not as a society and under our constitution we're going to execute someone with a

mental condition that Mr. or the brain condition that Mr. Stanko has. That issue has to be resolved in the direct appeal process before we ever get into the area of talking about ineffective assistance or collateral attack on that death sentence; and so, at this point while certainly there's a possibility down the road we're going to have to look at or the State of South Carolina is going to have to look at the effectiveness issue in the Georgetown County trial, at this point I believe that the and I would submit to the Court the benefits outweigh the negatives. It's just the way that I see it, and it's not, I think, just driven considering limited to the merits probably would make sense to continue representation, again either myself or Mr. Kelly, and then worry about collateral issues down the road should they arise, but remember, we're still in the direct appellate process with respect to the Georgetown County case and pending trial. So, we don't know what's going to happen with Horry County. It's going to be a different jury, a different set of facts.

THE COURT: All right, counsel, did I hear in what you said that you believe there would be a significant savings in terms of cost and time in developing a mitigation defense in this second case?

MR. DIGGS: Your Honor, all of that, absolutely, all of that evidence has already been developed and Judge Jefferson allowed us to have two very competent and well-

qualified professionals to develop those mitigating factors that certainly won't have to be repeated again if we start with someone new. That evidence is available and can be used. The savings to the State will be substantial with respect to that evidence. To start over with a new defense team it just seems like even if you use the same evidence you're going to have to get up to speed with it. So, I don't know, it would just make sense that we use, continue on with the continuity.

THE COURT: All right, Madam Clerk, let's give this to our court reporter so we can mark that as State's Exhibit One for purposes of this hearing.

(Whereupon, State's Exhibit Number One [8-28-06 letter from Hembree - Intent to Seek Death Penalty] admitted into evidence and appropriately marked.)

THE COURT: Thank you. That's fine. You may leave it there.

All right, this, counsel, this really is a matter that the Court will - has been discussing with the Defense but does the State have anything you wish to offer further on this issue at this point in the record?

MR. HEMBREE: No, Your Honor.

THE COURT: All right, is there any objection from the State if the Court discusses with Mr. Stanko individually ex parte fashion matters relating to appointment of Defense counsel? What says the State?

MR. HEMBREE: No objection from the State, Your Honor.

THE COURT: All right, Mr. Diggs, is there - would there be any objection to the Court discussing this outside of your presence with Mr. Stanko?

MR. DIGGS: No, certainly not.

THE COURT: All right, Ms. West, any objection to that, ma'am?

MS. WEST: None, Your Honor.

THE COURT: All right, counsel, I'm going to ask if you would kindly step from the room and let me speak with Mr. Stanko individually in ex parte fashion.

(All counsel and staff exit courtroom.)

THE COURT: All right, let's let the record reflect that the attorneys who are involved in the case all have left the room. The only individuals - is there anyone else from the Solicitor's Office who's present?

(No response.)

THE COURT: No one in the courtroom other than security, our court personnel, Mr. Stanko, myself and my law clerk. Mr. Stanko, we're going to begin by placing you under oath, sir. If you'd please follow our clerk's instructions just where you are will be fine.

MR. STANKO: Do you mind if I stay seated?

THE COURT: Yeah, that's fine. Go ahead. You may.

(Whereupon, Mr. Stanko is sworn by the Clerk.)

THE COURT: All right, good morning, sir.

MR. STANKO: Good morning, sir.

THE COURT: Again, by introduction my name is Judge Baxley. I am from Darlington County. I've been appointed by court administration for the - to preside over this case from its beginning to its conclusion. I wanted to ask you about appointment of counsel. Is there some - I will give you an opportunity if you wish to tell me whether there was some conflict that you perceive with Mr. Diggs when he represented you previously, whether it's some personal conflict or you believe some legal issue was handled inappropriately or some tactic or defense was employed inappropriately and I'll be glad to hear from you if you have something to tell me about that.

MR. STANKO: The way we designed the defense, sir, I'm satisfied with what Mr. Diggs did. The truth of the matter is we had a couple of hundred thousand dollars worth of tests done and found that I have a left medial frontal orbital lobe that is not functioning. Where my problem came, Judge, is my problem came in the facts part of the case which was Mr. Kelly. I don't want to say that he didn't do his job or anything like that, but what happened was during certain phases of the case the State was allowed to parade witnesses up there that said basically anything that they wanted to say about me and it went un-argued even though we had

investigators that had really uncovered the truth about things that were said. So, what I'm saying to you is if you choose to appoint Mr. Diggs as counsel I have no problem with that and would greatly appreciate it actually. I would not be happy if you went with Mr. Kelly. As far as Mr. Axelrod is concerned this is a touchy subject but what's important to me, sir, is that Mr. Diggs be able to do his job without any kind of confrontation. I believe that there are enough other attorneys out there and I'm sure that, sir, that you would be able to find me one that would be able to handle second chair. My greatest concern would be if Mr. Diggs had someone that he could not work with completely because I feel that's what happened with Mr. Kelly. In certain instances he went off in his own direction and was not able to bring things in. When we went through that court Mr. Diggs had things set up very well with the exception of the fact that we had scientists flying in from California, Pittsburgh and everywhere else, but when it came to certain parts of the facts in mitigation of the case we were flip-flopping and haphazard, and like I said the State was able to put anybody they wanted up there and they just, you know, I'm not an angel, sir, and I've made some mistakes in my life but people said anything they wanted to say and it went un-argued and that wasn't right. So, I hope that answers your question as best I can - I mean, I've done as best I can I think. I'm not - I'm familiar with the law.

I'm not an idiot to the law and I don't and would not raise any kind of argument concerning Mr. Diggs and his representation. I would ask if you could to talk to Mr. Diggs about the situation with him and Stuart, but if there's going to be any kind of confrontation or if he's not happy with it I would like to submit to you just to find a second chair that you would find as eligible and competent to handle it and not Mr. Kelly though I hope.

THE COURT: All right, thank you, and I appreciate the candor of your response. All right, then, let's bring the attorneys back in.

(Whereupon, counsel enters courtroom.)

THE COURT: All right, counsel, just in case there should be some later question, you have a - tell us who all's here on the State's , please. You have one of your staff members with you.

MR. HEMBREE: Greg Hembree, Deputy Solicitor Fran Humphries and Legal Assistant Peggy Snowden.

THE COURT: Very good, thank you, and again so our record will reflect we have, Mr. Diggs, you have your assistant with you, sir?

MR. DIGGS: Your Honor, I have a paralegal, Johana Bufford here with me.

THE COURT: All right, now, let's let the record reflect that all of these individuals just introduced and

previously introduced have left the room. I had a discussion with Mr. Stanko. The Court is now ready to make a decision with regard to the appointment of counsel and will do so as follows. I find after review of the statute 16-3-26 and the facts of this case that what happened with Mr. Axelrod actually the Court has some information and it has knowledge that there was alleged to be an appropriate contact at the, excuse me, an inappropriate contact at the jail by Mr. Axelrod after there had been appointment of counsel; am I correct in that, Mr. Diggs?

MR. DIGGS: Yes, Sir.

THE COURT: All right, and that that inappropriate contact led to a professional conflict that required Judge Jefferson to intervene and deny a request for - by Mr. Diggs to be relieved but also to specifically exclude Mr. Axelrod from the case. I find that that raises or rises to the point of a legal conflict for which - because Mr. Axelrod is a contract public defender for Horry County that the - there is a legal conflict in appointing the Public Defender's Office of Horry County and the Court will not do so. After discussion with Mr. Stanko it is the Court's decision to appoint Mr. Diggs and, Mr. Diggs, again, I ask you, sir, are you fully qualified under the statute to sit first chair and represent Mr. Stanko?

MR. DIGGS: Your Honor, I meet the requirements that

are set out in the statute.

THE COURT: All right, and the Court is, therefore, finds that you are qualified based upon your own representation and my knowledge of your experience in these matters, and therefore, appoints you as first chair. I am going to decline at this time to appoint second chair, but I'm going to give you the opportunity, Mr. Diggs, to avoid some potential conflict in appointing a person who may not have this same theory of the case or may have some difficulty in sitting second chair with you for whatever reason that may be, the Court is going to grant you some time to give the Court input into second chair choice. Do you ask for that, sir?

MR. DIGGS: Yes, sir, and thank you very much.

THE COURT: All right, how, how much time would you like?

MR. DIGGS: That would be very helpful.

THE COURT: How much time would you like to have?

MR. DIGGS: Perhaps a week or so.

THE COURT: All right, we'll give you 10 days from today's date and I would ask that you would contact my office to advise whom you believe would be an appropriate second chair. I'll give you that opportunity. I'm not telling you that you will control that decision.

MR. DIGGS: I understand.

THE COURT: But I'm asking for your input and then

without further hearing the Court will make a decision and issue an order appointing second chair. Is there any objection to that from Mr. Stanko?

MR. STANKO: No, sir.

MR. DIGGS: He's in, he's in agreement.

THE COURT: All right, any objection to that from the State?

MR. HEMBREE: No, Your Honor.

THE COURT: All right, is there anything further for our record or that we need to do with regard to this case beyond appointment of counsel today, Mr. Hembree?

MR. HEMBREE: No, sir.

THE COURT: All right, anything from Defense?

MR. DIGGS: No, Your Honor, and I'll get back with you and we'll go from there I guess.

THE COURT: All right, very good, then having concluded this matter the - this Court declares this hearing to be in recess. Good luck counsel. Look forward to working with counsel.

MR. HEMBREE: Thank you, Your Honor.

MR. HUMPHRIES: Thank you, Your Honor.

(Adjourned.)

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of The State versus Stephen C. Stanko, held in the Court of General Sessions for Horry County, Georgetown County Courthouse, Georgetown, South Carolina, on November 15, 2006.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

_____

Grace L. Hurley, CVR-CM

Official Reporter

December 5, 2011.

STATE OF SOUTH CAROLINA)
IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN)

STEVEN C. STANKO

APPLICANT,

-vs-

POST CONVICTION
RELIEF HEARING ON
#2008-CP-22-1946

STATE OF SOUTH CAROLINA

DEFENDANT.

NON JURY JUDICIAL PROCEEDINGS HELD BEFORE THE HONORABLE J. MICHAEL BAXLEY; commencing at the hour of 10:19 AM, on the 8th day of December, 2008, at the Horry County Courthouse, 15th Judicial District, Circuit Court, South Carolina.

REPORTED BY: H. Eugene Buckner, CVR

H. Eugene Buckner
Retired Court Reporter at Large
15th Judicial Circuit
State of South Carolina

APPEARANCES:

Steven Christopher Stanko
Appearing pro se

.... On Behalf of the Applicant

J. Anthony Mabry, Esquire
Assistant Attorney General
S. C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
TEL: 803.734.3665

.... On Behalf of the Defendant

NO EXHIBITS WERE MARKED BY THE COURT REPORTER IN THIS HEARING AND NO SWORN TESTIMONY WAS TAKEN FROM WITNESSES.

BAILIFF:

Order in the court. All rise, please.

THE COURT:

Thank you. Please be seated ladies and gentlemen.

All right, welcome again to the courtroom everyone. I'm Judge Baxley, and I will be presenting today in this hearing in regards to the post-conviction relief application that has been filed by Mr. Stephen C. Sanko.

Mr. Sanko, I am going to ask our officer to give you a copy of the Supreme Court's order in which they directed This Court -- or actually gave jurisdiction of the post-conviction relief claim to This Court.

And you will note that that order was issued on November the 7th.

They directed The Court within 30 days of that date to have a hearing with you concerning appointment of counsel for you.

And that is the reason we are here today.

Let me first ask counsel for the state if you wish to -uh- stand and introduce yourself for

the record, Mr. Mabry, and we'll be ready to go forward.

MR. MABRY:

Yes, Your Honor.

Uh - My name is Anthony Mabry. I'm an Assistant Attorney General for the State of South Carolina -uh- here on behalf of the State in this PCR matter 08-22-1446; and would be glad to speak -uh- any further if The Court needs me to.

THE COURT:

All right.

Uh - If you have something further you wish to add at this time, please do so.

If not, then we are ready to proceed.

MR. MABRY:

Just briefly, Your Honor.

The court is aware of - of the history of this case, I believe.

Uh - Mr. Sanko was indicted in Georgetown County for murder, armed robbery -- 2 counts of kidnapping, criminal sexual conduct -uh- and also -uh- we won the additional charge of armed robbery.

Uh - He was convicted on all of those charges and subsequently sentenced to death by Judge Deidre Jefferson.

Uh - He filed a direct appeal.

The South Carolina Supreme Court denied that appeal.

Uh - He filed an appeal to the United States Supreme Court - or a petition of certiorari. That was denied by the United States Supreme Court.

And he subsequently filed this PCR Application through his appellate counsel -uh- Mr. Savage (phonetic) and Ms. Hudgins (phonetic).

Uh -The South Carolina Supreme Court issued a Stay, and of course issued the order giving jurisdiction of this case -uh- to Your Honor.

Uh - Mr. Savage (phonetic) has informed me that Mr. Sanko does wish to have counsel appointed. And I know The Court will have to question him further on that.

Uh.- Otherwise, I don't have anything further at this time.

THE COURT:

All right, very good. Then, let's place Mr. Stanko under oath.

And sir, just where you are, if you would stand, please, and follow our Clerk's instructions.

(WHEREUPON: Applicant Steven C. Stanko was duly sworn in open court by the Clerk.)

THE COURT:

All right -uh- Mr. Stanko, before I ask you -uh- about your counsel preference, if you have one -- or your position on the appointment of counsel --

APPLICANT STANKO:

Yes sir.

THE COURT:

-- let me state to you that -- and also to the Attorney General -- that This Court had been previously appointed by the South Carolina Supreme Court for -- to -- to have jurisdiction over the criminal prosecution that is pending against you in Horry County.

APPLICANT STANKO:

Yes sir.

THE COURT:

That case is presently under Stay -- issued -- an order of Stay issued by me -- awaiting the conclusion of your appeal to the United States Supreme Court.

Of course that matter is now concluded.

But the State has not moved to lift the Stay. And thus, the Stay is still in the place.

I do want to divulge that -- to both parties -- of course The Court has had that previous appointment; and now also appointed on the post-conviction

relief case from your Georgetown matter.

Now I will -- rather than ask you if you have a position on that -uh- if you would prefer, I will wait until you have appointed counsel and let them weigh-in, if they have some position they wish to take.

It's not necessary that you take a position. I just simply divulge to you that I've that previous appointment.

Uh--Have you had an opportunity to consider counsel for your post-conviction relief claim? And

APPLICANT STANKO:

Yes sir.

But before we go to that, may I make a statement?

THE COURT:

Go ahead.

APPLICANT STANKO:

I mean, ask you a question?

THE COURT:

Yes sir.

APPLICANT STANKO:

The State has also filed a motion to dismiss in this case on the PCR, which I have in front of me.

Are we going to deal with that now?

Or will that be done after appointment of counsel?

If so, I have filed a letter to the United -uh- to the -uh- South Carolina Supreme Court to - to make this simple and too sweet.

When Catherine Hudgins (phonetic) filed the post-conviction relief application for me, she did so by informing me what allegation she was going to present.

And, at that time, I also informed her that I had a more lengthy, more concise, post-conviction relief.

In the State's motion to dismiss, he motioned in - on Page 4 in a small note that the Respondent informed him that we were - that I was going to file additional allegations.

I filed a letter letting him know that.

My concern here is there is a motion to dismiss in front of me which I have to be very careful with because he the SCDC is not short on putting people on death-watch in instances like this.

I -- I intend to file further amendment to this PCR.

I would like to do so with counsel.

THE COURT:

Yes sir. We'll give you that

opportunity.

APPLICANT STANKO:

Okay.

THE COURT:

In fact, the Supreme Court's Order - and you have not really had a chance to review it fully --

APPLICANT STANKO:

No.

THE COURT:

-- talks about the fact that you have notified The Court that you intend to amend your application and This Court will give you that opportunity.

And so we will not hear, today, any -- the merits of any motions, or the merits of the cases themselves.

We're simply here on the issue of counsel for you.

And so, the first question I should ask you is:

Do you intend to retain private counsel to represent you in this matter?

APPLICANT STANKO:

No sir.

THE COURT:

All right.

Uh—And then, are you asking - asking This Court pursuant to the statutes -uh- are you taking the position that you are indigent, and you request that counsel be appointed for you?

APPLICANT STANKO:

Yes sir.

THE COURT:

All right.

Uh-Are you aware -uh- or have you discussed with any attorney who may be -uh- certified to represent you in a case of this nature -uh- and do you have a preference?

Uh-Not that This Court can -uh- accede to your reference, but I ask you:

Do you have a preference?

And have you already discussed with counsel this post-conviction relief claim?

APPLICANT STANKO:

I have had previous communications with John Delgatto (phonetic); not regarding the PCR, however.

I have sent him a letter since speaking with Catherine Hudgins (phonetic) via phone.

Uh-After we received the final order -- or after she had received the final order from the

Supreme Court regarding the dismissal of my direct appeal.

I spoke with her, and then sent a letter to Mr. Delgatto (phonetic), who I had spoke (sic) to previously concerning defending me in the original case.

I have not heard back from him as of yet; and that was less than two weeks ago.

As far as speaking with anybody else, no sir, I have not.

And as far as knowing who else would be certified, I know some of those -- the attorneys who are certified in this matter.

I have not had a chance to speak with any of them.

As of -- As far as preference, I can't say that I have one, sir.

I would like to have somebody who has dealt with the mental capacity issues, because it's a huge part of this case.

One of the issues that I am going to allege is going to be with regard to the Office of Indigent Defense and the presentation of their issue, and how it was presented.

I would like to have somebody who is formidable in the mental capacity arguments, and not somebody who is going to be scratching or learning; because

it is a very, very, distinct. And it's a very difficult issue and allegation to present.

THE COURT:

All right, sir.

Just a moment, then.

Ms. Doris, would you bring up our -uh- certified attorney list that we have here in the 15th Circuit, please.

Let me get you what you - Would you do this for me.

All of these attorneys are certified for death penalty. Can you make me a copy of this?

CLERK:

Yes sir.

THE COURT:

We're going to make you a copy, Mr. Stanko, of the list of attorneys that we have -uh- or at least that have filed with This Court a notification that they are qualified for prosecutions in a capital case - a post-conviction relief.

APPLICANT STANKO:

Thank you, sir.

THE COURT:

And that is they are qualified for the defense of those cases.

And I'll give you that list in just a moment.

APPLICANT STANKO:

Thank you.

THE COURT:

You -- You may be seated.

APPLICANT STANKO:

Thank you.

THE COURT:

All right.

Do you have any -- Mr. Mabry, any response to what you just heard Mr. Stanko say?

MR. MABRY:

No sir. As far as my motion, Your Honor has, that was what I was going to -uh- propose anyway; that that be held in abeyance until he can -uh-amend his application --

THE COURT:

All right.

MR. MABRY:

--- rather than us going through these same hoops every time.

THE COURT:

All right.

And what -- What position do you have

on -uh- the deadlines imposed by statute -- the fact that we're under Stay right now -- as to how much time This Court has in order to complete this matter?

MR. MABRY:

Until you complete --

THE COURT:

The entire - Well, there is a 180 day Provision -uh- and I note that you proposed a scheduling order.

And so I ask you:

What is your position on the length of time that is appropriate for This Court to give Mr. Stanko to weigh-in on the issue of who he would like to have appointed as his counsel?

MR. MABRY:

I would have to look the statute again Your Honor.

Uh -- I provided my copy to your Law Clerk. And I -- I can't remember the specific language of the statute.

THE COURT:

All right.

MR. MABRY:

I know we have to have the hearing today. But I don't know how long you can wait - uh - for

him to make a choice, and how -- Our position is he doesn't - he doesn't get his preference.

The Court -- It's The Court's decision who to appoint in this case.

THE COURT:

Right. And I understand that.

But I was going to give Mr. Stanko the opportunity to express a preference - uh - if he's able to do so; or give him the opportunity to contact counsel to discuss with counsel that he believes would be - uh - qualified given the various issues that we have.

MR. MAYBURY:

Well, our -- our position is of course is that's entirely up to The Court. And I'm not aware of any case law or statute that allows him to weigh-in on that; nor does he have any constitutional right to effective assistance of post-conviction relief counsel.

So - uh - that would be our position.

I'm not trying to box The Court into any - any - uh - position. But since The Court asked, that's our position.

THE COURT:

All right.

Uh -- Mr. Stanko, I'm going to give you a copy of the list that we have here from the 15th

Circuit of attorneys that are death penalty qualified.

And I'm going to let you review that, and ask you to respond in writing to The Court.

I'm going to give you a certain amount of time for you to weigh-in on this issue - uh - as a courtesy to you --

APPLICANT STANKO:

Yes sir.

THE COURT:

-- and also because of how you believe this case contains certain unique issues.

So I would ask -- what I would ask you to do is:

Uh -- Within 14 days of today's date, if you would write to This Court -- I would ask you to send a copy to the attorney general so there -- so that there would not be any exparte communication.

APPLICANT STANKO:

Yes sir.

THE COURT:

I would file your letter that you send me in your post-conviction relief file, which is in Georgetown County, of course.

APPLICANT STANKO:

Yes sir.

THE COURT:

Uh -- Now again, I will tell you that I cannot - uh - necessarily appoint who you request; but I will give you that opportunity to weigh-in.

Now, tell me:

14 days, is that sufficient time?

Or how much time do you wish to have?

APPLICANT STANKO:

I think 14 days will be sufficient, sir.

THE COURT:

All right.

APPLICANT STANKO:

If --

THE COURT:

Uh --

APPLICANT STANKO:

If I do write someone and they don't respond to me in that time, would be my only concern.

Uh - Now I -- And I promise you this:

I will have letters out within the next 3 days; or at least have communications out within the next 3 days.

My only -- I would not want to say to you:

Judge Baxley, I promise you I'll have it back in 14 days.

I promise you I'll write you no matter what.

My -- My only concern was:

I can promise you how fast I will contact them. I cannot promise you how fast they will contact me.

Were I to have an attorney who is willing to look at this case and speak to me, but would not be able to come see me within those 14 days, would I be able to contact you and make you aware of that; or have them contact you and the attorney general's office to notify them of that communication?

THE COURT:

Yes sir, you can do that in writing.

But -uh- again -uh- The Court wishes to move with some due -

APPLICANT STANKO:

Yes sir.

THE COURT:

--- speed; because first of all, we are operating under a Stay here of execution. But secondly -uh- it's a matter that should be resolved for all parties; for you as well.

APPLICANT STANKO:

Actually, I do too. And I have - I have one other query for you that needs to be presented right now at this time.

As you are aware, in the second trial William Diggs is going to be my attorney; or at least, I -- I hope he is.

The conundrum that I have is that:

In the same sense, this post-conviction relief may have allegations of ineffective assistance of counsel against him.

My argument is:

Just because I feel he may have been ineffective in the first case does not mean that he'll make those same ineffective mistakes in the second; because he's learned from them, or may see them differently.

So my conundrum is I don't want to lose him; because I believe in him.

He knows my case.

He's the one who had the test ordered and found out everything that was wrong with my medial frontal lobe.

I don't want to lose him.

On the other hand, I also, by keeping him in the second case, do not want to give him up by losing

him with the possibility of arguing ineffective assistance of counsel argument against him, and thereby having a judge tell me that:

Because I filed an IAOC argument against him in PCR, I can't have him in the second case.

THE COURT:

All right, sir.

I'm going to leave you to discuss that -uh- matter with the attorney that's ultimately appointed for you.

Of course, by filing this -uh- post-conviction relief claim, you have taken the position -uh- that there was ineffective assistance of counsel.

APPLICANT STANKO:

Yes sir.

THE COURT:

And thus, that's a matter that you would need to discuss with your attorney who will be appointed.

And as you are aware, the statute requires The Court appoint two attorneys for you -

APPLICANT STANKO:

Yes sir.

THE COURT:

--- in post-conviction relief

matters.

All right, then.

It would be my intention to adjourn these proceedings for 14 days.

I will give you 14 days to respond to The Court in writing; thereafter having -- whether I should not hear from you or whether I hear from you with certain suggestions, The Court will then make the appointment -uh- that The Court believes is the appropriate attorney to represent you.

Now, is there anything further from the State --

MR. MABRY:

Yes --

THE COURT:

-- with regard to this matter?

MR. MABRY:

Yes, Your Honor, just briefly.

At this time, we would -uh- place on the record our objection to any exparte -uh- funding request once counsel is appointed.

This is a post-conviction relief matter -uh- not a criminal prosecution.

So if there are any funding request from collateral counsel once they're appointed, we wish to

be present for those; so we would place that motion - or that objection and motion on the record at this time.

The second thing, Your Honor, is:

I have the -uh- the appellate pleadings -- a copy for The Court -- these are all matters of public record -- that I would hand up to The Court at this time for The Court's review at the appropriate time.

THE COURT:

Very good.

Now -uh- anything further from you, Mr. Stanko?

APPLICANT STANKO:

Only 2 last things that I would like to present to you that I've had problems with, sir.

The South Carolina Department --

THE COURT:

I'm going to get you - I'm going to get you to stand, if you will.

APPLICANT STANKO:

Okay.

THE COURT:

Thank you.

APPLICANT STANKO:

I'm sorry.

THE COURT:

Go ahead.

APPLICANT STANKO:

I am having a problem with the South Carolina Department of corrections which concerns receiving my discovery and my mail.

I have -- One of the mail personnel has decided that -- that she can pull things out of discovery and not provide them to me.

Uh -- When I -- When I told her that I need all of that, the what she did was:

She took it all back and mailed it back to my attorneys; thereby making it very difficult for me to receive.

And I know this isn't something that you could can actually place an order down there.

But I - I don't know where else to go with this.

If I can't receive my discovery in both a pending case, or if it happens with this case with information sent to me, then I have an -- a problem there providing help in the judicial program of - of my own defense, or my appellate proceedings.

THE COURT:

All right.

I'm going to again let you first

approach that issue with your attorney.

APPLICANT STANKO:

Yes sir.

THE COURT:

And - uh - once appointed, and we will make a decision thereafter based upon whatever that attorney presents to The Court.

APPLICANT STANKO:

I appreciate your letting me say that.

THE COURT:

All right, Mr. Stanko.

Have a good day, sir.

APPLICANT STANKO:

You too.

THE COURT:

I'm going to return you now to the Department of Corrections. And that concludes this hearing.

This Court is now in recess for this matter.

APPLICANT STANKO:

Thank you, Judge.

MR. MABRY:

Thank Your Honor.

WHEREUPON: There being nothing

further in this matter, these proceedings were ended on December 8th, 2008 at 10:37 AM.)

CERTIFICATE

I, the undersigned, H. Eugene Buckner, CVR, Official Court Reporter at Large in and for the State of South Carolina, do hereby certify that the foregoing proceeding was taken on the 8th day of December, 2008;

That the within judicial proceedings are, to the best of my ability, an accurate and verbatim transcription of the hearing;

I further certify that I am neither Counsel nor Solicitor to any of the parties in said suit, nor interested in the event of the cause.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23rd day of December, 2008.

H. EUGENE BUCKNER, CVR
OFFICIAL COURT REPORTER AT LARGE
15TH JUDICIAL DISTRICT
STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY) 05-GS-26-2927

State of South Carolina,
Plaintiff,
-VS-
Stephen Christopher Stanko,
Defendant.

TRANSCRIPT OF RECORD

March 4, 2009
Conway, South Carolina

B E F O R E:

HONORABLE STEVEN H. JOHN, Circuit Judge.

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

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Dixie Cox Eubank
Official Reporter

I N D E X

(SW) STATE'S WITNESS
(DW) DEFENSE WITNESS

Motions.....3

Certificate of Reporter.....16

E X H I B I T I N D E X

(No Exhibits Marked)

THE COURT: All right, we are here on the record in 2005-GS-26-2927, the State of South Carolina, County of Horry, versus Stephen C. Stanko. As to this particular matter, let me cover just a couple of things with you gentlemen.

One, I guess it's administrative or not even a scheduling matter. The scheduling order that I sent to you and that we filed with the Clerk of Court, the very first item that's on that says Monday, August 24th, 2009, at 2:00 P.M. -- it says Thursday, August 24th, 2009, 2:00 P.M. Well, August 24th actually is a Monday, so y'all need to strike through where it says Thursday, August 24th, 2009, and put Monday, August 24th, 2009. The date was correct, but unfortunately we had interposed the wrong day on that, so if y'all will just put Monday on there.

All right, another matter, it's come to the Court's attention in this matter, and the reason that I now have this particular case, because Judge Baxley was asked by the Supreme Court to handle the post conviction relief matter that Mr. Stanko has filed as against Mr. Diggs and his former attorneys in the Georgetown case, and though Judge Baxley might have addressed this issue or questioned about this issue, since he is no longer the trial judge, I want to go over this particular issue.

It seems to me, at least questionable, if not inconsistent, that Mr. Diggs remain as the trial attorney in this particular case when a post conviction relief matter has been filed against him by Mr. Stanko. Mr. Diggs, I assume that you have, as best you could, covered that issue with Mr. Stanko.

MR. DIGGS: Your Honor, we've talked about it on a number of occasions, but to be honest with you, I haven't even -- I haven't seen the PCR application and I didn't have any input into, you know, the substance of that application, so, I mean, I understand ---

THE COURT: And obviously, you know, there are boundaries obviously that you cannot communicate with Mr. Stanko about that. You don't represent him in that particular matter and obviously he's filed a complaint in that matter or at least a PCR application that alleges at least in part of it ineffective assistance of counsel, so you being the -- not the responding party, but obviously there are issues and things that you may not discuss with him, but you can certainly, I assume, and have -- and if you haven't, you certainly need to, communicate with him about your continued representation of him regarding this particular case. Have you done that?

MR. DIGGS: We have, Your Honor. I have discussed it with him.

THE COURT: All right, and he has asked you to remain as his attorney in this particular matter?

MR. DIGGS: Yes, he has.

THE COURT: All right, sir.

All right, Mr. Stanko, I need to ask you some questions, sir.

MR. STANKO: Yes, sir. Good morning.

THE COURT: Good morning, sir. It seems, at least to the Court, there is at least some inconsistency or if not a downright disqualification of Mr. Diggs in this matter regarding you filing a post conviction relief application in the previous case that arose out of Georgetown and his continued representation in this particular matter. I'll be glad to hear from you.

MR. STANKO: If I may clarify. First of all, the application that was filed was filed with the assistance of Kathrine Hudgins out of SCCID, and what happened was in order to stop the death watch after the negative response in the appeal, she filed on my behalf an application. I, as of yet, have not filed a perfected application. I've only just now had the two attorneys appointed, and I intend to file an amended application. The ineffective argument that was filed referencing Mr. Diggs was not actually filed by me, myself. Now, ---

THE COURT: Well, I appreciate that, but ---

MR. STANKO: And -- I'm sorry; go ahead.

THE COURT: --- do you intend to adopt that filing? Do you intend to at least at the present time pursue the PCR application alleging ineffective assistance of counsel as against Mr. Diggs?

MR. STANKO: Actually, the way that issue was written, not completely, no, sir. I had requested that that issue whenever I spoke with her and Mr. Savitz, that is not the way that I had agreed that that immediate application was going to be filed. There's an issue that's still -- and I really can't discuss it right now ---

THE COURT: Well, and I appreciate that you can't, but ---

MR. STANKO: But even playing worst case scenario, let's say -- let's say if I did file, and I haven't -- I know I'm going to file some issues against prosecutorial misconduct, some I.A.C. against Mr. Kelly, I have not made a -- until I meet with those two attorneys that have been appointed in the PCR case, I can't say, Your Honor, this is what I am going to file, but if we play worst case scenario and I did file ineffective assistance of counsel against Mr. Diggs on any issues, understanding the Strickland two-prong test, but that's still prerequisite that I wouldn't trust or believe in him to

handle this case, (A) if he did commit errors that, let's say, he even determined as being errors, by looking at that case, I believe that Mr. Diggs would say, "Maybe I should have done this differently," and in this particular case, which is going to use a very similar defense, wouldn't he have learned from that?

(B) Even if I did file them, is it not a situation where it would have no effect on this case as long as I do trust and believe in him and his efforts toward this case?

THE COURT: All right, sir. Well, and I'll say, I mean, the Court is well aware of your Sixth Amendment right and the South Carolina Supreme Court decision in State v. Sanders regarding assistance of counsel, ---

MR. STANKO: Yes, sir.

THE COURT: --- and obviously you don't have the ability to pick and choose your attorneys per se, but certainly I will listen to you as to your request to have as -- if I understand you correctly that you want Mr. Diggs to remain as the lead counsel and remain as one of your attorneys in this particular case, the 2005-GS-26-2927?

MR. STANKO: Yes, sir.

THE COURT: Do you have now any date that you know that you're going to meet with the attorneys helping you

in the post conviction relief application? Is that even set yet?

MR. STANKO: Mr. Godfrey was coming to see me on Friday, and that got canceled. Now, I'm not sure why, sir. They have not been placed on my pen list yet, so I can't even make contact with them as of yet. They were only assigned about forty days ago, ---

THE COURT: Okay.

MR. STANKO: --- and before -- before I jump away, I'm going to use an analogy. (A) There's a Solicitor that was in this case and that case that had been sanctioned by the State for previous misconducts, but he's still a Solicitor. (B) I'm going to use a baseball analogy. If you have Derek Jeter, and in the ninth inning of the final game of the World Series he commits an error that costs the Yankees the game, that doesn't mean that you don't want him back starting next season, and I do.

One thing about Mr. Diggs is he does believe in my case and he understands it's a very in-depth case concerning the defect in my brain, and I would ask -- what I don't want to do is say, "Well, Your Honor, is the only way that I can keep Mr. Diggs is to say that I'm going to waive any I.A.C.?"

THE COURT: No, sir. I'm not asking you to do so.

MR. STANKO: On the other hand ---

THE COURT: And I'm certainly not making that a ---

MR. STANKO: On the other hand, if I'm going to lose him, Judge, and I can't say that I wouldn't do that because I don't know that there's another attorney other than Brana and Mr. Diggs who cares much about this case and having it resolved in true fashion. I mean, I'm not saying there's not, but I know one thing, having had multiple conversations with both of them, I believe that they believe in this case more than anyone.

THE COURT: All right, sir. What I would ask, then, is once you have communicated with your counsel that are going to represent you in the PCR matter, ---

MR. STANKO: Yes, sir.

THE COURT: --- and once you file an amended, if you do, ---

MR. STANKO: Yes, sir.

THE COURT: --- if you do file an amended post conviction relief application, if you will inform your counsel to forward to me a copy of what is filed, ---

MR. STANKO: Yes, sir.

THE COURT: --- what is filed with the Clerk of Court ---

MR. STANKO: Yes, sir.

THE COURT: --- so that I'm not going at this point

in time, I'm not going to remove Mr. Diggs at this point in time. I think that I accept what Mr. Stanko has said in his request. He apparently has -- from what he's explained to me, he has thought this through. He has made a conscious and informed decision to keep Mr. Diggs as his attorney.

Mr. Diggs, I would ask you, you find no conflict in this? You find no problems regarding your representation of Mr. Stanko, any issues?

MR. DIGGS: Your Honor, at this point I don't. Certainly it's not an ego thing. I don't have a problem with him making that allegation, you know.

In terms of when the Court has an opportunity to look at the PCR application and you see -- or, you know, a determination is made as to what issues you're going to proceed there, and if you see maybe a conflict in the theories, you know, that I may be advancing and you see that I may be undermining, you know, the overall state, I guess, of Mr. Stanko's case against the State of South Carolina, you might want to re-visit that issue, but I personally don't have a problem.

THE COURT: All right. Based upon the -- your statements to the Court and the Court's questioning of Mr. Stanko, Mr. Stanko's statements to me, that I will keep Mr. Diggs as counsel here in this particular matter

with the ability for the Court to re-visit it in the future should there be issues in the amended application that either give the Court any concern or Mr. Stanko, or Mr. Diggs concerns as to Mr. Diggs continued representation in this matter, all right?

MR. STANKO: You don't need me to make contact with Judge Baxley concerning that request?

THE COURT: No, sir, I don't. I don't. Just that you communicate with your counsel when they meet with you and just have them, at the Court's request, that whenever they file, if an amended application is filed, ---

MR. STANKO: Yes, sir.

THE COURT: --- that they forward a copy to me, ---

MR. STANKO: Thank you.

THE COURT: --- okay?

MR. STANKO: Yes, sir.

THE COURT: Thank you very much.

All right, gentlemen, I know I've probably moved it a little bit ahead of time, as far as the schedule, but I did have it already prepared, so I've given y'all just an outline of a juror questionnaire that we just handed to counsel this morning. Obviously it's not scheduled to be firmed up for some considerable point in time, but since I had a draft prepared already, I thought I would give it to you to give y'all some opportunity to look through it

to see what questions or concerns that you might have with what is contained therein and obviously give you plenty of time to communicate back.

Obviously we don't have to -- on this particular issue you don't have to stick with the schedule since I've sent it to you well in advance of what time frame was in the schedule. If y'all can look at it and get back to me, and if we can firm that up, that will be fine. We'll be able to give the Clerk of Court a lot of leeway time to make sure that that is forwarded out appropriately to the jurors that are summoned for those two particular weeks, the week of November 9th and November 16th.

Other than the correction I had on the date, have y'all had an opportunity to look at the scheduling order, Solicitor?

MR. HEMBREE: Yes, Your Honor, we have, and it looks -- looks fine.

THE COURT: Then nothing that y'all have any concerns about?

MR. HEMBREE: No concerns, no suggestions at all.

THE COURT: All right, sir.

Mr. Diggs ---

MS. WILLIAMS: Your Honor, ---

THE COURT: Yes, ma'am, Ms. Williams.

MS. WILLIAMS: --- if I may.

THE COURT: Yes, ma'am.

MS. WILLIAMS: In thinking about this, obviously the matter that the Court just ruled on, there is -- if I understand it correctly, there is the potential that once Mr. Stanko meets with his attorneys, which we do not know when that will be, his PCR attorneys, he may file an amended PCR against Mr. Diggs, and if he does so, he may be removed as trial counsel. If he's removed as trial ---

THE COURT: All that is ---

MS. WILLIAMS: Correct.

THE COURT: --- certainly a potential.

MS. WILLIAMS: And if he is removed as trial counsel, and, of course, we don't have a time frame, we're not sure if this is going to be thirty days, forty-five days, ninety days, or anything like that. I'm concerned, Your Honor, if we continue to proceed with this and all of a sudden Mr. Diggs is yanked out of the case, there is a major hole left in Mr. Stanko's defense.

THE COURT: Well, it might be, but we aren't anywhere close to that. I've not indicated that I would remove Mr. Diggs. I wanted to raise the issue. I wanted to hear from Mr. Stanko. I understand Judge Baxley had heard from him, but I wanted to hear from him ---

MS. WILLIAMS: Judge, and ---

THE COURT: --- and make my own determination based upon what he informed me about the continued representation of Mr. Diggs, and I am satisfied from what he has stated to me that he definitely wants Mr. Diggs to remain as his trial counsel. There is obviously apparently a good level of interaction and trust between Mr. Diggs and Mr. Stanko regarding this particular matter, and barring some unusual circumstances, it's not my intention at this point in time to interfere or interrupt that, so that -- but I don't want to foreclose the issue completely without having read and seen the amended PCR application if there is going to be one, so ---

MS. WILLIAMS: Certainly, Your Honor. If I may, ---

THE COURT: --- so I don't know that. You know, if we have to do that, then I'll hear from you at that point in time.

MS. WILLIAMS: That's all. I just wanted to say if we could certainly reserve the time frame issue at that point.

THE COURT: Well, I'm -- you know, timetables can be changed. I would hesitate to do so and would not want to do so. I think we have set a more than lenient

timetable as it now exists to give everyone a full opportunity to do everything that is absolutely necessary to have the matters go forward and the trials to go forward on those two weeks of November 9th and 16th, so I don't anticipate that we'll be changing the scheduling order.

All right, are there any issues from the State at this point in time that we need to look at, Solicitor?

MR. HEMBREE: No, Your Honor.

THE COURT: All right. Mr. Diggs and Ms. Williams, any issues at this point with the Solicitor's Office being represented that you need to raise to me at this point in time?

MR. DIGGS: Your Honor, I don't think so at this point.

THE COURT: All right, sir.

(Conclusion of Transcript of Record.)

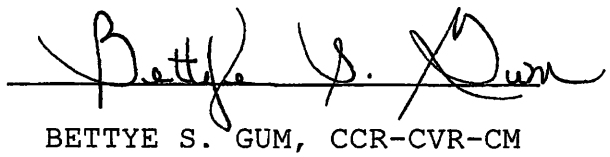
STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

I, the undersigned Bettye S. Gum, Certified Court Reporter and Notary Public in and for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the captioned case, as taken by Dixie Cox Eubank, Official Reporter, and transcribed by me, relative to appeal, in the Court of General Sessions for Horry County, South Carolina.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 12, 2010



BETTYE S. GUM, CCR-CVR-CM

Certified Court Reporter and

Notary Public for South Carolina

My Commission Expires: 7/13/14

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
05-GS-26-2927

STATE OF SOUTH CAROLINA,
PLAINTIFF,
vs.
STEPHEN CHRISTOPHER STANKO,
DEFENDANT.

TRANSCRIPT OF RECORD

JUNE 5, 2009
CONWAY, SOUTH CAROLINA

BEFORE:

THE HONORABLE, STEPHEN H. JOHN, JUDGE

APPEARANCES:

BY: FRANCIS A. HUMPHRIES, JR., ESQ.
ATTORNEY FOR STATE

BY: WILLIAM I. DIGGS, ESQ.
BRANA J. WILLIAMS, ESQ.
ATTORNEYS FOR STEPHEN CHRISTOPHER STANKO

BRENDA R. BABB
Circuit Court Reporter

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THE COURT: WE'RE HERE IN THE CASE OF STATE V. STEPHEN C. STANKO, 2005-GS-26-2927 PURSUANT TO A NOTICE OF MOTION AND MOTION BY THE STATE OF SOUTH CAROLINA TO REVIEW THE STATUS OF DEFENDANT'S COUNSEL IN LIGHT OF A POST CONVICTION RELIEF ACTION BROUGHT BY MR. STANKO REGARDING THE PREVIOUS CASE IN GEORGETOWN COUNTY, THE STATE OF SOUTH CAROLINA V. STEPHEN C. STANKO.

ALL RIGHT, IS THE STATE READY TO PROCEED?

MR. HUMPHRIES: THE STATE IS READY TO PROCEED, YOUR HONOR.

THE COURT: DEFENSE READY TO RESPOND?

MS. WILLIAMS: YES, SIR, WE ARE.

THE COURT: VERY GOOD, ALL RIGHT, SOLICITOR, YOU MAY PROCEED.

MR. HUMPHRIES: THANK YOU, YOUR HONOR, YOU'VE RECEIVED MY WRITTEN MOTION, THAT ALSO HAS BEEN SERVED ON COUNSEL FOR DEFENDANT STANKO. WE'RE, THE STATE IS IN AN AWKWARD POSITION IN THAT IF WE WERE THE FEDERAL GOVERNMENT WE WOULD BE FILING A MOTION TO, TO HAVE MR. DIGGS REMOVED FROM THE CASE BASED ON A CONFLICT OF INTEREST. THEY DO THAT AS A MATTER OF COURSE AT THE U.S. ATTORNEY'S OFFICE. WE DON'T DO THAT BUT WE FELT BASED ON WHAT WE, AT LEAST WHAT WE OBSERVE TO BE APPARENT DIRECT CONFLICTS OF INTEREST BASED ON THE FILING OF THE POST CONVICTION RELIEF THAT BY OPERATION OF LAW WAIVES THE ATTORNEY/CLIENT PRIVILEGE TO A

CERTAIN EXTENT, WE BELIEVE THAT WE NEEDED TO BRING THIS BEFORE THE COURT.

OBVIOUSLY THESE CASES ARE, THEY'RE COMPLEX, THEY ARE COSTLY, THEY ARE TIME CONSUMING AND NO ONE WANTS TO DO THEM TWICE, ALTHOUGH OFTENTIMES WE DO, BUT THIS IS FORESEEABLE, I WOULD SUBMIT, AND, AND, THEREFORE, IT NEEDS TO BE ADDRESSED BY THE COURT AND SO, YOU KNOW, I COULD GO BACK THROUGH THE WRITTEN MOTION, I KNOW YOUR HONOR HAS REVIEWED IT BUT, BUT BASED, THE GIST OF IT IS THIS.

THERE HAS BEEN A POST CONVICTION RELIEF PETITION FILED BY DEFENDANT STANKO AND AS A PART OF THAT PETITION HE HAS ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL, THAT BEING MR. DIGGS, AND BY THAT VERY FILING HE HAS WAIVED, ALREADY WAIVED ATTORNEY/CLIENT PRIVILEGE IN CONNECTION WITH THAT CASE. AND WE'VE BEEN ADVISED ON THE RECORD AND OTHERWISE BY MR. DIGGS, THE COURT HAS BEEN ADVISED AS WELL, THAT IT IS, IT IS MR. DIGGS AND DEFENDANT STANKO'S INTENTION TO, TO PRESENT BASICALLY THE SAME DEFENSE OR TYPE OF DEFENSE AND SAME WITNESSES AS WERE INVOLVED IN THE FIRST CASE AND THIS, THIS ATTORNEY/CLIENT PRIVILEGE IS WAIVED AS RELATES NOT ONLY TO MR. DIGGS BUT HIS COMMUNICATIONS WITH THOSE EXPERTS, THE SAME EXPERTS HE WOULD INTEND TO CALL, AT LEAST HE HAS STATED HE INTENDS TO CALL IN THIS CASE. SO WE BRING THAT TO THE COURT'S ATTENTION AND ASK THE COURT TO, TO REVIEW THAT SITUATION IN LIGHT OF THE UPCOMING TRIAL WHICH

I BELIEVE IS SCHEDULED IN THE FALL.

THE COURT: ALL RIGHT, WELL LET ME ASK, BEFORE YOU SIT DOWN, SOLICITOR --

MR. HUMPHRIES: YES, SIR.

THE COURT: LET ME ASK YOU A QUESTION, I'M A LITTLE CONFUSED. YOU'VE GOT HERE IN YOUR MOTION THAT THEY ARE FILING IN THE POST CONVICTION RELIEF APPLICATION MR. STANKO HAS WAIVED THE ATTORNEY/CLIENT PRIVILEGE. NOW AS I READ RULE 1.7 IT INDICATES THAT IT'S WAIVED TO THE EXTENT NECESSARY FOR THE COUNSEL TO RESPOND TO THE ALLEGATIONS MADE IN THE POST CONVICTION RELIEF APPLICATION.

MR. HUMPHRIES: YES, SIR, IT IS LIMITED NO QUESTION ABOUT THAT.

THE COURT: OKAY, ARE YOU INDICATING BY THE FILING OF THE MOTION, AND THIS IS THE PART THAT I FOUND A LITTLE CONFUSING, ARE YOU INDICATING THAT DEPENDING UPON WHAT EXPERT WITNESSES ARE PRESENTED IN THIS CASE AGAINST MR. STANKO HERE IN HORRY COUNTY THAT THE STATE MAY TRY TO CALL MR. DIGGS AS A WITNESS REGARDING CERTAIN COMMUNICATIONS?

MR. HUMPHRIES: NO, SIR, NO, SIR, AND LET ME, LET ME BE CLEAR ABOUT THAT. THIS REALLY HAD VERY LITTLE IF NOTHING TO DO WITH THE STATE'S CASE AGAINST MR. STANKO. WE DON'T, I DON'T INTEND, WE DON'T, THE STATE DOES NOT INTEND TO CALL MR. DIGGS AS A WITNESS. WE DON'T INTEND TO CONTACT

THE ATTORNEY GENERAL WHO WILL BE REPRESENTING THE STATE IN THE POST CONVICTION RELIEF WHO IS GOING TO HAVE COMMUNICATIONS WITH MR. DIGGS AS A NECESSITY BECAUSE OF THE POST CONVICTION RELIEF. WE DON'T INTEND TO TRY AND TAKE ADVANTAGE OF ANY INFORMATION THAT MAY HAVE RESULTED BY THAT WAIVER OF THE ATTORNEY/CLIENT PRIVILEGE. THE ISSUE IS NOT WITH US. THE ISSUE WE SUBMIT IS WITH MR. DIGGS AND MR. STANKO FOR FUTURE ACTIONS THAT CAN BE FILED BY MR. STANKO AND WE BELIEVE IT WOULD COMPOUND ---

THE COURT: AND THEN, THEN WHETHER OR NOT MR. DIGGS CONTINUED REPRESENTATION OF MR. STANKO THEN VIOLATES THE RULES THEN?

MR. HUMPHRIES: YES, SIR.

THE COURT: ALL RIGHT, ALL RIGHT, OKAY, I JUST WANTED TO MAKE, I JUST WANTED TO BE CLEAR TO SEE IF THERE WASN'T SOME FURTHER RAMIFICATION OF THIS THAT NEEDED TO BE EXPLORED AT THIS POINT IN TIME. ALL RIGHT.

MR. HUMPHRIES: AND I APPRECIATE IT CAUSE WE ABSOLUTELY DO NOT INTEND TO TRY AND TAKE ADVANTAGE OF ANY WAIVER OF ATTORNEY/CLIENT PRIVILEGE.

THE COURT: ALL RIGHT, GOOD DEAL, ALL RIGHT. WELL I JUST WANTED TO BE CLEAR ABOUT THAT.

ALL RIGHT, WHO'S GOING TO RESPOND TO THE STATE'S ARGUMENT?

MR. DIGGS: YOUR HONOR, LET ME JUST START OFF BY

SAYING I DON'T REALLY TAKE A POSITION IN THE CASE ON THE ISSUE. MR. STANKO HAS INDICATED HE WOULD LIKE FOR ME TO REMAIN ON HIS CASE AS PART OF HIS DEFENSE. I'M HAPPY TO DO THAT. I CERTAINLY DON'T TAKE ANY EXCEPTION TO ANY, ANY DEFENSE ATTORNEY WHO'S IN BUSINESS FOR ANY LENGTH OF TIME WILL GO THROUGH THE POST CONVICTION RELIEF PROCESS AS A WITNESS FROM TIME TO TIME. THAT DOESN'T CAUSE ME A PROBLEM SO I'M REALLY NOT GOING TO TAKE A POSITION. I CAN TELL THE COURT, YOU KNOW, I'M COURT APPOINTED ON THIS CASE. IF I REMAIN AS COUNSEL I WILL DO THE BEST THAT I CAN DO IN THE CASE THAT HAS NO AFFECT ON MY ABILITY OR WILLINGNESS TO REPRESENT THIS CASE.

THE COURT: ALL RIGHT, SO THAT, THAT WAS ONE OF THE QUESTIONS I WANTED TO COVER WITH YOU, MR. DIGGS, THAT THE FILING OF THAT POST CONVICTION RELIEF APPLICATION YOU DO NOT THINK HAS IMPACTED YOUR RELATIONSHIP WITH MR. STANKO OR YOUR ABILITY TO COMMUNICATE WITH HIM, YOUR ABILITY TO EFFECTIVELY REPRESENT HIM IN THIS CURRENT ACTION IN ANY WAY, IS THAT WHAT YOU'RE TELLING ME?

MR. DIGGS: IT HAS NOT, HAS NOT.

THE COURT: ALL RIGHT, AND THE FACT THAT CERTAIN MATTERS HAVE BEEN RAISED IN THE POST CONVICTION RELIEF APPLICATION THAT, THAT IN YOUR MIND AND IN YOUR WORKING ON THIS CASE THAT IS PROCEEDING AGAINST MR. STANKO IN HORRY COUNTY HAS NOT INTERFERED WITH YOUR REPRESENTATION OF HIM

IN ANY WAY; IS THAT RIGHT?

MR. DIGGS: THAT'S CORRECT, IT HAS NOT.

THE COURT: ALL RIGHT, VERY GOOD, YES, MA'AM?

MS. WILLIAMS: YOUR HONOR, FIRST LET ME SAY THAT, I WOULD RESPECTFULLY SAY THAT THIS IS THE GROUND THE COURT COVERED IN THE LAST MEETING MOTION HEARING THAT WE HAD WITH REWARD TO THIS, YOUR HONOR.

THE COURT: WELL IT ACTUALLY IS THE THIRD TIME BECAUSE JUDGE BAXLEY CONDUCTED AN EXTENSIVE HEARING THAT'S, YOU KNOW, OF RECORD WHERE JUDGE BAXLEY EXTENSIVELY QUESTIONED MR. STANKO ABOUT MR. DIGGS REPRESENTATION BECAUSE JUDGE BAXLEY WAS AWARE OF THE POST CONVICTION RELIEF FILING AN APPLICATION AND JUDGE BAXLEY AT THAT POINT IN TIME FOUND THAT IT WAS PROPER FOR MR. DIGGS TO CONTINUE HIS REPRESENTATION OF MR. STANKO AND THEN I CONDUCTED A HEARING IN WHICH I QUESTIONED MR. STANKO ABOUT ALL OF THESE MATTERS AND THE COURT FOUND AT THE POINT IN TIME THAT BASED UPON WHAT MR. STANKO HAD TOLD ME AND HIS KNOWLEDGE OF HIS RIGHTS UNDER THE SIXTH AMENDMENT TO THE U. S. CONSTITUTION AND THE NUMEROUS U. S. SUPREME COURT CASES AND SOUTH CAROLINA CASES LIKE THE STATE V. SANDERS, THAT HE WAS AWARE OF THE ISSUES, THAT HE INDICATED THAT HE WANTED MR. DIGGS TO CONTINUE THE REPRESENTATION SO ALL THAT IS, IS BACKGROUND.

HAS ANYTHING IN YOUR MIND THAT YOU KNOW OF, AND

I'LL ASK MR. STANKO AGAIN IN A MINUTE, BUT IN YOUR REPRESENTATION OF MR. STANKO HAS ANYTHING CHANGED IN THIS REGARD FROM THE TWO PRIOR HEARINGS WE'VE HAD ON THIS?

MS. WILLIAMS: THERE IS NOTHING THAT I AM AWARE OF, YOUR HONOR, IN FACT I WAS DISCUSSING WITH MR. STANKO, HE HAS ACTUALLY MET WITH HIS PCR ATTORNEYS AND THE GIST OF WHAT I UNDERSTAND IS ANY OF THE PROBLEMS THAT WILL BE ASSERTED AGAINST MR. DIGGS WITH REGARD TO THE PRIOR TRIAL ARE ISSUES OF A FAILURE TO OBJECT TO CERTAIN EVIDENCE OR FAILURE TO CROSS EXAMINE FARTHER OR MORE OF A TRIAL TECHNIQUE, IF THE COURT WILL.

THE COURT: AS TO MATTERS THAT AROSE IN THE TRIAL ITSELF?

MS. WILLIAMS: IN THE TRIAL ITSELF AND LIKE I SAID AS HIS, IF YOU WANT, AS HIS TRIAL TECHNIQUE CAPABILITIES/THINGS THERE'S ABSOLUTELY NOTHING THAT I AM AWARE OF THAT WOULD, WOULD BE WAIVING PRIVILEGE, IF YOU WILL, WITH REGARD TO OUR NEW TRIAL OR THE NEW EVIDENCE AND THINGS THAT WE HAVE GOING ON. YOU KNOW IF MR. DIGGS OBJECTED ONE TIME AND AT THIS TRIAL IF HE CERTAINLY CHOSE NOT TO OBJECT AGAIN I AM QUITE SURE THAT, YOU KNOW, LEGAL MINDS DIFFER AS TO WHAT IS APPROPRIATE AND WHAT'S NOT, HENCE THAT'S WHY YOUR HONOR MAKES THE CALL AND SO THERE'S NOTHING THAT I AM AWARE OF THAT'S ANY DIFFERENT AT THIS TIME.

THE COURT: ALL RIGHT, MR. STANKO, COULD YOU STAND, PLEASE SIR?

DEFENDANT STANKO: YES, SIR.

THE COURT: ALL RIGHT, AND JUST AS TO THE PURPOSES OF THIS HEARING THAT WE'RE HERE TODAY I'M GOING TO PLACE YOU UNDER OATH.

STEPHEN C. STANKO

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: NOW AS THE COURT INDICATED THIS ISSUE HAS BEEN COVERED WITH YOU BY JUDGE BAXLEY PREVIOUSLY, MYSELF PREVIOUSLY, AND I THINK THE ONLY DIFFERENCE BETWEEN THE TIME THAT I'M SPEAKING TO YOU NOW ABOUT THIS ISSUE AND THE TIME I SPOKE TO YOU PREVIOUSLY AND WE HAD THE HEARING ON THAT WAS I DON'T BELIEVE, AND YA'LL CORRECT ME IF I'M WRONG, BUT I'M NOT SURE THAT YOU HAD ANY KIND OF EXTENSIVE DISCUSSIONS WITH YOUR PCR ATTORNEYS AT THE TIME THE PREVIOUS MOTION WAS HEARD. AS I UNDERSTAND FROM THE OTHER COUNSEL YOU HAVE NOW HAD AN OPPORTUNITY TO TALK TO THE POST CONVICTION RELIEF APPLICATION ATTORNEYS; IS THAT CORRECT?

DEFENDANT STANKO: THAT'S CORRECT.

THE COURT: ALL RIGHT, SIR, NOW, NOT ASKING YOU TO DISCLOSE WHAT IT IS THAT YA'LL TALKED ABOUT, BUT BASED UPON THOSE CONVERSATIONS IS THERE ANYTHING DIFFERENT NOW BECAUSE NOW YOU'VE HAD AN OPPORTUNITY TO EXPLORE THE ISSUES WITH THE ATTORNEYS, GET THEIR ADVISE, GET THEIR INPUT AS TO

YOUR POST CONVICTION RELIEF APPLICATION, IS THERE ANYTHING DIFFERENT BETWEEN NOW AND THE PREVIOUS TIME THAT I ADDRESSED THIS MATTER WITH YOU?

DEFENDANT STANKO: NO, SIR, THERE'S NOT.

THE COURT: ALL RIGHT, SIR, DO YOU CONTINUE TO WANT TO HAVE MR. DIGGS REPRESENT YOU IN THIS CURRENT ACTION?

DEFENDANT STANKO: YES, SIR, I DO.

THE COURT: ALL RIGHT, SIR, AND DO YOU FEEL THAT THIS IS A FREE AND OPEN COMMUNICATION BETWEEN YOU AND MR. DIGGS DESPITE THE FACT THAT THE POST CONVICTION RELIEF APPLICATION HAS BEEN FILED?

DEFENDANT STANKO: YES, SIR, THERE IS.

THE COURT: AND YOU ARE ABLE TO FULLY DISCUSS ALL ISSUES THAT YOU DEEM NECESSARY WITH HIM?

DEFENDANT STANKO: YES, SIR.

THE COURT: ALL RIGHT, SIR, AND HAVE YOU FOUND IN ANY WAY THAT HE IS UNRESPONSIVE TO YOU OR IN ANY WAY, FOR WANT OF A BETTER WORD, HARBORING ANY ILL FEELINGS TO YOU BECAUSE OF THE FILING OF THE POST CONVICTION RELIEF APPLICATION?

DEFENDANT STANKO: NOT ONLY IS HE NOT NOW BUT I DO NOT BELIEVE THAT WHEN WE FILE THE SUPPLEMENTAL, WHICH IS GOING TO BE FILED, AND YOU HAD ASKED ME SPECIFICALLY TO HAVE MR. GODFREY CONTACT YOU AND GIVE YOU A COPY OF THAT

WHEN IT IS DONE AND IT WILL BE DONE SOON.

THE COURT: YES, SIR.

DEFENDANT STANKO: I DON'T THINK THERE WILL BE ANY PROBLEMS AT THAT TIME.

THE COURT: ALL RIGHT, SIR.

DEFENDANT STANKO: THE ISSUES THAT WE'RE GOING TO RAISE THAT HAVE HIM IN IT HAVE NOTHING TO DO WITH ANY ISSUES THAT WOULD CREATE A CONFLICT OR ANY ARGUMENT OR I FEEL CAUSE ANY COMMUNICATIVE PROBLEMS BETWEEN MR. DIGGS AND MYSELF. THEY'RE MORE AT TRIAL SITUATIONS THAT SHOULD HAVE BEEN OBJECTED TO, THINGS OF THAT NATURE, AND THERE IS, THERE ARE TWO ISSUES. BUT, SIR, I DO NOT BELIEVE THAT MR. DIGGS AND I ARE GOING TO HAVE ANY PROBLEMS PRESENTING THE SECOND TRIAL.

THE COURT: ALL RIGHT, SIR, AND AGAIN YOU CONTINUE TO WANT TO HAVE MR. DIGGS TO REPRESENT YOU IN THIS PARTICULAR MATTER?

DEFENDANT STANKO: YES, SIR, I DO.

THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

DEFENDANT STANKO: AND BEFORE I END THIS, THOUGH, I WOULD LIKE TO MAKE ONE THING CLEAR AND ---

THE COURT: YES, SIR.

DEFENDANT STANKO: --- I FEEL THAT MR. HUMPHRIES IS KIND OF, AND THIS IS JUST MY THOUGHTS, BUT HE'S ALSO HAD LIKE HE SAID HE HAS TO PREPARE FOR POSSIBLE APPEALABLE

ISSUES LATER ON IN THE FUTURE AND I WANT TO CLARIFY ONE THING, TOO, IN THE INSTANCE THAT I DO RAISE AN ISSUE AGAINST MR. DIGGS IF IT DOES END UP BEING A MERITABLE ISSUE THAT COULD LATER BE REVERSED, REVERSE THAT CASE, THAT DOES NOT MEAN THAT IN THIS TRIAL HE WILL NOT BE EFFECTIVE COUNSEL FOR ME. I WANT TO MAKE THAT CLEAR BECAUSE I DON'T WANT WAIVE HIS ATTEMPTS AT CLARING, DECLARING THAT I'M WAIVING THINGS. I'M NOT DECLARING THAT THERE WEREN'T MISTAKES MADE IN THAT CASE BUT THAT DOES NOT MEAN THAT I DON'T TRUST MR. DIGGS 100 PERCENT IN THIS UPCOMING CASE.

THE COURT: ALL RIGHT, SIR, AND YOU ARE EXPRESSING TO ME THAT YOU DO ---

DEFENDANT STANKO: I JUST WANT TO MAKE THAT RECORD CLEAR ALSO.

THE COURT: RIGHT, THAT YOU DO, THAT YOU DO TRUST AS FAR AS HIS ABILITY TO PROPERLY REPRESENT YOU IN THIS ACTION?

DEFENDANT STANKO: ONE HUNDRED PERCENT.

THE COURT: VERY GOOD, THANK YOU VERY MUCH, SIR, YOU CAN HAVE A SEAT.

DEFENDANT STANKO: YES, SIR.

THE COURT: YES, SIR?

MR. HUMPHRIES: VERY BRIEFLY, IN MY MIND WE'VE ACCOMPLISHED WHAT, AT LEAST WHAT THE STATE FELT LIKE NEEDED TO BE DONE TODAY. IN FAIRNESS WE HAVE HAD AT LEAST TWO

HEARINGS IN CONNECTION WITH THIS ISSUE BUT IN NEITHER OF THOSE TWO PARTICULAR HEARINGS DID WE ADDRESS THE WAIVER OF ATTORNEY/CLIENT PRIVILEGE SPECIFICALLY. THAT'S WHY WE RAISED IT TODAY AND HAVING DONE THAT WE'VE ACCOMPLISHED WHAT WE INTENDED.

THE COURT: ALL RIGHT, SIR, AND I APPRECIATE THAT AND I BELIEVE WE ARE ALL CLEAR ON WHAT THE FACT AND THE FACT HAS NO AFFECT ON, ON THIS PARTICULAR TRIAL.

DEFENDANT STANKO: YOUR HONOR?

THE COURT: I'M SORRY, TALK TO YOUR ATTORNEYS AND SEE IF THERE IS ANYTHING THAT THEY WOULD LIKE TO PRESENT TO ME.

ALL RIGHT, AT THIS POINT IN TIME AGAIN AS THE COURT HAS PREVIOUSLY INDICATED AND I APPRECIATE THE NEW INFORMATION THAT HAS BEEN BROUGHT TO, TO THE COURT'S ATTENTION AND RECOGNIZE THAT WHILE THE SIXTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES DOES NOT CONFER AN ABSOLUTE RIGHT TO A DEFENDANT TO BE REPRESENTED BY THEIR PREFERRED COUNSEL OF THEIR CHOICE, THE COURT IS MINDFUL OF THE MANDATES TO THAT AMENDMENT, THE U. S. SUPREME COURT DECISIONS AND THE S. C. SUPREME COURT DECISIONS THAT THIS COURT'S OBLIGATION IS TO SAFEGUARD THE INTEGRITY OF THE PROCEEDINGS AND TO ENSURE TRIALS ARE CONDUCTED ACCORDING TO ETHICAL STANDARDS BALANCING THAT WITH OBVIOUSLY THE SIXTH AMENDMENT RIGHTS GRANTED TO THE DEFENDANT.

IN THIS PARTICULAR MATTER I FIND THAT MR. STANKO HAS MORE THAN ONCE EXPRESSED FULL AND COMPLETE CONFIDENCE IN THE ABILITIES OF MR. DIGGS. THERE IS A FREE AND OPEN COMMUNICATION BETWEEN THE DEFENDANT AND MR. DIGGS. HE HAS RAISED NO ISSUES THAT WOULD IMPACT MR. DIGGS ABILITY TO PROPERTY REPRESENT MR. STANKO IN THE UPCOMING TRIAL AND, THEREFORE, I FIND THAT MR. DIGGS MAY CONTINUE TO REPRESENT MR. STANKO IN THE PROCEEDINGS THAT WILL BE FORTHCOMING IN NOVEMBER IN THIS ACTION OF 2005-GS-26-2927.

ANYTHING FURTHER FROM THE STATE AT THIS POINT IN TIME?

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

THE COURT: MR. DIGGS, ANYTHING FURTHER FROM THE DEFENSE ON THIS ISSUE OR ANY OTHER ISSUES THAT YOU NEED TO BRING TO MY ATTENTION?

MR. DIGGS: YOUR HONOR, I HAVE ONE OTHER ISSUE I'D LIKE TO BRING TO THE COURT'S ATTENTION IN CHAMBERS MAYBE OR UNDER THE STATUTE IN AN EX PARTE FASHION.

MR. HUMPHRIES: I OBVIOUSLY DON'T MIND IT ACTUALLY IN THE COURTROOM.

THE COURT: ALL RIGHT, SIR, VERY GOOD.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

ALL RIGHT, MR. DIGGS, WHAT IS IT THAT YOU'D LIKE

TO BRING TO THE COURT'S ATTENTION AT THIS TIME?

MR. DIGGS: YOUR HONOR, WE HAD GONE OVER SOME ISSUES LAST TIME WITH THE COURT AND I PROMISED YOU I WAS GOING TO GET YOU SOME PROPOSED ORDERS.

THE COURT: YES, SIR.

MR. DIGGS: I WAS GOING TO DO THAT AND THEN MY COMPUTER SYSTEM WENT DOWN, IT WAS OUT FOR AN ENTIRE WEEK, AND THEN ONE THING LED TO ANOTHER AND I DIDN'T GET THEM TO YOU BUT I DO HAVE SOME I'D LIKE TO HAND UP TODAY. THEY COVER BASICALLY THE SAME INDIVIDUALS THAT I WENT THROUGH LAST TIME WITH THE COURT ---

THE COURT: RIGHT.

MR. DIGGS: --- AND WHAT WE WOULD PROPOSE THEY DO IN THE CASE. I WANT TO MAKE SURE I'VE GOT THE CORRECT ONE HERE.

THE COURT: I HAVE EXECUTED THE ORDER FOR EXPERT SERVICES WHICH COVERS THOMAS H. SACHY, JOSEPH C. WU, MARK P. EINHORN, J. W. THRASHER, JR., AND RUBEN GUR. I HAVE EXECUTED THAT ORDER. I FIND THAT THE INFORMATION CONTAINED ALONG WITH YOUR PREVIOUS FILINGS REGARDING THOSE INDIVIDUALS ALONG WITH THE INFORMATION PROVIDED AT THE PROPER HEARING TO BE ADEQUATE FOR THE COURT TO EXECUTE THAT ORDER FOR EXPERT SERVICES.

REGARDING THE ORDERS FOR BERNARD ALBINIAK, JAMES EVANS AIKEN, AND EVELYN CALIFF, I DID NOT FIND ANYTHING IN

THOSE PARTICULAR ORDERS. YOU HAD PREVIOUSLY REGARDING THE ONES THAT I SIGNED YOU HAD GIVEN ME BACKGROUND INFORMATION AS TO THOSE INDIVIDUALS AND THE COURT WAS AWARE OF THEIR EXPERTISE THAT YOU HAD SET FORTH REGARDING THOSE INDIVIDUALS IN THE PRIOR HEARINGS AND I WAS AWARE OF ALL THAT INFORMATION ALONG WITH THE MONETARY COSTS THAT HAD BEEN EXPENDED PREVIOUSLY AS WELL AS THEIR SERVICES BUT I DON'T FIND ANY OF THAT INFORMATION.

MR. DIGGS: YOUR HONOR, I CAN CERTAINLY SUPPLEMENT THAT AND UNLIKE THE LAST TIME I'LL MAKE SURE I GET THAT TO YOU PROBABLY BY ---

THE COURT: EXPEDITIOUSLY?

MR. DIGGS: YES, SIR.

THE COURT: ALL RIGHT, VERY GOOD. SO IF YOU CAN JUST GET ME AND IT CAN BE FIND IF IT COULD JUST BE IN A, IN A ---

MR. DIGGS: I UNDERSTAND.

THE COURT: --- SUPPLEMENTAL AFFIDAVIT OR SOMETHING REGARDING THESE, THAT CAN BE ATTACHED TO THESE ORDERS THAT WILL BE GOOD, BUT LET ME GIVE YOU THE OTHER ORDER THAT I DID EXECUTE REGARDING THE, THOSE EXPERT SERVICES, ALL RIGHT.

MR. DIGGS: YES, SIR, THANK YOU VERY MUCH.

HE COURT: ALL RIGHT, THANK YOU. ALL RIGHT, MR. DIGGS, ANYTHING ELSE ON BEHALF OF MR. STANKO AT THIS POINT

IN TIME THAT YOU'RE AWARE OF?

MR. DIGGS: YOUR HONOR, WE MAY HAVE A COUPLE OF ADDITIONAL EXPERTS THAT WERE ASSOCIATED WITH THE CASE LAST TIME THAT WE WOULD ASK THE COURT TO APPROVE AT THIS TIME. I HAVEN'T PUT ANYTHING BEFORE THE COURT YET WITH RESPECT TO THOSE INDIVIDUALS.

THE COURT: ALL RIGHT.

MR. DIGGS: WOULD IT BE ACCEPTABLE TO SUPPLEMENT, WHEN I SUPPLEMENT WHAT WE'VE HANDED THIS MORNING TO GO AHEAD AND ADD A COUPLE OF ADDITIONAL NAMES?

THE COURT: YOU CAN AS LONG AS THE, YOU KNOW, THE AFFIDAVITS INFORMATION SETS FORTH THE NECESSARY BACKGROUND QUALIFICATIONS, EXPERTISE, THE MONETARY REQUESTS I'LL BE GLAD FOR YOU TO SEND IT TO ME IN WRITING. I DON'T HAVE ANY PROBLEM WITH THAT AT ALL.

MR. DIGGS: THANK YOU VERY MUCH, YOUR HONOR.

THE COURT: ALL RIGHT, MS. WILLIAMS, ANYTHING THAT YOU'RE AWARE OF AT THIS POINT IN TIME?

MS. WILLIAMS: NOTHING ELSE AT THIS POINT, YOUR HONOR.

THE COURT: ALL RIGHT, VERY GOOD,

MR. DIGGS: WELL, YOUR HONOR?

THE COURT: YES, SIR.

MR. DIGGS: THESE ARE SEALED, CORRECT, THEY'RE NOT AVAILABLE FOR PUBLIC ---

THE COURT: THEY ARE NOT. WHAT I, WHAT YOU CAN DO AT THAT POINT RIGHT NOW AT THIS POINT IN TIME IS IF YOU WOULD LIKE YOU CAN USE THE ORDER TO EMPLOY THE INDIVIDUALS AT THE TIME OF FILING WHEN YOU SEND THESE SUPPLEMENTS TO ME IF YOU WANT TO SEND AN ORDER FOR THESE TO BE SEALED DURING THE PENDENCY OF THE ACTION. OBVIOUSLY AFTER THE ACTION THEY WOULD BE UNSEALED BUT DURING THE PENDENCY OF THE ACTION THEY WOULD, THEY WOULD BE SEALED.

MR. DIGGS: THANK YOU, YOUR HONOR.

THE COURT: JUST SEND ME A SUPPLEMENTAL ORDER TO THAT AFFECT, ALL RIGHT.

MR. DIGGS: YES, SIR.

THE COURT: ANYTHING ELSE?

MR. DIGGS: THAT'S IT.

THE COURT: ALL RIGHT, THANK YOU VERY MUCH, COUNSEL.

MR. DIGGS: THANK YOU VERY MUCH.

END OF REQUESTED TRANSCRIPT....

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R. BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR HORRY COUNTY, SOUTH CAROLINA.

I DO FURTHER CERTIFY THAT I AM NEITHER KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

April 16, 2010

Brenda R. Babb

BRENDA R. BABB, CVR

OFFICIAL REPORTER

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
05-GS-26-2927

STATE OF SOUTH CAROLINA,

PLAINTIFF,

vs.

STEPHEN CHRISTOPHER STANKO,

DEFENDANT.

TRANSCRIPT OF RECORD

JUNE 5, 2009
CONWAY, SOUTH CAROLINA

BEFORE:

THE HONORABLE, STEPHEN H. JOHN, JUDGE

APPEARANCES:

BY: FRANCIS A. HUMPHRIES, JR., ESQ.
ATTORNEY FOR STATE

BY: WILLIAM I. DIGGS, ESQ.
BRANA J. WILLIAMS, ESQ.
ATTORNEYS FOR STEPHEN CHRISTOPHER STANKO

BRENDA R. BABB
Circuit Court Reporter

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THE COURT: WE'RE HERE IN THE CASE OF STATE V. STEPHEN C. STANKO, 2005-GS-26-2927 PURSUANT TO A NOTICE OF MOTION AND MOTION BY THE STATE OF SOUTH CAROLINA TO REVIEW THE STATUS OF DEFENDANT'S COUNSEL IN LIGHT OF A POST CONVICTION RELIEF ACTION BROUGHT BY MR. STANKO REGARDING THE PREVIOUS CASE IN GEORGETOWN COUNTY, THE STATE OF SOUTH CAROLINA V. STEPHEN C. STANKO.

ALL RIGHT, IS THE STATE READY TO PROCEED?

MR. HUMPHRIES: THE STATE IS READY TO PROCEED, YOUR HONOR.

THE COURT: DEFENSE READY TO RESPOND?

MS. WILLIAMS: YES, SIR, WE ARE.

THE COURT: VERY GOOD, ALL RIGHT, SOLICITOR, YOU MAY PROCEED.

MR. HUMPHRIES: THANK YOU, YOUR HONOR, YOU'VE RECEIVED MY WRITTEN MOTION, THAT ALSO HAS BEEN SERVED ON COUNSEL FOR DEFENDANT STANKO. WE'RE, THE STATE IS IN AN AWKWARD POSITION IN THAT IF WE WERE THE FEDERAL GOVERNMENT WE WOULD BE FILING A MOTION TO, TO HAVE MR. DIGGS REMOVED FROM THE CASE BASED ON A CONFLICT OF INTEREST. THEY DO THAT AS A MATTER OF COURSE AT THE U.S. ATTORNEY'S OFFICE. WE DON'T DO THAT BUT WE FELT BASED ON WHAT WE, AT LEAST WHAT WE OBSERVE TO BE APPARENT DIRECT CONFLICTS OF INTEREST BASED ON THE FILING OF THE POST CONVICTION RELIEF THAT BY OPERATION OF LAW WAIVES THE ATTORNEY/CLIENT PRIVILEGE TO A

CERTAIN EXTENT, WE BELIEVE THAT WE NEEDED TO BRING THIS BEFORE THE COURT.

OBVIOUSLY THESE CASES ARE, THEY'RE COMPLEX, THEY ARE COSTLY, THEY ARE TIME CONSUMING AND NO ONE WANTS TO DO THEM TWICE, ALTHOUGH OFTENTIMES WE DO, BUT THIS IS FORESEEABLE, I WOULD SUBMIT, AND, AND, THEREFORE, IT NEEDS TO BE ADDRESSED BY THE COURT AND SO, YOU KNOW, I COULD GO BACK THROUGH THE WRITTEN MOTION, I KNOW YOUR HONOR HAS REVIEWED IT BUT, BUT BASED, THE GIST OF IT IS THIS.

THERE HAS BEEN A POST CONVICTION RELIEF PETITION FILED BY DEFENDANT STANKO AND AS A PART OF THAT PETITION HE HAS ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL, THAT BEING MR. DIGGS, AND BY THAT VERY FILING HE HAS WAIVED, ALREADY WAIVED ATTORNEY/CLIENT PRIVILEGE IN CONNECTION WITH THAT CASE. AND WE'VE BEEN ADVISED ON THE RECORD AND OTHERWISE BY MR. DIGGS, THE COURT HAS BEEN ADVISED AS WELL, THAT IT IS, IT IS MR. DIGGS AND DEFENDANT STANKO'S INTENTION TO, TO PRESENT BASICALLY THE SAME DEFENSE OR TYPE OF DEFENSE AND SAME WITNESSES AS WERE INVOLVED IN THE FIRST CASE AND THIS, THIS ATTORNEY/CLIENT PRIVILEGE IS WAIVED AS RELATES NOT ONLY TO MR. DIGGS BUT HIS COMMUNICATIONS WITH THOSE EXPERTS, THE SAME EXPERTS HE WOULD INTEND TO CALL, AT LEAST HE HAS STATED HE INTENDS TO CALL IN THIS CASE. SO WE BRING THAT TO THE COURT'S ATTENTION AND ASK THE COURT TO, TO REVIEW THAT SITUATION IN LIGHT OF THE UPCOMING TRIAL WHICH

I BELIEVE IS SCHEDULED IN THE FALL.

THE COURT: ALL RIGHT, WELL LET ME ASK, BEFORE YOU SIT DOWN, SOLICITOR --

MR. HUMPHRIES: YES, SIR.

THE COURT: LET ME ASK YOU A QUESTION, I'M A LITTLE CONFUSED. YOU'VE GOT HERE IN YOUR MOTION THAT THEY ARE FILING IN THE POST CONVICTION RELIEF APPLICATION MR. STANKO HAS WAIVED THE ATTORNEY/CLIENT PRIVILEGE. NOW AS I READ RULE 1.7 IT INDICATES THAT IT'S WAIVED TO THE EXTENT NECESSARY FOR THE COUNSEL TO RESPOND TO THE ALLEGATIONS MADE IN THE POST CONVICTION RELIEF APPLICATION.

MR. HUMPHRIES: YES, SIR, IT IS LIMITED NO QUESTION ABOUT THAT.

THE COURT: OKAY, ARE YOU INDICATING BY THE FILING OF THE MOTION, AND THIS IS THE PART THAT I FOUND A LITTLE CONFUSING, ARE YOU INDICATING THAT DEPENDING UPON WHAT EXPERT WITNESSES ARE PRESENTED IN THIS CASE AGAINST MR. STANKO HERE IN HORRY COUNTY THAT THE STATE MAY TRY TO CALL MR. DIGGS AS A WITNESS REGARDING CERTAIN COMMUNICATIONS?

MR. HUMPHRIES: NO, SIR, NO, SIR, AND LET ME, LET ME BE CLEAR ABOUT THAT. THIS REALLY HAD VERY LITTLE IF NOTHING TO DO WITH THE STATE'S CASE AGAINST MR. STANKO. WE DON'T, I DON'T INTEND, WE DON'T, THE STATE DOES NOT INTEND TO CALL MR. DIGGS AS A WITNESS. WE DON'T INTEND TO CONTACT

THE ATTORNEY GENERAL WHO WILL BE REPRESENTING THE STATE IN THE POST CONVICTION RELIEF WHO IS GOING TO HAVE COMMUNICATIONS WITH MR. DIGGS AS A NECESSITY BECAUSE OF THE POST CONVICTION RELIEF. WE DON'T INTEND TO TRY AND TAKE ADVANTAGE OF ANY INFORMATION THAT MAY HAVE RESULTED BY THAT WAIVER OF THE ATTORNEY/CLIENT PRIVILEGE. THE ISSUE IS NOT WITH US. THE ISSUE WE SUBMIT IS WITH MR. DIGGS AND MR. STANKO FOR FUTURE ACTIONS THAT CAN BE FILED BY MR. STANKO AND WE BELIEVE IT WOULD COMPOUND ---

THE COURT: AND THEN, THEN WHETHER OR NOT MR. DIGGS CONTINUED REPRESENTATION OF MR. STANKO THEN VIOLATES THE RULES THEN?

MR. HUMPHRIES: YES, SIR.

THE COURT: ALL RIGHT, ALL RIGHT, OKAY, I JUST WANTED TO MAKE, I JUST WANTED TO BE CLEAR TO SEE IF THERE WASN'T SOME FURTHER RAMIFICATION OF THIS THAT NEEDED TO BE EXPLORED AT THIS POINT IN TIME. ALL RIGHT.

MR. HUMPHRIES: AND I APPRECIATE IT CAUSE WE ABSOLUTELY DO NOT INTEND TO TRY AND TAKE ADVANTAGE OF ANY WAIVER OF ATTORNEY/CLIENT PRIVILEGE.

THE COURT: ALL RIGHT, GOOD DEAL, ALL RIGHT. WELL I JUST WANTED TO BE CLEAR ABOUT THAT.

ALL RIGHT, WHO'S GOING TO RESPOND TO THE STATE'S ARGUMENT?

MR. DIGGS: YOUR HONOR, LET ME JUST START OFF BY

SAYING I DON'T REALLY TAKE A POSITION IN THE CASE ON THE ISSUE. MR. STANKO HAS INDICATED HE WOULD LIKE FOR ME TO REMAIN ON HIS CASE AS PART OF HIS DEFENSE. I'M HAPPY TO DO THAT. I CERTAINLY DON'T TAKE ANY EXCEPTION TO ANY, ANY DEFENSE ATTORNEY WHO'S IN BUSINESS FOR ANY LENGTH OF TIME WILL GO THROUGH THE POST CONVICTION RELIEF PROCESS AS A WITNESS FROM TIME TO TIME. THAT DOESN'T CAUSE ME A PROBLEM SO I'M REALLY NOT GOING TO TAKE A POSITION. I CAN TELL THE COURT, YOU KNOW, I'M COURT APPOINTED ON THIS CASE. IF I REMAIN AS COUNSEL I WILL DO THE BEST THAT I CAN DO IN THE CASE THAT HAS NO AFFECT ON MY ABILITY OR WILLINGNESS TO REPRESENT THIS CASE.

THE COURT: ALL RIGHT, SO THAT, THAT WAS ONE OF THE QUESTIONS I WANTED TO COVER WITH YOU, MR. DIGGS, THAT THE FILING OF THAT POST CONVICTION RELIEF APPLICATION YOU DO NOT THINK HAS IMPACTED YOUR RELATIONSHIP WITH MR. STANKO OR YOUR ABILITY TO COMMUNICATE WITH HIM, YOUR ABILITY TO EFFECTIVELY REPRESENT HIM IN THIS CURRENT ACTION IN ANY WAY, IS THAT WHAT YOU'RE TELLING ME?

MR. DIGGS: IT HAS NOT, HAS NOT.

THE COURT: ALL RIGHT, AND THE FACT THAT CERTAIN MATTERS HAVE BEEN RAISED IN THE POST CONVICTION RELIEF APPLICATION THAT, THAT IN YOUR MIND AND IN YOUR WORKING ON THIS CASE THAT IS PROCEEDING AGAINST MR. STANKO IN HORRY COUNTY HAS NOT INTERFERED WITH YOUR REPRESENTATION OF HIM

IN ANY WAY; IS THAT RIGHT?

MR. DIGGS: THAT'S CORRECT, IT HAS NOT.

THE COURT: ALL RIGHT, VERY GOOD, YES, MA'AM?

MS. WILLIAMS: YOUR HONOR, FIRST LET ME SAY THAT, I WOULD RESPECTFULLY SAY THAT THIS IS THE GROUND THE COURT COVERED IN THE LAST MEETING MOTION HEARING THAT WE HAD WITH REWARD TO THIS, YOUR HONOR.

THE COURT: WELL IT ACTUALLY IS THE THIRD TIME BECAUSE JUDGE BAXLEY CONDUCTED AN EXTENSIVE HEARING THAT'S, YOU KNOW, OF RECORD WHERE JUDGE BAXLEY EXTENSIVELY QUESTIONED MR. STANKO ABOUT MR. DIGGS REPRESENTATION BECAUSE JUDGE BAXLEY WAS AWARE OF THE POST CONVICTION RELIEF FILING AN APPLICATION AND JUDGE BAXLEY AT THAT POINT IN TIME FOUND THAT IT WAS PROPER FOR MR. DIGGS TO CONTINUE HIS REPRESENTATION OF MR. STANKO AND THEN I CONDUCTED A HEARING IN WHICH I QUESTIONED MR. STANKO ABOUT ALL OF THESE MATTERS AND THE COURT FOUND AT THE POINT IN TIME THAT BASED UPON WHAT MR. STANKO HAD TOLD ME AND HIS KNOWLEDGE OF HIS RIGHTS UNDER THE SIXTH AMENDMENT TO THE U. S. CONSTITUTION AND THE NUMEROUS U. S. SUPREME COURT CASES AND SOUTH CAROLINA CASES LIKE THE STATE V. SANDERS, THAT HE WAS AWARE OF THE ISSUES, THAT HE INDICATED THAT HE WANTED MR. DIGGS TO CONTINUE THE REPRESENTATION SO ALL THAT IS, IS BACKGROUND.

HAS ANYTHING IN YOUR MIND THAT YOU KNOW OF, AND

I'LL ASK MR. STANKO AGAIN IN A MINUTE, BUT IN YOUR REPRESENTATION OF MR. STANKO HAS ANYTHING CHANGED IN THIS REGARD FROM THE TWO PRIOR HEARINGS WE'VE HAD ON THIS?

MS. WILLIAMS: THERE IS NOTHING THAT I AM AWARE OF, YOUR HONOR, IN FACT I WAS DISCUSSING WITH MR. STANKO, HE HAS ACTUALLY MET WITH HIS PCR ATTORNEYS AND THE GIST OF WHAT I UNDERSTAND IS ANY OF THE PROBLEMS THAT WILL BE ASSERTED AGAINST MR. DIGGS WITH REGARD TO THE PRIOR TRIAL ARE ISSUES OF A FAILURE TO OBJECT TO CERTAIN EVIDENCE OR FAILURE TO CROSS EXAMINE FARTHER OR MORE OF A TRIAL TECHNIQUE, IF THE COURT WILL.

THE COURT: AS TO MATTERS THAT AROSE IN THE TRIAL ITSELF?

MS. WILLIAMS: IN THE TRIAL ITSELF AND LIKE I SAID AS HIS, IF YOU WANT, AS HIS TRIAL TECHNIQUE CAPABILITIES/THINGS THERE'S ABSOLUTELY NOTHING THAT I AM AWARE OF THAT WOULD, WOULD BE WAIVING PRIVILEGE, IF YOU WILL, WITH REGARD TO OUR NEW TRIAL OR THE NEW EVIDENCE AND THINGS THAT WE HAVE GOING ON. YOU KNOW IF MR. DIGGS OBJECTED ONE TIME AND AT THIS TRIAL IF HE CERTAINLY CHOSE NOT TO OBJECT AGAIN I AM QUITE SURE THAT, YOU KNOW, LEGAL MINDS DIFFER AS TO WHAT IS APPROPRIATE AND WHAT'S NOT, HENCE THAT'S WHY YOUR HONOR MAKES THE CALL AND SO THERE'S NOTHING THAT I AM AWARE OF THAT'S ANY DIFFERENT AT THIS TIME.

THE COURT: ALL RIGHT, MR. STANKO, COULD YOU STAND, PLEASE SIR?

DEFENDANT STANKO: YES, SIR.

THE COURT: ALL RIGHT, AND JUST AS TO THE PURPOSES OF THIS HEARING THAT WE'RE HERE TODAY I'M GOING TO PLACE YOU UNDER OATH.

STEPHEN C. STANKO

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: NOW AS THE COURT INDICATED THIS ISSUE HAS BEEN COVERED WITH YOU BY JUDGE BAXLEY PREVIOUSLY, MYSELF PREVIOUSLY, AND I THINK THE ONLY DIFFERENCE BETWEEN THE TIME THAT I'M SPEAKING TO YOU NOW ABOUT THIS ISSUE AND THE TIME I SPOKE TO YOU PREVIOUSLY AND WE HAD THE HEARING ON THAT WAS I DON'T BELIEVE, AND YA'LL CORRECT ME IF I'M WRONG, BUT I'M NOT SURE THAT YOU HAD ANY KIND OF EXTENSIVE DISCUSSIONS WITH YOUR PCR ATTORNEYS AT THE TIME THE PREVIOUS MOTION WAS HEARD. AS I UNDERSTAND FROM THE OTHER COUNSEL YOU HAVE NOW HAD AN OPPORTUNITY TO TALK TO THE POST CONVICTION RELIEF APPLICATION ATTORNEYS; IS THAT CORRECT?

DEFENDANT STANKO: THAT'S CORRECT.

THE COURT: ALL RIGHT, SIR, NOW, NOT ASKING YOU TO DISCLOSE WHAT IT IS THAT YA'LL TALKED ABOUT, BUT BASED UPON THOSE CONVERSATIONS IS THERE ANYTHING DIFFERENT NOW BECAUSE NOW YOU'VE HAD AN OPPORTUNITY TO EXPLORE THE ISSUES WITH THE ATTORNEYS, GET THEIR ADVISE, GET THEIR INPUT AS TO

VOLUME SEVEN OF EIGHT

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN CHRISTOPHER STANKO,

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**** DEFENDANT'S EXIBITS 2-19 (NORMAL BRAIN/STANKO BRAIN) HAVE BEEN TRANSPORTED TO THIS COURT****

YOUR POST CONVICTION RELIEF APPLICATION, IS THERE ANYTHING DIFFERENT BETWEEN NOW AND THE PREVIOUS TIME THAT I ADDRESSED THIS MATTER WITH YOU?

DEFENDANT STANKO: NO, SIR, THERE'S NOT.

THE COURT: ALL RIGHT, SIR, DO YOU CONTINUE TO WANT TO HAVE MR. DIGGS REPRESENT YOU IN THIS CURRENT ACTION?

DEFENDANT STANKO: YES, SIR, I DO.

THE COURT: ALL RIGHT, SIR, AND DO YOU FEEL THAT THIS IS A FREE AND OPEN COMMUNICATION BETWEEN YOU AND MR. DIGGS DESPITE THE FACT THAT THE POST CONVICTION RELIEF APPLICATION HAS BEEN FILED?

DEFENDANT STANKO: YES, SIR, THERE IS.

THE COURT: AND YOU ARE ABLE TO FULLY DISCUSS ALL ISSUES THAT YOU DEEM NECESSARY WITH HIM?

DEFENDANT STANKO: YES, SIR.

THE COURT: ALL RIGHT, SIR, AND HAVE YOU FOUND IN ANY WAY THAT HE IS UNRESPONSIVE TO YOU OR IN ANY WAY, FOR WANT OF A BETTER WORD, HARBORING ANY ILL FEELINGS TO YOU BECAUSE OF THE FILING OF THE POST CONVICTION RELIEF APPLICATION?

DEFENDANT STANKO: NOT ONLY IS HE NOT NOW BUT I DO NOT BELIEVE THAT WHEN WE FILE THE SUPPLEMENTAL, WHICH IS GOING TO BE FILED, AND YOU HAD ASKED ME SPECIFICALLY TO HAVE MR. GODFREY CONTACT YOU AND GIVE YOU A COPY OF THAT

WHEN IT IS DONE AND IT WILL BE DONE SOON.

THE COURT: YES, SIR.

DEFENDANT STANKO: I DON'T THINK THERE WILL BE ANY PROBLEMS AT THAT TIME.

THE COURT: ALL RIGHT, SIR.

DEFENDANT STANKO: THE ISSUES THAT WE'RE GOING TO RAISE THAT HAVE HIM IN IT HAVE NOTHING TO DO WITH ANY ISSUES THAT WOULD CREATE A CONFLICT OR ANY ARGUMENT OR I FEEL CAUSE ANY COMMUNICATIVE PROBLEMS BETWEEN MR. DIGGS AND MYSELF. THEY'RE MORE AT TRIAL SITUATIONS THAT SHOULD HAVE BEEN OBJECTED TO, THINGS OF THAT NATURE, AND THERE IS, THERE ARE TWO ISSUES. BUT, SIR, I DO NOT BELIEVE THAT MR. DIGGS AND I ARE GOING TO HAVE ANY PROBLEMS PRESENTING THE SECOND TRIAL.

THE COURT: ALL RIGHT, SIR, AND AGAIN YOU CONTINUE TO WANT TO HAVE MR. DIGGS TO REPRESENT YOU IN THIS PARTICULAR MATTER?

DEFENDANT STANKO: YES, SIR, I DO.

THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

DEFENDANT STANKO: AND BEFORE I END THIS, THOUGH, I WOULD LIKE TO MAKE ONE THING CLEAR AND ---

THE COURT: YES, SIR.

DEFENDANT STANKO: --- I FEEL THAT MR. HUMPHRIES IS KIND OF, AND THIS IS JUST MY THOUGHTS, BUT HE'S ALSO HAD LIKE HE SAID HE HAS TO PREPARE FOR POSSIBLE APPEALABLE

ISSUES LATER ON IN THE FUTURE AND I WANT TO CLARIFY ONE THING, TOO, IN THE INSTANCE THAT I DO RAISE AN ISSUE AGAINST MR. DIGGS IF IT DOES END UP BEING A MERITABLE ISSUE THAT COULD LATER BE REVERSED, REVERSE THAT CASE, THAT DOES NOT MEAN THAT IN THIS TRIAL HE WILL NOT BE EFFECTIVE COUNSEL FOR ME. I WANT TO MAKE THAT CLEAR BECAUSE I DON'T WANT WAIVE HIS ATTEMPTS AT CLARING, DECLARING THAT I'M WAIVING THINGS. I'M NOT DECLARING THAT THERE WEREN'T MISTAKES MADE IN THAT CASE BUT THAT DOES NOT MEAN THAT I DON'T TRUST MR. DIGGS 100 PERCENT IN THIS UPCOMING CASE.

THE COURT: ALL RIGHT, SIR, AND YOU ARE EXPRESSING TO ME THAT YOU DO ---

DEFENDANT STANKO: I JUST WANT TO MAKE THAT RECORD CLEAR ALSO.

THE COURT: RIGHT, THAT YOU DO, THAT YOU DO TRUST AS FAR AS HIS ABILITY TO PROPERLY REPRESENT YOU IN THIS ACTION?

DEFENDANT STANKO: ONE HUNDRED PERCENT.

THE COURT: VERY GOOD, THANK YOU VERY MUCH, SIR, YOU CAN HAVE A SEAT.

DEFENDANT STANKO: YES, SIR.

THE COURT: YES, SIR?

MR. HUMPHRIES: VERY BRIEFLY, IN MY MIND WE'VE ACCOMPLISHED WHAT, AT LEAST WHAT THE STATE FELT LIKE NEEDED TO BE DONE TODAY. IN FAIRNESS WE HAVE HAD AT LEAST TWO

HEARINGS IN CONNECTION WITH THIS ISSUE BUT IN NEITHER OF THOSE TWO PARTICULAR HEARINGS DID WE ADDRESS THE WAIVER OF ATTORNEY/CLIENT PRIVILEGE SPECIFICALLY. THAT'S WHY WE RAISED IT TODAY AND HAVING DONE THAT WE'VE ACCOMPLISHED WHAT WE INTENDED.

THE COURT: ALL RIGHT, SIR, AND I APPRECIATE THAT AND I BELIEVE WE ARE ALL CLEAR ON WHAT THE FACT AND THE FACT HAS NO AFFECT ON, ON THIS PARTICULAR TRIAL.

DEFENDANT STANKO: YOUR HONOR?

THE COURT: I'M SORRY, TALK TO YOUR ATTORNEYS AND SEE IF THERE IS ANYTHING THAT THEY WOULD LIKE TO PRESENT TO ME.

ALL RIGHT, AT THIS POINT IN TIME AGAIN AS THE COURT HAS PREVIOUSLY INDICATED AND I APPRECIATE THE NEW INFORMATION THAT HAS BEEN BROUGHT TO, TO THE COURT'S ATTENTION AND RECOGNIZE THAT WHILE THE SIXTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES DOES NOT CONFER AN ABSOLUTE RIGHT TO A DEFENDANT TO BE REPRESENTED BY THEIR PREFERRED COUNSEL OF THEIR CHOICE, THE COURT IS MINDFUL OF THE MANDATES TO THAT AMENDMENT, THE U. S. SUPREME COURT DECISIONS AND THE S. C. SUPREME COURT DECISIONS THAT THIS COURT'S OBLIGATION IS TO SAFEGUARD THE INTEGRITY OF THE PROCEEDINGS AND TO ENSURE TRIALS ARE CONDUCTED ACCORDING TO ETHICAL STANDARDS BALANCING THAT WITH OBVIOUSLY THE SIXTH AMENDMENT RIGHTS GRANTED TO THE DEFENDANT.

IN THIS PARTICULAR MATTER I FIND THAT MR. STANKO HAS MORE THAN ONCE EXPRESSED FULL AND COMPLETE CONFIDENCE IN THE ABILITIES OF MR. DIGGS. THERE IS A FREE AND OPEN COMMUNICATION BETWEEN THE DEFENDANT AND MR. DIGGS. HE HAS RAISED NO ISSUES THAT WOULD IMPACT MR. DIGGS ABILITY TO PROPERTY REPRESENT MR. STANKO IN THE UPCOMING TRIAL AND, THEREFORE, I FIND THAT MR. DIGGS MAY CONTINUE TO REPRESENT MR. STANKO IN THE PROCEEDINGS THAT WILL BE FORTHCOMING IN NOVEMBER IN THIS ACTION OF 2005-GS-26-2927.

ANYTHING FURTHER FROM THE STATE AT THIS POINT IN TIME?

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

THE COURT: MR. DIGGS, ANYTHING FURTHER FROM THE DEFENSE ON THIS ISSUE OR ANY OTHER ISSUES THAT YOU NEED TO BRING TO MY ATTENTION?

MR. DIGGS: YOUR HONOR, I HAVE ONE OTHER ISSUE I'D LIKE TO BRING TO THE COURT'S ATTENTION IN CHAMBERS MAYBE OR UNDER THE STATUTE IN AN EX PARTE FASHION.

MR. HUMPHRIES: I OBVIOUSLY DON'T MIND IT ACTUALLY IN THE COURTROOM.

THE COURT: ALL RIGHT, SIR, VERY GOOD.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

ALL RIGHT, MR. DIGGS, WHAT IS IT THAT YOU'D LIKE

TO BRING TO THE COURT'S ATTENTION AT THIS TIME?

MR. DIGGS: YOUR HONOR, WE HAD GONE OVER SOME ISSUES LAST TIME WITH THE COURT AND I PROMISED YOU I WAS GOING TO GET YOU SOME PROPOSED ORDERS.

THE COURT: YES, SIR.

MR. DIGGS: I WAS GOING TO DO THAT AND THEN MY COMPUTER SYSTEM WENT DOWN, IT WAS OUT FOR AN ENTIRE WEEK, AND THEN ONE THING LED TO ANOTHER AND I DIDN'T GET THEM TO YOU BUT I DO HAVE SOME I'D LIKE TO HAND UP TODAY. THEY COVER BASICALLY THE SAME INDIVIDUALS THAT I WENT THROUGH LAST TIME WITH THE COURT ---

THE COURT: RIGHT.

MR. DIGGS: --- AND WHAT WE WOULD PROPOSE THEY DO IN THE CASE. I WANT TO MAKE SURE I'VE GOT THE CORRECT ONE HERE.

THE COURT: I HAVE EXECUTED THE ORDER FOR EXPERT SERVICES WHICH COVERS THOMAS H. SACHY, JOSEPH C. WU, MARK P. EINHORN, J. W. THRASHER, JR., AND RUBEN GUR. I HAVE EXECUTED THAT ORDER. I FIND THAT THE INFORMATION CONTAINED ALONG WITH YOUR PREVIOUS FILINGS REGARDING THOSE INDIVIDUALS ALONG WITH THE INFORMATION PROVIDED AT THE PROPER HEARING TO BE ADEQUATE FOR THE COURT TO EXECUTE THAT ORDER FOR EXPERT SERVICES.

REGARDING THE ORDERS FOR BERNARD ALBINIAK, JAMES EVANS AIKEN, AND EVELYN CALIFF, I DID NOT FIND ANYTHING IN

THOSE PARTICULAR ORDERS. YOU HAD PREVIOUSLY REGARDING THE ONES THAT I SIGNED YOU HAD GIVEN ME BACKGROUND INFORMATION AS TO THOSE INDIVIDUALS AND THE COURT WAS AWARE OF THEIR EXPERTISE THAT YOU HAD SET FORTH REGARDING THOSE INDIVIDUALS IN THE PRIOR HEARINGS AND I WAS AWARE OF ALL THAT INFORMATION ALONG WITH THE MONETARY COSTS THAT HAD BEEN EXPENDED PREVIOUSLY AS WELL AS THEIR SERVICES BUT I DON'T FIND ANY OF THAT INFORMATION.

MR. DIGGS: YOUR HONOR, I CAN CERTAINLY SUPPLEMENT THAT AND UNLIKE THE LAST TIME I'LL MAKE SURE I GET THAT TO YOU PROBABLY BY ---

THE COURT: EXPEDITIOUSLY?

MR. DIGGS: YES, SIR.

THE COURT: ALL RIGHT, VERY GOOD. SO IF YOU CAN JUST GET ME AND IT CAN BE FIND IF IT COULD JUST BE IN A, IN A ---

MR. DIGGS: I UNDERSTAND.

THE COURT: --- SUPPLEMENTAL AFFIDAVIT OR SOMETHING REGARDING THESE THAT CAN BE ATTACHED TO THESE ORDERS THAT WILL BE GOOD, BUT LET ME GIVE YOU THE OTHER ORDER THAT I DID EXECUTE REGARDING THE, THOSE EXPERT SERVICES, ALL RIGHT.

MR. DIGGS: YES, SIR, THANK YOU VERY MUCH.

HE COURT: ALL RIGHT, THANK YOU. ALL RIGHT, MR. DIGGS, ANYTHING ELSE ON BEHALF OF MR. STANKO AT THIS POINT

IN TIME THAT YOU'RE AWARE OF?

MR. DIGGS: YOUR HONOR, WE MAY HAVE A COUPLE OF ADDITIONAL EXPERTS THAT WERE ASSOCIATED WITH THE CASE LAST TIME THAT WE WOULD ASK THE COURT TO APPROVE AT THIS TIME. I HAVEN'T PUT ANYTHING BEFORE THE COURT YET WITH RESPECT TO THOSE INDIVIDUALS.

THE COURT: ALL RIGHT.

MR. DIGGS: WOULD IT BE ACCEPTABLE TO SUPPLEMENT, WHEN I SUPPLEMENT WHAT WE'VE HANDED THIS MORNING TO GO AHEAD AND ADD A COUPLE OF ADDITIONAL NAMES?

THE COURT: YOU CAN AS LONG AS THE, YOU KNOW, THE AFFIDAVITS INFORMATION SETS FORTH THE NECESSARY BACKGROUND QUALIFICATIONS, EXPERTISE, THE MONETARY REQUESTS I'LL BE GLAD FOR YOU TO SEND IT TO ME IN WRITING. I DON'T HAVE ANY PROBLEM WITH THAT AT ALL.

MR. DIGGS: THANK YOU VERY MUCH, YOUR HONOR.

THE COURT: ALL RIGHT, MS. WILLIAMS, ANYTHING THAT YOU'RE AWARE OF AT THIS POINT IN TIME?

MS. WILLIAMS: NOTHING ELSE AT THIS POINT, YOUR HONOR.

THE COURT: ALL RIGHT, VERY GOOD,

MR. DIGGS: WELL, YOUR HONOR?

THE COURT: YES, SIR.

MR. DIGGS: THESE ARE SEALED, CORRECT, THEY'RE NOT AVAILABLE FOR PUBLIC ---

THE COURT: THEY ARE NOT. WHAT I, WHAT YOU CAN DO AT THAT POINT RIGHT NOW AT THIS POINT IN TIME IS IF YOU WOULD LIKE YOU CAN USE THE ORDER TO EMPLOY THE INDIVIDUALS AT THE TIME OF FILING WHEN YOU SEND THESE SUPPLEMENTS TO ME IF YOU WANT TO SEND AN ORDER FOR THESE TO BE SEALED DURING THE PENDENCY OF THE ACTION. OBVIOUSLY AFTER THE ACTION THEY WOULD BE UNSEALED BUT DURING THE PENDENCY OF THE ACTION THEY WOULD, THEY WOULD BE SEALED.

MR. DIGGS: THANK YOU, YOUR HONOR.

THE COURT: JUST SEND ME A SUPPLEMENTAL ORDER TO THAT AFFECT, ALL RIGHT.

MR. DIGGS: YES, SIR.

THE COURT: ANYTHING ELSE?

MR. DIGGS: THAT'S IT.

THE COURT: ALL RIGHT, THANK YOU VERY MUCH, COUNSEL.

MR. DIGGS: THANK YOU VERY MUCH.

END OF REQUESTED TRANSCRIPT....

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R. BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR HORRY COUNTY, SOUTH CAROLINA.

I DO FURTHER CERTIFY THAT I AM NEITHER KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

April 16, 2010

Brenda R. Babb

BRENDA R. BABB, CVR

OFFICIAL REPORTER

STATE OF SOUTH CAROLINA) THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY) 05-GS-26-2927

State of South Carolina,
Plaintiff,
-VS-
Stephen Christopher Stanko,
Defendant.

TRANSCRIPT OF RECORD

August 24, 2009
Conway, South Carolina

B E F O R E:

HONORABLE STEVEN H. JOHN, Circuit Judge.

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