

ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM EDGEFIELD COUNTY

R. Knox McMahon, Circuit Court Judge.

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JULIO ANGELO HUNSBERGER,

APPELLANT

APPELLATE CASE NO. 2012-207290

RECORD ON APPEAL

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State of South Carolina  
County of Edgefield

Court of General Sessions

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January 9 - 11, 2012  
Edgefield, South Carolina

B E F O R E:

The Honorable R. Knox McMahon, Judge; and a jury.

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21

22 (Some exhibits were marked and admitted in a  
23 previous trial and not used in this trial.)

24

25

1                   (The following proceedings were held on  
2                   January 9, 2012.)

3                   **THE COURT:** All right. Solicitor.

4                   **MR. MAYE:** May it please the Court, Your Honor.  
5                   The State now calls for trial indictment  
6                   2002-GS-19-110, the State of South Carolina versus  
7                   Julio Angelo Hunsberger, an indictment for murder.  
8                   It was true billed at the March term of 2002 here in  
9                   Edgefield County. The State now calls this case for  
10                  trial.

11                  **THE COURT:** All right. Thank you, Solicitor.

12                  Ladies and gentlemen of the jury panel, if you  
13                  will please give me your complete and undivided  
14                  attention. We're going to go through a procedure  
15                  whereby we select a jury for the trial of the case  
16                  that has been called for trial. As a result of  
17                  that, I will ask you certain questions to determine  
18                  your eligibility to serve as jurors on this  
19                  particular trial. Please consider yourselves still  
20                  under oath based on the oath being administered to  
21                  you by the Clerk earlier this morning.

22                  As part of this procedure, I will read to you  
23                  the indictment. The indictment that I hold is not  
24                  evidence. It is the formal charging document by  
25                  which an individual is placed on notice of the

1           tonight. Any questions?

2                   (There was no response.)

3           **THE COURT:** Thank you very much. It has been  
4 my pleasure and privilege to be with you this  
5 morning. You're now excused. Please call back  
6 after six o'clock.

7                   (The remaining jury panel was excused.)

8           **THE COURT:** Does the State have any pretrial  
9 matters, Solicitor?

10          **MR. MAYE:** Your Honor, I'm unaware of any  
11 pretrial matters. There may be a Denno issue as to  
12 one witness, but other than that -- that would  
13 encompass one witness, but I don't know of anything  
14 else.

15          **THE COURT:** All right. Mr. Williams, do you  
16 have any pretrial matters?

17          **MR. WILLIAMS:** Yes, sir, Your Honor.

18          **THE COURT:** All right.

19          **MR. WILLIAMS:** I have a, first off, a move to  
20 sequester the witnesses in this matter and that's a  
21 request, Your Honor, particularly of the  
22 incarcerated witnesses that they will be segregated  
23 one from the other until called to testify.

24                These folks have had an opportunity to testify  
25 in these trials on multiple occasions. And I think



1       it gives them an opportunity to consort with one  
2       another and to consult with one another and to  
3       basically get their stories together. All of these  
4       folks are basically --

5               **THE COURT:** That's fine, Mr. Williams. I'm  
6       going to grant your motion.

7               **MR. WILLIAMS:** Okay. Thank you.

8               **THE COURT:** All right. Sequester the witnesses  
9       one from the other as far as the incarcerated  
10       inmates.

11              Do you have other motions -- now, what about  
12       other witnesses? You want other witnesses --

13              **MR. WILLIAMS:** Other witnesses, Your Honor, I  
14       would just ask that they will be away from the  
15       courtroom until called to testify, of course, with  
16       the exception of Investigator Doran.

17              **THE COURT:** What other witness do you have? Of  
18       course, Ms. Sturupp can remain under the Victims'  
19       Bill of Rights. What other witnesses do you have,  
20       Solicitor?

21              **MR. MAYE:** Your Honor, I'll, certainly, I'll  
22       submit to sequestration. And chief investigator,  
23       Randy Doran, will remain. Of course, the victim's  
24       mother we would ask that she be allowed to remain.  
25       All the rest of them we'll exclude from the

1 courtroom.

2 I'd ask for that to extend to any defense  
3 witnesses, that they not be present for any  
4 testimony in this trial if they intend to call them  
5 as defense witnesses.

6 **MR. WILLIAMS:** That's fair.

7 **THE COURT:** All right. Then that's granted.

8 And I'm leaving it up to y'all to police it. I  
9 don't know who all the witnesses are, okay?

10 Any others?

11 **MR. WILLIAMS:** Yes, Your Honor. I have a  
12 motion to dismiss on the basis of my client's  
13 failure to be brought to trial in a very timely  
14 fashion. He was basically arrested in January of  
15 2002, allowed to be extradited to the State of  
16 Georgia I believe in 2005 --

17 What month? August was it?

18 **DEFENDANT:** February 16th.

19 **MR. WILLIAMS:** February of 2005. He sat in a  
20 pretrial status, a detained status for a significant  
21 period of time. He was allowed to be -- or  
22 relinquished to the State of Georgia and -- at that  
23 time, he was relinquished to the State of Georgia.  
24 South Carolina chose not to bring him to trial  
25 within three years.

1           We would submit, Your Honor, that on the basis  
2           of the passage of time, that we'll be able to  
3           demonstrate that his opportunity for a fair day in  
4           court has been prejudiced.

5           **THE COURT:** Do you intend to call witnesses in  
6           that regard?

7           **MR. WILLIAMS:** My client, Your Honor.

8           **THE COURT:** All right. How long will that  
9           take?

10          **MR. WILLIAMS:** I imagine it will take no more  
11          than about 30 -- no more than 30 minutes.

12          **THE COURT:** All right. I'll take that up this  
13          afternoon.

14          **MR. WILLIAMS:** Yes, sir. I do have about two  
15          other issues that I would want to raise outside of  
16          the presence of the jury as the Court would require  
17          of me. And the other two is basically a motion  
18          regarding what we believe is vindictive or selective  
19          prosecution.

20          We believe that my client falls under the State  
21          versus 192 Coin-Operated Video Machines, the  
22          analysis that was applied in that case where we can  
23          demonstrate that the prosecution was selective in  
24          that there are other individuals who are similarly  
25          situated. However, my client has been singled out.

1           And we believe that we'll be able to  
2       demonstrate that there's a second prong of that  
3       test, which -- his decision to remain silent or his  
4       -- exercise of his right to remain silent, which is  
5       a substantial right. He's being punished for his  
6       choice to have exercised that right and not assist  
7       the State in the prosecution of one Steven Barnes.

8           Finally, Your Honor, we do have an  
9       identification issue as it relates to two of the  
10      State's witnesses. Those particular witness --  
11      well, three of the State's witnesses, Cave, Griffin  
12      and Thatcher. We believe that, at the time,  
13      certainly there has been a great passage of time and  
14      there have been a number of trials in which these  
15      witnesses have talked about certain facts against  
16      Steven Lewis Barnes in the State of Georgia, against  
17      my client in the State of Georgia and against Steven  
18      Lewis Barnes here in the State of South Carolina.

19           However, we have to go back to the original  
20      time in which they say they were confronted by the  
21      presence of my client. And if we are able to go  
22      back to that time, I believe I'll be able to  
23      demonstrate to the Court that these folks will be  
24      unable or that they'll be questionable for them to  
25      be able to identify my client here in an in-trial

1       confrontation. And if we're able to demonstrate  
2       that, Your Honor, we would ask that they not be  
3       permitted to point him out because he's going to be  
4       the man sitting next to me at the defense table.

5               Certainly, they'll be able to point him out  
6       today, but if I'm able to delve into the facts as  
7       they were some ten years ago prior to the arrest of  
8       my client and other testimony that they have given  
9       in the past regarding how long they had known my  
10      client, how long they had known one Steven Lewis  
11      Barnes, supposedly who my client was associated  
12      with, their ability to know the distinctive  
13      characteristics of my client, Your Honor, there was  
14      some individual who has been alleged to be known as  
15      a Chico. And unfortunately, or fortunately, my  
16      client has a name of Julio, which is a Hispanic name  
17      and it's a common name and often times it's a slang  
18      name for Hispanic people or particularly people who  
19      are of Latin/Hispanic ancestry as he is. He's  
20      Puerto Rican. And the term "Julio" is often just  
21      loosely applied to any Puerto Rican person.

22              And we would ask the Court to allow me to delve  
23      into the identification issues prior to being  
24      confronted with the jury and them selecting my  
25      client as the man or, yes, I know him, he's the man

1        seated to the attorney's right in the black suit. I  
2        know what they'll say because, you know, it's  
3        obvious that that's what they'll say. And those are  
4        the four issues that I would be raising.

5                **THE COURT:** All right. Solicitor, can you tell  
6        me the order in which Cave, Griffin or Thatcher will  
7        testify, if they will be offered today?

8                **MR. MAYE:** Cave first, in all likelihood,  
9        Griffin second, and Thatcher third, in all  
10       likelihood.

11               **THE COURT:** Mr. Williams, how long -- when I  
12       ask these questions and I say how long are these  
13       motions going to last, I don't object if the motions  
14       last all week. I want you to understand that. I'm  
15       not holding you to any timeframe. I'm just trying  
16       to administratively decide in my mind when to have  
17       the jury report back either this afternoon or  
18       tomorrow, that's all I'm trying to do right now in  
19       asking the questions.

20               **MR. WILLIAMS:** Yes, sir. Judge, I imagine --  
21       I'm going to try to keep it as concise as possible,  
22       but I imagine it could get a little lengthy because  
23       of the prior testimony as given by these  
24       individuals.

25               And I may add, Judge, that I have requested the

1 transcriptions of the testimonies of Ms. Thatcher  
2 and Mr. Cave from last week to be electronically  
3 transmitted to me. And the court reporter indicated  
4 that she would be able to get maybe one of them to  
5 me this afternoon, but the other one it would  
6 probably be in the morning.

7 Now, I know that I'm asking a lot of the Court  
8 if I would ask you to allow for that to occur, but,  
9 you know, I'm not going to --

10 **THE COURT:** If you ask what?

11 **MR. WILLIAMS:** Just for time to allow for that  
12 to occur.

13 Now, if the Court is not inclined to wait that  
14 long, I certainly defer to the Court's wisdom, but I  
15 would like an opportunity to get those  
16 transcriptions, if I can. If not, we have a great  
17 deal that we think we can work with even if we don't  
18 get the transcriptions from last week. But we would  
19 love them, I'll just add that. We would love to  
20 have them.

21 **THE COURT:** Solicitor, do you have any position  
22 as far as the time is concerned?

23 **MR. MAYE:** Your Honor, you know, if he's going  
24 to get Thatcher's this afternoon, I'd say he'd be  
25 very safe. I'd say it'll be tomorrow before she's

1 going to testify and so I don't think that will hold  
2 anything up. So all the rest of them we're  
3 certainly prepared to go forward on at any time.

4 **THE COURT:** Well, are they going to take -- are  
5 the motions going to take all afternoon?

6 **MR. WILLIAMS:** They could probably take at  
7 least until later in the afternoon, yes, sir.

8 **THE COURT:** Then do y'all want the jury to  
9 report back at 9:30 in the morning?

10 **MR. MAYE:** Your Honor, we're ready to go at any  
11 time. We're ready to strike and go now. I mean,  
12 this is -- all of these motions are on the part of  
13 the defense. I have absolutely no way of knowing  
14 where these would go or how long they would take.  
15 We're ready to go right now. So I'll leave that to  
16 the Court's discretion.

17 **THE COURT:** All right. Thank you.

18 All right. Bring us our jury panel, please.

19 (The jury returns to the courtroom.)

20 **THE COURT:** Where do you normally have our  
21 alternate sit, Madame Clerk?

22 **THE CLERK:** On the end.

23 **THE COURT:** All right. There's four ends.  
24 Which end?

25 **THE CLERK:** That one (indicating).



1           **THE COURT:** So, let's see, Ms. Hutto and  
2           Mr. Rabenold, if y'all would always -- now, you want  
3           them to take the two seats on the back left; is that  
4           correct?

5           **THE CLERK:** Yes, sir.

6           **THE COURT:** All right. If y'all would always  
7           maintain those two seats.

8           All right. Let's see if I can play some more  
9           musical chairs now let's see what else happens.  
10          Mr. -- what did you teach, Mr. Henderson?

11          **JUROR:** Agriculture.

12          **THE COURT:** Mr. Henderson, I'm going to appoint  
13          you the foreperson of this jury, that means you'd be  
14          the jury spokesperson here in the courtroom and  
15          responsible for signing and recording the verdict.  
16          I'll give you further instructions concerning that.

17          Madame Clerk, where do you normally have the  
18          foreperson sitting?

19          **THE CLERK:** They sit in that first chair.

20          **THE COURT:** I told you we were going to play  
21          some more musical chairs.

22          All right. The other members of the jury  
23          panel, y'all are welcome to sit wherever you would  
24          like to sit. You can keep the same seat if you can  
25          lineup properly. I found many times jurors are very

1 territorial. They like to sit in the same seat each  
2 and every time and have the same perspective each  
3 and every time. I do need our foreperson and our  
4 two alternates to maintain those seats and then I  
5 need to just keep up with numbers.

6 Momentarily, I'm going to release you for the  
7 afternoon. I have a number of pretrial motions that  
8 I must hear. Those have to be heard outside of your  
9 presence. I don't know how long they'll take, but  
10 they'll probably take most of the afternoon and I  
11 don't want to hold you captive back there in your  
12 jury room while I'm out here hearing these motions.

13 So I'm going to -- and the purpose of hearing  
14 motions outside -- well, there's several purposes,  
15 but one thing is in hopes that the trial will move  
16 more efficiently once those motions have been heard  
17 and resolved by the Court. So as I say, momentarily  
18 I'm going to release you from jury service for the  
19 remainder of the afternoon and I'll tell you a  
20 reporting time in a few moments.

21 I would advise you that during the trial of  
22 this case while you're on jury duty, you may not  
23 discuss the case with anyone else, that includes  
24 your fellow jurors, family, friends or anyone. You  
25 may not read, listen to or watch any news reports

1       about the case whether newspaper or radio,  
2       television or the like.

3             You may not use your computer, cellular phone  
4       or other electronic device with communication  
5       capabilities while in attendance at trial or during  
6       deliberations. You may use these devices during  
7       luncheon recesses and obviously during your evening  
8       recess; however, you may not use those devices to  
9       obtain or disclose information about the case when  
10      you're not in court.

11            Prohibited information about the case includes,  
12      but is not limited to, the following: Any  
13      information about a party, a witness, an attorney or  
14      a court officer, any current or past news accounts  
15      about the case, any information collected through  
16      your jury research on any topics raised or testimony  
17      offered by any witness or any information collected  
18      through your research on any other topics that you  
19      might think would be helpful in deciding the case.

20            You decide the case based on the evidence and  
21      the testimony presented from the witnesses  
22      testifying before you from this witness stand under  
23      oath, any diagrams, photographs or exhibits that may  
24      be introduced and the law as I tell you the law is,  
25      not from any outside source whether it be other

1 people, whether it be the Internet, whether it be  
2 the newspaper, radio, television or anything  
3 whatsoever. You may not do any independent  
4 investigation, investigation of any kind or any  
5 investigation on the Internet. I know y'all will  
6 follow my instructions in that regard.

7 I'm going to release you for the afternoon and  
8 the evening, ask you to please report back promptly  
9 at 9:30 in the morning, if you would please report  
10 back promptly at 9:30 in the morning. I assure you  
11 I can tell time, so -- although I didn't realize my  
12 computer hadn't updated -- hadn't upped time so to  
13 speak, but hopefully we'll start promptly at 9:30 in  
14 the morning.

15 Any questions?

16 (There was no response.)

17 **THE COURT:** Thank you very much. You now --  
18 yes, sir.

19 **JUROR:** Where do we report at?

20 **THE COURT:** The bailiff will tell you that.  
21 Will you take care of that?

22 If you'll go back to your jury room now, the  
23 bailiff will advise you of how to return into the  
24 courtroom in the morning.

25 Any other questions?

1 (There was no response.)

2 **THE COURT:** Thank you very much. I hope y'all  
3 have a pleasant afternoon and evening.

4 (The jury was excused for the day.)

5 **THE COURT:** All right. Anything further before  
6 we take our luncheon recess?

7 **MR. WILLIAMS:** Nothing from the defense, Your  
8 Honor.

9 **THE COURT:** Solicitor.

10 **MR. MAYE:** Nothing else before the recess, Your  
11 Honor. Thank you.

12 **THE COURT:** All right. We'll be in recess  
13 until 2:15. Court will be in recess until 2:15.  
14 Thank you very much.

15 (Whereupon, there was a luncheon recess.)

16 **THE COURT:** All right. We're back on the  
17 record 2002-GS-19-110. The parties are present on  
18 behalf of the State, the Assistant Solicitor. The  
19 defendant is present along with his attorney,  
20 Mr. Williams. For purposes of pretrial motions,  
21 Mr. Williams, I'll be glad to hear from you on your  
22 motion to dismiss.

23 **MR. WILLIAMS:** Yes, sir, Your Honor. As I  
24 rise, I rise on behalf of my client's rights under  
25 the Sixth Amendment of the United States

1 Constitution, as well as Article 1 Section 14 of the  
2 South Carolina Constitution in which a person is  
3 entitled to a speedy trial. I would submit to the  
4 Court that my client has been denied his right to a  
5 speedy trial and the only remedy that is appropriate  
6 is basically the dismissal of the charges against  
7 him.

8 Your Honor, I do have a hurdle that I have to  
9 overcome with my argument. And the one hurdle is  
10 simply that it has to be shown that the defendant  
11 asserted his right in order for that to be a factor,  
12 but the case that I'm referring to is a United  
13 States case, a U.S. case. And it's actually the  
14 case of -- and I apologize -- it's the case of  
15 Barker and it's found at 407 U.S. 531. And,  
16 essentially, what it says is that even if a  
17 defendant fails to assert his right for a speedy  
18 trial, it's not conclusive, but it does make it more  
19 difficult for us to show that such a violation has  
20 occurred.

21 Now, essentially, what the position that my  
22 client takes is, is that although he did not assert  
23 his right to a speedy trial, the continual denial of  
24 his due process, in that the State failed to bring  
25 his case to trial within a reasonable time, is

1 tantamount to a violation of his constitutional  
2 rights. We simply believe that the State was  
3 dilatory in its duty and just failed to bring this  
4 case to trial.

5 Judge, I would assert that ten years is a  
6 significant enough passage of time that the Court  
7 could, on its own motion, find that that is a  
8 violation of his right to a speedy trial.

9 And I would further substantiate my argument by  
10 just alleging that the State had every opportunity  
11 to try him within the first three years of him being  
12 in pretrial detention here in South Carolina.  
13 Unfortunately, he was represented by the now  
14 deceased O. Lee Sturkey during that timeframe.

15 I was subsequently appointed to his case, I  
16 believe, it was July of 2010 and that appointment  
17 was prior to the trial of the State of South  
18 Carolina versus Steven Barnes. Mr. Sturkey had -- I  
19 think he had been deceased for some period of time  
20 even prior to my appointment. So, at that point,  
21 Your Honor, I wasn't really sure if the State truly  
22 intended to try him.

23 As you may be aware, my client is doing a life  
24 sentence in the State of Georgia presently and  
25 essentially --

1           **THE COURT:** I thought Mr. Sturkey passed away  
2           December of 2010.

3           **MR. WILLIAMS:** Is that when it was?

4           **THE COURT:** I thought it was around the  
5           timeframe Ms. Butler was sworn in as a probate  
6           judge.

7           **MR. WILLIAMS:** Well, I can assert to the Court  
8           that even prior thereto, he had some issue in that  
9           he was suspended from the practice of law even prior  
10          to his death. So I know that there was some period  
11          of time in which my client was in a flux and I think  
12          he had no attorney at all. And quite honestly, you  
13          know, this will piggyback an argument that I'll make  
14          at a later time or a subsequent motion that will  
15          follow this motion with regard to what we believe  
16          has been a selective prosecution of my client.

17          Judge, it's a two-prong test, I believe it is  
18          --or actually it's a four-prong test. It's  
19          basically the Court considers these four things:  
20          The length of delay, the reason for the delay, the  
21          defendant's assertion of the right and prejudice to  
22          the defendant. And, again, that's Barker versus  
23          Wingo, 407 U.S. 514.

24          It goes on to say, as I indicated earlier on in  
25          my argument, that the defendant's failure to assert



1       the right, says, Although not conclusive, makes it  
2       more difficult to show that the right was violated.

3               Now, the position I simply take is his failure  
4       to assert his right, I think, is coupled with the  
5       fact that he was basically in a flux, did not have  
6       an attorney. I was not representing him until  
7       leading into the Barnes trial. I was -- didn't even  
8       know what his circumstances were until I was  
9       appointed some, I guess, eight years after his  
10      arrest, eight and a half years to him after his  
11      arrest.

12             And quite honestly, Judge, as I indicated to  
13      you, when I was appointed to him, it was under the  
14      guise of, well, what's going to happen with him? Is  
15      he going to cooperate in the prosecution of Steven  
16      Barnes? How do we address that issue?

17             And, essentially, I did not consider the filing  
18      of a speedy trial motion immediately because, again,  
19      with him doing a life sentence and based on some  
20      assertions made to me by the Solicitor, I wasn't  
21      certain that he would be tried in this case, did not  
22      believe he would be, did not believe it was  
23      appropriate to file a speedy trial motion.  
24      Sometimes that can be a dangerous proposition. You  
25      may get just what you ask for. And, essentially, we

1 didn't file it.

2 But, again, I don't believe his -- our failure  
3 to file it or my client's failure to assert it is  
4 necessarily conclusive to the fact that he's going  
5 to be prejudiced by the substantial delay in time.

6 We believe prejudice will be demonstrated by  
7 the conflicting evidence that will come from the  
8 varying witnesses based on prior testimonies they've  
9 given over the last six, seven years and last week.  
10 Their stories have varied over time and we believe  
11 that that's an obvious demonstration of prejudice.

12 We further believe, Judge, that the State's own  
13 role in failing to bring him to trial is solely on  
14 the State and it's not on him. And the fact that he  
15 failed to assert it, I don't think should  
16 necessarily defeat our claim that his rights have  
17 been violated to a fair and speedy trial on the  
18 basis of this substantial delay.

19 **THE COURT:** Thank you.

20 (Pause.)

21 (Court's Exhibit Number 1, letter, marked  
22 for identification purposes.)

23 **THE COURT:** All right. Solicitor.

24 **MR. MAYE:** May it please the Court, Your Honor.  
25 I'm informed that Julio Hunsberger was served with

1 warrants in this case in January of 2002. He  
2 remained in custody here from 2002, I think, till  
3 '05 when officials in Georgia sought him being  
4 turned over to them. He was released to Georgia.

5 He was prosecuted between September the 5th and  
6 the 12th of 2006 and convicted of kidnapping with  
7 bodily injury along with his co-defendant, Alex  
8 Hunsberger. I think he was actually convicted  
9 September the 12th of 2006. At that time, he was  
10 serving a life -- he was sentenced to life in the  
11 Georgia system, Your Honor. I understand he may  
12 have a parole eligibility release date in the next  
13 six or seven years.

14 Judge Keesley basically did not address  
15 anything in involving Julio Hunsberger. To my  
16 knowledge, as of this date, Julio Hunsberger has  
17 never made any motion for a speedy trial and it's  
18 never been raised by this defendant, which I know is  
19 one of the factors that must be addressed in this  
20 case.

21 I know that it has been -- this crime occurred  
22 September the 3rd of 2001, Your Honor, as to the  
23 length of time, but as to the delay in this case,  
24 Your Honor, it was always our intent to dispose of  
25 the case against Steven Lewis Barnes prior to

1 dealing with any of the co-defendants in this case.

2 Solicitor Myers noticed Steven Lewis Barnes for  
3 the death penalty. As Your Honor was aware, we had  
4 an extremely difficult time getting the murder case  
5 against Steven Lewis Barnes scheduled. It was  
6 pending for a number of years in front of another  
7 circuit judge here in South Carolina. And, in fact,  
8 Your Honor, it was never resolved until Your Honor  
9 became involved and we were able to schedule it and  
10 get this case prosecuted and it was prosecuted in  
11 November of 2010. We were waiting certainly to  
12 prosecute that case prior to dealing with any of the  
13 co-defendants' case.

14 We've never had any assertion of any desire on  
15 the part of Julio Hunsberger, the defendant in this  
16 case, to have his case addressed in any expedient  
17 manner. I attempted to call this case as soon as we  
18 were through with the prosecution of Steven Lewis  
19 Barnes. And prior to that date, I had notified both  
20 of the defense attorneys, Mr. Chesser and  
21 Mr. Williams, that we intended to proceed against  
22 Alex and Julio Hunsberger.

23 Certainly, my direction from Solicitor Myers  
24 was to dispose of all the charges against these  
25 defendants that were pending. We did attempt to

1 call the case against Julio Hunsberger the weeks of  
2 both October 3rd and October 10th of 2011. At that  
3 time, the defense moved for a continuance and the  
4 continuance was granted. Certainly, in this case,  
5 Your Honor, we had tried to move it along --

6 **THE COURT:** When was that continuance?

7 **MR. MAYE:** The continuance was granted during  
8 the October 3rd term of court. I attempted to call  
9 both Alex and Julio Hunsberger's case during the  
10 week of October 3rd and October 10th and those cases  
11 were continued over my objection, Your Honor. We  
12 were prepared to go forward at that time. They  
13 moved for a continuance.

14 I know one of the factors is, you know, how the  
15 right's been asserted. And it's certainly never  
16 been asserted in this case up until now. And, in  
17 fact, the defense sought a continuance at the one  
18 time that we did try or attempt to call this case to  
19 trial.

20 We're prepared to go forward at this time, Your  
21 Honor. I don't know of any factors that would  
22 trigger, other than the passage of time, a review of  
23 this from the standpoint of a speedy trial motion  
24 prior to today. I certainly leave it to the wise  
25 discretion of the Court in this case, but there were

1 a lot of circumstances. It was not a typical case.  
2 There was a capital case that arose and was tried.  
3 Steven Lewis Barnes was convicted. As soon as that  
4 prosecution took place, we did everything that we  
5 could in order to try to get both of these  
6 defendants back here in order to prosecute them.

7 Alex Hunsberger, his codefendant, contested our  
8 extradition here which delayed us in some regard.  
9 We have proceeded against this defendant with all  
10 deliberate speed, Your Honor.

11 I know that there have been a number of cases  
12 in South Carolina, one of the ones I'm looking at  
13 here, State versus Geer, G-e-e-r, it's a Court of  
14 Appeals case -- or, excuse me, State versus Evans,  
15 Court of Appeals case, I think had a 12-year delay.  
16 So it's certainly not unprecedented in this case. I  
17 know that some of the speedy trial cases I've looked  
18 at have been delays of ten years, delays of 12  
19 years.

20 There's just a lot of circumstances that went  
21 into this. There certainly was no intentional delay  
22 of this case on the part of the State. They were  
23 extradited and returned -- I mean, they were given  
24 over to Georgia, a separate sovereign, who initiated  
25 a prosecution. They have been serving time over

1       there.

2               I know that both of these defendants were  
3       basically granted a PR bond by Judge Keesley so that  
4       they could be returned to Georgia, Your Honor. And  
5       under most circumstances, a person has been held in  
6       South Carolina or by this sovereign when you're  
7       talking about a speedy trial issue, but since they  
8       were released here in, I believe, '05, they were not  
9       back in South Carolina until I believe the very  
10      first part of October is when Julio Hunsberger  
11      returned back here to South Carolina for the first  
12      time, Your Honor, in order for us to address this  
13      charge that's been pending since he was served back  
14      in January of 2002.

15             **THE COURT:** When was he -- when were they  
16      granted -- when was Mr. Julio Hunsberger granted a  
17      PR bond?

18             **MR. MAYE:** I think that Judge Keesley basically  
19      released both of them with no bond knowing that  
20      Georgia had a hold on them and that was done back in  
21      2005. It was done at the time that they were  
22      transferred back to Georgia, both of them were, Alex  
23      and Julio, is my understanding. And they were  
24      released at that time with a Georgia hold on them.  
25      I have an order here...

1           **MR. WILLIAMS:** Your Honor, if I may just  
2 interject?

3           **THE COURT:** Yes, sir.

4           **MR. WILLIAMS:** Just one issue. My client  
5 indicates to me that was his brother that received  
6 -- that was released with a PR bond. I think he had  
7 counsel that was rattling the cage just a bit more  
8 as it relates to the issue of a speedy trial than  
9 was the counsel that was appointed to my client at  
10 that time. He indicates to me that he was not given  
11 a PR bond, but I'm not sure that it's that material  
12 in your consideration. But I would like to address  
13 what the Solicitor did raise.

14          **THE COURT:** Yes, sir.

15          **MR. WILLIAMS:** I'd just like to address what  
16 the Solicitor did raise. I think in certain  
17 circumstances, as the Barker case indicates, that  
18 the failure of a defendant to assert the right is  
19 not always dispositive. And I believe if we're able  
20 to demonstrate the prejudice, able to demonstrate  
21 that it was Julio all on his own -- and I will also,  
22 as it relates to the issue of us requesting the  
23 continuance, my client got to South Carolina on  
24 September 30th of 2011. I had not had an  
25 opportunity to meet with him but on one prior



1 occasion before he was moved back away from Augusta,  
2 back to some part of lower Georgia on the other side  
3 -- well on the other side of Savannah and Dublin and  
4 had only met with him on one occasion. And I did  
5 request a continuance because I thought it was  
6 fundamentally unfair for me to proceed to trial  
7 having only met with him on that one occasion and  
8 that one occasion was actually regarding his  
9 consideration to testify for the State in the Barnes  
10 case.

11 And, Judge, last thing, my motion would have  
12 been the same in October of 2011 as it is here in  
13 January of 2012. We still think that there is a  
14 substantial period of time that has passed and he's  
15 been prejudiced by the same.

16 **THE COURT:** All right. Well, I want to get  
17 straight on the tracking Mr. Hunsberger. When I use  
18 the name Mr. Hunsberger, I'm referring to Julio. If  
19 I refer back to his brother, I will state that, but  
20 I want y'all to track for me what the paperwork is  
21 from his arrest to appointment of his counsel to how  
22 he came to be released, if he was, from South  
23 Carolina to Georgia or if he was just -- consented.  
24 I just want to get that straight. I'm just not  
25 clear on that yet.

1           What does that paperwork show as far as his  
2           first appearances, his lawyers, his transfer back to  
3           Georgia, how did -- in '05, how did that come about?

4           **MR. MAYE:** Your Honor, I was looking at Alex --  
5           and I may have been confused in this case. I know  
6           that when Alex Hunsberger was released, we released  
7           Julio. They were similarly situated. Danny Craig,  
8           the prosecutor in Georgia, indicated to us that he  
9           wanted to try both of them together when they were  
10          tried in 2006.

11          Those inquiries were made back in 2005 and I  
12          know both of them were turned over to Georgia, I  
13          believe, in '05, but I don't know the exact date. I  
14          can find out from the jail the exact date that they  
15          were released to Georgia for prosecution on the  
16          kidnapping charges that were tried between September  
17          5th and the 12th of 2006.

18          And, Your Honor, I may need to step out of the  
19          courtroom long enough to go retrieve the other  
20          paperwork involved in this case.

21          **THE COURT:** Sure.

22                 (Pause.)

23          **MR. MAYE:** Your Honor, Julio Hunsberger was  
24          served with the arrest warrant for murder in this  
25          case, Your Honor, on January the 25th of 2002, that

1 is the date that I have on the return on his arrest  
2 warrant. He was served January 25th, 2002, with the  
3 warrant -- the underlying warrant for which he's now  
4 -- we've now called to trial. Looks like that  
5 arrest warrant is G-679758. It was issued January  
6 the 25th of 2002 by Judge Brenda Carpenter.

7 I would have to defer to the Clerk of Court to  
8 find out when he was appointed the public defender  
9 in this case afterwards.

10 I do have correspondence initially from John  
11 Delgado on behalf of Julio Hunsberger, and that  
12 correspondence is dated May the 11th of 2004, where  
13 he indicates that he would be representing  
14 Mr. Hunsberger and moved -- looks like to me,  
15 pursuant to this letter of May 11th of 2004, we were  
16 forwarded a motion to set bond that's dated May 11th  
17 of 2004, here, Your Honor, that was submitted by  
18 John Delgado.

19 We subsequently received word from him that he  
20 would not be representing Mr. Hunsberger, that he  
21 and Mr. Hunsberger were unable to -- his family were  
22 unable to come to terms regarding representation.  
23 And that letter is dated February the 11th of 2004.  
24 And he indicates that he would not be representing  
25 the Hunsbergers and that -- my understanding at that

1 point in time -- at some point thereafter, Your  
2 Honor, I know the public defender was appointed to  
3 him and I don't know that date.

4 (Pause.)

5 **MR. MAYE:** May it please the Court, Your Honor.  
6 Julio Hunsberger was released back to Georgia on  
7 February the 16th of 2005, 1445 hours is my  
8 understanding.

9 **THE COURT:** Thank you.

10 (Pause.)

11 **THE COURT:** That tracking is correct.  
12 Mr. Hunsberger was arrested, served with the warrant  
13 January 25th of '02.

14 **MR. WILLIAMS:** Yes, sir.

15 **THE COURT:** He was placed in the Edgefield  
16 County Detention Center. There's various documents  
17 in here, appears he was advised of first appearance  
18 rights and such like that.

19 I do not see his bond hearing. I do see the  
20 document in there that the Solicitor referred to  
21 earlier, May 11th, '04 request for a bond hearing  
22 from a private attorney out of Columbia, South  
23 Carolina, as opposed to Columbia County, Georgia,  
24 requesting a hearing to set bond. That was  
25 evidently withdrawn, the limited representation was

1        withdrawn before that ever occurred.

2                Then in February 16th of '05, he was  
3        transferred to Georgia. I do not see a  
4        documentation in the clerk's file of a transfer.  
5        I'm not sure if documentation stays in the clerk's  
6        file as far as transfer is concerned.

7                Do you dispute that date, any of those dates,  
8        so far, Mr. Williams?

9                **MR. WILLIAMS:** Your Honor, my client --

10               **THE COURT:** And I'm going to -- I've got other  
11        dates I'm going to add. I just want to see if we're  
12        on the same -- in sync from January 25th of '02 to  
13        February 16th of '05.

14               **MR. WILLIAMS:** So far as the serving of the  
15        warrant, January 25th of '02 and February 16th, '05,  
16        we agree. He indicates that he was actually in  
17        custody on January 22nd and submitted himself to the  
18        authorities on that date, turned himself in freely  
19        and voluntarily. And then the warrant was served on  
20        that date of the 25th.

21               **THE COURT:** So when he goes to Georgia 2/16/05,  
22        he's been in jail from January 22nd, '02 to February  
23        16th of '05 in Edgefield County, by my count, that's  
24        three years and 24 days.

25               **MR. WILLIAMS:** Yes, sir, Your Honor.

1           **THE COURT:** Now, during that time, it appears  
2           he was appointed a former tri-county public defender  
3           to represent him, Mr. Sturkey. There is a letter in  
4           here from Judge Keesley to Mr. Hunsberger concerning  
5           that and concerning the issue of Mr. Alex Hunsberger  
6           receiving a bond hearing in McCormick County and  
7           Judge Keesley, I wouldn't call it an explanation,  
8           but Judge Keesley's letter going to Mr. Julio  
9           Hunsberger concerning the fact that he did not  
10          appear at that bond hearing, he, Mr. Hunsberger, nor  
11          Mr. Sturkey.

12                 Now, if I track this correctly then, from  
13          2/16/05, just by the dates that I had previously  
14          been given, he's incarcerated in Georgia and is then  
15          convicted in Georgia September 12th?

16                 **MR. MAYE:** Yes, sir.

17                 **THE COURT:** Of '06.

18                 **MR. MAYE:** Yes, sir.

19                 **THE COURT:** Is that correct?

20                 **MR. MAYE:** Yes, sir.

21                 **THE COURT:** Do you agree with those dates,  
22          Mr. Williams?

23                 **MR. WILLIAMS:** We do agree, Your Honor.

24                 **THE COURT:** And for that, he receives a life  
25          sentence.

1           **MR. WILLIAMS:** Yes, sir.

2           **THE COURT:** It appears in here that, I believe  
3           it is -- I don't see the exact date quite frankly,  
4           but it appears that Mr. Seigler, who became  
5           tri-county public defender after Mr. Sturkey, was  
6           appointed to represent Mr. Hunsberger and there is a  
7           petition by Mr. Seigler to be relieved. That  
8           petition is dated 5/18/2010. The Clerk of Court of  
9           Edgefield, I think, forwarded the letter.

10           At any rate, I signed an order June 14th, 2010,  
11           relieving Mr. Seigler because Mr. Seigler  
12           represented Mr. Barnes in a....

13           **MR. YOUNG:** It was throwing bodily fluids case,  
14           Your Honor.

15           **THE COURT:** In a criminal matter, not the  
16           murder case, but in a criminal matter. So he had  
17           that conflict and then it looks like June of that  
18           same year, looks like I appointed Mr. Williams.

19           **MR. WILLIAMS:** And, Your Honor, I think I  
20           misspoke earlier on the record when I said -- I  
21           think I indicated it was July, but I know it was  
22           somewhere along the summer --

23           **THE COURT:** It may be July.

24           **MR. WILLIAMS:** No, sir, it was June. I looked  
25           at it as well.

1           **THE COURT:** I didn't take it as you  
2 misspeaking. I could have forgotten that day. I  
3 just looked at the order a minute ago.

4           **MR. WILLIAMS:** I just wanted to clear it up.

5           **THE COURT:** All right. But it looked like you  
6 were appointed in June of 2010.

7           **MR. WILLIAMS:** Yes, sir.

8           **THE COURT:** So his lawyer situation goes from  
9 Mr. Sturkey to Mr. Seigler to Mr. Williams, correct?

10          **MR. WILLIAMS:** Yes, sir.

11          **THE COURT:** And from June 16th, '05 in pretrial  
12 detention to 9/12/06 when he's sentenced, he's in  
13 the, I don't know what they call it, but I'm going  
14 to call it the Georgia Department of Corrections.  
15 And then he comes to South Carolina under the  
16 Interstate Compact?

17          **MR. MAYE:** Yes, sir, Your Honor. We sought his  
18 release -- what date did we petition Georgia for his  
19 release?

20          **MR. YOUNG:** Your Honor, I prepared  
21 documentation that Judge Keesley signed that  
22 acknowledged the -- prior to the documentation being  
23 submitted, he signed that -- the documentation went  
24 out on August 12th of this year, this past year.  
25 And Judge Keesley, I believe, had to sign off on



1       this some time just prior to that, I believe within  
2       a day or two of that. It was mailed to Mr. Lloyd  
3       Spickard (phonetic) on August 12th of 2011.

4               He responded, Your Honor, by -- through a  
5       process which requires, as the Court's aware, the  
6       Governor signed the documentation itself to have him  
7       returned. That came back to us on September 7th of  
8       2011, in terms of the date of -- the judge -- the  
9       signature by the Governor. And we received that  
10      within about three or four days of that. We  
11      actually received it on October 5th I believe it  
12      was.

13             **THE COURT:** All right. And then y'all were  
14      going to call it for trial and, of course,  
15      Mr. Williams requested a continuance at the October  
16      term.

17             **MR. WILLIAMS:** Yes, sir, Your Honor. I think  
18      he got here on September 30th, 2011, and I did  
19      request a continuance.

20             **THE COURT:** All right. Well, it appears  
21      that -- do y'all want to address any of the other  
22      factors before I review the length of delay any  
23      further? I know you've already addressed the  
24      defendant's position as far as prejudice with the  
25      fact that the co-defendants has testified in

1        numerous trials in South Carolina and in Georgia --  
2        in other trials in South Carolina and in Georgia,  
3        the passage of time, the inconsistency of their  
4        testimony. That's how I hear it, Mr. Williams.  
5        Please don't let me, and I know you won't, let me --  
6        allow me to put words in your mouth. I don't mean  
7        it like that.

8                **MR. WILLIAMS:** That's -- you're doing a great  
9        job, Your Honor.

10               **THE COURT:** I'm recapping what you said  
11        previously as far as the prejudice to  
12        Mr. Hunsberger's concern from his position.

13               **MR. WILLIAMS:** And we put that squarely on the  
14        State, Your Honor. I take the position that my  
15        request for a continuance in October of 2011 was not  
16        necessarily my relinquishing of my argument that I'm  
17        making because I would have made the same argument.  
18        I just want some time to be able to meet with my  
19        client and be in a reasonable proximity to be able  
20        to communicate with him regarding our defense.

21               **THE COURT:** Well, I understand that. You're in  
22        kind of a catch 18, as I call it, at that point.  
23        And Judge Keesley addressed that in his order, his  
24        written order that -- his orders are always --

25               **MR. WILLIAMS:** Thorough.

1           **THE COURT:** -- very well written and very well  
2           thought out. And he clearly indicates that no part  
3           of the order is intended to apply to or address any  
4           matter of a speedy trial.

5           I certainly understand any attorney worth his  
6           or her salt that is faced with a trial of this  
7           seriousness on September 3rd and the term is  
8           beginning October 3rd requesting a continuance.  
9           Preparation is a key to victory and you didn't have  
10          time to prepare it.

11          **MR. WILLIAMS:** And I'm going to say September  
12          30th, Your Honor.

13          **THE COURT:** Right. I thought -- whenever it  
14          was, September 30th.

15          **MR. WILLIAMS:** Yes, sir.

16          **THE COURT:** I understand that. And any other  
17          areas you want to address on behalf of the  
18          defendant?

19          **MR. WILLIAMS:** Your Honor, just, again, the  
20          issue of the Sixth Amendment, his right to a speedy  
21          trial, which is echoed in our State Constitution at  
22          Article 1 Section 14. And, again, the Barker case  
23          indicates that the defendant's failure is not  
24          conclusive as it relates to his right to raise this  
25          issue. It's not conclusive as though, that he's now

1 subsequently defeated because he failed to raise the  
2 issue at some time prior thereto. And we believe  
3 that the other factors are significant enough that  
4 the Court could presume prejudice on the basis of  
5 the substantial passage of time.

6 **THE COURT:** Thank you.

7 Solicitor, I heard your argument previously.  
8 Anything you want to add?

9 **MR. MAYE:** Nothing else, Your Honor. Thank  
10 you.

11 **THE COURT:** All right. Well, I've looked at  
12 various cases, those cited both by the defense and  
13 by the State. I've sat here and reviewed, not while  
14 y'all were talking either, it was during that long  
15 pause because it takes more than a long pause for  
16 the Court to get through a United States Supreme  
17 Court decision because they write a lot and that's  
18 Barker versus Wingo at 407 U.S. 514, 1972 case,  
19 which is a murder case.

20 The petitioner was not brought to trial for  
21 more than five years after he's been arrested.  
22 During which time, the prosecution obtained numerous  
23 continuances initially for the purpose of trying  
24 petitioner's alleged accomplice so that his  
25 testimony, if conviction resulted, would be

1       available at the petitioner's trial. Before the  
2       accomplice was finally convicted, he was tried six  
3       times. Petitioner made no objection to the  
4       continuance until three and a half years after he  
5       was arrested.

6             And it elucidates -- it is an opinion by  
7       Mr. Justice Powell. And it elucidates the factors  
8       that Mr. Williams talks about. And it does go on to  
9       say that time alone -- or not time alone, but the  
10      lack of demand for a speedy trial alone does not  
11      automatically trump his -- or waive his right. It's  
12      a constitutional right and it's really difficult --  
13      you don't waive a constitutional right by silence,  
14      by inactivity, it has to be some kind of knowing and  
15      intelligently waiver free and voluntary of a  
16      constitutional right, but it goes on to say that  
17      would be one factor to -- for a court to consider in  
18      the balancing test that is involved.

19            Speedy trial, as it states in that Supreme  
20      Court decision, are unique creatures as opposed to  
21      the right to counsel, a right to a jury trial, right  
22      to cross-examination because many times a defendant  
23      doesn't want a speedy trial. A defendant out on  
24      bond maybe never wants a trial speedy or otherwise.  
25      Memories fade, witnesses become less cooperative,

1 witnesses die, witnesses become incompetent, many  
2 occasions witnesses are incarcerated for other  
3 crimes, it affects their credibility and that is to  
4 some assistance to a defendant. Or, there are those  
5 that would hold that philosophy. And, clearly, from  
6 a commonsensical point of view, that may be true,  
7 that may be true.

8 But when you look at this timing, I look at the  
9 three years and 24 days initially and then he goes  
10 to Georgia both in pretrial detention and the --  
11 from 2/16/05 until August of '11, after he's  
12 convicted, he remains in the State of Georgia for  
13 six years and about eight months. He has attorneys  
14 during this period of time, either Mr. Sturkey, Mr.  
15 Seigler or Mr. Williams. Also, during the three and  
16 a half year period of time, he has talked with a  
17 private attorney for a bond hearing and that, of  
18 course, fell by the wayside for whatever reason.

19 So I don't think you can look at the cold  
20 number from '02 to '12 and say ten years. I think  
21 that six or eight month period of time while he's in  
22 Georgia, it's not like he's in pretrial detention in  
23 South Carolina nor is it like he's out on bond, but  
24 he is a convicted defendant in the Georgia  
25 Department of Corrections.

1           Upon his return, I also do not think that you  
2           could look at the -- Mr. Williams' motion for a  
3           continuance and then foreclose his right to make  
4           that motion for a speedy trial or it could have any  
5           weight and value added to it whatsoever. I just  
6           feel like a defense attorney if he stood up and  
7           says, well, we demand a speedy trial, and the  
8           State's over there ready to try the case and he's  
9           got three to five days to try a major case like  
10          this, it would be a recipe for a disaster in my  
11          opinion. I think an attorney has to have proper  
12          time to prepare, meet with his client and talk with  
13          his client.

14          In analyzing the prejudice to the defendant,  
15          again, I would find that the fact that years have  
16          passed may be to his advantage, or at least not to  
17          his disadvantage. Those memories may have been  
18          dimmed, inconsistent statements may be used to  
19          impeach some of the witnesses involved.

20          There's no allegation that there are any  
21          witnesses that are unavailable. When I look at  
22          State versus Evans, that's a delay of 12 years, part  
23          of that was appellate process. This was, Ms. Evans  
24          was the one that her children were burned in a  
25          terrible fire up in Chesterfield County and it took

1 quite a number of years to try the case. And,  
2 ultimately, her conviction -- her statement was  
3 found to be taken in violation of Jackson versus  
4 Denno.. But in her motion for a speedy trial, she  
5 alleged that there were four witnesses, one of which  
6 by the time the State called the case for trial, had  
7 Alzheimer's, two of which were deceased and the  
8 fourth that was not available, unable to be found.

9 Even in light of that 12 year delay, although  
10 part of it was for the appellate process, the State  
11 appealed the Jackson versus Denno hearing. The  
12 court found that that did not constitute prejudice  
13 in that regard.

14 I think once you get past the -- you look at  
15 the right to a speedy trial and you look at those  
16 factors under Barker versus Wingo, and there is some  
17 indication that there is somewhat of a presumed  
18 prejudice because of the length of delay, I find,  
19 based on the totality of the circumstances here of  
20 what's been presented, that the defendant would not  
21 be prejudiced.

22 The reason for the delay, again, I take that  
23 balancing, for whatever reason, Mr. Barnes was not  
24 tried for eight years and some months. And I don't  
25 think you can say, well, I'm not going to try the



1 co-defendant until I try Mr. Barnes. I think  
2 Mr. Hunsberger's due process rights are separate and  
3 distinct from the State's prosecutorial plan so to  
4 speak on the defendants and the co-defendants  
5 involved in the Sturup homicide.

6 I think given the fact that he was a sentenced  
7 prisoner in Georgia and that he was, for that length  
8 of time, that he would not have been released, that  
9 it was not unreasonable for the State to take the  
10 position that they wanted to try the one defendant  
11 that they sought the death penalty on in the case  
12 first and disposed of that case first.

13 Again, I think that's a balancing. Looking at  
14 State versus Evans, 688 S.E.2d 583, looking at  
15 Doggett versus United States, 1 -- excuse me -- 505  
16 U.S. 647, looking at Barker versus Wingo that's  
17 previously been cited, I would deny Mr. Hunsberger's  
18 motion for a speedy trial.

19 You have other motions, Mr. Williams. You had  
20 a motion based on --

21 **MR. WILLIAMS:** And, Your Honor, just for the  
22 record, I take exception to the Court's ruling.

23 **THE COURT:** Certainly, yes, sir.

24 You have a motion -- I have a motion,  
25 vindictive selective prosecution under 192

1 Coin-Operated Video Machines.

2 MR. WILLIAMS: Yes, sir, Your Honor.

3 THE COURT: All right.

4 MR. WILLIAMS: If it pleases the Court. Your  
5 Honor, I offered up to the court reporter what I  
6 guess will be, at this point, a court's exhibit a  
7 letter written by myself to my client on October the  
8 11th, 2010. Again, it was confirming that we had  
9 met one another for the first time on September  
10 22nd, 2010.

11 And, Judge, as an officer of the court, you  
12 know, I know candor is very important. And I  
13 candidly will advise the Court that an overture was  
14 made to me by the Solicitor's office that,  
15 essentially, if you don't cooperate with the  
16 prosecution of this death penalty case, everybody  
17 who doesn't cooperate is going to get prosecuted.  
18 And I believe that's selective prosecution.

19 I believe the State versus 192 Coin-Operated  
20 Video Games talks about the two prong test that  
21 should be considered. And the two prong test is  
22 this: It says, first, The defendant must show that  
23 he has been singled out for prosecution while others  
24 similarly situated have not been prosecuted for  
25 conducts similar to that which he was prosecuted.

1           The second factor, Your Honor, is, The  
2       defendant must demonstrate that the government's  
3       discriminatory selection of him for prosecution was  
4       based upon an impermissible ground such as race,  
5       religion or his exercise of his First Amendment  
6       right to free speech.

7           I don't think it's an extrapolation to say that  
8       his exercise of his right to not speak or his right  
9       to remain silent under the Fifth Amendment is just  
10      as important in a free society as it is the First  
11      Amendment, the right to speak freely. And I would  
12      suggest to the Court that the State's prosecution of  
13      my client and his brother is basically selective  
14      prosecution for their failure to do the dance in the  
15      prosecution of the State of South Carolina versus  
16      Steven Barnes.

17          I will also note just for the record that my  
18      client and his brother are the only two Hispanic  
19      individuals in this mêlée that is alleged to have  
20      occurred that ended in the loss of the life of one  
21      Samuel Sturup. And they have been the only two to  
22      be prosecuted.

23          I would suggest to the Court that the other  
24      folks who have been just as involved are not going  
25      to be prosecuted. I don't think there are any plans

1 to prosecute them. And, quite frankly, I don't  
2 think there would have been any plans to prosecute  
3 my client had he done the dance. But, again, he  
4 chose to exercise his right to remain silent under  
5 the Fifth Amendment. And I think that you could  
6 even argue that as to a -- there's a First Amendment  
7 right to be quiet. He has a right to shut up, he  
8 has a right to speak and he chose to shut up.

9 Again, certainly, we understand that the Fifth  
10 Amendment is more applicable to the right against  
11 self-incrimination, but I would also suggest that  
12 the right to remain silent is affected by the First  
13 Amendment as well, that's a manner of speech as  
14 well, to not to speak.

15 And I would suggest to the Court that the  
16 State's decision to prosecute him is selective and  
17 we take exception to it. And I, you know, whether  
18 the Solicitor is candid or not, I believe what I say  
19 is absolutely candid with this tribunal.

20 **THE COURT:** Thank you, Mr. Williams.  
21 Solicitor.

22 **MR. MAYE:** May it please the Court, Your Honor.  
23 Certainly, the State has an absolute obligation to  
24 prosecute those cases in which we believe that a  
25 probable cause and justice dictates. There had

1 always been an intent on the part of the State in  
2 this case to prosecute all of the individuals that  
3 were involved in this case.

4 And none of the individuals, even the ones that  
5 testified against Mr. Barnes, have any plea  
6 agreements. They've stated numerous times for the  
7 record, we've never discussed with them, we've  
8 always told them that they had charges pending in  
9 this case. We've never made any agreements with  
10 them in any regard. We intend to go forward with  
11 the prosecution, always did, with all of these  
12 individuals.

13 There was a question as to Alex and Julio  
14 Hunsberger as to whether or not Solicitor Myers  
15 intended to notice them for the death penalty, Your  
16 Honor. These two individuals, Alex and Julio  
17 Hunsberger, are not similarly situated with the  
18 other co-defendants in this case, Your Honor. Each  
19 of them has been convicted of kidnapping with bodily  
20 injury in Georgia. The others were convicted of  
21 assault.

22 These individuals, from the testimony that was  
23 proffered in Barnes' trial and from all of the  
24 discovery and in each of the preceding hearings that  
25 we have seen, there was information that Julio and

1 Alex Hunsberger put this young man in the trunk of  
2 an automobile over in Georgia, drove him over to  
3 South Carolina leading the way, taking him to an  
4 area of family property of theirs here in Edgefield  
5 County where this murder took place, Your Honor,  
6 where they participated in the murder. They are not  
7 similarly situated with the other three  
8 co-defendants in this case, Your Honor, in that  
9 regard.

10 Your Honor, I know that this is a letter dated  
11 October 11th of 2010, from Mr. Williams to his  
12 client in this case. Your Honor, I felt like in  
13 this case, prior to Mr. Barnes' prosecution in this  
14 case, I felt like that everybody that was involved  
15 in this ought to be fed out of the same spoon and  
16 certainly at least given a chance to cooperate, if  
17 they wanted to, against Mr. Barnes who was  
18 unquestionably the ring leader of the entire, I  
19 guess, proceeding that took place, all of the events  
20 of violent acts that took place against Mr. Sturup  
21 on the night of his death including the beating and  
22 torture that took place over in Georgia at the green  
23 house, I guess is the area over in Georgia.

24 I know that many defendants seek and would like  
25 an opportunity to testify against co-defendants in

1       this case. I certainly feel like, as a prosecutor,  
2       there is at least some duty to try to feed people  
3       out of the same spoon, to try to -- that those that  
4       are similarly situated, and even in the case of  
5       Steven Barnes where it came to Alex and Julio  
6       Hunsberger, to at least give them an opportunity to  
7       testify if they wanted to.

8               Never has the State indicated to anyone that we  
9       intended to punish anyone for exercising any of  
10      their right to remain silent or to refuse to  
11      cooperate against any individual. I've never issued  
12      any threats in this case. To the contrary, Your  
13      Honor, he's certainly entitled to remain silent in  
14      this case. I've not made plea agreements with any  
15      of those individuals that have testified against  
16      Steven Lewis Barnes or testified against Alex  
17      Hunsberger.

18             Last week when we tried a similarly situated  
19      co-defendant, Alex Hunsberger who was tried last  
20      week, Your Honor, I note that this same motion was  
21      raised at his trial, but I have never posed any  
22      threats, never told anyone that I intended to  
23      prosecute anybody based on whether or not they  
24      intended to cooperate or not. We intend to pursue  
25      these charges against all of these defendants in

1       some regard, Your Honor, but certainly never been  
2       any threats in this case. There's been no selective  
3       prosecution.

4               We've got an obligation to prosecute those  
5       cases in which we believe that there's sufficient  
6       probable cause to go forward. This is certainly a  
7       terrible crime that was perpetrated against the  
8       victim, Samuel Sturup, and we have tried to move  
9       forward in as evenhanded a fashion as we could.

10              Solicitor Myers did not notice these two  
11       individuals for the death penalty, which I would  
12       certainly say inured to their benefit. And there  
13       has been no threats made. I have never corresponded  
14       with anyone or given any indication, either in  
15       writing or orally, that I intended to punish anyone  
16       for whether or -- for exercising any constitutional  
17       right in regard to any of the individuals that  
18       participated in the killing of Mr. Sturup or his  
19       kidnapping in Georgia.

20              **THE COURT:** Thank you.

21              Mr. Williams.

22              **MR. WILLIAMS:** Your Honor, I'd just indicate to  
23       my friend, Mr. Maye, that it wasn't a threat. It  
24       actually evolved into a promise and he's delivered  
25       on his promise. I still think it's the same.



1           Again, these are folk who are similarly  
2           situated and they are not being treated the same.

3           **THE COURT:** Well, that case doesn't say they  
4           have to be treated the same. First off, 192 is a  
5           civil case.

6           **MR. WILLIAMS:** It is. I do not disagree, but  
7           it talks -- the standard is the same under the U.S.  
8           case.

9           **THE COURT:** I agree with that. They analogize  
10          it to criminal prosecution. And I guess the  
11          question is, are the co-defendants being prosecuted?

12          **MR. MAYE:** Your Honor, the co-defendants  
13          certainly face all of these charges in this case.  
14          They have not been given any plea deals in this case  
15          and we will proceed against them in some fashion in  
16          the future. I do not know what that is because we  
17          haven't made a decision in that regard yet.

18          **THE COURT:** And my question is -- my question  
19          is not, are they being prosecuted for the same  
20          thing, that's irrelevant. That's part of the  
21          prosecutorial authority under the constitution. And  
22          under State versus Ridge, they have unfettered  
23          decision making in the determination of how they're  
24          going to resolve a particular case.

25                 Have they been indicted?

1           **MR. MAYE:** Your Honor, I don't know the status  
2 of their charges in this case, Your Honor. I cannot  
3 tell you at this time. I can tell you, as an  
4 officer of the court, we intend to pursue these  
5 charges against these individuals, but as to the  
6 timing of that, I cannot give you an answer to that.

7           **MR. WILLIAMS:** Judge, one thing, and I'm going  
8 to sit down, as it relates to their charges in  
9 Georgia and their failure to be charged for  
10 kidnapping, they were indicted for kidnapping in  
11 Georgia, but these same folk are the ones who chose  
12 to testify against Steven Barnes in various manners  
13 over in Georgia and they received nolle prosequi  
14 waivers of those kidnapping charges, I do believe, in  
15 exchange for their cooperation.

16           **THE COURT:** That may be. I don't think that's  
17 unconstitutional. I don't think that's selective  
18 prosecution.

19           Mr. Hunsberger can make his decision to go to  
20 trial or to plead guilty, number one. Number two,  
21 if he chooses to go to trial, he can make his  
22 decision of whether or not he wants to testify or  
23 not testify. And if he doesn't want to testify,  
24 I'll certainly charge the jury in that regard that  
25 cannot be held against him. He could have made his

1 decision to attempt to get in a position of one of  
2 the co-defendants, not Mr. Barnes' position, but one  
3 of the co-defendants that are listed as -- on the  
4 witness list, but, again, that's his decision.

5 In every case -- every case, every defendant is  
6 different. Every defendant in the same case many  
7 times may be different. You may have some that  
8 don't have prior records, you may have some that do  
9 have prior records, you may have some more on the  
10 peripheral, some closely involved in the nexus of  
11 the crime itself, but I don't think it meets either  
12 the first or the second prong of 192.

13 Solicitor, you did not address, but  
14 Mr. Williams did bring up, the issue of  
15 Mr. Hunsberger's heritage, that he and his brother  
16 were the only two Hispanic males. Did that go into  
17 your consideration in any manner whatsoever?

18 **MR. MAYE:** Your Honor, as an officer of the  
19 court, in all candor, I can say that is one thing  
20 that I do not look at involving any prosecution. I  
21 don't purposely -- often times the first time that I  
22 know the race of any individual is when they appear  
23 at a roll call proceeding.

24 Absolutely no decision regarding prosecution  
25 was made with a factor of his gender, his race, his

1 background. None of those factors have ever entered  
2 into any of my thinking in the prosecution of any  
3 case, most certainly and specifically not in his.  
4 And I am unaware of any even discussion of the fact  
5 of his race playing any factor in any aspect of any  
6 decision involving prosecution or what charges would  
7 be sought against what individuals in this crime.

8 **THE COURT:** Anything else you would like to put  
9 on the record, Mr. Williams?

10 **MR. WILLIAMS:** As it relates to this issue?

11 **THE COURT:** Yes, sir.

12 **MR. WILLIAMS:** Your Honor, I will just say that  
13 they are Hispanic and that's what they are and the  
14 facts speak for themselves. They're being  
15 prosecuted and no one else has been.

16 **THE COURT:** All right. Certainly. Thank you,  
17 Mr. Williams.

18 Now, the next motions that I have was the  
19 motions on the identification issues of Mr. Cave,  
20 Mr. Griffin and Ms. Thatcher; is that correct?

21 **MR. WILLIAMS:** Yes, sir.

22 **THE COURT:** All right. Now, tell me the status  
23 of your transcripts.

24 **MR. WILLIAMS:** Your Honor, I just got an e-mail  
25 from Ms. Sigwald and what she indicated to me was

1       that they would be available -- she said it would be  
2       tomorrow morning is what she indicated to me, but,  
3       you know, I'm prepared to do what I need to do.

4               **THE COURT:** Well, this is like a...

5               **MR. MAYE:** Biggers hearing.

6               **THE COURT:** Thank you. I was trying to push  
7       Jackson versus Denno out of my mind and get the  
8       right one in my mind. That's what you want is a  
9       Biggers hearing?

10              **MR. WILLIAMS:** Your Honor, what I'm looking for  
11       is a Biggers hearing. And I will say specifically  
12       there's not necessarily a lineup issue as it relates  
13       to Cave and Griffin, not specifically a lineup issue  
14       that we're raising, but it's more or less the  
15       factors of when they encountered or when they  
16       allegedly encountered my client, the time of day,  
17       did they get in the car with him, where were they,  
18       was it not dark, you know, those kind of issues,  
19       their opportunity to observe my client, how close by  
20       they were, these kinds of issues, and whether or not  
21       they knew him before and if they had any gained  
22       familiarity with my client.

23              I believe the only familiarity that they had  
24       with my client has been the subsequent prosecution  
25       of my client in the State of Georgia. I think even

1 on last week, Mr. Griffin indicated that he thought  
2 they were white guys that arrived at the alleged  
3 green house over in Augusta. And I believe that's  
4 going to be in the record.

5 So -- and I believe the Solicitor, as an  
6 officer of the court, would acknowledge that that's  
7 what he said. I'm not ordering his transcript. I  
8 hope the Solicitor can remember that that's what he  
9 said or else I may have to order his transcript as  
10 well. I'm trying to figure out if that's --

11 Do you recall that not being said?

12 **THE COURT:** Do you want to call these people,  
13 these individuals, as witnesses in camera?

14 **MR. WILLIAMS:** Yes, sir.

15 **THE COURT:** Well, let's take about a ten minute  
16 recess and line them up. I'll be glad to hear it.

17 **MR. WILLIAMS:** That will be fine.

18 **MR. MAYE:** Thank you, Your Honor.

19 **THE COURT:** Court will be in recess ten  
20 minutes.

21 (Brief Recess.)

22 **THE COURT:** All right. How do y'all propose we  
23 proceed with this hearing?

24 **MR. MAYE:** Your Honor, under Neil versus  
25 Biggers, I understand once they challenge the

1 identification, we intend to call the witnesses to  
2 the stand. I'll go through with them the scenario  
3 for identification, the five factors that would fall  
4 into play, and then turn each of the witnesses over  
5 to cross-examination because every Neil versus  
6 Biggers hearing that I've ever done was done in that  
7 fashion and that's how I would propose that we  
8 proceed as to each of the three witnesses in this  
9 case in which we intend to make an identification.

10 **THE COURT:** Are you ready to proceed,  
11 Mr. Williams?

12 **MR. WILLIAMS:** Yes, sir, Your Honor.

13 **MR. MAYE:** The State would call Richard Cave to  
14 the stand.

15 **RICHARD CAVE,**  
16 having been duly sworn, testified as follows:

17 **THE CLERK:** Have a seat and state your full  
18 name and spell your last name, please.

19 **THE WITNESS:** Richard Cave, C-a-v-e.

20 **DIRECT EXAMINATION**

21 **BY MR. MAYE:**

22 **Q** Mr. Cave, if you would, I'm going to direct  
23 your attention -- the purpose of this hearing is  
24 specifically for an identification of the defendant  
25 in this case, Mr. Julio Hunsberger. I want to

1 direct your attention specifically to the purpose of  
2 this hearing.

3 On September the 3rd of 2001, shortly after the  
4 time that Steven Lewis Barnes made a telephone call,  
5 did two individuals arrive in an automobile there at  
6 the scene, I believe, at in  
7 Augusta, what is otherwise known as the green house,  
8 did two individuals arrive?

9 A Yes, they did.

10 Q Let me ask you this: Did you have a clear  
11 opportunity to view those two individuals when they  
12 arrived there at the green house?

13 A Yes, I did.

14 Q How did they arrive? Were they walking? Were  
15 they in an automobile? How did they get there?

16 A Arrived in a car.

17 Q Okay. Was there adequate light in order for  
18 you to be able to see the facial features of the two  
19 individuals that arrived there in that automobile at  
20 the green house?

21 A Yes, it was.

22 Q What was the source of that illumination there?

23 A We had light poles and the moon.

24 Q Okay. All right. How intently was your  
25 attention focused on these two individuals when they



1 arrived there? Now, this was on the heels of the  
2 beating that Samuel Sturup had taken place and  
3 after Mr. Barnes made that phone call. How acutely  
4 was your attention focused? How strong was your  
5 attention focused on these two individuals?

6 A That was all that was going on. When I seen  
7 them got out the car, that's how I recognize them.

8 Q Could you see their faces?

9 A Yes, sir.

10 Q Okay. Could you see the bodies and their body  
11 structure?

12 A When they got out the car, yes.

13 Q Okay. All right. Let me ask you this: Is one  
14 of the individuals that arrived there in that  
15 automobile, is he present here in the courtroom?

16 A Yes, he is.

17 Q Where is he present in the courtroom?

18 A Sitting right over there (indicating).

19 Q How is he dressed? Describe how he's dressed  
20 and where he's seated in the courtroom.

21 A In the orange jumpsuit.

22 Q He's in the orange jumpsuit next to the  
23 attorney?

24 A Yes, sir.

25 MR. MAYE: Your Honor, for this purpose of this

1       hearing, I'd ask to reflect that he has identified  
2       the defendant in this case, Mr. Julio Hunsberger.

3               **THE COURT:** All right. So reflect.

4       BY MR. MAYE:

5       **Q**     Let me ask you this: Are you absolutely  
6       certain that the individual that you saw there at  
7       the green house is the same individual that's seated  
8       there in the orange jumpsuit? Are you absolutely  
9       100 percent sure?

10      **A**     Yes, I am sure.

11      **Q**     Okay. Let me ask you this: Is your  
12      identification of him here today based on seeing him  
13      at the green house there at that location? Is your  
14      identification here today based on seeing him then  
15      or as a result of seeing any photographs of him  
16      later, any subsequent appearances of him in court at  
17      any other time? What did you base your  
18      identification on, back then or something else?

19      **A**     Well, he had newspaper articles, then we had a  
20      trial in --

21               **THE COURT:** Slow down for me and say that  
22      again.

23               **THE WITNESS:** We had newspaper articles and  
24      then we had a trial in '05.

25      BY MR. MAYE:

RICHARD CAVE (IN CAMERA) - DIRECT BY MR. MAYE

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1       Q     Let me ask you this: Is your identification of  
2       him today based on you seeing him at the scene there  
3       that night?

4       A     Uh-huh.

5       Q     Okay. Let me ask you further. After y'all  
6       left the green house over there on Cherry Street in  
7       Augusta, did y'all travel to a location here in  
8       Saluda County across one field through a narrow  
9       passageway into a second field; do you recall that?

10      A     Yes, sir.

11      Q     Okay. Did the individuals that had loaded him  
12      up in the automobile over there on Cherry Street,  
13      did they exit that same vehicle here in South  
14      Carolina into that second field?

15      A     Yes, sir.

16      Q     Okay. Is that individual, is that the same  
17      individual that got in the car the one you had  
18      previously identified as Julio Hunsberger?

19      A     Yes, sir.

20      Q     Did you see him get out of an automobile there?

21      A     Yes, sir.

22      Q     Okay. Was there sufficient light for you to be  
23      able to see him and identify him, his facial  
24      features, his body structure, all of that?

25      A     Yes, sir.

1 Q Okay. What was the source of the illumination  
2 there?

3 A The moon.

4 Q Okay. Once y'all -- once they got out of the  
5 automobile there, where did they then go once they  
6 left the automobile?

7 A We all went into the field.

8 Q Okay. After y'all went into the field, where  
9 did y'all all then go?

10 A To a smaller field inside the wood area.

11 Q Okay. At the time that y'all fired shots and  
12 at the time that y'all went up into the area where  
13 Samuel Sturup was eventually shot and killed, were  
14 you able to see the defendant in this case, Julio  
15 Hunsberger?

16 A Yes, I was.

17 Q Could you see his face? Could you clearly  
18 identify him?

19 A Yes, sir.

20 Q Okay. After y'all left the area of the  
21 shooting, did y'all subsequently go to a mobile  
22 home?

23 A Yes, sir.

24 Q Okay. Once y'all entered the mobile home, were  
25 the lights on in the mobile home?

RICHARD CAVE (IN CAMERA) - DIRECT BY MR. MAYE

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1       A    Yes, they were.

2       Q    Okay. Were you able to see Julio Hunsberger  
3       inside that trailer there?

4       A    Yes, I did.

5       Q    Okay. Was your attention intently focused on  
6       him? Did you give him your full attention there  
7       where you could see him?

8       A    Where I seen him, yes, I seen him.

9       Q    Okay. Is there any doubt in your mind that the  
10       individual that's seated here in the courtroom in  
11       the orange jumpsuit that that is the same individual  
12       that was at the green house on Cherry Street that  
13       night? Is it the same individual that was there at  
14       the scene where y'all unloaded --

15       A    Yes, sir.

16       Q    -- where Mr. Sturup was unloaded out of the  
17       automobile and where he was subsequently killed?

18       A    Yes, sir.

19       Q    Same individual?

20       A    Yes, sir.

21       Q    At the trailer, after the time of the shooting,  
22       is Julio Hunsberger the same individual that was  
23       there at that trailer?

24       A    Yes, sir.

25       Q    Okay. Is your identification of him here today

1 based solely on you seeing him at each of those  
2 three occasions on September the 3rd of 2001?

3 A Yes, sir.

4 Q Okay. Were you able to subsequently identify  
5 him during a trial between September the 5th and  
6 September the 12th of 2006, based on you seeing him  
7 there that night?

8 A Yes, sir.

9 Q Okay. Are you 100 percent certain that that's  
10 the same individual?

11 A Yes, sir.

12 MR. MAYE: Beg the Court's indulgence.

13 (Pause.)

14 MR. MAYE: Answer any questions the defense has  
15 for you.

16 THE COURT: Mr. Williams.

17 MR. WILLIAMS: Court's indulgence, Your Honor.  
18 If I might just have one quick break, I've just got  
19 this cough that is annoying.

20 THE COURT: All right. Yes, sir.

21 (Pause.)

22 MR. WILLIAMS: Judge, I'm ready.

23 THE COURT: All right. Yes, sir, you may  
24 proceed.

25 MR. WILLIAMS: I apologize.

RICHARD CAVE (IN CAMERA) - CROSS BY MR. WILLIAMS

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1 CROSS-EXAMINATION

2 BY MR. WILLIAMS:

3 Q Mr. Cave, I apologize for the walking out just  
4 a moment ago. But I noticed you testified just  
5 moments ago that you had saw my client in a prior  
6 trial in September of 2006; is that right?

7 A Yes, sir.

8 Q Okay. Had you seen him at any other times  
9 prior to 2006?

10 A At the crime scene.

11 Q At the crime scene. Okay. Have you seen him  
12 subsequent to 2006?

13 A Meaning what?

14 Q That means after. Have you seen him after,  
15 until this day?

16 A No, sir.

17 Q Okay. Let me ask you this question: Did you  
18 have a prior familiarity or did you know my client  
19 prior to September of 2001?

20 A No, sir.

21 Q You did not know him at all?

22 A No, sir.

23 Q Had you seen him before in the presence of  
24 yourself or one Steven Barnes?

25 A I seen him that night. Other than that, no.

1       Q     That night, okay. Now, let's talk act that  
2       night. At the green house, did you not testify in  
3       the trial last week against one Alex Hunsberger?

4       A     I did.

5       Q     Was there power at the green house?

6       A     Talking about electricity?

7       Q     Yes.

8       A     No, sir.

9       Q     There was no power, okay. And did you not also  
10      testify that it was at night; is that right?

11      A     Yes, sir.

12      Q     About what time of night?

13      A     I got there at 10:00.

14      Q     I'm sorry, at 10:00?

15      A     At ten o'clock p.m.

16      Q     Okay. And let's say September, generally  
17      speaking in September, 10:00 p.m., it is dark, isn't  
18      it?

19      A     You're right.

20      Q     Okay. And I want you to tell me about how  
21      close were you to my client when he allegedly  
22      arrived at the crime scene?

23      A     He wasn't too far, a couple feet away from me.

24      Q     All right. Now, I'm going to walk towards you  
25      and I want you to tell me when I'm as close as you



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1       were to him, okay?

2       **A**     Back up some.

3       **Q**     Okay. I'll do that.

4       **A**     Standing back to that little gate area right  
5       there.

6       **Q**     About here (indicating)?

7       **A**     Yes, sir.

8       **Q**     All right. So this is as close as you got to  
9       my client when he was at the alleged crime scene at  
10      the green house?

11      **A**     No. When he got out the car, that's how -- he  
12      got out the car, I was that far away.

13      **Q**     All right. How many people got out of the car?

14      **A**     Two.

15      **Q**     Two, okay. And you indicated that both persons  
16      got out and how close did the other individual get  
17      to you?

18      **A**     When they got out the car, they was about that  
19      far, but through the night, it was a little closer,  
20      yes.

21      **Q**     Through the -- no, no, no, I'm wanting to stay  
22      at the green house, okay, and I'll talk to you about  
23      what transpired thereafter, okay. But at the green  
24      house, how close did you get to my client?

25      **A**     Pretty close.

1 Q All right. This is about as close as it was --

2 A No. He got closer than that, but I was  
3 speaking of when he got out the car, that's how far  
4 he was.

5 Q Okay. Now, tell me how close he got to you.  
6 I'm going to walk towards you and you tell me when  
7 I'm as close as you ever got to my client there on  
8 Cherry Street in Augusta, Georgia --

9 A All right.

10 Q -- on the night of September 3rd, 2001, okay.

11 (Mr. Williams walks towards the witness.)

12 Q Closer?

13 A Yes, sir.

14 Q All right. Closer?

15 A About right there.

16 Q About right here?

17 A Yes, sir.

18 Q All right. And it was absolutely dark; is that  
19 right?

20 A No, it wasn't absolutely dark. It got light  
21 poles and stuff out there.

22 Q Light posts?

23 A Yes, sir.

24 Q Okay. Are they white light or were they  
25 subdued light or I'd say greenish or bluish?

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1       **A**     More like orangish.

2       **Q**     More like orange?

3       **A**     Yeah.

4       **Q**     Okay. So it wasn't white light, was it?

5       **A**     No.

6       **Q**     Okay. And, again, you had no gained  
7 familiarity with my client?

8       **A**     No, sir.

9               **MR. WILLIAMS:** Your Honor, I'm going to take a  
10 good guess and say I'm approximately eight feet away  
11 from the defendant.

12              **THE COURT:** All right. Solicitor, do you agree  
13 with that?

14                     (Pause.)

15              **THE COURT:** Well, y'all can measure it if you  
16 want. It's got to be in the record one way or the  
17 other.

18              **MR. MAYE:** Your Honor, approximately. I would  
19 guess -- without pulling a tape, I couldn't tell you  
20 definitive.

21              **THE COURT:** All right. Approximately eight  
22 feet, all right.

23              **MR. WILLIAMS:** I'm no carpenter, Judge, but I  
24 believe that was about eight feet away.

25              **BY MR. WILLIAMS:**

1 Q Now, do you believe you got any closer to my  
2 client there at the crime scene than eight feet, the  
3 distance that I just --

4 A I don't think so, no.

5 Q Okay. Now, is it not my understanding that  
6 when they came there, they stayed right near the car  
7 to open the trunk?

8 A I didn't see them open the trunk.

9 Q Okay. Well, let me ask you this: What did you  
10 see?

11 A I seen them conversating (sic) with Barnes.

12 Q They came and did what?

13 A When they came, Barnes pulled them to the side  
14 and they had a conversation with Barnes.

15 Q Were you privy to that conversation?

16 A I was a witness to it, yeah.

17 Q No. Were you a party to it?

18 A No.

19 Q Okay. And a private conversation, people don't  
20 necessarily want to get close to others because they  
21 don't want to hear what they're saying, do they?

22 A That is true.

23 Q All right. So he wasn't extremely close to  
24 you, was he?

25 A Not during that conversation, no.

RICHARD CAVE (IN CAMERA) - CROSS BY MR. WILLIAMS

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1       Q     Okay. Neither was anyone else that may have  
2       been there, they weren't extremely close to you at  
3       that time, were they?

4       A     Speaking of who, anyone else?

5       Q     Anyone else who might have come there in a car  
6       who might fit the description of my client?

7       A     They stayed -- when they had a conversation, I  
8       was a good feet away.

9       Q     You were a good bit away is that what you just  
10      said?

11      A     Yeah.

12      Q     Okay. And when you say a good bit away, tell  
13      me about how far away.

14      A     About right there.

15      Q     Okay. Now, let me ask you this: How did it  
16      come to pass that my client got within eight feet of  
17      you? Describe that to me.

18      A     Walking by.

19      Q     Just walking by. Was he walking to the car or  
20      was he walking towards you?

21      A     Walking by.

22      Q     Walking by.

23      A     Like to the dirt area in the driveway.

24      Q     To the dirt area in the driveway?

25      A     Yes, sir.

1 Q All right. Now, the green house, it was kind  
2 of on a side street, wasn't it? Cherry Street, is  
3 that not like a side street?

4 A Off of Washington Road, yes.

5 Q Right. And then it's not on Washington Road  
6 though, is it?

7 A It's off of Washington Road, a side street,  
8 yeah.

9 Q And you believe that there were street lights  
10 out there?

11 A It's a shopping center across the street.

12 Q Okay.

13 A And they do have light poles along the side  
14 street.

15 Q All right. And you feel as though that  
16 illuminated sufficient light for you to be able to  
17 see my client clearly?

18 A I do.

19 Q Okay. Mr. Cave, I'm going to ask you a couple  
20 of things relating to what you believe my client did  
21 when he arrived at the green house. Tell me exactly  
22 what you saw, who you believed to be my client do.

23 A He conversated (sic) with Barnes.

24 Q All right. He came, had the conversation with  
25 Barnes. You were not privy to that conversation,

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1 right?

2 A No, sir..

3 Q All right. And then somehow he walked within  
4 eight feet of you, give or take?

5 A Yes, sir.

6 Q Okay. And how quickly did this encounter  
7 occur?

8 A Talking about timeframe?

9 Q Yes.

10 A I mean, it -- I can't really say how much time  
11 within the events that happened, but, you know.

12 Q Okay. Now, prior to their arrival, you and  
13 some other folk had been beating on Mr. Sturup,  
14 hadn't you?

15 A Not me, no.

16 Q Okay. Well, at least your buddy, Mr. Griffin,  
17 he had been beating on him along with Mr. Barnes,  
18 hadn't he?

19 A Yes, sir.

20 Q Okay. So when, allegedly, my client arrived,  
21 were they sticking around, hanging out, wanting to  
22 beat on him, too, or were they just there to get in  
23 and out?

24 A No. When they got there, the fight was over  
25 with.

1 Q The fight was over with?

2 A When they got there, yes.

3 Q All right. How quickly did it take them to get  
4 Mr. Sturup in the trunk of the car?

5 A I didn't see them put him in the trunk.

6 Q All right. Did you see Mr. Barnes put him in  
7 the trunk of the car?

8 A No, I didn't.

9 Q Did you see anybody raise the trunk of the  
10 car --

11 THE COURT: None of this goes to suggestiveness  
12 on the identification, so I don't see how that's  
13 relevant to the issue you've raised in your motion,  
14 Mr. Williams.

15 The issue you raised in your motion, and quite  
16 frankly I'm not even sure you're entitled to a Neil  
17 versus Biggers hearing as I sit here and review the  
18 law, is his ability to identify one, two individuals  
19 that came to that location in an automobile that  
20 night, whether or not that person is in the  
21 courtroom.

22 MR. WILLIAMS: Your Honor, I think given the  
23 timing, the lighting and the distance away, I think  
24 those are all relevant issues. And the time of the  
25 encounter is the purpose or the line of questioning



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1 I was trying to establish here with this particular  
2 witness with regard to the time of the encounter or  
3 how long the encounter would have occurred.

4 **THE COURT:** All right. You may proceed.

5 **MR. WILLIAMS:** Thank you, Your Honor.

6 BY MR. WILLIAMS:

7 **Q** How long would you say it occurred from the  
8 time the car arrived and the car leaving that the  
9 individuals arrived in?

10 **A** I'm not really that sure really.

11 **Q** All right. Would you say it was one minute?  
12 Do you know how long a minute is?

13 **A** Yeah, I pretty much do.

14 **Q** All right. Do you think it was one minute?

15 **A** It was longer than that.

16 **Q** Okay. Do you think it was five minutes?

17 **A** A little longer than that.

18 **Q** You think it was more than five minutes?

19 **A** Yes, sir.

20 **Q** Okay. How many minutes do you think it was  
21 before that car came and you wound up following  
22 behind that car into the State of South Carolina?

23 **A** Let's say 30 minutes to an hour.

24 **Q** So they were at least there 30 minutes to an  
25 hour?

1       **A**     I'll say 30 minutes to an hour.

2       **Q**     Okay. And what were they doing, just talking  
3       with Mr. Barnes the entire time?

4       **A**     Pretty much.

5       **Q**     Out there in the dark?

6       **A**     He the only one that knew him.

7       **Q**     You've never seen him before?

8       **A**     No, sir.

9       **Q**     My client, never saw him before?

10      **A**     Not since then, no.

11           **MR. WILLIAMS:** Your Honor, those are all the  
12      questions I have of this witness -- Court's  
13      indulgence, Your Honor.

14           **THE COURT:** Yes, sir, certainly.

15                   (Pause.)

16      **BY MR. WILLIAMS:**

17      **Q**     I've got a quick question for you. Had you  
18      known a Carlos Gomez?

19      **A**     No.

20      **Q**     Okay. Were you aware that he was an associate  
21      of Steven Barnes?

22      **A**     No.

23      **Q**     How about a Chico?

24      **A**     No.

25           **MR. WILLIAMS:** Okay. Thank you, sir.

1           **THE COURT:** Redirect.

2           **MR. MAYE:** Nothing else, Your Honor. Thank  
3           you.

4           **THE COURT:** You may step down.

5           Give me a minute before you call your next  
6           witness.

7           (Pause.)

8           **THE COURT:** All right. Call your next witness.

9           **MR. MAYE:** Your Honor, the State would call  
10          Antonio Griffin.

11          Prior to that time, Your Honor, I just would  
12          ask for the purpose of this hearing or possibly  
13          during the ensuing trial, I know there are certain  
14          items of fact that the State could ask the Court to  
15          take judicial notice of. I'm going to hand up, and  
16          I don't know what research the Court might want to  
17          do to verify this, but from my calculations I have  
18          and the information that I have been provided, is  
19          that September the 2nd at 1643 hours eastern  
20          standard time was the full moon on September the 3rd  
21          -- or would have been September the 2nd at 1643  
22          hours eastern standard time 2001.

23          Also, having that -- information that I have is  
24          from a NASA web site. And then I also have one that  
25          goes back to the United States Naval Observatory

1 with moon phases. And it shows that the full moon  
2 occurred September the 2nd at 2143, and that's Zulu  
3 time or universal time and I think eastern standard  
4 time is five hours less than that.

5 I'm going to hand these up to the Court. And I  
6 would, at the appropriate time, ask the Court to  
7 take judicial notice. I know that the Court can  
8 take judicial notice of certain items such as  
9 sunrise, sunset. I would certainly think that  
10 phases of the moon would go into that same category  
11 and would ask the Court to take judicial notice that  
12 the date of September 3rd was one day after a full  
13 moon which would have occurred at 1643 hours on  
14 September the 2nd.

15 **THE COURT:** Mr. Williams.

16 **MR. WILLIAMS:** Your Honor, I mean, certainly I  
17 believe the Court can take judicial notice of what  
18 it so chooses in its discretion. However, that's --  
19 there's been no astronomical testimony offered by  
20 any astronomer to help us to be able to verify that  
21 this was actually the case.

22 **THE COURT:** Well, this is NASA. They've been  
23 to the moon.

24 **MR. WILLIAMS:** Yes, sir. And I just don't see  
25 my NASA scientist, that's what I'm worried about.

1           **THE COURT:** They're going to Mars now.

2           **MR. WILLIAMS:** Yes, sir.

3           **THE COURT:** They got curiosity out there flying  
4 around.

5           **MR. WILLIAMS:** If we had the control commander  
6 here, Judge, I wouldn't take exception to it, but  
7 since we don't, I'm going to take exception to it.

8           **THE COURT:** Well, I tell you this, you look up  
9 whether it was cloudy or clear.

10          **MR. WILLIAMS:** Yes, sir.

11          **MR. MAYE:** And, Your Honor, I have that  
12 information --

13          **THE COURT:** And -- because you can have a full  
14 moon and if you have a full moon on a cloudy night,  
15 it's -- obviously, it's not as good an ability to  
16 see as if it was a clear night.

17          **MR. WILLIAMS:** I agree.

18          **THE COURT:** I will take this into judicial  
19 notice without them having to bring someone from  
20 the -- if it was a weather report, in the future, I  
21 would question that even if I was standing outside  
22 and it's raining on me. I'm not saying you can  
23 believe the weather man, but you can for the past.

24          **MR. WILLIAMS:** Yes, sir.

25          **MR. MAYE:** And, Your Honor, along that same

1        vein, I have the summary of weather from the  
2        Farmer's Almanac for Edgefield County for our  
3        inquiry and I'm going to pass it up to the Court,  
4        that it was clear, that the -- clear visibility and  
5        absolutely zero precipitation for that calendar date  
6        of September the 3rd.

7                **MR. WILLIAMS:** I trust that more than I trust  
8        that NASA report, Judge.

9                **THE COURT:** I'm not too sure I would -- I'm an  
10        avid reader of the Farmer's Almanac. However, I  
11        think you can go to the U.S. climatology or  
12        something of that nature and check on that,  
13        Mr. Williams. I'll give you an opportunity to do  
14        that, but for purposes of this hearing, I'll take  
15        the phase of the moon into judicial notice.

16               **MR. MAYE:** Thank you, Your Honor.

17               **THE COURT:** All right. You may call your next  
18        witness.

19               **MR. MAYE:** The State would call Antonio Griffin  
20        to the stand.

21                                **ANTONIO GRIFFIN,**  
22        having been duly sworn, testified as follows:

23               **THE CLERK:** Have a seat. State your full name  
24        and spell your last name, please.

25               **THE WITNESS:** Antonio Griffin, G-r-i-f-f-i-n.

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DIRECT EXAMINATION

BY MR. MAYE:

Q Mr. Griffin, let me direct your attention directly, September the 3rd of 2001, at over in Augusta. Shortly after the time that Samuel Sturup suffered the beating at the hand of Mr. Barnes and others there, Mr. Barnes made a phone call and two individuals arrived shortly thereafter; is that correct?

A Yes, sir.

Q Did you have an opportunity to see those two individuals that arrived there at the scene?

A Yes, sir.

Q Was there adequate light in order for you to be able to see them there at in Augusta on that night?

A Yes, sir.

Q Did they have your full attention at that time?

A Yes, sir.

Q Were you able to see their facial features and their body structure in detail at that point in time?

A Yes, sir.

Q Was your attention firmly and clearly focused on them at that time?

1       **A**    Yes, sir.

2       **Q**    Is the individual that you saw there that night  
3       on Cherry Street, is he present here in the  
4       courtroom today?

5       **A**    Yes, sir.

6       **Q**    Could you point him out?

7       **A**    Right there with the orange jumpsuit on next to  
8       the lawyer with the black suit.

9           **MR. MAYE:** For the purposes of this hearing,  
10       I'd ask that the record reflect he's identified  
11       Julio Hunsberger as this individual.

12       **THE COURT:** Speak up and tell me your answer  
13       again, please.

14       **THE WITNESS:** Sir, the guy with the orange  
15       jumpsuit on next to the lawyer with the black --

16       **THE COURT:** So reflected.

17       **BY MR. MAYE:**

18       **Q**    Are you 100 percent certain that that  
19       individual seated there in the orange jumpsuit is  
20       the same individual that appeared there that night?

21       **A**    Yes, sir.

22       **Q**    Okay. Do you base your identification here in  
23       the courtroom today based on seeing him back there  
24       on the 3rd of 2001?

25       **A**    Yes, sir.



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1 Q No other factor, just your identification of  
2 him based on seeing him that night on the 3rd; is  
3 that correct?

4 A Yes, sir.

5 Q All right. Did you also have an occasion to  
6 see him at the scene of this crime when they exited  
7 the vehicle into that second field here in Edgefield  
8 County in South Carolina?

9 A Yes, sir.

10 Q Was there sufficient lighting for you to be  
11 able to see him when they got out of the vehicle  
12 there at the scene?

13 A Yes, sir.

14 MR. WILLIAMS: Objection, Your Honor. He's  
15 leading and leading further and further.

16 THE COURT: Well, we're in camera. So you may  
17 ask your next question, Solicitor.

18 BY MR. MAYE:

19 Q Where y'all went and Sam Sturup was shot, were  
20 you able to see Julio Hunsberger?

21 A Yes, sir.

22 Q Could you see his facial features?

23 A Yes, sir.

24 Q Was your attention clearly focused on him at  
25 that time?

1       A     Yes, sir.

2       Q     When you went back to the mobile home after the  
3       time of the shooting and went inside, did you have  
4       an opportunity to see Julio Hunsberger, the  
5       individual you've identified here?

6       A     Yes, sir.

7       Q     Did y'all go inside of a residence there?

8       A     Yes, sir.

9       Q     Were the lights on inside that residence?

10      A     Yes, sir.

11      Q     Were you close enough to him to be able to see  
12      his facial features and make an identification of  
13      him?

14      A     Yes, sir.

15      Q     Are you absolutely certain that the individual  
16      that you've identified in the courtroom as Julio  
17      Hunsberger is the same individual that was there in  
18      that mobile home here in Edgefield County on that  
19      same night?

20      A     Yes, sir.

21      Q     You're a hundred percent certain?

22      A     Yes, sir.

23      Q     Okay. Is your identification of him based  
24      solely on seeing him there at the crime scene?

25      A     Yes, sir.

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1       Q     Let me ask you: Is the individual that you've  
2       identified as Julio Hunsberger, is that the same  
3       individual that was there at Cherry Street, at

4  
5       A     Yes, sir.

6       Q     Is it the same individual that was there at the  
7       crime scene when they got him out of the vehicle?

8       A     Yes, sir.

9       Q     Is it the same individual that was there and  
10      present when the shots were fired at Samuel Sturup  
11      in the wooded area here in Edgefield County?

12      A     Yes, sir.

13      Q     And is it the same individual that was there in  
14      the mobile home afterwards?

15      A     Yes, sir.

16      Q     You are a hundred percent certain of that?

17      A     Yes, sir.

18      Q     Let me ask you this: During a trial back in  
19      2006 between February -- September the 5th and  
20      September the 12th of 2006, were you able to  
21      identify Julio Hunsberger at that time?

22      A     Yes, sir.

23      Q     Were you able to identify him solely on seeing  
24      him back on the date of this crime on that day?

25      A     Yes, sir.

1 Q Okay. And is that the same individual that was  
2 there in the courtroom in 2006 that's seated here  
3 today?

4 A Yes, sir.

5 Q You're a hundred percent certain of that?

6 A Yes, sir.

7 MR. MAYE: Okay. Answer any questions the  
8 defense has for you.

9 THE COURT: Thank you, Solicitor.

10 Mr. Williams.

11 CROSS-EXAMINATION

12 BY MR. WILLIAMS:

13 Q Mr. Griffin, you participated in a trial last  
14 week as well, did you not?

15 A Yes, sir.

16 Q And it was the trial of Alex Hunsberger?

17 A Yes, sir.

18 Q Okay. I'm going to ask you to take your  
19 attention, if you will, to that September evening  
20 that was at the green house on Cherry Street, okay?

21 A Yes, sir.

22 Q Do you recall that you had testified on  
23 yesterday that you had been fighting with Sam  
24 Sturup some?

25 A Yes, sir.

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1 Q As well as Steven Barnes and Ms. Thatcher?

2 A Yes, sir.

3 Q Okay. And do you recall you said that you were  
4 outside?

5 A Yes, sir.

6 Q Okay. Was it daylight hours?

7 A Nighttime.

8 Q About what time was it; do you recall?

9 A Not really. I know we got dropped off there by  
10 Kay's dad. He was going to work. So, I guess, he  
11 went to work at 9:00. So it was around some time  
12 after 9:00.

13 Q Somewhere around nine o'clock?

14 A Yes, sir.

15 Q Okay. And you don't doubt or you have no  
16 question in your mind that it was dark?

17 A Yes, sir. It was nighttime.

18 Q Yes, sir. Okay. And let me ask you about that  
19 house. Did it have power in it?

20 A I don't know.

21 Q You don't know?

22 A I ain't been inside the house. We was all  
23 outside.

24 Q Did you see any lights on on the inside that  
25 illuminated to the outside?

1       A     I didn't pay attention.

2       Q     You didn't pay attention?

3       A     No, sir.

4       Q     Okay. All right. Now, let me ask you this:

5       In the trial of Alex Hunsberger, you indicated that  
6       a car arrived, that Mr. Sturup was put in the trunk  
7       and then you all left; is that right?

8       A     Yes, sir.

9       Q     Okay. Tell me a little bit about how long that  
10       incident or that encounter would have taken in terms  
11       of the car arriving and then you all leaving.

12       A     What, you want me to guess?

13       Q     No. I mean, I want you to try to give me your  
14       best estimate. I mean, did it take about one  
15       minute, did it take 30 minutes, did it take an hour  
16       in terms of the car arriving in which you believe my  
17       client would have come to the green house in and the  
18       car leaving, as well as Mr. Cave and yourself  
19       leaving in a separate vehicle coming into the State  
20       of South Carolina?

21       A     I mean, if I give you an answer, I'd be  
22       guessing.

23       Q     I want you to guess then. Give me your best  
24       guess, though, that's the only thing I'm asking for.

25       MR. MAYE: Now, Your Honor, at this point in

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1 time, I'm going to have to object. He says he just  
2 doesn't know and he's going to be purely speculating  
3 on it, that calls for frank speculation. I'm going  
4 to object on the grounds that it will be speculation  
5 and he says he can't do that.

6 THE COURT: I'm going to sustain the objection.

7 BY MR. WILLIAMS:

8 Q So you don't know how long it took. Is that  
9 your answer?

10 A Yes, sir.

11 Q Okay. So you don't know if it took an hour or  
12 two hours?

13 A It wasn't no two hours.

14 Q And you don't know if they just came, put  
15 Mr. Sturrrup in the trunk and left, you don't know  
16 that either?

17 A No, sir.

18 Q Okay. All right. Now, did you also not  
19 testify on yesterday that when they arrived, you  
20 thought they were white guys?

21 A Yes, sir, I did.

22 Q I mean, not yesterday, on last week. Forgive  
23 me, okay.

24 A Yes, sir.

25 Q So, basically, does my client look like a white

1       guy to you today?

2       **A**     When I first saw him. I didn't know he was  
3       Hispanic till after we got locked up.

4               **MR. WILLIAMS:** Mr. Hunsberger, if you don't  
5       mind, just stand.

6               (Defendant stands.)

7       **Q**     Does Mr. Hunsberger look like a white guy to  
8       you today?

9       **A**     He can go for a white guy.

10      **Q**     You think he could?

11      **A**     Yeah. I met plenty Hispanics look like white  
12      guys.

13              **MR. WILLIAMS:** You can have a seat, Mr.  
14      Hunsberger.

15      **Q**     So you thought he was a white guy and you still  
16      think he's a white guy; is that right?

17      **A**     I know he's not a white guy now.

18      **Q**     How do you know he's not a white guy now?

19      **A**     From his name, the papers saying he was  
20      Hispanic, whatever.

21      **Q**     All right. So you saw some stuff in the paper  
22      about him as well, didn't you?

23      **A**     Of course.

24      **Q**     All right. You testified in a trial over in  
25      Georgia, did you not?



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1       A     Yes, sir.

2       Q     Okay. And in that trial, you also indicated  
3       you believed they were white guys, didn't you?

4       A     At first.

5       Q     Okay. Now, race is kind of a quantitative  
6       term, I guess it is. Mr. Cave, he's a light-skinned  
7       black guy, isn't he?

8       A     Yes, sir.

9       Q     He's your buddy?

10      A     Yes, sir.

11      Q     But you can tell he's black, can't you?

12      A     Yes, sir.

13      Q     Okay. I'm not as dark as some black people, am  
14      I?

15      A     No.

16      Q     But you can tell I'm black, can't you?

17      A     Yes, sir.

18      Q     Okay. But on that night, you couldn't tell my  
19      client was Hispanic?

20      A     I never met him before, that was my first time  
21      meeting him.

22      Q     On that night, you could not tell that my  
23      client was Hispanic, could you?

24      A     No, sir.

25      Q     You thought he was white, didn't you?

1       A     Yes, sir, when I first met him.

2       Q     All right. And that was the only time you had  
3       ever met my client before?

4       A     Yes, sir.

5       Q     You have no gained prior knowledge or prior  
6       familiarity with him, do you?

7       A     No, sir.

8       Q     Now, let me ask you this: Y'all had the  
9       opportunity to come over into South Carolina, were  
10      y'all in the same car?

11      A     No, sir.

12      Q     Okay. As to individuals who had left with  
13      Mr. Sturup in the trunk, were y'all in the same  
14      car?

15      A     Was I in the car with them?

16      Q     Yes.

17      A     No, sir.

18      Q     Okay. How close did you get to my client on  
19      that evening?

20      A     What you mean?

21      Q     How close did you get to my client on that  
22      evening?

23      A     They pulled in the yard. I was in the yard.

24      Q     Okay. But he got close enough for you to think  
25      he was a white guy, that's how close you got?

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1       A     Yes, sir.

2       Q     Okay. Let me ask you, when you came over into  
3       South Carolina, you indicated that you all went  
4       through a field; is that right?

5       A     Yes, sir.

6       Q     Okay. And when you went into that field, did  
7       you all have your lights on, your bright lights on?

8       A     We had them on, then they turned them off.  
9       Then we went through and got on another field,  
10      everybody had got out the car then.

11      Q     All right. So y'all were basically walking out  
12      there in the dark?

13      A     It was dark, but you could see what's going on.

14      Q     Okay. And, at any point, did you change your  
15      opinion that my client was white, Hispanic or  
16      otherwise?

17      A     I mean, out there with all these guns waiving  
18      everywhere, I wasn't looking to see, okay, he's a  
19      white guy, Hispanic, that wasn't a priority to me.  
20      So I wasn't studying him, what kind of shoes he got  
21      on, clothes, how long his hair is, that wasn't a  
22      priority. When I see guns, I'm looking at these  
23      guns.

24      Q     I understand. All right. And you were out  
25      there with the big man?

1       A     Yes, sir.

2       Q     Okay. In the dark, okay. Now, the incident  
3       that would have occurred, did you get very close to  
4       my client?

5       A     Yes, sir, all us was together.

6       Q     Okay. But you didn't look at him, you was  
7       looking at the gun?

8       A     I looked at everybody.

9       Q     Okay. All right. Now, there's some testimony  
10      that you all returned to a mobile home; is that  
11      right?

12      A     Yes, sir.

13      Q     Okay. There's also some testimony that who you  
14      believed to be my client's brother along with my  
15      client went to the rear of the trailer; is that  
16      right?

17      A     Yes, sir.

18      Q     Along with Mr. Barnes?

19      A     Yes, sir.

20      Q     Okay. And then Mr. Barnes left y'all sitting  
21      out front; is that right?

22      A     Yes, sir.

23      Q     My client and his brother allegedly remained in  
24      the back of the trailer; is that right?

25      A     Yes, sir.

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1           **Q**     Mr. Barnes came out and asked y'all how you  
2           felt about it?

3           **A**     Yes, sir.

4           **Q**     Is that right?

5           **A**     Yes, sir.

6           **Q**     Okay. When you left the trailer, did my client  
7           come out from the back?

8           **A**     No, sir.

9           **Q**     He stayed in the back?

10          **A**     Yes, sir. We left alone.

11          **Q**     Y'all left separately, didn't you?

12          **A**     Yes, sir, in the car we was in.

13                 **MR. WILLIAMS:** All right. Court's indulgence.

14                 **THE COURT:** Yes, sir.

15                         (Pause.)

16                 **MR. WILLIAMS:** I don't have any other  
17           questions.

18                 **THE COURT:** Thank you.

19                 Solicitor.

20                 **MR. MAYE:** Nothing else. Thank you.

21                 **THE COURT:** Thank you, Mr. Griffin. You may  
22           step down.

23                 All right. Solicitor.

24                 **MR. MAYE:** The State would call Charlene  
25           Thatcher.

1 CHARLENE ANN THATCHER,  
2 having been duly sworn, testified as follows:

3 THE CLERK: Have a seat. State your full name  
4 and spell your last name, please.

5 THE WITNESS: My name is Charlene Ann Thatcher,  
6 T-h-a-t-c-h-e-r.

7 THE COURT: Speak up for me a little bit,  
8 please.

9 All right. Solicitor.

10 DIRECT EXAMINATION

11 BY MR. MAYE:

12 Q Ms. Thatcher, let me direct your attention  
13 specifically to September the 3rd of 2001, out at  
14 the green house at in Augusta.  
15 After the time that Steven Lewis Barnes and you and  
16 Mr. Cave and Mr. Griffin had an encounter with  
17 Mr. Sturup that resulted in him receiving injury, a  
18 phone call was made and two individuals subsequently  
19 arrived; do you recall that?

20 A Yes, sir.

21 Q Did you have an opportunity to see the  
22 individuals that arrived there at Cherry Street?

23 A Yes, sir.

24 Q Was your attention clearly focused on them?

25 A Yes, sir.

CHARLENE ANN THATCHER (IN CAMERA) - DIRECT BY MR. MAYE

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1 Q Did you have an adequate opportunity to see  
2 their facial features and their body structure  
3 there?

4 A Yes, sir.

5 Q Was there sufficient light in order for you to  
6 be able to see and recognize them?

7 A Yes, sir.

8 Q Let me ask you this: Is the individual that  
9 you -- one of the individuals that you saw arrive  
10 after Mr. Barnes made a phone call, is he present  
11 here in the courtroom?

12 A Yes, sir.

13 Q Could you point him out and describe where he  
14 is, what's he wearing?

15 A He's sitting right there, sir, (indicating)  
16 next to his lawyer in the orange jumpsuit, sir.

17 MR. MAYE: Your Honor, I'd ask that she's  
18 identify -- the record to reflect she's identified  
19 Julio Hunsberger in this case.

20 THE COURT: All right. So reflected.

21 BY MR. MAYE:

22 Q Let me ask you this: Are you absolutely 100  
23 percent certain that the individual that arrived out  
24 there at the green house is the same individual  
25 that's seated there that you identified as Julio

1 Hunsberger?

2 A Yes, sir.

3 Q Let me ask you this: When Sam Sturup was  
4 placed in the trunk of the automobile, who was there  
5 and present when he was put in the trunk of the  
6 automobile?

7 A Me, Griffin, Cave, Barnes and the Hunsbergers,  
8 sir.

9 Q Okay. Did you see Alex and Julio Hunsberger as  
10 he was placed -- Sam Sturup was placed in the trunk  
11 of the car?

12 A Yes, sir.

13 Q Okay. Let me ask you this: Did y'all  
14 subsequently follow that same automobile into South  
15 Carolina?

16 A Yes, sir.

17 Q When y'all stopped in South Carolina, did the  
18 individual that you previously identified here in  
19 the courtroom, Julio Hunsberger, did he get out of  
20 that same vehicle when he got to South Carolina?

21 A Yes, sir.

22 Q Could you see him clearly at that point in time  
23 and did you recognize him as being the same  
24 individual that you saw putting him in the car over  
25 there in -- on Cherry Street?



CHARLENE ANN THATCHER (IN CAMERA) - DIRECT BY MR. MAYE

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1       A     Yes, sir.

2       Q     When y'all went out into the wooded area where  
3       Sam Sturup was shot, did you see Julio Hunsberger  
4       at that point in time?

5       A     Yes, sir.

6       Q     Could you see his facial features? Was there  
7       sufficient light for you to be able to see him?

8       A     Yes, sir.

9       Q     Was your attention clearly focused on him?

10      A     Not clearly, but I seen him, sir.

11      Q     Okay. Let me ask you this: When you went back  
12      to the trailer after the time of the shooting, were  
13      you able to see the individual that you've  
14      identified as Julio Hunsberger there in that  
15      trailer?

16      A     Yes, sir.

17      Q     Okay. Was there sufficient light inside the  
18      trailer for you to be able to see and identify him?

19      A     Yes, sir.

20      Q     Okay. Is your identification of him here today  
21      in the courtroom based on seeing him at Cherry  
22      Street out there at the scene of the shooting and at  
23      the trailer, is that all based on seeing him that  
24      night?

25      A     Yes, sir.

1 Q Okay. Was your attention focused on him enough  
2 at that period of time to make that identification  
3 that night?

4 A Yes, sir.

5 MR. MAYE: Okay. Answer any questions the  
6 defense has for you.

7 THE COURT: Thank you.

8 Mr. Williams.

9 MR. WILLIAMS: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. WILLIAMS:

12 Q Ms. Thatcher, it's getting late in the  
13 afternoon, isn't it?

14 A Yes, sir.

15 Q It's a little tiring, isn't it?

16 A Yes, sir.

17 Q Okay. I want you to do your best to answer my  
18 questions as accurately as you can, okay?

19 A Yes, sir.

20 Q Prior to September of 2001, did you have a  
21 gained familiarity or did you know Mr. Julio  
22 Hunsberger?

23 A No, sir.

24 Q Had you ever seen him before?

25 A No, sir.

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1 Q Are you familiar with an individual by the name  
2 of Chico as an associate of Mr. Steven Barnes?

3 A No, sir.

4 Q How about an individual by the name of Carlos  
5 Gomez?

6 A Yes, sir.

7 Q I'm sorry, I didn't --

8 A Yes, sir.

9 Q Was he an associate of Mr. Steven Lewis Barnes?

10 A Yes, sir.

11 Q On that evening, how long was it that it took  
12 for the car to arrive at the green house that you  
13 believe my client was in and leave that scene or  
14 leave that area; do you know?

15 A How long, approximately, that they stayed?

16 Q That's right, before they left with Sam Sturup  
17 in the trunk.

18 A No longer than ten minutes, sir.

19 Q No longer than ten minutes. So they weren't  
20 there to have an hour long or 30-minute long  
21 conversation; is that right?

22 A Not that I recall, sir.

23 Q You don't recall them being there longer than  
24 about ten minutes?

25 A Not that I recall, sir. It's been ten years.

1 Q I understand. Your memory a little cloudy on  
2 that issue?

3 A Yes.

4 Q But do you believe they stayed there longer  
5 than ten minutes to put Mr. Sturup in the car?

6 A I'm not sure, sir. You just told me to give  
7 you an estimated time.

8 Q That's right. And that's your best estimate?

9 A Yes, sir.

10 Q Ten minutes?

11 A Yes, sir.

12 Q Okay. And do you recall if there was power in  
13 the green house? Now, you actually went inside, did  
14 you not?

15 A Yes, sir.

16 Q Was there power in that house?

17 A I'm not going to be able to remember that, sir.

18 Q Okay. Did you previously testify that there  
19 was no power in that house?

20 A I don't remember if I have.

21 Q You just don't remember; is that right?

22 A Yes, sir.

23 Q Do you recall if it was daytime or nighttime  
24 when the car would have arrived?

25 A It was nighttime, sir.

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1 Q Okay. And do you recall if the individuals  
2 that got out of the car came very close to you?

3 A No, sir.

4 Q You don't recall or they didn't come very close  
5 to you?

6 A I don't recall.

7 Q Okay. I just want to know how is it that you  
8 can recall that you saw my client there at the  
9 scene, but you can't recall as to whether or not he  
10 got very close to you?

11 A Meaning, sir?

12 Q The Solicitor asked you if you recall seeing my  
13 client at the scene and you know it was him, there  
14 was enough light, you could see his face --

15 A I can remember faces, sir, but you're asking me  
16 days -- I mean, times of the day and stuff like that  
17 and lights and, no, I don't recall that, sir.

18 Q Okay. Well, do you recall how close the  
19 individual got to you on that evening? That was my  
20 question.

21 A Sir, the only time we were close that evening  
22 was when the boy was shot and that wasn't too close.  
23 It was about approximately where he is at right now.

24 Q Okay. And it was dark?

25 A Yes, sir.

1       Q     And you didn't ride in the car with my client  
2       or who you believed to be my client, did you?

3       A     No, sir.

4       Q     Okay. Who did you ride in the car with?

5       A     Griffin, Cave and Barnes.

6       Q     At any point was my client as close to you as I  
7       am to you right now?

8       A     No, sir.

9       Q     At the green house, did he get this close to  
10      you?

11      A     No, sir.

12      Q     Out somewhere in Edgefield County here off of  
13      Community Road was he as close to you as I am now?

14      A     In his trailer, yes.

15      Q     No. I'm talking about there, out in the woods?

16      A     No, sir.

17      Q     Now, I'm going to ask you about the trailer.

18      Do you recall testifying that my client and his  
19      brother went to the rear of the trailer when y'all  
20      arrived at the trailer?

21      A     Not when we arrived. When we settled in, they  
22      went back to the trailer to get some stuff to wipe  
23      the guns down. Yes, sir, I did testify to that.

24      Q     And did they stay in the back while Mr. Barnes  
25      came from the back to ask y'all how you felt about

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1           it?

2           A       Everybody was up front when he asked us how we  
3           felt about it, sir.

4           Q       Including my client?

5           A       Yes, sir, because each and every one of us had  
6           to answer him.

7           Q       Okay. And I'm going to ask you this: How long  
8           did that encounter occur?

9           A       Sir, I have no clue.

10          Q       You have no idea. Did y'all just sit around  
11          for 30 minutes or so talking about you killing  
12          Mr. Sturup?

13          A       I know it wasn't -- no, sir. It was just a yes  
14          or no answer how do you feel.

15          Q       Okay. And did who you believe to be my clients  
16          leave with you all?

17          A       No, sir.

18          Q       Okay. Who you believe was my client stayed  
19          behind and you all left?

20          A       I don't know, sir.

21          Q       You were interviewed by a Richard Roundtree,  
22          were you not?

23          A       Yes, sir.

24          Q       And did you not give him the name of my client  
25          during that interview?

1       **A**     Sir?

2       **Q**     Did you not say that you knew Julio Hunsberger  
3       during the interview with Mr. Richard Roundtree?

4       **A**     Yes, sir.

5       **MR. WILLIAMS:** Okay. I don't have anything  
6       further.

7       **THE COURT:** Redirect, Solicitor.

8       **MR. MAYE:** Nothing. Thank you.

9       **THE COURT:** Thank you, Ms. Thatcher. You may  
10      step down.

11      Anything further, Solicitor?

12      **MR. MAYE:** Nothing further, Your Honor. Those  
13      are the three witnesses which we would rely upon for  
14      I.D. at this point in time. One other individual  
15      knows the defendant in this case, but it's not from  
16      the crime scene and it's not from -- it's not an  
17      identification based on the crime scene. So I don't  
18      know that it will be an issue at this point in time.  
19      If it becomes an issue at some point in time in the  
20      future, we can take that up.

21      **THE COURT:** Anything, Mr. Williams?

22      **MR. WILLIAMS:** Your Honor, I would move to ask  
23      the Court to exclude the in-court identifications of  
24      all three witnesses. I believe that they didn't  
25      have sufficient time to observe my clients -- my



1 client. They had no gained familiarity with him.  
2 Admittedly, Your Honor, we all would take judicial  
3 notice that nine or ten o'clock at night in  
4 September in Augusta, Georgia, it's going to be  
5 dark.

6 Judge, I believe Mr. Griffin particularly  
7 indicated that he didn't get close enough to my  
8 client to be able to distinguish whether he was  
9 white or Hispanic. I would suggest to the Court  
10 that that is a pretty good indication that he  
11 couldn't identify my client at that time. And I  
12 would suggest that he would not, him in particular,  
13 not be allowed to identify my client in trial.

14 I would also suggest to the Court that Mr. Cave  
15 and Ms. Thatcher have relied upon their knowledge of  
16 news accounts, as well as Mr. Cave's prior testimony  
17 against my client in his trial in Augusta. These  
18 individuals did not have sufficient time to observe  
19 this -- who they believe to be my client. They  
20 didn't have a sufficient opportunity to be close  
21 enough to make out any distinguishing details in the  
22 dark of night. And they all indicated that they  
23 didn't get very close to my, allegedly, get very  
24 close to my client. Even at the mobile home, one  
25 indicated that my client never returned from the

1 rear.

2 I just don't believe that will be sufficient  
3 time to make an accurate identification of anyone,  
4 particularly out in the dark. I just don't believe  
5 that to be sufficient time. And I would suggest to  
6 the Court that none of these individuals should be  
7 permitted to make an in-court identification of my  
8 client because it would be prejudicial to him, and I  
9 believe that it would defeat certain aspects of our  
10 defense.

11 **THE COURT:** All right. Thank you very much.

12 Well, as I looked at the law, and that's why I  
13 asked the Solicitor to start with the procedure that  
14 we would follow, State versus Lewis, 609 S.E.2d 515,  
15 held that the requirement that a court review the  
16 totality of the circumstances to determine whether  
17 an identification is reliable does not apply to a  
18 first time in-court identification.

19 When I read footnote number nine in that  
20 particular decision, it indicates to me that the  
21 Court of Appeals in this case found that the  
22 protection afforded a defendant when there has been  
23 an out-of-court identification does not apply to the  
24 situation where there has been only an in-court  
25 identification. If there had been a pretrial

1        identification, a hearing is mandated on the  
2        admissibility of that identification.

3                As the Solicitor points out and as  
4        Mr. Williams, Neil versus Biggers is the rule to  
5        protect criminal defendants against suggestive  
6        identification procedures. And you look at those  
7        factors: The opportunity of the witness to view the  
8        accused, the witness' degree of attention, the  
9        accuracy of the witness' prior description, the  
10       level of certainty demonstrated by the witness at  
11       the confrontation, and the length of time between  
12       the crime and the confrontation.

13               As our Supreme Court has concluded, Neil versus  
14        Biggers does not apply to in-court identifications  
15        and that the remedy for any alleged suggestiveness  
16        of an in-court identification is cross-examination  
17        and argument. The United States Supreme Court has  
18        not extended its exclusionary rule to in-court  
19        identification procedures that are suggestive  
20        because of the trial setting.

21               In an abundance of precaution, I allowed the in  
22        camera hearing to question the identification of the  
23        witnesses, of the identification witnesses to be  
24        cross-examined by the defense attorney. And he ably  
25        did that. Regardless, a defendant is not deprived

1 of a fair trial if there's in-court identification  
2 because the defense is able to explore weaknesses  
3 and suggestiveness of identification in front of the  
4 jury.

5 It really goes more to rather than 104, State's  
6 602, lack of personal -- excuse me -- Rule 602, lack  
7 of personal knowledge, a witness may not testify to  
8 a matter unless evidence is introduced sufficient to  
9 support a finding that the witness has personal  
10 knowledge of the matter. If the witness has  
11 personal knowledge, it then becomes a matter for the  
12 jury, it's a jury issue.

13 Also, on news reports or prior observation in  
14 the courtroom setting, the news reports is not State  
15 action unless it can be shown that the State perhaps  
16 picked up the phone and said, witness X, watch the  
17 six o'clock news tonight and see if you identify  
18 anybody, or something of that nature. So I -- and  
19 they said, well, news reports, but at the same time  
20 Mr. Cave went back to, well, it's based on what I  
21 saw that night, all of them did. It's just a jury  
22 issue to weigh their credibility or believability  
23 quite frankly.

24 I will look at those factors should the Supreme  
25 Court decide that the law should change to -- or I'm

1 misinterpreting the law perhaps that they were  
2 entitled to a hearing under Biggers. Each of them  
3 had the opportunity to see the defendant at three  
4 separate locations, Cherry Street, off of Washington  
5 Road in Augusta, the field in Edgefield County at  
6 the scene of the homicide and in the trailer off of,  
7 I understand, Community Road. It was night. There  
8 is a full moon, I'm taking judicial notice of that,  
9 that it appears that there was some degree of  
10 attention.

11 There had been no prior accuracy. There had  
12 been no presentation. There certainly had been no  
13 misidentification. All of them appears to be  
14 certain. One of them claims, Mr. Cave I believe,  
15 there was an eight feet, that it was an extended  
16 period of time. Time is a relative thing also. One  
17 at the minimum of ten minutes. The other up to 30  
18 minutes at the green house.

19 So I would say if I were to analyze the Neil  
20 versus Biggers, there is sufficient evidence in the  
21 record that there's no potential for  
22 misidentification based on suggestiveness.

23 Anything further, Mr. Williams, any other  
24 motions?

25 **MR. WILLIAMS:** No, sir, Your Honor.

1           **THE COURT:** Solicitor.

2           **MR. MAYE:** Nothing else from the State, Your  
3 Honor.

4           **THE COURT:** So I take it the decks will be  
5 clear to start then at 9:30 in the morning.

6           **MR. WILLIAMS:** Yes, sir.

7           **MR. MAYE:** Yes, sir, Your Honor. We'll be  
8 prepared.

9           **THE COURT:** And, Mr. Hunsberger, will be  
10 dressed out; is that correct, Sheriff?

11          **OFFICER:** Yes, Your Honor.

12          **THE COURT:** All right. Thank you very much.  
13 Court will be in recess until 9:30 in the morning.  
14 Thank y'all very much. I hope y'all have a pleasant  
15 evening.

16          (Whereupon, the proceedings were concluded  
17 for January 9, 2012.)

18          (The following proceedings were held on  
19 January 10, 2012.)

20          **THE COURT:** Before we get started, this was not  
21 marked yesterday. This will be Court's Exhibit  
22 Number 2 on the phases of the moon.

23          (Court's Exhibit Number 2, phases of the  
24 moon, marked for identification purposes.)

25          **THE COURT:** Anything from the State before we

1 bring in our jury?

2 MR. YOUNG: No, sir.

3 THE COURT: From the defense?

4 MR. WILLIAMS: Your Honor, I beg to ask the  
5 Court, what was Exhibit Number 2?

6 THE COURT: The phases of the moon, Court's  
7 Exhibit Number 2. It was handed up yesterday,  
8 offered. I accepted it, but I don't think it got it  
9 marked.

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: And your objection is certainly  
12 still noted for the record.

13 MR. WILLIAMS: Yes, sir.

14 THE COURT: All right. Anything further,  
15 Mr. Williams, before we bring in our jury?

16 MR. WILLIAMS: No, sir, Your Honor.

17 THE COURT: All right. I signed a document  
18 yesterday for media coverage of this court  
19 proceeding by WRDX T.V. News 12 in Augusta, Georgia,  
20 or it says North Augusta, South Carolina. That is  
21 authorized under Rule 605 of the South Carolina  
22 Rules of Appellate Procedure concerning the  
23 administration of the courts.

24 As part of that -- as part of that rule, that  
25 rule indicates the various guidelines and

1 requirements that the media must adhere to. I  
2 expect them to scrupulously adhere to those  
3 guidelines.

4 Further, I'm trying to see the exact subsection  
5 that refers to members of the jury, 605(f)(2)(iii),  
6 The members of the jury may not be photographed  
7 except when they happen to be in the background or  
8 other subject being -- the background of other  
9 subjects being photographed. Camera and audio  
10 coverage of prospective jurors during selection is  
11 prohibited. Of course, that's not an issue because  
12 it was not covered during selection.

13 I have placed on this form, No filming of  
14 jurors in any manner whatsoever. So make sure that  
15 the equipment is appropriately posted to comply with  
16 that order.

17 All right. Bring us our jury, please.

18 (The jury enters the courtroom at 9:35 a.m.)

19 **THE COURT:** Madame Clerk, will you swear our  
20 jury, please?

21 **THE CLERK:** Yes, sir.

22 (The jury was duly sworn by the Clerk of  
23 Court at 9:37 a.m.)

24 **THE CLERK:** Is there any member of the jury  
25 panel that was unable to take the oath, please raise



1 your hand?

2 No hands were raised.

3 **BAILIFF:** Judge, they would like to know if  
4 they can take notes.

5 **THE COURT:** All right. I'll cover that with  
6 them. Thank you very much.

7 Madame Clerk, the jury wanted to know if they  
8 can take notes. After my instructions to them, if  
9 you have the materials for them, I will allow you to  
10 pass that out.

11 I'll give you a specific charge as to that. I  
12 don't think you need to take notes during my opening  
13 remarks. You may do so if you have the material,  
14 but you certainly do not need to. These are very  
15 preliminary remarks in this regard.

16 Ladies and gentlemen of the jury, the case we  
17 are about to try is the case of the State versus  
18 Julio Angelo Hunsberger. What I will now say is  
19 intended to serve as an introduction to the trial of  
20 this case. These remarks are not a charge or  
21 instruction on the law in this case. I will  
22 instruct you on the law that applies to this case at  
23 the end of the trial before you retire to consider  
24 your verdict. This is merely an explanation of the  
25 procedure that we will follow in the trial so that

1       you may better understand what may be happening.

2               As I have just stated, you may be -- you will  
3       be authorized to take notes during the trial.

4       Please keep in mind that part of the determination  
5       of a witness' credibility you may take into account  
6       the demeanor, the manner, the way the witness  
7       testifies while on the witness stand. And sometimes  
8       when you're taking notes, as you drop, you know,  
9       drop your head in your intention to write down a  
10      note, you may miss the particular nuance of a  
11      witness's demeanor. So just keep that in mind. I'm  
12      a note taker myself and then, of course, sometime  
13      after the fact, I have a hard time reading my notes,  
14      but I am a note taker.

15             Also, keep this in mind: The notes of one  
16      juror are no better than the memory of your fellow  
17      juror. In other words, one juror's memory is as  
18      good as your notes.

19             Also, you will not be authorized to have your  
20      notes with you during any breaks, during luncheon  
21      recess, over the evening hours until such time as  
22      the case is submitted to you for your deliberations.  
23      What will happen with your notes during that period  
24      of time, they will be secured by the Clerk.

25             So if you'll, when you get your pads and

1 pencils, just write your juror number on there so  
2 that -- and if you don't know that, I'm sure Madame  
3 Clerk has them memorized, you just ask her and get  
4 your juror number on that and always turn them  
5 upside down on your chair as you walk out. And they  
6 will be appropriately secured by the Clerk's office  
7 and will not be reviewed in any manner by anyone, by  
8 anyone.

9 The defendant, as you know, is charged by an  
10 indictment filed in this court with the crime of  
11 murder. The elements of which will be explained to  
12 you in full and complete detail later. This  
13 indictment is simply the charge by which the case is  
14 brought into court and it is not, in any sense,  
15 evidence of any of the allegations it contains.

16 The defendant has pled not guilty to this  
17 indictment. The State, therefore, has the burden of  
18 proving each of the elements of the indictment  
19 beyond a reasonable doubt. It will be your duty,  
20 ladies and gentlemen, to decide whether the State  
21 has met that burden.

22 Your purpose as jurors is to find and determine  
23 the facts. You are the sole judge of the facts in  
24 this case. If, at any time, I make any comment  
25 regarding the facts, you must disregard it. You are

1 to determine the facts from the testimony you hear  
2 and the other evidence introduced in court.

3 It is up to you to determine the inferences  
4 which you feel may properly be drawn from the  
5 evidence. It is especially important that you  
6 perform your duty of determining the facts  
7 diligently and conscientiously because ordinarily  
8 there is no way to correct an erroneous  
9 determination of the facts by a jury.

10 On the other hand and with equal emphasis, the  
11 same law that makes you the judges of the facts make  
12 me the judge of the law. The law as given by the  
13 Court is the only law you may consider. You must  
14 accept and follow it even though you may disagree  
15 with it. I cannot tell you what the facts are, you  
16 cannot disagree with me about what the law is or  
17 what the law should be.

18 Your job is to take the law as I give it to you  
19 and apply it to the facts as you find them from the  
20 testimony of the witnesses testifying under oath  
21 from this witness stand and any other evidence that  
22 is introduced. After doing that, you will render  
23 your verdict, a true and just verdict, under the  
24 solemn oath that you have just taken as jurors.

25 Until I advise you to begin your deliberations,

1       you must not discuss this case with anyone, that  
2       includes your fellow jurors, your family, your  
3       friends or anyone else. After the case is submitted  
4       to you, you must discuss it only in the jury room  
5       with your fellow jurors.

6               The attorneys, the parties in this case have  
7       been advised that they are not to talk to you at  
8       all. So if you see anyone involved in the case and  
9       they do not even say hello, they're not being  
10      unfriendly or rude, they are merely following my  
11      instructions.

12             Further, during the trial, do not read, watch,  
13      listen to any news reports about the case. This  
14      includes anything that may be in the newspaper or on  
15      the Internet, radio or television. You must not  
16      consider anything that you may have read or heard  
17      about the case outside of the courtroom whether  
18      before or during the trial.

19             As an aside, I have authorized, under our rules  
20      in South Carolina, the presence of the news media to  
21      film the trial. I recall when cameras were first  
22      authorized in the courtroom back in the late 80s, I  
23      guess it was, the mid 80s, and I thought, gosh,  
24      that's just going to change the whole nature of the  
25      judicial process, but I realize -- that was when I

1 sat where these gentlemen sit today, these  
2 attorneys, not where I sit now. But I realized if  
3 you're focused on the task at hand, you're not even  
4 aware of the camera and you'll focus on your task at  
5 hand in determining the facts in reaching that true  
6 and just verdict.

7 For your information, I further advised the  
8 media representative they're not to film the jury in  
9 any manner. That is my ruling and it is authorized  
10 under our rules of court in South Carolina. So you  
11 just focus on your task at hand and focus on the  
12 evidence and the testimony of the witnesses as they  
13 appear on the witness stand and testify before you.

14 Ladies and gentlemen, it is important that you  
15 keep an open mind and not decide any issue in this  
16 case until you've heard all of the evidence that's  
17 been presented, the parties have made their closing  
18 arguments and I have instructed you on the law in  
19 this case. You have but one function in this case  
20 and that is to render that true and just verdict and  
21 find the truth regardless of from where that truth  
22 may come. So you must listen to all the witnesses,  
23 don't prejudge the case until you begin your  
24 deliberations and make your decisions.

25 It is your solemn responsibility to determine

1 the guilt or the innocence of Mr. Hunsberger and  
2 your verdict must be based solely on the evidence as  
3 it is presented to you during this trial and on the  
4 law as I instruct you during and at the close of the  
5 trial.

6 In just a moment, the Solicitor will make what  
7 is called an opening statement in which the  
8 Solicitor will explain to you the issues in the case  
9 or at least what the Solicitor thinks the issues are  
10 in the case. Mr. Williams, the attorney for  
11 Mr. Hunsberger, may also make an opening statement,  
12 although he is not required to do so.

13 The burden of proof is on the State to prove  
14 its case beyond a reasonable doubt. A defendant in  
15 South Carolina is presumed to be innocent regardless  
16 of the seriousness of the charge that has been  
17 placed against him.

18 What the attorneys tell you is not evidence.  
19 It is only their contention as to what the issues  
20 are. In that regard, the questions of the attorneys  
21 is not evidence, it's the responses from the  
22 witnesses. The questions are the framework by which  
23 the responses come from the witnesses before you for  
24 your consideration to determine what the truth is,  
25 what the facts are in that regard.

1           The evidence in this case will be presented by  
2           the testimony of those sworn witnesses and any  
3           exhibits that may be introduced into evidence.

4           As an aside and to follow up on any exhibits,  
5           many times if a photograph or a diagram or a  
6           physical item of evidence is introduced, it may be  
7           handed to our foreperson and passed among the jury  
8           panel while you're out here in the courtroom in your  
9           jury box. You may look at those items and take as  
10          much time as you wish to look at those items while  
11          you're in the courtroom.

12          Please keep in mind, if I allow an item to come  
13          into evidence, whether it's a photograph or a  
14          physical item or the like, that will not be the only  
15          opportunity you will get to view that item. All  
16          those items will be with you in your jury room at  
17          the time of your deliberation. Look at it all you  
18          wish out here in the jury box keeping in mind that  
19          will not be the only opportunity, the only time that  
20          you will get to view those items.

21          From time to time during the trial, you may  
22          hear one of the lawyers say something like, Your  
23          Honor, I believe we have a question of law or a  
24          matter of law to discuss with you, or, Your Honor,  
25          may we approach the bench. And some time I, myself,



1       may find it necessary to excuse you from the  
2       courtroom for a short while so the attorneys and I  
3       can discuss a matter of law. This is not to hide  
4       anything from you.

5       The reason for this is because you are the  
6       judges of the facts in this case. And sometimes  
7       when I am discussing matters of law with the  
8       attorneys, it may be necessary for me to make some  
9       comment as to the facts in connection with ruling  
10      whether or not a particular law applies. I am not  
11      supposed to tell you what I think the facts are, so  
12      I will excuse you from the courtroom while these  
13      discussions take place so that in no way will you be  
14      influenced by anything that I might say or do in  
15      connection with the facts.

16      The goal is to get the admissible, most  
17      reliable evidence before the jury for the jury's  
18      consideration to determine what the facts are.

19      In determining what the true facts are in the  
20      case, in using your good judgment and your common  
21      sense, you must decide whether or not the testimony  
22      of the witnesses is believable. It will be my  
23      responsibility to rule, as a matter of law, as to  
24      whether or not certain testimony is admissible at  
25      all or not, but once the testimony is admitted,

1       whether or not you believe it, is solely for you,  
2       the jury, to determine.

3               In deciding whether to believe a witness, you  
4       have the right to consider the interest of any  
5       witness, the bias of any witness, the prejudice of  
6       any witness, the opportunity for the witness to have  
7       seen the matters and things about which the witness  
8       may testify and the way the witness acts or the  
9       witness' demeanor while on the witness stand.

10              You have the right to consider anything that is  
11       in the record that will help you evaluate the  
12       testimony of the witnesses. That means it will be  
13       your duty to pay close attention to these witnesses,  
14       to observe them, to listen to them, to pay close  
15       attention to the attorneys and to the courts. Don't  
16       let your thoughts wander, but give strict attention  
17       to the testimony in this case so that at the end of  
18       all the evidence, the arguments of counsel and the  
19       charge on the law by the Court, you will then be in  
20       a position to determine what the true facts are, to  
21       apply the law as I instruct you to those facts and  
22       thus render a true and just verdict.

23              Mr. Foreman, it will be your added  
24       responsibility to preside in the jury room and to be  
25       the jurors' spokesperson here in the courtroom. It

1 will also be your duty to write and sign the  
2 verdict, but I will give you further instructions  
3 about that at the conclusion of the case.

4 Administratively, ladies and gentlemen, just a  
5 few more points, I found, and I tell jurors from  
6 time to time, I found what I'm charge of as a trial  
7 judge. I'm in charge of taking breaks. Well, this  
8 isn't some type of judicial marathon. If, at any  
9 time, you need a break, I've asked you don't let  
10 your thoughts wander, focus on the evidence, focus  
11 on the testimony, if any time any of you need a  
12 break and we haven't taken one, please raise your  
13 hand. Y'all will take y'all's break, we will take  
14 our break. Again, this is not some type of judicial  
15 marathon.

16 Believe me, having been in a courtroom pretty  
17 much since I was six years old, quite frankly, your  
18 thoughts may wander. They can wander. Don't let  
19 that happen, focus on the evidence. And, please, do  
20 not hesitate any time you need a break, please let  
21 me know.

22 Also, from time to time, I tell you this  
23 because a juror in a previous case brought it up to  
24 me, from time to time, you may see me on my  
25 computer. I don't e-mail. I don't tweet, Pete. I

1       don't do any of that. I may anticipate a legal  
2       issue coming around the curve and I do my legal  
3       research -- well, let me rephrase that. I do my  
4       light lifting. Ms. Rogers does my heavy lifting as  
5       far as legal research. If that is distracting to  
6       you, please let me know. I assure you my focus is  
7       on the witnesses.

8             If any time you cannot hear a witness or cannot  
9       see a particular item of evidence that may be  
10      introduced, please let me know or let the Clerk or  
11      the bailiff know and we'll have the witness stand up  
12      or move around in some manner. If you can't hear  
13      the witnesses, if you can't see the witnesses, can't  
14      see the testimony or the exhibits, you won't be able  
15      to determine what the true facts are and we want you  
16      to be able to have the opportunity to see and to  
17      hear.

18            All right. Any objection from the State to  
19      anything I have informed the jury, Mr. Young?

20            **MR. YOUNG:** There are no objections, Your  
21      Honor.

22            **THE COURT:** Anything from Mr. Hunsberger,  
23      Mr. Williams?

24            **MR. WILLIAMS:** No, sir, Your Honor.

25            **THE COURT:** All right. Madame Bailiff, if you

1 will just hand out the pads and the pens at this  
2 time prior to our brief opening statements.

3 (Pause.)

4 **THE COURT:** All right. Everybody set?  
5 All right. Solicitor, you may address the  
6 jury.

7 **MR. YOUNG:** Thank you, Your Honor. May it  
8 please the Court.

9 **THE COURT:** Yes, sir.

10 **MR. YOUNG:** Mr. Williams.

11 **MR. WILLIAMS:** Yes, sir.

12 **OPENING STATEMENT**

13 **MR. YOUNG:** The 3rd of September 2001 was a  
14 horrible day for 16-year-old Samuel J. Sturup. He  
15 was at home that day with his mother, Ms. Shirley  
16 Sturup.

17 Ms. Shirley, would you stand up please, just  
18 one a moment?

19 (Shirley Sturup stands.)

20 **MR. YOUNG:** Thank you.

21 Horrible day. He got up, did the normal  
22 things, got dressed, got a bath, left. His mother  
23 never saw him later that day. She never saw him  
24 again for the rest of that week or the second or the  
25 third or the fourth week in September. She didn't

1       see him again the first, third or fourth week in  
2       October. She didn't see him the first two weeks in  
3       November.

4               And then she got a visit. She got a visit from  
5       Randy Doran, who's seated right there next to her.  
6       And she found out what had happened, in some regard,  
7       to her son on that day. What law enforcement found  
8       wasn't much. There wasn't much to work with.

9               The mother had gone to Georgia authorities to  
10       try to find out where her son was. Mr. Doran, when  
11       he came to her, came during the last of November,  
12       during the -- through the 20th. And the question  
13       now is what could have happened to her son? Who did  
14       this? How could they have left him where he was?  
15       What could have happened and what did go on during  
16       that period of time he was gone?

17              Mr. Doran, investigator with the Edgefield  
18       County Sheriff's Office, began to work with Georgia  
19       authorities after a skull was dragged up in a yard  
20       here in Edgefield County with a bullet hole in it.  
21       And that skull led to efforts to try to discover  
22       where the rest of the remains were and when they  
23       were found.

24              Ultimately, ultimately, working as they did  
25       through November and December, ultimately in 17

1 January of 2002, they made an arrest of a man by the  
2 name of Steven Lewis Barnes. They arrested him and  
3 then they subsequently arrested Alex and Julio  
4 Hunsberger. They arrested them and then people  
5 started talking. There were other people involved.

6 The situation is, as it turns out, that the  
7 people who started talking were teenagers who'd been  
8 called by this man Barnes to an address in Augusta  
9 at . They went to that address  
10 at his request. And when they got there, they saw  
11 Barnes and Steven -- excuse me -- Mr. Samuel Sturup  
12 and there was an argument going on, a confrontation  
13 that started out verbally, but it got physical.

14 These teenagers, these two boys, Cave and  
15 Griffin, were there with a woman named Charlene  
16 Thatcher and they beat up on Samuel Sturup. They  
17 beat up on him because Barnes said, Where's my  
18 money? Where's my money? You owe me money,  
19 Sturup.

20 The money issue became a big issue, a huge  
21 issue. And those kids were encouraged to beat up on  
22 him and try to get him to turn over the money. It  
23 got so bad that Sam finally said, It's behind a  
24 toilet in my house. It's behind the toilet in my  
25 house. Well, you better not be lying.

1           And when the threat extended to his family,  
2       when young Sturup heard the words that, you know,  
3       something's going to happen to your family if that  
4       money's not there, he said, Well, I lied. I lied,  
5       it's not there. It's not there. I just lied to  
6       stop the beating.

7           And, folks, you're going to hear from these  
8       teenagers different versions of all this beating and  
9       things. It's not all going to be the same, okay.  
10      But what is going to be the same is that after this  
11      beating happened, a phone call was made by Barnes.  
12      And after that phone call is made, Alex and Julio  
13      Hunsberger drove up in their car. And they drove up  
14      in their car and they stayed there a while and they  
15      had a conversation with Barnes. And then they  
16      loaded young Samuel Sturup into the trunk of that  
17      car.

18           Instead of doing what Sam was asking, to go  
19      home, begging to go home, they put him in that car  
20      and they drove him across the river, across the  
21      river from Georgia into South Carolina. They led  
22      the way in their car across the river into South  
23      Carolina and they turned into Edgefield County. And  
24      they came into Edgefield County and they drove into  
25      Community Road area on the south side and they drove



1 down a road they knew and they pulled into a field  
2 and their cars stopped.

3 Barnes has been following them the whole way  
4 with these teenagers in the car and they get out of  
5 that car. And instead of letting young Sam Sturup  
6 go, instead of letting him go, a beaten up young  
7 man, they point the weapon, go that way through the  
8 woods, through the fields, over a fence. And Sam  
9 Sturup now leads the way into the woods followed by  
10 this entourage of people.

11 The Hunsbergers are there. Cave, Griffin,  
12 Thatcher are there. And a man with a gun, Big Man  
13 they call him, is there with a gun. And there's  
14 other guns. And they take him into a spot and  
15 Barnes tells them, We're all going to shoot him.  
16 We're all going to get our hands dirty.

17 And he gets behind Charlene Thatcher and he  
18 holds that gun with her and they shoot Samuel  
19 Sturup. But before Samuel Sturup gets shot, he  
20 says one last thing, I ain't got your money.

21 But that shot doesn't kill him right then  
22 because he's still talking, he's still talking. So  
23 the gun gets passed and they shoot him. All of them  
24 shoot him. Samuel Sturup's life ended in that  
25 little place in Edgefield County that night.

1           The story continues. Where are you going to go  
2           now? They walk away from that location to a  
3           trailer. The Hunsbergers lead the way. And they go  
4           into a trailer. Barnes and the Hunsbergers go off  
5           and talk a little bit. The rest of them are all  
6           gathered around together except for them and they  
7           talk a little bit. And then a bag with the guns in  
8           it comes out and for the first time, the Hunsbergers  
9           stay. Barnes and the others get in the car and they  
10          go back across the river. The guns go into the  
11          water.

12          Law enforcement works and works. And they take  
13          the bones to where they got to go to get  
14          identification. They take things they find at the  
15          scene for identification. They know who they're  
16          dealing with when they tell Ms. Sturup where her  
17          son's been since September 3rd of 2001.

18          They don't recover the guns. They dive, but  
19          they don't recover them. They get projectiles at  
20          the scene, but they don't have anything for  
21          comparison, no guns.

22          The day that Randy Doran goes and tells the  
23          mother that her son's dead is the day that things  
24          have really started to roll and information has come  
25          about that we can start to use that we can make a

1 solid determination of what we're here to do today  
2 and that information collected by law enforcement is  
3 going to be presented to you. And you'll hear from  
4 these witnesses who were there at the scene, who  
5 were there when the beating happened and who were  
6 there when the shooting happened and heard the  
7 shots, saw some of it. And you'll be in a position  
8 to start judging the demeanor and the character of  
9 these witnesses and make a decision for yourself.

10 Today's the day you'll begin to hear the  
11 evidence. Today's the day when you start to hear  
12 what happened to Samuel J. Sturup.

13 When [sic] the end of this case, when all the  
14 evidence is before you, there is something you're  
15 going to have to do, it is your job to render a  
16 verdict in this case. That's an old word in some  
17 ways. It comes from a Latin root. The word is  
18 veredicto. It means to speak the truth, to speak  
19 the truth.

20 The State of South Carolina welcomes the burden  
21 of proof beyond a reasonable doubt. We welcome it.  
22 And at the end of this case, we're going to ask this  
23 jury to render a verdict of guilty of murder against  
24 Julio Hunsberger. Thank you.

25 **THE COURT:** Thank you, Solicitor.

1 Mr. Williams.

2 MR. WILLIAMS: Pleases the Court.

3 THE COURT: Yes, sir.

4 MR. WILLIAMS: Mr. Foreman, ladies and  
5 gentlemen of this jury, we're here this morning to  
6 talk about something that is not pleasant at all to  
7 talk about, okay. We're here to talk about the  
8 murder of a very young man. Nothing at all is  
9 pleasant about what we're getting ready to expose  
10 you to. There's nothing nice about this case.

11 I will submit to you there's nothing nice about  
12 a number of the witnesses that are going to testify  
13 before you in this case. One, Steven Lewis Barnes  
14 was a pimp, a panderer and just an absolutely wicked  
15 human being and he associated with other lecherous  
16 human beings.

17 The folks who are going to testify before you  
18 this morning and this afternoon are associates of  
19 this man who are absolutely lecherous people. And I  
20 will submit to you that one Charlene Thatcher, who  
21 will come before you, she will admit to you that  
22 she's a prostitute. She will admit to you that she  
23 was under the influence of Steven Barnes. I believe  
24 she will admit to you that she was often under the  
25 influence of drugs. And I believe she will also

1       admit to you that she too joined in some of this  
2       lecherous conduct that it required to get people  
3       under this man's spell.

4               Now, Mr. Young described some of these  
5       witnesses as teenagers. I'm going to tell you these  
6       young man were some ruffians and they were seeking  
7       to be like Big Man. That's what Steven Barnes was  
8       to them, the Big Man. And they wanted to be like  
9       the Big Man. They were willing to do some pretty  
10      rough stuff in order to be like the Big Man.

11             Now, one other thing that I'm going to submit  
12      to you and I'm going to ask you to consider is this  
13      Ms. Thatcher, her job. She's going to admit to you  
14      that she's been a prostitute since she was 14 years  
15      old. Now, over that term and over her life, I can  
16      assure you that she's learned how to manipulate  
17      things. She's learned, being under the influence of  
18      this Steven Barnes, she's learned some things will  
19      get you in trouble, some things will get you out of  
20      trouble.

21             Ladies and gentlemen, she's also going to admit  
22      to you that she knows she's in trouble. She's got  
23      pending charges for the very same act for which my  
24      client has been accused of.

25             This case has a lot of twists and turns and

1       your job is going to be tough. It's up to each of  
2       you to navigate those twists and turns.

3               Now, here's what I want you to consider,  
4       though, is that my client sits there presumed to be  
5       innocent and that's a kind of tough thing to do to  
6       presume one innocent.

7               Well, how do you presume one innocent? How do  
8       we do that? Well, the way I've heard it described  
9       is you presume one innocent as though they may have  
10      come into this very courtroom guarded by a shield.  
11      You could not even see who was behind the shield.  
12      You would not know who that was behind the shield.  
13      It may be a preacher. It may be a teacher. It may  
14      be a doctor or a nurse. Heaven forbid, it may be a  
15      lawyer behind the shield. Someone well respected,  
16      someone who would deserve every reasonable doubt.

17              I submit to you that my client deserves the  
18      benefit of every reasonable doubt because he sits  
19      here accused of one of the most serious crimes known  
20      to man.

21              Ladies and gentlemen, I submit to you that  
22      between the investigation between these two states,  
23      Georgia and South Carolina, the bad act that  
24      occurred over in Augusta, the bad act that occurred  
25      over here in South Carolina, there was a great deal

1 of information sharing. Investigator Doran, there  
2 was an Investigator Richard Roundtree over in  
3 Augusta, Investigator Doran here in Edgefield.  
4 They're talking.

5 Well, this body happens to be found near the  
6 property of my client or his parents. It happens to  
7 be found near there. And you're going to hear that  
8 one Steven Lewis Barnes had a known associate by the  
9 name of Carlos Gomez. My client has a Hispanic  
10 name. His name is Julio. And often times -- these  
11 are street people now. In the streets, people will  
12 call someone with a Hispanic heritage Julio, might  
13 call him something -- anything other than his name.  
14 I submit to you my client's name happens to be  
15 Julio. He happens to be Hispanic, but he was not a  
16 known associate of one Steven Lewis Barnes.

17 These folks who take this stand are going to  
18 say they had never -- they're going to tell you they  
19 have known Steven Barnes, but they're going to tell  
20 you, I've never known your client magically until  
21 that night, okay, that dark night. That night in  
22 which they didn't get in a car with him, that night  
23 in which they went into a dark field in Edgefield  
24 County, but they're going to tell you that all of a  
25 sudden, they're able to recognize my client.

1           One of those witnesses, Mr. Antonio Griffin,  
2       he's going to admit to you that he thought the  
3       people who came were white. I thought they were  
4       white guys. Yeah, but now I know it was him.

5           Well, what happened? What happened? How could  
6       that happen? How could I go from thinking that  
7       these are white guys to, oh, no, I'm sure that it  
8       was your client?

9           I submit to you that the pressure got on them  
10      over in Georgia because each of the individuals who  
11      are going to take that stand who are fact witnesses  
12      to this alleged incident are going to come out here  
13      in a prisoner's jumpsuit, that's because they're  
14      prisoners. They've been locked up since this  
15      incident, deservedly so, because they were involved  
16      in it, okay. But in order to try to help  
17      themselves, they've implicated my client and they're  
18      still trying to help themselves by implicating my  
19      client.

20          You can't go from thinking this is a white boy  
21      or these were white guys to all of a sudden, oh,  
22      yeah, it's your Hispanic client and I'm sure about  
23      it. If that doesn't create a reasonable doubt in  
24      your mind, ladies and gentlemen, I submit to you  
25      that it should.



1       Ladies and gentlemen, I ask you to accept my  
2       client as though he's wrapped in a robe of  
3       righteousness. That's what the law says. That's  
4       how you presume him to be innocent; that he deserves  
5       every reasonable doubt, that he is innocent until  
6       all of the evidence is in.

7               And you all have the absolute duty, the  
8       authority to make judgments on the credibility of  
9       these witnesses. At the end of this case, I'm going  
10      to ask you to consider the source of your  
11      information. I'm asking it of you now and when I  
12      get up at the end of this case, I'm going to ask it  
13      of you again, consider the source of the information  
14      that you have.

15             Mr. Foreman, ladies and gentlemen, I thank you.

16             **THE COURT:** Thank you very much, Mr. Williams.  
17             Solicitor, you may call your first witness.

18             **MR. YOUNG:** Thank you, Your Honor. The State  
19      calls Mr. Grover Dais.

20                       GROVER DAIS, JR.,

21             having been duly sworn, testified as follows:

22             **THE CLERK:** Have a seat. State your full name  
23      and spell your last name, please.

24             **THE WITNESS:** My name is Grover Dais, Jr., last  
25      name, D-a-i-s.

1 DIRECT EXAMINATION

2 BY MR. YOUNG:

3 Q Mr. Dais, I'm going to direct your attention  
4 back to November 2001. Where did you live, sir?

5 A

6 Q Where is that located, sir?

7 A On the south side of Edgefield.

8 Q Is that in this county or another county?

9 A In Edgefield County.

10 Q All right, sir. And, sir, in that timeframe,  
11 November 2001, do you recall on that day coming  
12 across something that kind of scared you or shocked  
13 you?

14 A In the latter part during November of 2001,  
15 having a builder's permit, I was doing some cleaning  
16 up and discovered what appeared to me was a human  
17 skull. After having this aware, I contacted,  
18 through 9-1-1, contacted the Edgefield County  
19 Sheriff's Department in which a officer -- a officer  
20 arrived. After the officer arrived, there was a  
21 second officer that arrived, discussed later  
22 affirming this was a human skull. Investigator did  
23 arrive and the area was concealed as a crime scene  
24 area at that time.

25 Q Okay. Now, you say you came across this. What

GROVER DAIS, JR. - DIRECT BY MR. YOUNG

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1 part of your yard was it in; do you remember?

2 A It was in my front yard to the, if you're  
3 looking at my house, to the left.

4 BAILIFF: Excuse me, the jury can't hear.

5 BY MR. YOUNG:

6 Q Okay. Mr. Dais, I'm going to have to ask you  
7 to do this: Why don't you just take this microphone  
8 here please, just point it down right at you. Let  
9 me step all the way over here, encourage you to talk  
10 all the way over here. I'll stand back out of the  
11 way and talk all the way over here to me.

12 A Yes, sir.

13 Q Okay. Now, I'm going to ask you to repeat a  
14 small portion of this. Where did you find this  
15 skull?

16 A It was in my front yard to the left of my  
17 house. When you're looking in the front yard, it's  
18 to the left out near the highway, which will be  
19 Community Road off of Highway 25.

20 Q Okay. Do you recall seeing Investigator Doran  
21 at any time?

22 A Yes, sir.

23 Q Did he come out there?

24 A Yes, sir. I think Investigator Doran was the  
25 fourth or fifth person that arrived.

1 Q Okay. And you say they roped this area off?

2 A Yes, sir.

3 Q Okay. And did you do anything to touch that  
4 skull or anything after you saw it?

5 A No, sir.

6 Q Did you move it anywhere?

7 A No, sir.

8 Q All right. And I want to ask you if, prior to  
9 that time, you had noticed any animal activity?

10 A Prior before that by me being incarcerated, as  
11 visiting that place, preparing for the clean up to  
12 the -- if you're looking in the front yard to the  
13 right of it, there was a big pine tree there and I  
14 observed what appeared to be vultures, maybe 15 or  
15 20 vultures that was in this area at the time. And  
16 conferring with my next-door neighbor, she had  
17 observed -- also observed this.

18 Plus, she also had observed -- had brung to my  
19 attention that she had smelled a bad odor. And I  
20 stated to her, because of the season, and it was  
21 hunting season, that maybe it was a deer that  
22 possibly had died, but I never took the initiative,  
23 because of the cleaning up, to go and inspect it.  
24 But the buzzard was there, I noticed them for at  
25 least three or four days before I started to clean

1 up.

2 Q All right. Now, during the period of time,  
3 you're in an orange jumpsuit?

4 A Yes, sir.

5 Q And you're incarcerated right now serving time,  
6 right?

7 A Yes, sir.

8 Q You're in the department of corrections, but  
9 you're here temporarily, right?

10 A Yes, sir.

11 Q Now, you've been incarcerated for a substantial  
12 period of time in the past here in Edgefield,  
13 haven't you?

14 A Yes, sir.

15 Q And during the period of time in November,  
16 October of 2003 through December of 2004, you were  
17 incarcerated here as well; is that correct?

18 A Yes, sir.

19 Q During that period of time, did you happen to  
20 bump into a person known to you as Julio Hunsberger?

21 A Yes, sir.

22 Q Is he present in the courtroom?

23 A Yes, sir.

24 Q Where is he?

25 A Sitting at the table (indicating).

1 Q Okay. Can you describe for me how this  
2 gentleman is dressed in comparison with the person  
3 sitting next to him?

4 A Sir?

5 Q Can you describe how he's dressed?

6 A Yes, sir. He has a black suit with a black and  
7 white tie.

8 Q Black and white tie?

9 A Yes, sir.

10 Q Well, there's kind of a gray --

11 A Gray and black. I'm sorry.

12 Q Okay. Well, there's a gray and black tie on  
13 the gentleman next to him. Which of the two --

14 A The one to the left. I'm sorry.

15 Q To the left of the two people?

16 A Yes, sir.

17 Q All right, sir.

18 MR. YOUNG: We'd ask that the record reflect,

19 Your Honor, that he has correctly identified

20 Mr. Julio Hunsberger.

21 THE COURT: So reflected.

22 BY MR. YOUNG:

23 Q All right, sir. And during this period of  
24 time, I'm going to ask you while you're incarcerated  
25 there with him, did he approach you and have a

1 conversation with you about this incident?

2 A Not directly.

3 Q Tell me.

4 A While being incarcerated at the Edgefield  
5 County Detention Center, sharing a room, Mr. Julio  
6 brought up the fact about a discussion about a  
7 murder. And during this discussion with another  
8 inmate is that I took the initiative to have him  
9 aware or made him aware of who I was. And after  
10 having him aware of who I was, he was affiliated or  
11 he was known by my son through their going to school  
12 together. Also, he had me aware that he lived in  
13 the neighborhood, which I wasn't aware of.

14 And during another discussion is he brought to  
15 the fact of describing the area of where the body  
16 was found and the way that it was discovered is that  
17 the ground or the evidence was contaminated and also  
18 it was tampered with. In talking to him and  
19 discussing the matter with him is that I had him  
20 aware that because of my time incarcerated and what  
21 I had made aware of is that I didn't want any parts  
22 of it.

23 But he took the initiative, you know, to let me  
24 know is that -- or describe to me that the way that  
25 the law enforcement had discovered the body and had

1 contaminated the area and the chain of custody was  
2 contaminated with. And I just let him know that I  
3 didn't, you know, at that time, that I didn't feel  
4 obligated to answer any questions, that I didn't  
5 want to be involved with it.

6 Q Okay. Did you know where he was talking about  
7 when he was describing this area, what area he was  
8 describing?

9 A Yes, sir, that was the area directly in my  
10 backyard.

11 Q Is that behind your house?

12 A Yes, sir.

13 Q In the woods?

14 A Yes, sir.

15 Q Was that generically the area where you seen  
16 animal activity?

17 A Yes, sir.

18 Q Now, prior to that time, did you know anything  
19 specifically about the area where this alleged body  
20 was found?

21 A No, sir.

22 Q Didn't know anything about that until he said  
23 that?

24 A No, sir.

25 Q Now, you didn't have this conversation because



1 law enforcement asked you to have this conversation?

2 A No, sir.

3 Q This was just something he just brought up?

4 A Yes, sir.

5 Q Did he describe this area in terms of making  
6 mention of a gate or anything else in connection  
7 with this area?

8 MR. WILLIAMS: Your Honor, I object to the  
9 leading question.

10 THE COURT: You can rephrase your question,  
11 Solicitor.

12 BY MR. YOUNG:

13 Q What, if anything, did he say regarding a gate  
14 in this area?

15 A Describing where the body was found was how the  
16 law enforcement got to where the actual body was and  
17 that was a gate area, as well as crossing the fence  
18 and doing this gated -- where this gated area is and  
19 crossing this fence, there's a wooded area from this  
20 field to where the body was actually found is that  
21 you would have to -- there would have to be a lot of  
22 traveling to get to this area.

23 Q Did he mention anything about any evidence that  
24 may have been discovered or not discovered?

25 A That was also an after -- it was after the fact

1 that Investigator Doran had took me and bring me  
2 back to my -- that was something about --

3 Q Just a moment. Did he tell you anything about  
4 any specific evidence?

5 A Yes, sir.

6 Q That was or wasn't found?

7 A Yes, sir.

8 Q What?

9 A It was a beer can.

10 MR. YOUNG: All right. I don't have any  
11 further questions.

12 THE COURT: All right. Mr. Williams.

13 CROSS-EXAMINATION

14 BY MR. WILLIAMS:

15 Q Mr. Dais, when did this conversation allegedly  
16 occur between my client and yourself?

17 A During the month of my -- during the year of my  
18 incarceration between 2003 and 2004, Edgefield  
19 County Department Detention Center E-side.

20 Q Okay. And you testified in a trial last week,  
21 did you not?

22 A Yes, sir.

23 Q Okay. Let me ask you this: You're presently  
24 incarcerated in the South Carolina Department of  
25 Corrections?

1       A     Yes, sir.

2       Q     Okay. Are you eligible for parole?

3       A     Yes, sir.

4       Q     Okay. Are you hopeful to make parole?

5       A     No, sir.

6       Q     You don't care to make parole?

7       A     No, sir. I'm currently into an ATU, which is  
8       an alcohol and drug treatment center program. And  
9       my completion of that program, if I made parole, is  
10      that I would have to discontinue that program and  
11      right now I think that program mean more to me than  
12      making parole.

13      Q     All right. And ATU that's an Addictions  
14      Training Unit; is that right?

15      A     Yes, sir.

16      Q     So you're having a problem with addictions?

17      A     I did have.

18      Q     You did have?

19      A     Yes, sir.

20      Q     And you want to finish up the program?

21      A     Yes, sir.

22      Q     Okay. I'm going to ask you, Mr. Dais, did you  
23      provide this information to law enforcement at any  
24      point prior to your receiving a subpoena from me?

25      A     Can you make that -- clarify that?

1 Q All right. You received a subpoena from me on  
2 late last week, did you not, Friday?

3 A Yes, sir.

4 Q Did you not? Yes. Didn't you say yes?

5 A From investigator -- from Officer Harris.

6 Q Okay. You received that from me last week,  
7 right?

8 A From Officer Harris.

9 Q Yes, you did receive that subpoena from me?

10 A I received --

11 THE COURT: Well, I think he's saying that  
12 Officer Herring served the subpoena, I think, is  
13 what --

14 MR. WILLIAMS: The difference --

15 THE COURT: I believe.

16 MR. WILLIAMS: Yes, sir.

17 THE COURT: But you may continue, Mr. Williams.  
18 I just think that's what his response was.

19 BY MR. WILLIAMS:

20 Q And that came from me, did it not?

21 A (No response.)

22 Q It came from my office, didn't it?

23 A I couldn't say.

24 Q All right. It had Randall D. Williams on it,  
25 didn't it?

1       A     Yes, sir.

2       Q     Okay. All right. Now, the information that  
3       you just gave the Solicitor had you given him that  
4       information at any point prior to you receiving my  
5       subpoena?

6       A     No, sir.

7       Q     All right. What took you so long?

8       A     (No response.)

9       Q     What took you so long to tell the Solicitor  
10      this information?

11      A     (No response.)

12      Q     Do you have an answer?

13      A     No, sir.

14      Q     Are you hopeful that the Solicitor will write a  
15      letter of support for your parole?

16      A     I just made the statement, sir, that I would --  
17      I didn't -- refused the granted parole because of  
18      the program that I have.

19      Q     So you didn't have the information that you  
20      just gave the ladies and gentlemen of this jury.  
21      You didn't make that available to the Solicitor  
22      until just some time this weekend or Monday; is that  
23      right?

24      A     What are you asking me?

25      Q     Let me do a better job.

1       A     Okay.

2       Q     The information that you just relayed to the  
3       jury --

4       A     Yes, sir.

5       Q     -- you had not, prior thereto, given that  
6       information to the State?

7       A     No, sir.

8       Q     Although the State had subpoenaed you to the  
9       trial of Steven Barnes?

10      A     That conversation never came up between me,  
11      Steven Barnes or me or Alex or --

12      Q     I'm not asking you that question. You were  
13      subpoenaed in the case of the State of South  
14      Carolina versus Steven Barnes, were you not?

15      A     Yes, sir.

16      Q     Okay. So it was about a murder, wasn't it?

17      A     Yes, sir.

18      Q     Okay. You were subpoenaed in the State -- in  
19      the case of the State of South Carolina versus Alex  
20      Hunsberger, were you not?

21      A     Yes, sir.

22      Q     I'm sorry?

23      A     Yes, sir.

24      Q     All right. And that information was never  
25      brought up in that trial?

GROVER DAIS, JR. - REDIRECT BY MR. YOUNG

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1       A     Yes, sir.

2       Q     Is that yes or no?

3       A     Yes, sir.

4       Q     You brought that information up to --

5       A     No, sir. I didn't bring that information up.

6           MR. WILLIAMS: Okay. Thank you, sir. I don't  
7     have any other questions.

8           MR. YOUNG: May the State proceed, Your Honor?

9           THE COURT: Yes, sir. Redirect. I apologize,  
10    Solicitor.

11                               REDIRECT EXAMINATION

12       BY MR. YOUNG:

13       Q     Have you ever been asked any questions prior to  
14    this past week about Julio Hunsberger?

15       A     No, sir.

16       Q     You testified in other trials?

17       A     Yes, sir.

18       Q     It never came up, did it?

19       A     No, sir.

20       Q     You've been promised anything for what you're  
21    doing today?

22       A     No, sir.

23       Q     By me?

24       A     No, sir.

25       Q     By Mr. Maye?

1           A     No, sir.

2           Q     By anyone else in the Solicitor's office?

3           A     No, sir.

4           MR. YOUNG: I don't have any further questions.

5           THE COURT: Recross, Mr. Williams.

6                         RECROSS-EXAMINATION

7           BY MR. WILLIAMS:

8           Q     Do you have anything personal against my  
9           client?

10          A     No, sir.

11          Q     Okay. There's a question I neglected to ask  
12          you. Where did your son go to high school?

13          A     Merriwether.

14          MR. WILLIAMS: Okay. Thank you, sir.

15          THE COURT: All right. Thank you very much,  
16          Mr. Dais. You may step down.

17                 All right. Solicitor, you may call your next  
18          witness.

19          MR. YOUNG: Your Honor, I need to check on the  
20          status of an exhibit. May I please have the Court's  
21          indulgence for just one moment?

22                 (Pause.)

23          MR. YOUNG: The State calls Lieutenant Randy  
24          Doran.

25          THE COURT: All right. If you'll come around



RANDY DORAN - DIRECT BY MR. YOUNG

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1 and be sworn, please.

2 RANDY DORAN,

3 having been duly sworn, testified as follows:

4 THE CLERK: Have a seat. State your full name  
5 and spell your last name, please.

6 THE WITNESS: Randy Doran, D-o-r-a-n.

7 DIRECT EXAMINATION

8 BY MR. YOUNG:

9 Q Lieutenant Doran, who are you employed by, sir?

10 A Edgefield County Sheriff's Office.

11 Q And how long have you been employed by them,  
12 sir? And how long have you been in law enforcement?

13 A I've been employed with the Edgefield County  
14 Sheriff's Office for 21 years.

15 Q And how long -- does that include your whole  
16 time in law enforcement?

17 A Yes, sir.

18 Q All right, sir. In the course of your duties,  
19 the -- well, let's just say 2000 -- that included  
20 2001, correct?

21 A Yes, sir.

22 Q And then in the course of those duties, your  
23 job as an investigator, did you have occasion to go  
24 out to the Community Road area of Edgefield County  
25 on or about November 19, 2001?

1           **A**       I did.

2 Q All right, sir. And would you tell me what the  
3 purpose was in going out there?

4       **A**     Yes, sir. I had received a call from my  
5           captain, my chief deputy, Roger Lowe, they had been  
6           called out to                                      I responded after  
7           his initial call to me to respond to that location.

8           Once I arrived at                                 I was met by  
9           Captain Lowe, Sergeant Chris Astin, Deputy Marty  
10          English.

11 Q All right, sir. And when you got out there,  
12 what did you find, if anything?

13       **A**       I was shown by Captain Lowe and Sergeant Astin  
14       and Deputy English that -- where a human skull was  
15       laying in the front yard of

16 Q Would you describe this skull as you saw it?

17           **A**    It was a human skull.

18                   **MR. WILLIAMS:** Objection, Your Honor.

19 THE COURT: Overruled.

20           **THE WITNESS:** It was a human skull. It had the  
21           top teeth still intact in the skull. And it also  
22           had a hole to the back of the head, which at that  
23           time I believed to be a bullet hole.

24 BY MR. YOUNG:

25 Q Okay. And did you do anything in terms of

1       documenting the location of that?

2       **A**     Yes. I took photos of that skull.

3       **Q**     Would you be able to recognize a photo of that  
4       again if you saw it?

5       **A**     Yes, sir.

6       **Q**     Let me show you what's been marked as State's  
7       Exhibit 5, ask you what that is, sir?

8       **A**     It's a photo that I took of the human skull  
9       that I just described.

10      **Q**     Does that fairly and accurately demonstrate the  
11      skull as you saw it?

12      **A**     Yes, sir.

13      **MR. YOUNG:** The State offers State's Exhibit 5,  
14      Your Honor.

15      **MR. WILLIAMS:** Your Honor, I'd just like to see  
16      it.

17      **THE COURT:** Certainly.

18             (Pause.)

19      **MR. WILLIAMS:** I have no objection to it.

20      **THE COURT:** State's 5 is in evidence. Let me  
21      see it, Solicitor.

22             (Pause.)

23      **THE COURT:** All right. State's 5 is in  
24      evidence without objection.

25      **MR. YOUNG:** Thank you, Your Honor.

1                   (State's Exhibit Number 5, photograph,  
2                   admitted into evidence.)

3                   BY MR. YOUNG:

4                   Q     Now, with regard to State's Exhibit Number 5,  
5                   whose property was this located on?

6                   A     The skull was located on Grover Dais.

7                   Q     What specific address is that?

8                   A

9                   Q     Where is that located in terms of Edgefield  
10                  County?

11                  A     It's on the south side of the county.

12                  Q     Is that in the county?

13                  A     Yes, sir, Edgefield.

14                  Q     And when you located the skull, did this prompt  
15                  any further action?

16                  A     Yes, sir.

17                  Q     What did you do?

18                  A     We started searching the yard area and the  
19                  wooded area of                               Actually, Deputy  
20                  English and Sergeant Astin was also -- and Chief  
21                  Deputy Lowe was also in the process of doing the  
22                  search after the photo was taken of the skull.

23                  Q     All right. Let's get oriented toward where you  
24                  are in Edgefield County first. Let me ask you what  
25                  this is and if you recognize it. This is State's

1 Exhibit Number 2.

2 A It's a diagram of Edgefield and part of the  
3 south side of Edgefield County.

4 Q Does this fairly and accurately layout  
5 Edgefield County and the relationship to the  
6 Community Road area?

7 A Yes, sir.

8 MR. WILLIAMS: I offer no objection to it,  
9 Judge.

10 THE COURT: State's 2 is in evidence without  
11 objection.

12 (State's Exhibit Number 2, map, admitted  
13 into evidence.)

14 BY MR. YOUNG:

15 Q I gave you a pointer earlier there, Lieutenant  
16 Doran. If you would please, sir, I would like for  
17 you, if you could, just to describe how you would  
18 get from this courthouse down to this area you have  
19 described in Edgefield County. Use that pointer to  
20 trace the outline of how you do that.

21 A This yellow circled area up here would be the  
22 Edgefield County Courthouse. If you follow the  
23 yellow line, that's Highway 25 coming out of  
24 Edgefield. It's on -- actually called Augusta Road.  
25 You get down there to the pine house in Trenton, you

1 would take a right at the pine house.

2 Q Is there another major demarker there of --

3 A Yes, sir. If you would turn back to the left,  
4 that's Highway 121 going towards Johnston. And if  
5 you were to stay straight, that's Highway 19 going  
6 towards Aiken.

7 Q Is there any service station in the area?

8 A Yes, sir. It's a Billy's Superstore.

9 Q Okay. And where would you turn in relation to  
10 Billy's Superstore to go in the direction of  
11 Community Road?

12 A Well, you could actually -- it was another  
13 little yield road here to your right, you can  
14 actually yield onto 25 or you can go up to the red  
15 light there at the intersection and turn right and  
16 just follow Highway 25 on down approximately, I  
17 would have to say, approximately ten miles or so and  
18 it would turn into a four-lane highway. Once you  
19 turn -- once you got on the four-lane highway down  
20 on 25, you'd come to an intersection right here  
21 (indicating). The black arrow to the -- the black  
22 line to the right right there would be Jacob McKie  
23 Road. And the red line here, marker, would be  
24 Community Road.

25 Q Okay. All right. And then there's a road

1       that's marked in there in red. What is that road?

2       **A**     The red is Community Road.

3       **Q**     That's Community Road?

4       **A**     Yes, sir.

5       **Q**     All right. Now, how far down Community Road on  
6       that map would it be until you got to  
7       approximately?

8       **A**     Just right in this area right here. Once you  
9       turn on to Community Road off 25, like I said  
10      Community Road goes straight for probably about a  
11      three quart -- about a quarter of a mile or so,  
12      maybe not quite that far, and it bears off to your  
13      right, but if you stay straight right in this area  
14      (indicating), that's what they call Lakeview Road.  
15      You come on down in this area right here. It makes  
16      a 90-degree turn and Lake View comes all the way  
17      back out to Community Road. Also, right here at  
18      this 90-degree turn, it's a dirt road that you call  
19      Lakeview Extension.

20      **Q**     Okay. Let me show you what's been marked as  
21      State's Exhibit Number 3, and having previously  
22      shown this to the defense. What does this show?

23      **A**     That's a diagram of the actual crime scene and  
24      field area that we had entered getting to the crime  
25      scene.

1 Q Okay. And what's this in the far right-hand  
2 corner down here at the bottom?

3 A That would be an aerial shot of the area,  
4 Community Road and 25, Lakeview, Lakeview Extension.

5 Q So it's a general overlook?

6 A Yes, sir.

7 Q Now, if I could just briefly, is there any kind  
8 of major marker of any kind to make you know you're  
9 turning off on the right road to go to Community  
10 Road as you head down 25?

11 A Yes, sir. Right here at Highway 25 and  
12 Community, there's a building there. It used to be,  
13 back when this incident took place, it was Brights  
14 Laundry Mat. He also had a car wash on one end of  
15 it. And if I remember correctly, there was a little  
16 small store in the middle of it.

17 Q Okay. Does this, in State's Exhibit 3, show in  
18 more detail the location of that laundry mat and the  
19 outline of the roads and Grover Dais' house?

20 A Yes, sir.

21 Q Does it also show locations where certain types  
22 of evidence were found?

23 A Yes, sir.

24 Q Would you briefly describe what additional  
25 evidence you may have found either that day or the



1 next day?

2 **A** That first day on November the 19th, after we  
3 had searched 252 Community Road, the area on that  
4 side, we crossed over to 253 Community Road. And  
5 Deputy English had located at the driveway of 253 a  
6 leg bone or femur bone is what we thought it was at  
7 the time.

8 **Q** Does that also show on this diagram?

9 **A** Yes, sir.

10 **Q** The location of where you found it?

11 **A** Yes, sir.

12 **MR. YOUNG:** Okay. The State would offer  
13 State's Exhibit Number 3.

14 **MR. WILLIAMS:** Your Honor, I object to the hand  
15 drawn portion of Exhibit Number 3. The aerial  
16 photograph I have no objection to, but I'm not  
17 certain that that's a fair-scaled, accurate  
18 depiction of what would have occurred out there and  
19 I object to it on that basis.

20 **THE COURT:** May I see it, please?

21 (Pause.)

22 **THE COURT:** All right. State's 3 is in  
23 evidence subject to objection. It's marked -- the  
24 handwritten part is marked not to scale. There is a  
25 aerial photograph. The jury will be able to view

1 both the hand drawn part and the aerial photograph  
2 with the understanding the hand drawn is not to  
3 scale..

4 MR. YOUNG: Thank you, Your Honor.

5 THE COURT: All right. State's 3 is in  
6 evidence.

7 (State's Exhibit Number 3, diagram, admitted  
8 into evidence.)

9 BY MR. YOUNG:

10 Q If I could then, I would like to orient this  
11 particular diagram to this map first, which is  
12 State's 1 to State's 3. Could you just orient this  
13 again? Is there -- roughly this orientation should  
14 be just a blowup of a certain area and which area on  
15 this map is blown up?

16 A This area right here is Highway 25. This is  
17 Community Road. This is the Brights Laundry Mat,  
18 car wash --

19 Q Let me stop you right there. Where is that on  
20 State's Exhibit Number 2?

21 A Okay.

22 Q Where is it on the map?

23 A Highway 25 would be in this area (indicating).

24 Q Okay. Is that --

25 A And Community Road.

1 Q Okay. Is that the area that's blown up on  
2 State's Exhibit 3?

3 A Yes, sir.

4 Q Okay. That was my question. Thank you.

5 All right. Now, would you describe normally  
6 what's on this diagram?

7 THE COURT: Are you going to use 2? Are you  
8 referring to --

9 MR. YOUNG: I'm sorry, Your Honor. I  
10 apologize. That was very inaccurate. Thank you.  
11 BY MR. YOUNG:

12 Q State's Exhibit 3 is I'm asking you to describe  
13 what is on State's Exhibit 3, the diagram.

14 THE COURT: Why don't you put it up top now  
15 then. Some of the jurors don't seem to be able to  
16 see it, Solicitor.

17 MR. YOUNG: Thank you, Your Honor. I  
18 apologize.

19 THE COURT: Thank you.

20 BY MR. YOUNG:

21 Q Go ahead. I'm sorry.

22 A This area right in here would be Highway 25.  
23 This line here was actually Community Road. This  
24 square here is actually Bright's Laundry Mat and car  
25 wash.

1       Q     All right. And then go on down and tell me  
2       where you found these items of evidence.

3       A     Once you turn on Community Road, like I say, it  
4       bears off to your right and goes on down, I would  
5       say, maybe a mile, maybe not quite a mile, and come  
6       on past, Lakeview Road will turn back to your left  
7       right there, just follow Community Road on down.  
8       This would be Grover Dais' residence, which is 252.

9       Q     All right. Now, stop you right there. I'm  
10      going to make sure it's absolutely clear. Is the  
11      Grover Dais' residence, as you're headed, appears to  
12      be, south on Community Road, is it to your right or  
13      your left?

14      A     To your left.

15      Q     All right, sir. And then can you point out  
16      then in relation to that particular residence of  
17              where you found the skull?

18      A     The skull was located in this area (indicating)  
19      just back north of the residence that was actually  
20      out in the front yard close to the Community Road.  
21      There was a light pole and a tree in that area that  
22      it was between.

23      Q     All right. Now, if I took State's Exhibit  
24      Number 5 and I showed it to you here, what's in the  
25      background of State's Exhibit 5?

1 A The human skull that I mentioned earlier.

2 Q What's in the background of State's Exhibit 5,  
3 background?

4 A A fenced area and a Edgefield County Sheriff's  
5 car.

6 Q And is it on a road?

7 A Yes, sir, Community Road.

8 Q All right. So it's on the road. And so if  
9 it's oriented correctly, State's Exhibit 5 would  
10 then be somewhere like this (indicating)?

11 A Yes, sir.

12 Q So in relationship to this diagram, State's  
13 Exhibit 5 would be somewhat like this with the skull  
14 being found on the left-hand side of the road?

15 A Yes, sir.

16 MR. YOUNG: All right. I'm going to put  
17 State's Exhibit 5 right here, Your Honor, next to  
18 that diagram.

19 THE COURT: All right.

20 BY MR. YOUNG:

21 Q And you say you also found a leg bone?

22 A Yes, sir.

23 Q Where was that found again?

24 A It was across the road on your right-hand side.  
25 It was a mailbox, driveway that said 253 Community

1 Road. The actual leg bone was found in the ditch  
2 area of the driveway.

3 Q And on what day was that found?

4 A That was the same day on November the 19th.

5 Q All right. Now, did you do some more  
6 investigation?

7 A Yes, sir. On that day, we actually searched  
8 the area of 253. We had searched that area until  
9 darkness. We had to call the search off because of  
10 darkness.

11 Q All right. Did you continue your investigation  
12 the next day?

13 A Yes, sir.

14 Q What did you do the next day?

15 A Well, we had -- the night before I had  
16 contacted the fire chief of the Merriwether Fire  
17 Department and the fire chief of the County Line  
18 Fire Department to get some assistance in helping us  
19 search the area on the morning of the 20th.

20 Q All right. And in relation to what is -- you  
21 discovered so far, where did you conduct this  
22 investigation in relation to the diagram here?

23 A We met back out on Community Road at 253. I  
24 think it was around either between 8:00, 8:30 that  
25 morning. We started back searching a larger area of

1 253.

2 Q Then what else did you do? Did you search any  
3 other area?

4 A Yes, sir. Like I say, we searched 253 for  
5 approximately an hour or so, didn't locate anything.  
6 So we crossed back over to 252, this wooded area in  
7 here (indicating).

8 Q So now you're on -- if you're headed south on  
9 Community Road, you're on the left-hand side of the  
10 road?

11 A Yes, sir.

12 Q The same side of the road that Grover Dais'  
13 house is on?

14 A Yes, sir.

15 Q All right. What did you do on that side of the  
16 road?

17 A It was around 30 minutes or so, I was informed  
18 by the chief of Merriwether Fire Department that she  
19 had located a pair of blue jean pants and also she  
20 had smelled a strong odor.

21 Q Okay. All right. Now, did you take  
22 photographs of it?

23 A Yes, sir.

24 Q And where did you find it?

25 A Where did I find the pants?

1 Q Where did you take the photograph?

2 A The photograph was taken of the pants  
3 approximately, maybe in this area, the wooded area.

4 Q There's a notation here of scene of more bones.  
5 What does that mean?

6 A Yes, sir. A few feet from the -- a few feet  
7 from the blue jean pants, we had located several  
8 bones that were scattered out in this area.

9 Q All right. Now, when you started looking in  
10 this area back in here, did you take photographs?

11 A Yes, sir.

12 Q All right. And did you continue your  
13 investigation that day or what did you do?

14 A Yes, sir.

15 Q What all did you do the rest of that day?

16 A Like I say, when we had taped off -- when we  
17 found the blue jean pants, we had taped off the  
18 area. And like I say, we started doing a search.  
19 The first thing I started looking at was how --  
20 trying to find the easy way to get into this  
21 location with, you know, more equipment, crime scene  
22 unit and more equipment to get into this area  
23 because if you go back towards Community Road, it  
24 was such a wooded area you couldn't get any vehicles  
25 into that area. So I was trying to find a better



1 way to get to the actual crime scene.

2 Q And so what did you do?

3 A Went back out and got into -- well, we noticed  
4 -- I noticed an opening -- in this area, I noticed  
5 an open field (indicating). There was a gate in  
6 that area there and I noticed this is an open  
7 hayfield here, so went back and got in the patrol  
8 vehicle and came back out on Community Road and went  
9 up to Lakeview Road and took a right onto Lakeview  
10 Road.

11 We came -- I came all the way down to the  
12 90-degree turn, made a right turn onto Lakeview  
13 Extension, which is a dirt road, followed Lakeview  
14 Extension on through this area right here. There's  
15 actually another gate right there that was open,  
16 came into this area right here. There's a larger  
17 hayfield that opened up into this area, came on in.  
18 It was a tree line here and it was an open area  
19 right in this area here to your right and that's  
20 when I had started noticing that this hayfield  
21 started opening up.

22 Q Okay. How did you get back to that gate?

23 A I came on up to another opening right here and  
24 took a right onto this hayfield here, went down this  
25 wood line area right here. I got to this area right

1       here, it was a narrow dirt road and it had trees on  
2       both sides of it. The little dirt road is probably  
3       a third of a mile or less. It came into a second  
4       hayfield. I just came on down this hayfield and  
5       it's a wood line to your right. I just came on down  
6       until I recognized a gate at the end of this  
7       hayfield right here (indicating).

8       Q     All right. Would you be able to recognize  
9       pictures of what you took there at the scene?

10      A     Yes, sir.

11      Q     The gate, any other evidence you may have found  
12      there and how to get in there?

13      A     Yes, sir.

14      Q     Let me show you what's been marked State's  
15      Exhibit Number 6. What's that?

16      A     This is a photo of the actual gate at the  
17      second hayfield.

18      Q     All right. Show me on that scene right there  
19      where that gate is.

20      A     It would be the gate right in this area right  
21      here (indicating).

22      Q     Where it's marked gate?

23      A     Uh-huh.

24      Q     Does this fairly and accurately represent the  
25      gate you saw that day?

1       **A**     Yes, sir.

2               (Pause.)

3       **MR. WILLIAMS:** No objection to it.

4       **THE COURT:** State's 6 in evidence without  
5     objection.

6       **MR. YOUNG:** Thank you, Your Honor.

7               (State's Exhibit Number 6, photograph,  
8     admitted into evidence.)

9     BY MR. YOUNG:

10    **Q**     State's Exhibit 6 now posted. Now, again,  
11    where is 6 in relation to that gate that's depicted  
12    on that scene there, on that diagram, State's  
13    Exhibit 3?

14    **A**     The gate would be at the end of this second  
15    hayfield.

16    **Q**     All right. Do you recognize State's Exhibit  
17    Number 7?

18    **A**     Yes, sir.

19    **Q**     What's that?

20    **A**     It's actual -- a photo that I had taken. Once  
21    I crossed over the gate, there's actually a barbed  
22    wire fence also in that area. I had to cross over  
23    that barbed wire fence and it led up to -- this area  
24    here actually led up to the actual crime scene where  
25    the remains were found.

1 Q So this leads from the gate toward Grover Dais'  
2 house?

3 A Yes, sir.

4 Q In that direction generally, towards Community  
5 Road generally?

6 A Yes, sir.

7 Q All right. Does this fairly and accurately  
8 represent what you took that day?

9 A Yes, sir.

10 (Pause.)

11 MR. WILLIAMS: No objection to it.

12 THE COURT: State's 7 is in evidence without  
13 objection.

14 (State's Exhibit Number 7, photograph,  
15 admitted into evidence.)

16 BY MR. YOUNG:

17 Q All right, sir. Now, with regard to -- I want  
18 you to take a look at State's 8 and 9 and tell me  
19 what they are.

20 A 9 -- 8 and 9 is actually two photos that I had  
21 taken of the blue jeans that were found.

22 Q Okay. The blue jeans that were found?

23 A Yes, sir.

24 Q All right. And these blue jeans -- could you  
25 describe for me about these blue jeans?

1       **A**     Yes, sir. Like I say, when I went back into  
2       the crime scene after arriving in the hayfield, I  
3       went -- the first thing I went to process was the  
4       actual blue jeans. And I noticed they had a belt  
5       with a large belt buckle. You really couldn't make  
6       out what the belt buckle had said. I noticed in the  
7       right front pocket there was a key ring that had a  
8       Monte Carlo emblem on the actual key ring. It had  
9       two house keys. It had a Bi-Lo bonus card and a  
10      Kroger bonus card. I think that was all that was on  
11      that actual key ring.

12     **Q**     Okay. And then did you see anything with  
13      regard to this belt? Was there any identifying  
14      information on the belt?

15     **A**     Yes, sir. Once I actually picked the pants up,  
16      on the rear of the pants at the belt, there was a  
17      name engraved in the belt which said Samuel.

18     **Q**     Okay. Now, did there -- the scene of more  
19      bones, does it relate in any way to State's Exhibit  
20      Number 10?

21     **A**     Yes, sir.

22     **Q**     What is that? What is State's 10?

23     **A**     This is a photo that I took. It's actually a  
24      darkened area where you could tell some type of  
25      liquid had soaked into the ground.

1 Q Is there any smell associated with that area?

2 A Yes, sir, a strong odor coming from it.

3 Q Did it bear any relationship to the pants?

4 A Yes, sir. This was actually, probably, I would  
5 say, ten feet from the pants.

6 Q Okay. Did you collect anymore bones in that  
7 area?

8 A Yes, sir.

9 Q All right. With regard to State's Exhibits  
10 Number 8, 9 and 10, do these fairly and accurately  
11 represent what you saw and collected by photographic  
12 evidence that day?

13 A Yes, sir.

14 MR. YOUNG: State offers into evidence State's  
15 8, 9 and 10, Your Honor.

16 MR. WILLIAMS: No objection, Your Honor.

17 THE COURT: State's 8, 9 and 10 is in evidence  
18 without objection.

19 (State's Exhibit Numbers 8 through 10,  
20 photographs, admitted into evidence.)

21 BY MR. YOUNG:

22 Q All right. These items of evidence, the pants  
23 and the bones, are they in one central location?  
24 Are they around the area? How did you collect them?  
25 Tell me how you collected them.

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1       A     Like I say, we collected the pants to start off  
2       with. Just a few feet from the pants, there was a  
3       yellow cigarette lighter laying on the ground, we  
4       collected that. Just a few more feet from the  
5       cigarette lighter was the actual darkened area where  
6       the strong odor was coming from. There was bones  
7       and teeth, loose teeth, in that area.

8       Q     And what did you do with all the stuff that you  
9       collected up?

10      A     Took it to -- we collected it that day. And  
11      the very next day it went to Dr. Joel Sexton in  
12      Newberry for autopsy.

13      Q     With regard to the pants, were you able to  
14      locate any bones in and around the pants?

15      A     Yes, sir. I failed to mention, I think it was  
16      in the right pants leg, there was a leg bone inside  
17      that pair of pants.

18      Q     So is it fair to say that these bones were  
19      scattered?

20      A     Yes, sir.

21      Q     Now, I'm going to show you what's been marked  
22      as State's Exhibit Number 4. How would you describe  
23      that, as either larger or smaller representation of  
24      what is State's Exhibit 3?

25      A     I would say larger.

1       **Q**     Okay. Does this fairly and accurately, but  
2       just in a larger way, lay out, not to scale, the  
3       area that you searched and the area you gained  
4       entrance to in order to conduct the search?

5       **A**     Yes, sir.

6       **MR. WILLIAMS:** Your Honor, I do object to it on  
7       the basis of its failure to be to scale.

8       **MR. YOUNG:** It's offered as not to scale, Your  
9       Honor.

10      **THE COURT:** All right. Is it indicated not to  
11      scale?

12      **MR. YOUNG:** Yes, sir.

13      **THE COURT:** All right. I will allow it in  
14      evidence subject to Mr. Williams' objection.  
15      State's 4 is in evidence.

16             (State's Exhibit Number 4, diagram, admitted  
17      into evidence.)

18      BY MR. YOUNG:

19      **Q**     Now, would you please just describe briefly  
20      again the area that you were searching in which you  
21      found the darkened area, the pants, the bones, the  
22      additional bones after going through the gate?

23      **A**     Yes, sir. The gate would have been in this  
24      area right here (indicating). We conducted the  
25      search just across the gate, I would say, probably



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1       20 or 30 yards inside the wooded area by the -- just  
2       over the gate and the barbed wire fence.

3       Q     All right. And, again, where is Mr. Dais'  
4       house?

5       A     Mr. Dais' house is right here (indicating).

6       Q     All right. And just, again, briefly describe  
7       how you gained entrance to the gate.

8       A     This is Highway 25, I believe, out here.  
9       Highway 25 would be out in this area. That could be  
10      actually Lakeview Road that goes this way. This  
11      would be your -- this darkened line here would be  
12      Lakeview Extension.

13      Like I say, I came in on Lakeview Extension.  
14      There was an opened gate right there in that area,  
15      came on through that gate. Tree line to your --  
16      would have been to my right another open field out  
17      here, which is another larger hayfield, came on  
18      through Lakeview Extension here. There's an opening  
19      to the right, came on up, another tree line here.

20      I actually came on up in this area right here,  
21      which is another open area. I actually turned into  
22      this area. I followed this hayfield on down the  
23      wooded area all out this -- in this area here,  
24      followed this field all the way down through a  
25      narrow, shorter dirt road here which had trees on

1 both sides, came through that little narrow dirt  
2 road stayed straight on down until I located the  
3 actual gate right there.

4 Q Okay. And then so State's 5, just on this  
5 diagram, which is I believe you previously described  
6 as a skull, just point to where that would have been  
7 found roughly...

8 A The skull would have been found in this  
9 location by Community Road (indicating).

10 Q All right. 6 is the gate you previously  
11 described?

12 A Yes, sir. Once you come into the second  
13 hayfield, just follow it all the way down, the gate  
14 would be in this area right here.

15 Q 7 is a wooded area behind the gate?

16 A Yes, sir. It would -- like I say, once you  
17 cross over the gate within just a few feet, you came  
18 to a barbed wire fence that went back up this way  
19 and then came back and went across that way. And  
20 once you crossed over the barbed wire fence, you can  
21 see that area.

22 Q And then 8, 9 and 10 are the area that are  
23 inside that wooded area, correct?

24 A Yes, sir.

25 Q Okay. Now, when you went -- did you go into

1 the pockets again of this pair of pants?

2 A Yes, sir. In the right rear pocket was a one  
3 dollar bill.

4 Q Okay. In addition to that, to the keys you had  
5 mentioned earlier?

6 A Excuse me?

7 Q They were in addition to the keys that you  
8 mentioned earlier?

9 A Yes, sir.

10 Q And did you collect those items?

11 A Yes, sir, I did.

12 Q Would you be able to recognize them again if  
13 you saw them?

14 A I would.

15 Q I'll hand up what's been marked as State's  
16 Exhibit 17 and 18 and ask you if you recognize them,  
17 sir?

18 A Yes, sir, I do.

19 Q All right, sir. What are they?

20 A State's Exhibit 17 is actually the Bi-Lo bonus  
21 card I was referring to, the Kroger bonus card, two  
22 keys and a Monte Carlo symbol on the key ring.

23 Q Are those the ones that you collected from the  
24 pocket of the pants that are in State's Exhibits 8  
25 and 9?

1       **A**     Yes, sir.

2       **Q**     What about the other exhibit?

3       **A**     State's Exhibit 18 is actually the one dollar  
4     bill that I removed from the pair of blue jean  
5     pants.

6       **Q**     That was also collected from the blue jean  
7     pants?

8       **A**     Yes, sir.

9       **Q**     Those are the items?

10      **A**     Yes, sir.

11      **Q**     From the pants?

12      **A**     Yes, sir.

13      **Q**     And you collected these items at the scene?

14      **A**     Yes, sir.

15             **MR. YOUNG:** The State offers into evidence

16     State's Exhibits Number 17 and 18.

17             **THE COURT:** Mr. Williams?

18             (Pause.)

19             **MR. WILLIAMS:** Your Honor, I offer no objection  
20     to it.

21             **THE COURT:** All right. And tell me again what  
22     is 17?

23             **MR. YOUNG:** Your Honor, Number 17 is a key fob  
24     with keys and a Bi-Lo bonus card.

25             **THE COURT:** All right.

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1           **MR. YOUNG:** One of those key fob-type bonus  
2 cards. Number 18, Your Honor, is a dollar bill.

3           **THE COURT:** Thank you. State's 17 and 18 is in  
4 evidence without objection.

5           **MR. YOUNG:** Thank you, Your Honor.

6           (State's Exhibit Number 17, keys and bonus  
7 cards, and State's Exhibit Number 18, one dollar  
8 bill, admitted into evidence.)

9           **THE COURT:** In about five more minutes,  
10 Solicitor, we're going to take a break.

11           **MR. YOUNG:** That'll be fine, Your Honor. I'll  
12 wrap this up and I can do a sequential stop, I  
13 think, pretty easily here.

14           BY MR. YOUNG:

15           **Q**     Investigator Doran, while you were there at  
16 that scene, was any firearms information or evidence  
17 collected?

18           **A**     Yes, sir.

19           **Q**     Now, I'm talking about on the day you were  
20 there to obtain these pants?

21           **A**     Yes, sir.

22           **Q**     What evidence was obtained?

23           **A**     We -- I located a .40 caliber Smith and Wesson  
24 shell casing.

25           **Q**     All right, sir. And would you be able to

1 recognize that again if you saw it?

2 A Yes, sir.

3 Q I hand you what's been marked as State's  
4 Exhibit 19. Do you recognize that?

5 A Yes, sir, I do.

6 Q All right. What is that?

7 A What is it?

8 Q Yes, sir.

9 A It's a shell casing, a .40 caliber shell  
10 casing. It's a Smith and Wesson.

11 Q Is that the .40 caliber shell casing that you  
12 collected at that scene?

13 A Yes, sir.

14 Q Thank you very much.

15 MR. YOUNG: State offers State's Exhibit Number  
16 19, Your Honor.

17 THE COURT: Mr. Williams.

18 MR. WILLIAMS: No objection, Your Honor.

19 ]THE COURT: State's 19 is in evidence without  
20 objection.

21 (State's Exhibit Number 19, shell casing,  
22 admitted into evidence.)

23 MR. YOUNG: Thank you, Your Honor. This might  
24 be the best time.

25 THE COURT: All right. Mr. Foreman, ladies and

1 gentlemen of the jury, I believe we'll take us a  
2 morning recess of about 15 minutes. I would ask you  
3 to please take your notes and pads and then lay them  
4 upside down on your -- that's fine there also, Mr.  
5 Juror, on that table. But if you lay them on your  
6 seat, turn them upside down.

7 Please remember my instructions to you. Do not  
8 discuss this case with anyone including your fellow  
9 jurors during this brief recess. Take about a  
10 15-minute recess. Thank you very much. You may now  
11 go with your bailiff.

12 (The jury retires to the jury room.)

13 **THE COURT:** All right. As to the objections to  
14 State's 2 and 3, the diagrams not to scale, they're  
15 clearly marked both not to scale. Under State  
16 versus Brown, 697 S.E.2d 622, State versus Rye,  
17 R-y-e, 651 S.E.2d 321, reading specifically from  
18 Brown, the State acknowledges that the diagrams are  
19 not to scale.

20 It's my understanding from Captain Doran's  
21 testimony that they're fair and accurate depictions  
22 of the area off of Community Road enlarged from  
23 State's Exhibit Number 4, I believe. And then --  
24 that's not correct -- that you start with State's  
25 Number 2, the large area, then you go to State's 3,

1 the diagram of the crime scene with an aerial, and  
2 then State's Number 4 of an even more enlarged area  
3 of where they found these items, the blue jeans and  
4 various other objects. His testimony is they're  
5 fair and accurate representations not to scale.

6 I find in my discretion they are admissible.  
7 They're not misleading. They help explain the  
8 testimony of the officer in that regard.

9 All right. Thank you very much, Mr. Doran.  
10 You may certainly step down, refresh yourself. You  
11 may not discuss your testimony during this brief  
12 recess.

13 We'll be in recess 15 minutes.

14 (Brief Recess.)

15 **THE COURT:** All right. Anything from the State  
16 before we bring in our jury?

17 **MR. YOUNG:** No, sir.

18 **OFFICER:** They're still waiting on two jurors,  
19 Judge.

20 **THE COURT:** What do you mean we're still  
21 waiting? They weren't supposed to go anywhere.

22 (Whereupon, a brief conversation was held  
23 off the record.)

24 **THE COURT:** All right. Well, let me know if  
25 they go next time because nobody informed me.



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1 (Pause.)

2 **BAILIFF:** They're ready now.

3 **THE COURT:** All right. Bring us our jury,  
4 please.

5 (The jury returns to the courtroom.)

6 **THE COURT:** All right. Our jury is present in  
7 the courtroom. Our witness has returned, Officer  
8 Doran.

9 Solicitor, you may proceed.

10 **MR. YOUNG:** Thank you, Your Honor.

11 BY MR. YOUNG:

12 **Q** Lieutenant Doran, subsequent to your  
13 investigation in the immediate ground area where you  
14 located these bones and the other evidence you  
15 collected, did you participate in an aerial survey  
16 of this area?

17 **A** Yes, sir, I did.

18 **Q** And were you present when the photographs were  
19 taken from the various angles of approach in this  
20 area around where the crime scene was located?

21 **A** Yes, sir, I was.

22 **Q** Would you be able to recognize photographs that  
23 were taken from those aerial approaches?

24 **A** Yes, sir.

25 **Q** All right, sir. I'm going to ask you first if

1       you can identify State's Exhibits 11, 12, 13 -- I'm  
2       sorry, let me put my glasses on -- 11, 12, 13, 14  
3       and, I think, 15 and 16. Would you please look at  
4       those and tell me, individually, can you identify  
5       each one of those individual photographs?

6       **A**     Yes, sir, I'm familiar with those.

7       **Q**     What are those photographs?

8       **A**     State's Exhibit 11 --

9       **Q**     Well, just a moment. Just tell me just  
10      generically what all of them are.

11      **A**     They're aerial shots of the actual Highway 25,  
12      Community Road, Lakeview, Lakeview Extension area.

13      **Q**     Are those the photographs that were taken  
14      during the aerial survey?

15      **A**     Yes, sir.

16      **Q**     Do they fairly and accurately represent aerial  
17      photographs of the area of the crime scene and the  
18      approach to the crime scene?

19      **A**     Yes, sir.

20             **MR. YOUNG:** Have you seen these, sir?

21             **MR. WILLIAMS:** Yes, sir. No object --

22             **MR. YOUNG:** The State would offer these  
23      exhibits into evidence, Your Honor.

24             **THE COURT:** Without objection, Mr. Williams?

25             **MR. WILLIAMS:** Yes, Your Honor, without

1 objection.

2 THE COURT: All right. State's 11, 12, 13, 14,  
3 15 and 16 is in evidence without objection.

4 MR. YOUNG: All right, sir. Thank you.

5 (State's Exhibit Numbers 11 through 16,  
6 photographs, admitted into evidence.)

7 BY MR. YOUNG:

8 Q Now, if you could, sir, I am going to hold up  
9 State's Exhibit Number 11 and I'm going to -- you  
10 tell me how to orient this photograph in relation to  
11 State's Exhibit Number 3, okay, so that when I hold  
12 them up, the jury will be able to understand how  
13 this relates to that photograph.

14 A Okay.

15 Q This is State's Exhibit Number 11 now. How do  
16 I orient it in relation to 25?

17 A You need to turn it to -- there you go.

18 Q About like that?

19 A No.

20 Q In relation to that diagram now.

21 A Yes, sir.

22 Q About like that (indicating)?

23 A Right. Uh-huh.

24 Q All right. So if I held it up here, this would  
25 be the correct orientation?

1       A     Yes, sir.

2       Q     All right. State's Exhibit Number 11. Can you  
3       point out here any of the -- for instance, is this  
4       building, which appears to be a blue roof building  
5       on the State diagram number 3, is that apparent in  
6       any way on State's Exhibit Number 11?

7       A     Yes, sir.

8       Q     Where is it?

9       A     I can't -- you got a glare in the picture.

10      Q     I'm sorry. How about that?

11      A     Right here (indicating).

12      Q     All right. Right there, okay. And so then the  
13      sweep would then be of the road behind it and what  
14      road would that be?

15      A     That would be Community Road right in this  
16      area.

17      Q     All right. This is State's Exhibit Number 12.  
18      And just generically what is that here? And this  
19      appears to be a trailer, what is that?

20      A     That's the residence of Grover Dais of

21

22      Q     All right. In relation to this then, how would  
23      this appear? How should I orient it?

24      A     Just like it is.

25      Q     Okay. All right, sir. And so, therefore, in

1/ this orientation, where would this representation of  
2 a trailer be on State's Exhibit Number 3?

3 A It would be in this area right here, just come  
4 on down Community Road past Lakeview and be this  
5 residence right here on your left.

6 Q All right. Now, can you describe there's -- in  
7 the diagram, it indicates there was a leg bone and a  
8 skull found. Can you -- are those apparent in the  
9 locations on State's Exhibit 12?

10 A Yes, sir.

11 Q Where would they be?

12 A On this photo?

13 Q Yes, sir.

14 A The skull would have been located out in this  
15 area. The leg bone would have been located in that  
16 area.

17 Q Okay. And that appears to be another home or a  
18 dwelling over there.

19 A Address of 253.

20 Q Okay. This is State's Exhibit Number 13. Sir,  
21 generically, what does this describe?

22 A It describes the Lakeview Extension area, two  
23 hayfields, also the residence of Mr. Dais at 252 --

24 THE COURT: Keep your voice up a little bit for  
25 me.

1 BY MR. YOUNG:

2 Q Yes, sir, you're going to have to speak up so  
3 this jury can hear you. Repeat that, please.

4 A Lakeview Extension, the two hayfields and  
5 Grover Dais' residence.

6 Q All right. Sir, if I am to orient this, what  
7 appears to be two hayfields in this picture, how  
8 would I orient it to relate correctly to State's  
9 Exhibit Number 3? How would I turn it?

10 A It will be a slight angle to your right.

11 Q Like this (indicating)?

12 A Yes, sir.

13 Q All right. So holding this up then would you  
14 depict on this diagram, State's Exhibit 3, where  
15 these two fields are represented in State's Exhibit  
16 13, the photograph?

17 A Yes, sir.

18 Q Where are they?

19 A This area right here, this would be the first  
20 hayfield, and the second hayfield (indicating).

21 Q Okay. Now, I noticed down in the foreground of  
22 State's Exhibit 13, there appears to be some form of  
23 dwelling, some form of dwelling. What is that?

24 A It's a mobile home.

25 Q There's a mobile home? And where does this --

1       where would this -- if I was to depict this mobile  
2       home, would it be apparent anywhere on State's  
3       Exhibit 3?

4       A     Yes, sir. If you -- like I say, if you  
5       continued on in to Lakeview Extension, you follow  
6       Lakeview Extension until you come to this mobile  
7       home just past the hayfield on the right.

8       Q     This block here referred to as a trailer?

9       A     Yes, sir.

10      Q     Thank you. All right. State's Exhibit 13.

11           State's Exhibit 14. Sir, now, once again, what  
12      is this?

13      A     This is an aerial shot of the Lakeview  
14      Extension area, both hayfields and the mobile home I  
15      was talking about.

16      Q     Are the entrances to these hayfields anywhere  
17      depicted on this photograph?

18      A     Yes, sir, they are.

19      Q     Where are they? Show me where they are on this  
20      photograph.

21      A     Right here (indicating).

22      Q     Would you show the jury what you just pointed  
23      out? Where are these entrances in -- by the way,  
24      where are the entrances on State's Exhibit 3?

25      A     They would be in this Lakeview Extension here

1 of the first -- the first opening to the right would  
2 be right here.

3 Q So would this be the correct orientation then?

4 A Yes, sir.

5 Q Would you please point out where these  
6 entrances are on State's Exhibit 14, the photograph?  
7 I'm sorry. I twisted it. I apologize. Where on  
8 here? Point on this.

9 A The first one would be right in this area and  
10 the second one would be in this area right in here  
11 (indicating).

12 Q Okay. All right. Now, this is State's Exhibit  
13 15. What area is this depicted on the diagram of  
14 State's 3?

15 A It's an aerial shot of the second hayfield of  
16 the wooded area where the crime scene was and a  
17 picture of the residence of

18 Q Grover Dais' house?

19 A Yes, sir.

20 Q All right. Is the area of the gate anywhere on  
21 this photograph, area of the gate?

22 A Yes, sir.

23 Q Where is it right on there?

24 A (Indicating).

25 Q I'm going to put it up here and I want you to,



1 if you don't mind -- can you see that from where  
2 you're located?

3 A Yes, sir.

4 Q Actually, you can step down here.

5 A I'm fine.

6 Q Can you show the gate on 15 and the gate on 3,  
7 where the gate would have been located?

8 A The gate would have been in this area right in  
9 here (indicating).

10 Q And where is the gate on 3?

11 A The gate on which one?

12 Q Number 3, the diagram.

13 A Right in this area.

14 Q Okay. Where is the crime scene area where the  
15 skull -- excuse me -- where the pants and darkened  
16 area were located?

17 A Located in this area here.

18 Q And Mr. Dais' house?

19 A Right there.

20 Q All right. Now, let me show you 16. What's  
21 that?

22 A This is an aerial shot of Community Road. And  
23 it's showing which is Mr. Grover  
24 Dais' house and the hayfield and the wooded area  
25 behind Mr. Dais' house.

1 Q Mr. Dais' house is in the background in 15. Is  
2 it more to the background or the foreground in 16?  
3 A Excuse me?  
4 Q Is it more to the foreground or the background?  
5 A It's the background.  
6 Q All right. Well, where is the gate in relation  
7 to this?  
8 A It will be in this area right here.  
9 Q Let me put this up here and you point out both  
10 on this -- point out those two items, Mr. Dais'  
11 house and the hayfield, that you referred to and the  
12 gate.  
13 A Mr. Dais' house would be right here and  
14 Community Road here. And Mr. Dais' house is in this  
15 location. The gate would have been in this area  
16 right in here (indicating).  
17 Q So if I was to orient this in relation to this  
18 map, would it be roughly like this (indicating)?  
19 A Yes, sir.  
20 Q So you're looking from the opposite view from  
21 the previous Number 15?  
22 A Yes, sir.  
23 Q All right. Thank you, sir. All right. Now,  
24 I'd like to go back to the dates involved for just a  
25 moment.

1           **MR. YOUNG:** Your Honor, I've had this calendar  
2           created of the months of September, October,  
3           November, December and January, from September of  
4           2001 to January 2002. I would ask the Court to take  
5           judicial notice of the calendar for that time period  
6           and ask if there's any objection to this diagram.

7           **MR. WILLIAMS:** There's no objection, Your  
8           Honor.

9           **THE COURT:** Are you going to offer it in  
10          evidence?

11          **MR. YOUNG:** Yes, sir. I'm going to offer this  
12          as State's Exhibit Number 1.

13          **THE COURT:** All right. State's 1 is in  
14          evidence without objection.

15                 (State's Exhibit Number 1, calendars,  
16          admitted into evidence.)

17          BY MR. YOUNG:

18          **Q**     All right. Using the now blank sort of map of  
19          the time, that calendar, what day was Labor Day on?

20          **A**     November 3rd.

21          **Q**     November?

22          **A**     September 3rd. I'm sorry.

23          **Q**     September, okay. All right. Let's put that up  
24          here, Labor Day. That would be Labor Day.

25                 Now, at some point in time, you indicated to me

1           that you started a search at Mr. Dais' house on

2                           What day was that that you began

3           the search?

4           A     November the 19th.

5           Q     Okay. And that would have been Monday,

6           November 19th. And what did you discover that day?

7           A     Skull, leg bone.

8           Q     All right. So we have the skull and the leg

9           bone on this day. And y'all kept searching. I

10          believe you testified earlier you went on the other

11          side of the road and found the leg bone?

12          A     Yes, sir.

13          Q     And you kept searching. What happened on the

14          20th?

15          A     The 20th, we located an actual crime scene

16          where the blue jean pants and bones were --

17          Q     So you get blue jeans. You get -- what else do

18          you get out of the blue jeans?

19          A     Bi-Lo and Kroger bonus card, two keys, a Monte

20          Carlo car ring emblem.

21          Q     I'm going to put Bi-Lo and key chain; is that

22          fair?

23          A     Yes, sir.

24          Q     And dollar bill?

25          A     Dollar bill.

1 Q What about --

2 A Shell casing.

3 Q Okay. So we got a shell casing. So you get  
4 more bones and you collect all those bones up. And  
5 I think you said you testified earlier you took them  
6 to Newberry?

7 A Yes, sir.

8 Q Now, when did you go to Newberry with that?

9 A On November 21st.

10 Q So the next day you go to Newberry. What's the  
11 purpose of going to Newberry?

12 A To do an autopsy.

13 Q All right. So you begin that autopsy. Now,  
14 you began that autopsy. At some point you had to go  
15 make a decision as to who this was. And you had  
16 that Bi-Lo key where you -- did you make an effort  
17 to try to trace this Bi-Lo key in any way?

18 A I did.

19 Q And based on the information you collected off  
20 of that Bi-Lo key, were you able to make an  
21 identification of any kind?

22 A Yes, sir.

23 Q Like what kind of identification?

24 A The information that I received from the card  
25 was the last name Sturrup.

1 Q And what did you do with that kind of  
2 information? What did you do with it?

3 A I first contacted Aiken County Sheriff's Office  
4 to see if they had anybody missing by the last name  
5 of Sturup. They did not. I contacted Richmond  
6 County Sheriff's Office and asked them did they have  
7 anybody by the last name of Sturup missing. And  
8 they confirmed that they did have a 16-year-old male  
9 by the name of Samuel Sturup that was reported  
10 missing from their jurisdiction.

11 Q Did they give you an address to go to?

12 A Yes, sir.

13 Q Who lived at that address?

14 A Samuel Sturup's mother, Shirley Sturup.

15 Q Based on that collection of information, did  
16 you go see her?

17 A Yes, sir, I did.

18 Q What day did you go see her?

19 A November the 23rd.

20 Q What's the address in Augusta you went to?

21 A 2613 Dublin Drive, Augusta, Georgia.

22 Q I'm going put down tell Ms. Sturup, okay?

23 A Yes, sir.

24 Q All right. So you went and told her. Now, at  
25 this point, you're doing -- you're doing in an

1 effort to try to figure out what happened in  
2 conjunction with other authorities, correct?

3 A Yes, sir.

4 Q Who are those other authorities?

5 A Richmond County Sheriff's Office.

6 Q All right. And they had begun their  
7 investigation, too?

8 A Yes, sir.

9 Q All right. So, at this point, both of y'all  
10 are running an investigation?

11 A That's correct.

12 Q At some point did they make an arrest of  
13 anyone?

14 A Yes, sir.

15 Q Who did they arrest?

16 A They arrested Steven Lewis Barnes, Charlene  
17 Thatcher and a Kesha Burton, I believe, was, at that  
18 point, on --

19 Q Do you know -- do you know when they arrested  
20 Steven Lewis Barnes?

21 A They actually done a search warrant on his  
22 residence on January the 17th.

23 Q But when did they arrest him?

24 A On the 17th.

25 Q Okay. Now, let me go back up here to the

1 November timeframe. You had certain information and  
2 you were developing other information throughout  
3 this time; is that correct?

4 A Yes, sir.

5 Q Did you make an effort to ever go back to that  
6 crime scene or ask anybody to assist you going back  
7 to that crime scene?

8 A Yes, sir.

9 Q Who?

10 A I'd been talking to Investigator Richard  
11 Roundtree that was over in Augusta, Georgia. He had  
12 relayed that, through his investigation, had relayed  
13 information to me that Charlene Thatcher --

14 MR. WILLIAMS: Objection.

15 BY MR. YOUNG:

16 Q Okay. Here's what I wanted to ask you: Did  
17 you ask any agency to assist you in going back to  
18 that crime scene and conduct further investigation?  
19 Who did you ask?

20 A Yes, sir.

21 Q Who?

22 A Like I said before, Richmond County Sheriff's  
23 Office and the State Law Enforcement Division out of  
24 Columbia, which is known as SLED.

25 Q Yes, sir. And they -- when did they go back to



1 the crime scene?

2 A January the 23rd.

3 Q January the 23rd.

4 A Let me make sure that's correct. (Pause.)

5 Yes, sir, January the 23rd.

6 Q Okay. So this is -- can I put down SLED crime

7 scene?

8 A Yes, sir.

9 Q Who came out there?

10 A Steven Curtis from SLED was there, Agent Mike

11 Perry, which was the investigator that was working

12 with me on the case.

13 Q At any time now -- now, you had this .40

14 caliber shell casing, correct?

15 A Yes, sir.

16 Q At any time during the SLED crime scene

17 investigation, were any kind of other firearms

18 evidence collected at that crime scene?

19 A Yes, sir, there were.

20 Q What was collected?

21 A There was two bullets that were located.

22 Q Were you present when they were located?

23 A Yes, sir.

24 Q Did you see them recovered?

25 A Yes, sir.

1 Q Where were they recovered from?

2 A They were recovered from the stained area that  
3 I had talked about earlier.

4 Q Does this State's Exhibit 10 bear any relation  
5 to that description you just gave us, the location  
6 of the area where they were recovered?

7 A Yes, sir, it does.

8 Q How does it relate?

9 A This is the actual stain area where we had  
10 located the -- some more teeth and some bones  
11 scattered out in that area.

12 Q Well, were they recovered from the darkened  
13 area or were they --

14 A Darkened area, yes, sir.

15 Q Okay. So they were actually recovered from it?

16 A Right.

17 Q Did he have -- how did he do that? Did you  
18 watch him do that?

19 A Yes, sir. They brought in a metal detector and  
20 used it over this darkened area.

21 Q Okay. Were they laying on the ground?

22 A Well, they --

23 Q The bullets laying on the ground?

24 A No, sir. They had got a detection from the  
25 metal detector and they started digging in this

1 darkened area.

2 Q So they recovered it from the ground?

3 A Yes, sir.

4 Q Inside the ground?

5 A Right.

6 Q All right. And did those bullets -- or, excuse  
7 me -- projectiles ever come back to you?

8 A Yes, sir.

9 Q Do you have them in your possession?

10 A Yes, sir.

11 Q Did you see them recovered at the scene?

12 A Yes, sir.

13 Q Where are these bullets, these projectiles?

14 A I have them right here.

15 (State's Exhibit Numbers 23 and 27,  
16 projectiles, marked for identification purposes.)

17 Q All right, sir. Now, you had information then  
18 at that point that perhaps other weapons were  
19 involved?

20 A I did.

21 Q All right. If other weapons were involved,  
22 what efforts did you try to make to try to find the  
23 weapons?

24 A We actually went over -- we had information  
25 that the -- possibility there were some weapons that

1       were dropped off over a couple of bridges.

2       Q     Dropped off, what do you mean by dropped off?

3       A     They were thrown over the bridge.

4       Q     Thrown over?

5       A     Yes, sir.

6       Q     Thrown over the bridge what area?

7       A     The information we had was I-20 bridge going  
8       back into Augusta, Georgia. Also, had information  
9       that there's a possibility that they could have been  
10      thrown on the Fifth Street on the Gordon Highway  
11      Bridge.

12      Q     Okay. This is the Savannah River area you're  
13      describing?

14      A     Yes, sir.

15      Q     All right. And did you make any effort to try  
16      to conduct any search of those areas around those  
17      bridges?

18      A     Yes, sir.

19      Q     All right. How did you do that?

20      A     Myself and Agent Perry with SLED we called in  
21      the South Carolina DNR. They have a dive team  
22      that's stationed out of Spartanburg, I believe, and  
23      they came in and searched the area for us.

24      Q     And they searched what area?

25      A     The first area we searched was the Fifth Street

1 Bridge and the Gordon Highway Bridge.

2 Q Fifth Street and Gordon Highway?

3 A That's right.

4 Q All right. And so they went to the Fifth  
5 Street and Gordon Highway area. And did they go  
6 into the water underneath this bridge?

7 A Yes, sir.

8 Q On both bridges?

9 A Yes, sir.

10 Q Were they able to recover any firearms from  
11 either of those locations?

12 A No, sir.

13 Q At this point and at any point in your  
14 investigation, did you recover a firearm that you  
15 were able, in your investigation, to recover a  
16 firearm for comparison analysis?

17 A No, sir, I did not.

18 Q You had no firearms to compare what you  
19 retained at the scene either from the .40 caliber or  
20 what was obtained by SLED?

21 A No, sir.

22 Q Did you request a ballistics analysis?

23 A No, sir. We sent everything in, but -- we did  
24 request it, but SLED couldn't do anything with it  
25 because no weapons were found at the crime scene.

1 Q Okay. Do you know roughly when they did this  
2 underwater search?

3 A It was late January.

4 Q Some time in late January. Would it have been  
5 after the crime scene?

6 A Yes, it was after the 23rd..

7 Q So I'm going to write through here underwater  
8 search somewhere in here. I'm just going to -- I'm  
9 going to put it over several days. You don't know  
10 exactly when, do you?

11 A No, sir, not exactly.

12 Q But it just happened during the latter part?

13 A Yes, sir.

14 Q Underwater search. I'm terrible at writing.

15 All right. Now, let me ask you another  
16 question. With regard to this crime scene on the  
17 23rd and the further search, did you ever take any  
18 people that were arrested out to that scene?

19 A Yes, sir.

20 Q Who?

21 A Charlene Thatcher.

22 Q When did you take her out there?

23 A It was on the 23rd, January the 23rd of 2002,  
24 around three o'clock in the afternoon.

25 Q And when you took her out to that area, how did

1       you go?

2       **A**     I actually met Investigator Roundtree and  
3       Investigator Karl, which is a female investigator,  
4       from Richmond -- both of them was from Richmond  
5       County Sheriff's Office and they had Ms. Charlene  
6       Thatcher in their vehicle with them and we met at  
7       Community Road and Highway 25.

8       **Q**     Okay. At this point then you have the results  
9       of the autopsy, you have information about keys and  
10      a dollar bill. Did you show these keys and dollar  
11      bill to anyone?

12      **A**     Yes, sir, I did.

13      **Q**     Who did you show them to?

14      **A**     Ms. Sturup.

15      **Q**     Was she able to recognize them?

16      **A**     Yes, sir, she did.

17      **Q**     And you had all that information. And then in  
18      January some time, did you make an arrest of Julio  
19      and Alex Hunsberger?

20      **A**     Yes, sir, I did.

21      **Q**     Roughly, when did you arrest them?

22      **A**     The Defendant here, Julio Hunsberger, was  
23      located at his residence at  
24      which is in Edgefield County.

25      **Q**     How far away is it in these diagrams?

1       A     Probably a couple hundred yards.

2       Q     From where? Let me go back to the big map. Is  
3     it on State's Exhibit Number 2? Would it be  
4     generally available in terms of the area? Could you  
5     see it on there?

6       A     Yes, sir. The best way I can describe it is  
7     you're coming down Highway 25 coming through the  
8     Bettis Academy intersection. And once you come down  
9     25, as soon as you get on the four lane, the first  
10    intersection you come to on the -- would be in the  
11    left area here (indicating), that's actually Mt.  
12    Zion Road. You follow Mt. Zion down maybe a quarter  
13    of a mile or so and it takes -- takes a right-hand  
14    turn, which is called Sandy Springs Road.

15    Q     All right. Where is Sandy Springs Road in  
16    relation to that red line, which you told us before  
17    is Community Road, where is it? The residence,  
18    where is it?

19    A     It would be over in this area (indicating).

20    Q     Okay. Is it on this smaller map here on  
21    State's 3? Can you see it on that or is it off the  
22    map?

23    A     That residence would have been located back in  
24    over in this area (indicating).

25    Q     Okay. That's fine. Would you say about 200



1 yards?

2 A Yes, sir.

3 Q From the edge of that field there?

4 A Yes, sir.

5 MR. YOUNG: Mr. Williams, may have some  
6 questions for you, please answer them.

7 THE COURT: Thank you, Solicitor.

8 Mr. Williams.

9 MR. WILLIAMS: Please the Court.

10 CROSS-EXAMINATION

11 BY MR. WILLIAMS:

12 Q Investigator Doran, you indicated earlier that  
13 there were a number of opportunities to go back to  
14 the crime scene; is that right?

15 A Yes, sir.

16 Q Okay. Would you tell me for the benefit of the  
17 ladies and gentlemen of the jury the amount of times  
18 that law enforcement went to the crime scene, okay,  
19 including the first discovery?

20 A Four times.

21 Q Okay. And was it the fourth and final time  
22 that you met with the folks from Georgia in which  
23 Charlene Thatcher was present?

24 A Yes, sir.

25 Q Okay. And that was January the 23rd of 2002?

1       A     Yes, sir.

2       Q     Okay. Prior thereto you had been communicating  
3       with the people in Georgia quite a bit, hadn't you?

4       A     Yes, sir.

5       Q     Okay. The purpose for that communication was  
6       to try and locate a suspect; is that right?

7       A     That's correct.

8       Q     Okay. And during that time, you discovered  
9       that there was a person of interest by the name of  
10      Carlos Gomez, did you not?

11      A     Yes, sir.

12      Q     Okay. And did you figure out or locate Carlos  
13      Gomez?

14      A     Yes, sir, I did.

15      Q     Okay. And where was he from?

16      A     He was from the Augusta area.

17      Q     Okay. And for the benefit of myself and the  
18      ladies and gentlemen of the jury, what was his  
19      heritage?

20      A     He was a Mexican.

21      Q     Mexican. So he was a person of Hispanic  
22      dissent?

23      A     Yes, sir.

24      Q     Okay. All right. And did you discover whether  
25      or not he was an associate of one Steven Lewis

1 Barnes?

2 A No, sir, I didn't know that.

3 Q You never knew that?

4 A No, sir.

5 Q Okay. And let me ask you this: The body or  
6 the skeletal remains that were discovered here in  
7 Edgefield County were on the property of whom?

8 A I was first -- I was first informed that it was  
9 Henry Hunsberger, but I later found out that the  
10 property owner was a Gerald Richardson.

11 Q And you indicated that you believed my client  
12 to live at here in Edgefield  
13 County?

14 A That's where he was arrested at, yes, sir.

15 Q All right. Now, did there come a point in time  
16 in which you believed that there was a vehicle in  
17 which was associated or would have been associated  
18 with my client?

19 A Yes, sir.

20 Q Okay. Was it more than one vehicle that you  
21 believe that could have been associated with my  
22 client and perhaps with this crime?

23 A One vehicle.

24 Q Just one?

25 A Yes, sir.

1 Q Okay. You certain it wasn't two?

2 A Associated with --

3 Q I mean, that you believed to be associated  
4 perhaps with this particular crime?

5 A Oh, two, two with the crime, yes, sir.

6 Q Okay. All right. And I want to ask you, if  
7 you would, do you recall assisting Agent Perry at  
8 all with regard to trying to locate the vehicles you  
9 believed to be associated with this crime?

10 A Agent Perry actually done that on his own.

11 Q He did it on his own?

12 A Yes, sir.

13 Q Did you become aware of it based on his written  
14 reports?

15 A Yes, sir.

16 Q And you -- those were shared with you in your  
17 investigation too, weren't they?

18 A That's correct.

19 Q Okay. And I want to ask you, was there not a  
20 Buick Skylark that was associated or that you  
21 believed to be associated perhaps with the crime for  
22 which we're in trial today?

23 A That was a light gray, silver, 1990 Buick that  
24 was associated with the defendant here.

25 Q Okay. And it was a Skylark?

1           A     I'm not sure if it was a Skylark or not.

2           Q     Okay. Well, let me ask you this: Do you have  
3           any information in your file that would assist you  
4           in informing us as to what the actual make of that  
5           car was?

6           A     The only information I have here is the  
7           statement that Agent Perry had taken from the  
8           defendant's brother, Joseph Hunsberger, that  
9           mentioned a light-colored Buick.

10          Q     Okay. And you don't know the make and model of  
11          that particular Buick?

12          A     It's got on the statement that it was a 1990  
13          Buick LeSabre.

14          Q     Okay. All right. Now, did you discover that  
15          there was another make and model Buick that you  
16          believe to be associated with my client?

17          A     There was another vehicle mentioned, but never  
18          was located.

19          Q     Okay. Now, were there not two searches of two  
20          different vehicles?

21          A     The only search that I was involved in was this  
22          light-colored Buick.

23          Q     And you actually discovered that it didn't  
24          belong to my client, did you not?

25          A     No, sir.

1       Q     You never discovered it did not belong to my  
2       client?

3       A     What I discovered was it belonged to Henry  
4       Hunsberger, but your client drove the vehicle at  
5       certain times.

6       Q     Okay. And so Henry Hunsberger was the owner of  
7       the vehicle?

8       A     Yes, sir.

9       Q     And at the time that it was actually discovered  
10      for the purpose of search, who was the owner of the  
11      vehicle?

12      A     Actually, Horace Griffin had took possession of  
13      it and he had told Agent Perry that Mr. Hunsberger  
14      had turned the car back in because he was unable to  
15      pay for it.

16      Q     Okay. So Mr. Griffin basically gave you  
17      consent to search the vehicle, did he not -- or not  
18      you, but law enforcement?

19      A     Yes, sir.

20      Q     And the vehicle was searched?

21      A     Yes, sir.

22      Q     Okay. The trunk of the vehicle was searched?

23      A     Yes, sir.

24      Q     It was searched thoroughly, wasn't it?

25      A     Yes, sir.

1       Q     Okay. Was there any evidence gleaned from that  
2       vehicle that would have been associated with a  
3       trauma, blood or anything of that nature, any kind  
4       of fiber or hair evidence discovered in the trunk of  
5       that vehicle?

6       A     No, sir.

7       Q     Okay. Now, you're not aware of a prime or a  
8       prime gray Buick vehicle?

9       A     No, sir.

10      Q     Not aware of a second vehicle that may have  
11      possibly been associated with my client or this  
12      crime?

13      A     No, sir.

14      Q     And you weren't involved in that?

15      A     No, sir.

16      Q     And even if you were, there was no evidence of  
17      a vehicle I'm describing that would have been  
18      connected to this crime scene in any way with any  
19      kind of fiber, hair or blood evidence; is that  
20      right?

21      A     That's right.

22      Q     The information you got regarding a Julio came  
23      from the State of Georgia in their investigation,  
24      did it not?

25      A     That's right.

1 Q Okay. Nothing on your side of the  
2 investigation gleaned the information of a Julio,  
3 did it?

4 A No, sir.

5 Q Mr. Roundtree, did he share his information  
6 with you regarding how he gleaned that information  
7 regarding a Julio?

8 A He had --

9 Q I want to make sure you answer my question as I  
10 ask it, okay. Did he share the information as to  
11 how he gleaned the name Julio? Did he share that  
12 with you?

13 A Yes, sir.

14 Q He did?

15 A Yes, sir.

16 Q Okay. Now, you're a fairly seasoned  
17 investigator here in Edgefield. You've been working  
18 here for 21 years?

19 A Yes, sir.

20 Q Okay. Now, Joseph or Jose Hunsberger, you know  
21 him, don't you?

22 A Yes, sir.

23 Q Okay. He was employed by the sheriff, was he  
24 not?

25 A Yes, sir. He was a jailer.



1           Q     A jailer, okay. All right. And I want to turn  
2           your attention to the item that you talked about  
3           moments ago in which Joseph Hunsberger indicated to  
4           you that his father had owned a 1990 Buick LeSabre;  
5           is that right?

6           A     Yes, sir.

7           Q     And he gave you that information without any  
8           hesitation, did he not?

9           A     Yes, sir. He actually gave that information to  
10          Agent Perry, not me.

11          Q     Okay. Was he reluctant to share any  
12          information as you know of?

13          A     No, sir.

14          Q     Okay.

15                MR. YOUNG: Your Honor, I'm going to object to  
16          that. How can he know what another person said?  
17          There's no foundation for him to even be able to  
18          answer that question.

19                THE COURT: It's hearsay. Sustained.

20                BY MR. WILLIAMS:

21          Q     Let me ask you this: Did Jose Hunsberger share  
22          certain information with you in your investigation?

23          A     Yes, sir.

24          Q     All right. Did he not indicate to you that if  
25          you wanted to get in touch with his brothers, he'd

1 be more than happy to get them in touch with you?

2 **MR. YOUNG:** Your Honor, I'm going to object to  
3 this. This is really getting far-field in hearsay.

4 **THE COURT:** It is hearsay. Sustained.

5 BY MR. WILLIAMS:

6 **Q** You were cooperated with by my client, were you  
7 not? He turned himself in to you?

8 **A** No, sir, he did not turn himself in.

9 **Q** He didn't appear at the Edgefield County Law  
10 Enforcement -- or Detention Center of his own free  
11 will?

12 **A** He sure didn't.

13 **Q** Okay. Tell me how did he get there.

14 **A** We had met with Richmond County earlier on the  
15 22nd of January. Investigator Roundtree advised me  
16 that he was in the process of getting a warrant for  
17 Mr. Julio Hunsberger's arrest for kidnapping and  
18 aggravated assault. So I advised him once he got  
19 the warrant and was able to enter it into NCIC,  
20 which is the national crime computer database is  
21 when wanted people get put into it, that gives other  
22 states the authority to make the arrest of a certain  
23 individual, I think it was around 12:30 that same  
24 day I received a call from Richard Roundtree stating  
25 that he did have warrants on Julio Hunsberger and I

1       advised him at that time we'd make an attempt to  
2       take him into custody.

3       **Q**     All right. And did y'all go to his home to get  
4       him?

5       **A**     Yes, sir. We went to  
6       around four o'clock that same day on the 22nd.

7       **Q**     And he came with you voluntarily, didn't he?

8       **A**     He was placed under arrest.

9       **Q**     I understand, but you didn't have any problems  
10      with him?

11      **A**     No, he didn't give us any problems.

12      **Q**     He didn't resist you?

13      **A**     No, sir.

14             **MR. WILLIAMS:** I don't think I have any other  
15      questions. I would ask the Court to indulge me for  
16      just a moment.

17             **THE COURT:** Yes, sir, Mr. Williams.

18             (Pause.)

19             **MR. WILLIAMS:** Just real quick, Your Honor.

20             **THE COURT:** Certainly. You take all the time  
21      you need, Mr. Williams.

22             **MR. WILLIAMS:** Your Honor, I apologize.

23             **THE COURT:** No, sir, you go right ahead.

24             **BY MR. WILLIAMS:**

25             **Q**     Investigator Doran, prior to my client's

1       arrest, he actually appeared to the Edgefield County  
2       Detention Center voluntarily about on January the  
3       21st in which you interviewed him for about an hour  
4       and a half; isn't that true?

5       **A**     Not to my knowledge.

6       **Q**     Not to your knowledge?

7       **A**     No, sir.

8       **Q**     You don't recall a conversation that you had  
9       with him regarding a scar -- him possibly being Scar  
10      Face?

11      **A**     No, sir. The name Scar Face came up from some  
12      other information that I received.

13      **Q**     And let me ask you this: Was it November 23rd  
14      of 2001 that he actually appeared to you  
15      voluntarily, prior to his arrest?

16      **A**     To my knowledge, he didn't volunteer to come in  
17      at all. The only time that I've talked to him was  
18      on the afternoon of January the 22nd.

19      **Q**     Never in November of 2000 -- in the previous  
20      year, 2001, that he -- he never come up there to  
21      talk to you?

22      **A**     Not to my knowledge.

23      **Q**     And you don't have anything in your reports  
24      that would assist you in that regard?

25      **A**     No, sir. Like I say, if he would have -- if he

1        would have came any other time, I would have had  
2        Miranda waivers because I would have definitely put  
3        him under Miranda warnings before I actually talked  
4        to him. And in my file, I only have one Miranda  
5        that was done on the 22nd, which he -- after that  
6        Miranda was filled out, he refused to answer any  
7        questions and he never was questioned any further  
8        about the incident from me.

9        Q     Okay. In November, he wouldn't have been a  
10       suspect anyway, would he?

11       A     In November?

12       Q     Of 2001?

13       A     No, sir.

14       Q     Okay. And his brother worked at the sheriff's  
15       office?

16       A     Yes, sir.

17       MR. WILLIAMS: Thank you.

18       THE COURT: Thank you, Mr. Williams.

19       Redirect, Solicitor.

20       MR. YOUNG: One moment, Your Honor.

21       THE COURT: Certainly.

22       (Pause.)

23       MR. YOUNG: The State has no further questions,  
24       Your Honor.

25       THE COURT: All right. Thank you very much,

1 Lieutenant Doran. You may step down.

2 All right. Solicitor, you may call your next  
3 witness.

4 **MR. MAYE:** The State would call Richard Cave.

5 **THE COURT:** All right. Richard Cave.

6 (Pause.)

7 RICHARD CAVE,

8 having been duly sworn, testified as follows:

9 **THE CLERK:** Have a seat. State your full name  
10 and spell your last name, please.

11 **THE WITNESS:** Richard Cave, C-a-v-e.

12 DIRECT EXAMINATION

13 BY MR. MAYE:

14 **Q** Mr. Cave, tell the ladies and gentlemen of the  
15 jury where you're from. Where did you grow up?

16 **A** Augusta, Georgia.

17 **Q** Who were your family members over there? Who  
18 were you living with back in 2001? Tell the ladies  
19 and gentlemen of the jury where you resided, who you  
20 were living with at that time?

21 **A** My mother, my stepdaddy, a sister and two  
22 brothers.

23 **Q** Okay. Up until that point in time in 2001,  
24 prior to Labor Day of 2001, had you lived with them  
25 all your life there over in Augusta?

1           **A**     Yes, sir.

2           **Q**     Okay. What were you doing on a day-to-day  
3 basis?

4           **A**     Going to school and working.

5           **Q**     Where were you in school at that time? What  
6 kind of school was it or what school?

7           **A**     Lucy Craft Laney High School.

8           **Q**     So you were at Lucy Laney High School and how  
9 old were you back then?

10          **A**     Seventeen, 16.

11                 **THE COURT:** How old?

12                 **THE WITNESS:** Sixteen, 17.

13                 **THE COURT:** Thank you.

14                 Thank you, Solicitor.

15           BY MR. MAYE:

16           **Q**     Let me ask you this: In conjunction with this  
17 case, you had a friend that also was involved; is  
18 that correct?

19           **A**     Yes, sir.

20           **Q**     Okay. Who was he?

21           **A**     Antonio Griffin.

22           **Q**     Okay. How did y'all know each other? Were  
23 y'all friends?

24           **A**     Yes, sir. We was in the band together.

25           **Q**     What kind of band are you talking about?

1       A     Marching band.

2       Q     So you two were in the high school marching  
3       band together?

4       A     Yes, sir.

5       Q     And you were in high school at the time?

6       A     Yes, sir.

7       Q     Had you ever been in any trouble at all in your  
8       life up till that point in time?

9       A     No, sir.

10      Q     Okay. Did there come a time prior to Labor Day  
11      of 2001 that you met a man named Steven Lewis  
12      Barnes?

13      A     I did.

14      Q     Tell the ladies and gentlemen of the jury about  
15      meeting Steven Lewis Barnes and how you got involved  
16      with him.

17      A     I went to a friend's birthday party and he was  
18      present and I wanted to buy a car from him and  
19      that's how we got acquainted.

20      Q     What kind of car were you talking to him about  
21      that you wanted to buy or purchase?

22      A     He had a box Chevy for sell.

23      Q     What's a box Chevy?

24      A     It was around in the year '82 to like '91.

25      Q     What kind of or what brand?



1       A     A Caprice.

2       Q     Caprice?

3       A     Yes, sir.

4       Q     So that's a box Chevy?

5       A     Yes, sir.

6       Q     What's a bubble Chevy?

7       A     It's round.

8       Q     Okay. Now, what year model do the bubble

9       Chevys start?

10      A     Starts around like '91, '92.

11      Q     So y'all are talking about Chevrolet Caprices?

12      A     Yes, sir.

13      Q     The squared off ones and the more rounded ones

14      that occurred in '92 and '93?

15      A     Yes, sir.

16      Q     All right. So you were interested in that car.

17      What went on between the two of you in regard to any

18      discussions you had about the car and how did you

19      get to know Mr. Barnes? How did that progress?

20      A     From there, we started going to clubs together.

21      Q     What kind of clubs?

22      A     Nightclubs and stuff like that.

23      Q     Okay. Well, let me ask you this: What drew

24      you to Steven Barnes? You said that y'all had in

25      common, you wanted this car that he had, this box

1 Chevy. What else drew you to Steven Barnes?

2 A He had females around, money, cars.

3 Q Okay. You're 17 in high school at that time?

4 A Yes, sir.

5 Q And I would assume that's a pretty big priority  
6 for you at the time, wasn't it?

7 A At the time, yes.

8 Q All right. Prior to Labor Day of 2001, about  
9 how many times did you get together with Steven  
10 Barnes?

11 A It was about four times.

12 Q About four times?

13 A Yes, sir.

14 Q Let's talk about Labor Day. Let's talk about  
15 September 3rd of 2001. Where did you go that day?  
16 What happened?

17 A I got a call from Steven Barnes to meet him at  
18 Cherry Street, the green house.

19 Q The green house on Cherry Street?

20 A Yes, sir.

21 Q Let me show you what, at this point in time,  
22 has got a mark on it says State's Exhibit 20. Does  
23 that fairly and accurately represent the green house  
24 place there?

25 A Yes, sir.

1           **MR. MAYE:** I'm going to move to admit this into  
2 evidence at this time subject to any objection.

3           **MR. WILLIAMS:** No objection, Your Honor.

4           **THE COURT:** State's 20 is in evidence without  
5 objection.

6                   (State's Exhibit Number 20, photograph,  
7 admitted into evidence.)

8           **BY MR. MAYE:**

9           **Q**     So you met him on Cherry Street at the green  
10 house?

11          **A**     Yes, sir.

12          **Q**     When you got to the green house who went with  
13 you?

14          **A**     Antonio Griffin.

15          **Q**     Okay. How did y'all get over to the green  
16 house where you were? How -- you said you got a  
17 phone call from Barnes?

18          **A**     Yes, sir.

19          **Q**     How did you get hooked up with Griffin?

20          **A**     Griffin was already at my house at that time.

21          **Q**     Okay. How did y'all get over there?

22          **A**     My stepdad.

23          **Q**     Did he take y'all and drop y'all off in that  
24 area?

25          **A**     Yes, sir.

1 Q Okay. Had Antonio Griffin, during the time,  
2 subsequent times that you've been with Barnes after  
3 you had met him, had he been hanging out with y'all  
4 as well?

5 A Yes, sir.

6 Q Okay. Tell them what happened or what was  
7 happening at the green house when you arrived.

8 A When we pulled up, it was an argument going on.

9 Q Who was arguing?

10 A Steven Barnes and Samuel Sturup.

11 Q Had you ever seen this individual Samuel  
12 Sturup before?

13 A No, sir.

14 Q Did you know him or have any connection with  
15 him?

16 A No, sir.

17 Q Okay. What was the scope of the argument? I  
18 mean, what were they talking about and tell them  
19 what was happening?

20 A When I got out the car, I overheard them  
21 arguing over some money.

22 Q Okay. What was going back and forth in between  
23 them as they were having this argument?

24 A Steven was blaming him about stealing some  
25 money and Sam was saying he didn't have the money.

- 1 Q Okay. What was the next thing that happened  
2 after they started the argument about money?
- 3 A Steven started beating on him.
- 4 Q How was he beating on him? What happened?
- 5 A Started off with a fist and then he went to a  
6 shock absorber.
- 7 Q Shock absorber, okay. I'm going to show you an  
8 item marked State's Exhibit 21 at this point in  
9 time. Is that consistent with the type of shock  
10 absorber that you're talking about that you saw him  
11 be struck with?
- 12 A Yes, it is.
- 13 Q Okay. He punched him with his fist, he hit him  
14 with a shock absorber. What happened next?
- 15 A Sam was saying he didn't have the money.
- 16 Q What was the next thing that happened in  
17 between them?
- 18 A Steven kept asking him, then Sam switched the  
19 story up saying he had the money.
- 20 Q He then changed his story and said he had the  
21 money?
- 22 A Yes, sir.
- 23 Q Okay. How did he change the story and what did  
24 he say in regard to the money?
- 25 A He said his money was at his mother's house

- 1 behind the toilet in the bathroom.
- 2 Q Okay. What did Barnes say to him once he told
- 3 him and changed up the story and said, yes, I have
- 4 the money and it's behind the toilet at my mother's,
- 5 what did Barnes say?
- 6 A He said if he was to go to his mother's house
- 7 and not find the money, he was going to kill
- 8 everybody in the house.
- 9 Q Okay. What did Sam Sturrrup then say once he
- 10 was confronted with that, what was the next thing he
- 11 said?
- 12 A He changed his story again, he didn't have the
- 13 money.
- 14 Q Why did he say that he had admitted that he had
- 15 the money?
- 16 A He just wanted him to stop beating him.
- 17 Q Did he relate that to Barnes at that time?
- 18 A Yes, sir.
- 19 Q Okay. What else happened in regard to this
- 20 dispute over the money? What was the next thing
- 21 that happened?
- 22 A Steven Barnes' little brother pulled up.
- 23 Q What was his name?
- 24 A I know him by Little Man.
- 25 Q Okay. They called him Little Man?

1           A     Yes, sir.

2           Q     Is that William Harris?

3           A     Yes, sir.

4           Q     Okay. What did everybody call Barnes, Steven

5           Lewis Barnes?

6           A     Big Man.

7           Q     Big Man, okay. Once Little Man got there, what

8           happened or what took place?

9           A     Steven told his little brother about the

10          problem and Little Man pulled the gun out and put it

11          inside of Sam's mouth.

12          Q     Okay. What happened next? How did the

13          argument progress? What happened?

14          A     It just ended up going back and forth.

15          Q     Okay. Anybody else get blamed for it?

16          A     Yeah, Charlene Thatcher.

17          Q     Okay. What happened once they pulled Charlene

18          in and she got blamed for it, what happened next?

19          A     Charlene Thatcher and Samuel Sturup started

20          arguing amongst who had the money.

21          Q     What happened after that?

22          A     Steven walked off and made a phone call.

23          Q     Okay. After he made that telephone call, what

24          happened?

25          A     He turned around asking everybody did they know

1 anything about the money, asking Sam did he have the  
2 money and everybody denied it.

3 Q Once he made that telephone call, who arrived?

4 A The Hunsbergers.

5 Q The Hunsbergers?

6 A Yes, sir.

7 Q All right. When these -- how did they get  
8 there? Did they walk? Did they drive? How did  
9 they get there?

10 A In their vehicle.

11 Q Drove up in a car?

12 A Yes, sir.

13 Q All right. What did they do when they got  
14 there?

15 A Steven motioned and they had a little huddle  
16 up. They started talking among themselves.

17 Q Okay. Were you privy to what they were talking  
18 about when they were huddled up and talking?

19 A No, I couldn't hear it.

20 Q Okay. Were you able to see clearly, the  
21 individuals arrived you describe as the Hunsbergers  
22 in this case, were you able to see them?

23 A Yes, sir.

24 Q Let me ask you this: Is one of the individuals  
25 that you described as Hunsberger, is he present here



1 in the courtroom that arrived there that night?

2 A Yes, he is.

3 Q If you could point him out and say how he's  
4 dressed and where he's seated in this courtroom.

5 A Right over there in the black suit next to his  
6 lawyer.

7 MR. MAYE: Your Honor, I'd ask that the record  
8 reflect he's identified Julio Hunsberger, the  
9 defendant in this case at this time.

10 THE COURT: That's the gentleman to the left at  
11 the table?

12 THE WITNESS: To the far left, yes.

13 THE COURT: All right. Thank you.

14 The record so reflects he's identified the  
15 defendant, Julio Hunsberger.

16 BY MR. MAYE:

17 Q Let me ask you this: Now, it's nighttime at  
18 this point in time; is that correct?

19 A Yes, sir.

20 Q Was there enough light there for you to be able  
21 to see and clearly identify this person?

22 A Yes, sir.

23 Q You're absolutely 100 percent certain that the  
24 person that appeared there and arrived that night is  
25 Julio Hunsberger, the defendant here in this

1 courtroom?

2 A Yes, sir.

3 Q All right. Once the Hunsbergers -- what's the  
4 other brother's name?

5 A Alex.

6 Q Okay. Once Alex and Julio got there and they  
7 talked with Barnes there, what was the next thing  
8 that happened?

9 A They started talking among themselves and  
10 everybody -- Steven told us to get inside the car.

11 Q Who was us? Who got in Steven's car?

12 A I, myself, and Charlene Thatcher, Antonio  
13 Griffin and Steven Barnes.

14 Q Okay. Let me ask you this: Antonio was a  
15 buddy of yours. Y'all were in the high school band  
16 together, right?

17 A Yes, sir.

18 Q Charlene Thatcher, how did you know her?

19 A She always be with him. I thought that was his  
20 girl or something.

21 Q You thought Charlene Thatcher was his  
22 girlfriend?

23 A Yes, sir.

24 Q Now, you'd only been with him just a few times  
25 going to some clubs?

1       A     Yes, sir.

2       Q     Right. What car did y'all get into, what kind

3       of car was it?

4       A     A white Caprice.

5       Q     Tell me everybody that was in the white

6       Caprice. What kind of Caprice was this?

7       A     A bubble Chevy.

8       Q     A bubble Chevy?

9       A     Yes, sir.

10      Q     Tell me everybody that got in that bubble Chevy

11      there.

12      A     Steven Barnes, Antonio Griffin, Charlene

13      Thatcher and myself.

14      Q     Who was driving?

15      A     Steven Barnes.

16      Q     Okay. As y'all all left there, did you see

17      Alex and Julio Hunsberger get in the car?

18      A     Yes, I did.

19      Q     Okay. Did you see what had happened in regard

20      to Sam Sturup there right there? Did you see

21      whether he got in the car or how he got in the car?

22      A     No, sir.

23      Q     Okay. How did y'all leave? Did there come a

24      time that y'all left there?

25      A     Yes, sir.

- 1 Q Okay. Do you know exactly how long you were  
2 there?
- 3 A Not really.
- 4 Q Okay. As y'all left, who left first? Who  
5 drove off first?
- 6 A The Hunsbergers.
- 7 Q Okay. Where did y'all go once y'all left  
8 there?
- 9 A We followed them. Steven told us we were going  
10 to Sam's house.
- 11 Q He said y'all were going to Sam's, okay. Who  
12 was leading?
- 13 A The Hunsbergers.
- 14 Q Okay. Describe to the ladies and gentlemen of  
15 the jury as best you can how y'all traveled and  
16 where y'all went following the Hunsbergers.
- 17 A From the green house, we hit the intersection  
18 that went across the bridge going to Carolina. From  
19 that street, it leads to a smaller road and that  
20 road leads to a dirt road.
- 21 Q Let me ask you this: At any point in time, did  
22 anybody in y'all's car do anything to control where  
23 that vehicle in front of y'all went?
- 24 A No, sir.
- 25 Q Okay. So y'all followed?

1       A     Yes, sir.

2       Q     In as much detail as you can -- once y'all

3       turned off the dirt road, did y'all go into a field?

4       A     Yes, sir.

5       Q     Describe to the ladies and gentlemen of the

6       jury as much as you can in as much detail what

7       happened once y'all turned and went into that first

8       field.

9       A     After we got off the dirt road, went into a

10      grass area field that led to a narrow path. After

11      the narrow path, it led to a smaller open field.

12      Q     Okay. Let me show you what's been marked

13      State's 4 at this point in time. You have described

14      to them going across a big field through a narrow

15      area and into another field.

16      A     Yes, sir.

17      Q     Is that consistent with the layout of the area

18      that y'all went through?

19      A     Yes, sir.

20      Q     Okay. All right. Once y'all went from the big

21      field through the little narrow gap and into the

22      other field, what happened?

23      A     We stopped at a gate.

24      Q     You stopped at a gate?

25      A     Yes, sir.

1 Q Okay. Is that about the area y'all stopped at  
2 up in here (indicating)?

3 A Yes, sir, in that corner.

4 Q All right. What happened? How did everybody  
5 get out? Tell them with as much detail as you can  
6 what happened when y'all got there and stopped.

7 A Steven got out the car, Hunsbergers got out the  
8 car and then Steve told us to get out the car.

9 Q Okay. What was the next thing that you saw?

10 A Steven went to the back of the Hunsbergers'  
11 trunk and opened up the trunk.

12 Q What happened and what did you see once the  
13 trunk of the Hunsbergers' car got opened up?

14 A Sam got out the car.

15 Q Up until that point in time had you been aware  
16 that since y'all left the green house, that Sam  
17 Sturup was in the trunk of the Hunsbergers' car?

18 A No, I didn't know that.

19 Q Was that the first time you realized it?

20 A Yes, sir.

21 Q Okay. What condition was he in when he got out  
22 of the trunk of the car the Hunsbergers were in?

23 A He had a busted up arm and his face was bruised  
24 up.

25 Q Okay. What happened next?

1       A     He told Sam to walk in front of me and Antonio  
2       Griffin, Charlene Thatcher and head towards the  
3       gate.

4       Q     Okay. Is that the area we're talking about, a  
5       gate (indicating)?

6       A     Yes, sir.

7       Q     Okay. I'm going to show you State's 6 here.  
8       Is that the gate?

9       A     Yes, it is.

10      Q     Where did y'all then go?

11      A     He told us to hop over the gate.

12      Q     Who was in front?

13      A     Sam.

14      Q     Did everybody do that?

15      A     Yes, sir.

16      Q     Okay. The Hunsbergers come with y'all?

17      A     Yes, sir.

18      Q     Where did y'all go next then?

19      A     After that -- after that gate, it's a smaller  
20      fence and he told us to hop over the fence.

21      Q     What kind of fence is that, wood fence? What  
22      is it?

23      A     It's a small, little metal --

24      Q     You grew up in Augusta?

25      A     Yes, sir.

1 Q How about a barbed wire fence, would that be  
2 it?  
3 A Barbed wire.  
4 Q All right. Once y'all went over the barbed  
5 wire fence, where did y'all go?  
6 A To a narrow path.  
7 Q Let me show you this, State's 7. That the path  
8 y'all went up?  
9 A Yes, sir.  
10 Q What happened next?  
11 A After the narrow path, you have a smaller area  
12 in the wooded area that opened up to a smaller  
13 field.  
14 Q All right. What happened next?  
15 A Steven Barnes told Samuel Sturup, he asked him  
16 again did he have the money.  
17 Q What did Sam say back to him?  
18 A He didn't have the money.  
19 Q What happened next?  
20 A Steven pulled out his gun.  
21 Q Then?  
22 A And told everybody that everybody had to take a  
23 shot.  
24 Q Said that everybody is going to have to take a  
25 shot?



- 1       A     Yes, sir.
- 2       Q     What happened next?
- 3       A     He gave Charlene Thatcher the gun.
- 4       Q     What happened next?
- 5       A     He went behind her and helped her put the gun,  
6       she was crying and she help -- he helped her shoot  
7       the gun.
- 8       Q     How did he help her? Tell the ladies and  
9       gentlemen of the jury how he helped her shoot the  
10      gun.
- 11      A     He was behind her with his arms around her and  
12      helped her aim the gun.
- 13      Q     Then what happened?
- 14      A     The gun went off.
- 15      Q     The next thing that happened?
- 16      A     Sam dropped.
- 17      Q     He dropped?
- 18      A     Yes, sir.
- 19      Q     What happened next?
- 20      A     Charlene passed me the gun.
- 21      Q     What did you do?
- 22      A     Shot the gun.
- 23      Q     What happened next?
- 24      A     I gave the gun to Antonio, Antonio Griffin.
- 25      Q     What happened next?

1           A     I went back; me and Charlene was instructed to  
2           go back to the car.

3           Q     How many more shots did you hear?

4           A     Four more.

5           Q     You heard four more shots?

6           A     Yes, sir.

7           Q     You're absolutely certain that Alex and Julio  
8           Hunsberger were there at that time, too?

9           A     Yes, sir.

10          Q     What happened next?

11          A     Steven was the last one to leave from the back  
12          of the field and he told us to get inside the car.

13          Q     Did y'all go back out to the area where the  
14          cars were?

15          A     Yes, sir.

16          Q     Then what happened?

17          A     The Hunsbergers came, got inside their car and  
18          we followed them outside -- out the field.

19          Q     Who led the way, once y'all left the field  
20          where y'all had left the cars, who led the way out  
21          of there?

22          A     The Hunsbergers.

23          Q     And you're absolutely certain that Julio  
24          Hunsberger seated right there was in that vehicle?

25          A     Yes, sir.

1 Q Leading the way. Where did y'all go?  
2 A We went to a mobile home.  
3 Q Okay. Was it on that same property?  
4 A Yes.  
5 Q All right. What happened next?  
6 A Everybody got out the car and Julio and Alex  
7 went inside the trailer and we followed.  
8 Q They went in the trailer first?  
9 A Yes, sir.  
10 Q They appeared to be at home there?  
11 A Seemed like they had a key.  
12 Q All right. Let me show you State's 14. Do you  
13 recognize the two fields in there?  
14 A Yes, sir.  
15 Q Trailer back over here that went to on the  
16 property?  
17 A Yes, sir.  
18 Q Once the Hunsbergers were led the way back to  
19 that trailer, what happened next?  
20 A Steven told me, Antonio Griffin, Charlene  
21 Thatcher to sit on the couch.  
22 Q What happened and what conversation took place?  
23 A None. It was a very short conversation.  
24 Q What happened next?  
25 A Steven and the Hunsbergers went to the back.

1 Q Steven and the Hunsbergers went back to the  
2 back?

3 A Yes, sir.

4 Q Okay. What happened next?

5 A We just sat there waiting. Then, finally,  
6 Steven came back and told us time to go.

7 Q Did you have any conversation back at the woods  
8 or anywhere else as in regard to Sam leaving or  
9 going anywhere or doing anything?

10 A Yes, sir.

11 Q What conversation did you have?

12 A Antonio asked him how did he know that Sam  
13 wasn't going to get up and go to the neighbors.

14 Q What was the response?

15 A Steven Barnes said he shot him in the head.

16 Q Okay. Once the Hunsbergers and Barnes went  
17 back in the back of the trailer and then came back  
18 to the front, what did y'all all do?

19 A He said it was time to go so we went outside  
20 the trailer and went inside the car.

21 Q Okay. Who all left that residence at that  
22 point in time with you?

23 A Steven Barnes, Antonio Griffin, Charlene  
24 Thatcher and myself.

25 Q Did Alex and Julio Hunsberger leave that

1 trailer?

2 A No, sir.

3 Q Let me ask you this: Had you ever, at any  
4 point in time in your entire life, had any  
5 connection with that property down there on  
6 Community Road in South Carolina?

7 A No, sir.

8 Q Who led the way over there?

9 A The Hunsbergers.

10 Q Whose trailer did y'all go to afterwards?

11 A Hunsbergers.

12 Q Who led the way to that trailer?

13 A The Hunsbergers.

14 Q Once y'all left the Hunsbergers' trailer, where  
15 did y'all then go?

16 A Toward the bridge where he stopped at.

17 Q What happened when you stopped on the bridge?

18 A Steven gave Antonio Griffin a bag and a gun and  
19 told him to throw it into the water.

20 Q What did he do as a result of being told to do  
21 that?

22 A Got out the car and threw the gun into the  
23 water.

24 Q Okay. What happened next?

25 A We all went back to the green house on Cherry

1 Street.

2 Q Okay. Once y'all got back to the green house,  
3 what did y'all do?

4 A He told us we were going to stay the night and  
5 he would come back in the morning and pick us up.

6 Q Okay. Then what happened?

7 A We slept after that night.

8 Q Do what now?

9 A We slept there overnight.

10 Q You slept there overnight. What did you do the  
11 next day?

12 A He came back and picked me up, took me home.

13 Q Okay. What then happened?

14 A He told Antonio to burn the clothes and he was  
15 going to reimburse everybody for their clothes.

16 Q Did you give your clothes?

17 A Yes, sir.

18 Q Whatever you were wearing that night?

19 A Yes, sir.

20 Q And y'all had thrown the guns over the bridge?

21 A Yes, sir.

22 Q Okay. Did you go on about your business and  
23 your life at that point in time?

24 A Yes, sir.

25 Q When was the next time that you heard anything

1       about this or anything took place involving this?

2       A       When I got locked up.

3       Q       All right. When did you first realize that the  
4       police had found this body over in South Carolina?

5       How did that happen?

6       A       Actually, when I got locked up, I know -- I  
7       noticed everything had came down.

8       Q       Okay. You got charged as well over in Georgia,  
9       didn't you? You got charged and you pleaded guilty  
10      to aggravated assault over there for your role in  
11      what took place at the green house involving Sam  
12      Sturup, didn't you?

13      A       Yes, sir.

14      Q       You got 18 years in prison, too, didn't you?

15      A       Yes, sir.

16      Q       Okay. As to the charges here in South Carolina  
17      for anything that you potentially face involving the  
18      shooting and death of Sam Sturup, his murder, has  
19      anybody promised you anything for your testimony in  
20      this case?

21      A       No, sir.

22      Q       Has anybody ever asked you to say anything that  
23      was not true in this case?

24      A       No, sir.

25      Q       Do you have any promises about what will happen

1 with your charges up until this point in time?

2 A No, sir.

3 MR. MAYE: Answer any questions the defense has  
4 for you.

5 THE COURT: Thank you, Solicitor.

6 Mr. Williams.

7 MR. WILLIAMS: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. WILLIAMS:

10 Q Mr. Cave, I see you are in a orange jumpsuit.

11 A Yes, sir.

12 Q All right. Where do you live permanently or  
13 right now?

14 A Right now I'm housed in Edgefield right now.

15 Q Okay. Before you came to Edgefield, where were  
16 you?

17 A In Georgia State Prison, Reidsville.

18 Q Reidsville?

19 A Yes, sir.

20 Q Okay. And how long were you at Reidsville?

21 A I've been there three years now.

22 Q Okay. Prior to being at Reidsville, where were  
23 you?

24 A I've been in numerous accounts. I've been to  
25 Hancock, Calhoun, Frank Scott over a ten-year



1 period.

2 Q So you've been in various detention centers in  
3 the State of Georgia?

4 A Yes, sir.

5 Q Okay. Now, did you graduate high school or did  
6 you have an opportunity to graduate?

7 A I got locked up.

8 Q You got locked up.

9 A I was in 12th.

10 Q You were in the 12th grade?

11 A Yes, sir.

12 Q All right. And you can read and write, can't  
13 you?

14 A Yes, sir.

15 Q Okay. And if I ask you to help me read and  
16 write -- or read something relating to your prior  
17 testimony, do you think you'd be able to do that?

18 A Yes, sir.

19 Q Okay. Now, the Solicitor asked you about your  
20 convictions in Georgia, okay?

21 A Yes, sir.

22 Q You pled guilty to one count of aggravated  
23 assault; is that right?

24 A Yes, sir.

25 Q You received a sentence of 18 years?

1       A     Yes, sir.

2       Q     Okay. Now, did anything -- were you charged  
3       with something other than aggravated assault?

4       A     Kidnapping at the time.

5       Q     Okay. And over in the State of Georgia, you  
6       had an attorney, didn't you?

7       A     Yes, sir.

8       Q     And that was a Mr., was it, Leonard or  
9       something like that?

10      A     I had William Sussman.

11      Q     Oh, Mr. Bill Sussman, that's right. And he  
12      advised you as it related to the charges you were  
13      facing, did he not?

14      A     Yes, sir.

15      Q     Okay. And he advised you that --

16            **MR. MAYE:** Your Honor, I'm going to object to  
17      any hearsay or any advice that he got from counsel  
18      at this point in time. All of that would be  
19      hearsay.

20            **THE COURT:** I think you can rephrase the  
21      question if I'm tracking correctly, Mr. Williams.

22            **MR. WILLIAMS:** I'll take care of it.

23            **THE COURT:** But if I'm not tracking correctly,  
24      if it's going completely over my head, I'll have the  
25      jury step out, but I think you can rephrase the

1 question. I agree with the Solicitor, it is hearsay  
2 at this point.

3 **MR. WILLIAMS:** Okay.

4 **BY MR. WILLIAMS:**

5 **Q** Were you made aware that the charge of  
6 kidnapping that you faced in the State of Georgia  
7 could carry a life sentence?

8 **A** Yes, sir.

9 **Q** Okay. And were you also advised that if you  
10 cooperated, that that charge would be dropped  
11 against you?

12 **A** Yes, sir.

13 **Q** Okay. So you do understand how this kind of  
14 works, don't you?

15 **A** I'm still new to it.

16 **Q** You're still new --

17 **THE COURT:** What was the answer?

18 **THE WITNESS:** I told him I'm still new to it.

19 **BY MR. WILLIAMS:**

20 **Q** But you've been in prison for some ten years?

21 **A** They don't teach you law though.

22 **Q** But you do understand the difference between  
23 life and 18 years, don't you?

24 **A** I do.

25 **Q** Okay. And it's preferable to do 18 years than

1 it is life?

2 A Yes, sir.

3 Q All right.

4 MR. WILLIAMS: If I might approach the witness,  
5 Your Honor.

6 THE COURT: Yes, sir, certainly.

7 BY MR. WILLIAMS:

8 Q I'm going to hand to you a transcription that  
9 the Solicitor has of your prior testimony. Do you  
10 see page 229?

11 A Yes, sir.

12 Q Do you see where it first says your name,  
13 Richard Cave?

14 A Yes, sir.

15 Q And then it says, Having been first duly sworn,  
16 sworn, was examined and testified as follows.

17 A Yes, sir.

18 Q All right. So when you were sworn, were you  
19 sworn in much the same manner that you were here  
20 today?

21 A For to...

22 Q Over in Georgia.

23 A Talking about for when they investigated, when  
24 I first got locked up?

25 Q No, sir.

1       A     Or you're talking about for the case --

2       Q     When you testified between September 5th and  
3       September 12th, 2006, in a case that involved my  
4       client and his brother, were you sworn just as you  
5       were here today?

6       A     I was.

7       Q     Okay. And when you take that oath, you say, I  
8       swear or affirm to tell the truth; is that right?

9       A     That's true.

10      Q     The whole truth?

11      A     That's right.

12      Q     And nothing but the truth?

13      A     That's right.

14      Q     And you say, so help me God?

15      A     That's right.

16      Q     Okay. All right. And that's what you did  
17      there, isn't it?

18      A     That's right.

19      Q     Okay. I'm going to ask you if you would, sir,  
20      turn to page 270.

21      A     (Witness complies.)

22      Q     Are you on page 270?

23      A     Yes, sir.

24      Q     Okay. I'm going to begin at the very top. It  
25      says -- you see where it says Q, that means

1 question, okay. Now, I'm going to ask the question  
2 and I want you to read your answer after you were  
3 sworn, okay?

4 **MR. MAYE:** Your Honor, I'm going to object at  
5 this point in time. If he wants to ask him a  
6 question in an attempt to impeach him of something  
7 on a previous transcript, that would be appropriate,  
8 but asking him to publish testimony from a previous  
9 trial without being asked any questions is improper  
10 and I object to that.

11 **THE COURT:** You have to comply with Rule 613,  
12 ask him if he made a prior incon -- what statement  
13 he made and then if it is inconsistent, you can  
14 certainly impeach him based on whether it's a  
15 transcript, a written statement, oral statement or  
16 what have you, but you can't publish his testimony  
17 in that regard. So I would sustain the objection as  
18 to the form of the question.

19 **MR. WILLIAMS:** All right.

20 **BY MR. WILLIAMS:**

21 **Q** Well, let me just ask you the question. You  
22 understood that you faced a life sentence over in  
23 the State of Georgia?

24 **A** Yes, sir.

25 **Q** Okay. And you understood that if you

1       cooperated with the D.A., Mr. Danny Craig, that that  
2       life sentence would be taken from over your head?

3       A     Yes, sir.

4       Q     And that's what you did, isn't it?

5       A     Yes, sir.

6       Q     All right. I'm going to ask you, if you will,  
7       sir, in that trial -- turn to page 272 before I ask  
8       you this question.

9       A     (Witness complies.)

10      Q     Now, during that trial were you able to  
11      distinguish my client, Julio Hunsberger, from his  
12      brother, Alex Hunsberger?

13      A     Yes, sir.

14      Q     You were?

15      A     Yes, sir.

16      Q     All right. I would love for you to turn your  
17      attention to page 272. And I will like for you to  
18      turn to line -- or to read down to line 13. And  
19      Mr. Hadden, Mr. Hunsberger's former attorney, asked  
20      you this question. Do you see line 13?

21      A     Yes, sir.

22      Q     He asked you, Who is this here? What was your  
23      answer?

24      A     I couldn't tell you.

25      Q     Would you say that clearly? I didn't quite

1 understand.

2 A I couldn't tell you.

3 Q Okay. Who's that there? Could you tell me  
4 what your answer was?

5 A I couldn't tell you.

6 Q And then the question, it was, So what you're  
7 telling me today is you don't know the difference  
8 between Julio and Alex; is that right? What's your  
9 answer?

10 A That is true.

11 Q Okay. So when I asked you earlier in that  
12 trial that you were unable to distinguish my client  
13 from his brother and you answered that you were, is  
14 that still your answer?

15 A Yes, sir.

16 Q I'm going to ask you --

17 THE COURT: Mr. Foreman, ladies and gentlemen,  
18 step out just a moment, please. Do not discuss the  
19 case during this brief recess. Leave your notes --  
20 we're not taking a luncheon recess yet, so leave  
21 your notes out here. I'll have you back out in just  
22 a moment.

23 (The jury retires to the jury room.)

24 THE COURT: Let me make sure I'm tracking  
25 correctly, Mr. Williams.



1           **MR. WILLIAMS:** Yes, sir, Your Honor.

2           **THE COURT:** If your question was to him  
3 initially, Were you unable to distinguish between  
4 Alex and Julio in the trial of September of '06 and  
5 his answer was yes, does that mean he was unable to  
6 distinguish between Alex and Julio in the trial of  
7 '06?

8           **MR. WILLIAMS:** Your Honor, my understanding of  
9 his answer here today was that he was able to  
10 distinguish one from the other in that trial.

11          **THE COURT:** Well, then what -- there's a  
12 difference between able and unable. Maybe I  
13 misheard.

14          **MR. WILLIAMS:** Your Honor, I just have to defer  
15 to the court reporter for the question that I asked,  
16 but I can tell you what I intended to ask.

17          **THE COURT:** I'm not complaining about your  
18 question whatsoever. I just wanted to know if I was  
19 tracking that properly or not. Thank you very much.

20          Bring us our jury, please.

21          **MR. MAYE:** Your Honor, just briefly --

22          **THE COURT:** Yes, sir.

23          **MR. MAYE:** -- before we come back. Now, I will  
24 object that this is somewhat out of context because  
25 the difference is from that transcript, he just

1        didn't know their name. He's never had any problem  
2        identifying them. He just didn't know their names  
3        to be able to distinguish one from the other. He's  
4        always been able to identify one from another, just  
5        his name.

6                **THE COURT:** Well, that would be subject to  
7        either redirect or Rule 106 or the rule of  
8        completeness.

9                **MR. MAYE:** I'll handle that.

10               **MR. WILLIAMS:** Your Honor, before we bring the  
11       jury back out, it's my intent to demonstrate that he  
12       indicated that he told investigators that he  
13       couldn't recognize either of them.

14               **THE COURT:** And I'm not going to prohibit you  
15       from -- for fully exploring that. I wasn't trying  
16       to do that. I just wasn't sure I was tracking  
17       correctly that he either was unable or was not  
18       unable. I'm not cutting you off in any manner  
19       whatsoever in that regard, Mr. Williams.

20               **MR. WILLIAMS:** Yes, sir.

21               **THE COURT:** All right. Bring us our jury,  
22       please.

23               (The jury returns to the courtroom.)

24               **THE COURT:** Thank you very much, ladies and  
25       gentlemen, for your patience. Please continue to

1 give the parties your complete and undivided  
2 attention.

3 Mr. Williams.

4 **MR. WILLIAMS:** Thank you, Your Honor.

5 BY MR. WILLIAMS:

6 **Q** Mr. Cave, did you not tell law enforcement  
7 officers in Augusta, Georgia, that you could not  
8 recognize either my client nor his brother?

9 **A** I did.

10 **Q** You did tell them that?

11 **A** Yes, sir.

12 **Q** Okay. And you concede that in the trial that  
13 you intended to testify truthfully?

14 **A** Yes, sir.

15 **Q** Okay. And you, in fact, described the  
16 individuals that you were investigated about or that  
17 you were questioned about as light skin; did you  
18 not?

19 **A** Light skin Hispanic.

20 **Q** Now, let me ask you, do you still have the  
21 transcription that I have -- had given you in front  
22 of you?

23 **A** Yes, sir.

24 **Q** Would you please turn to page 273?

25 **A** (Witness complies.)

1       **Q**     And do you see your answer at the very  
2     beginning? Would you publish that into the record?

3           **MR. MAYE:** Now, Your Honor, again, I'm going to  
4     object. If he wants to ask him questions, but  
5     asking him to naked publish things into the record  
6     is improper and I --

7           **THE COURT:** Y'all hadn't handed me a  
8     transcript. I'm in a vacuum. I'm flying a plane on  
9     instruments in the fog and I'm not qualified. It's  
10    just that simple. I don't know the context he's  
11    asking the -- I'm not snapping at -- well,  
12    Solicitor, when I say I'm not snapping at you, I'm  
13    saying that while I'm snapping at you, I don't mean  
14    to snap at you, but I'm just in a vacuum in this  
15    regard.

16           Now, what page are we referring to?

17           **MR. WILLIAMS:** Page 273, Your Honor.

18           **THE COURT:** All right. What are you going ask  
19    him in this regard?

20           **MR. WILLIAMS:** Your Honor, he indicated in his  
21    answer --

22           **THE COURT:** Just direct me to the line.

23           **MR. WILLIAMS:** The very first line.

24           **THE COURT:** And I think it's the form of the  
25    question, Mr. Williams, as opposed to just

1 publishing it. Is that -- step up over here,  
2 please, Mr. Williams and Solicitor, step up here  
3 just a moment.

4 (Whereupon, a bench conference was held off  
5 the record, in the presence of the jury, but out of  
6 the hearing of the jury.)

7 **THE COURT:** All right. You may ask the  
8 question in the proper form, Mr. Williams.

9 **MR. WILLIAMS:** Your Honor, Court's indulgence  
10 for one moment.

11 **THE COURT:** Yes, sir.

12 (Pause.)

13 BY MR. WILLIAMS:

14 **Q** Did you previously describe my client  
15 differently than you're describing him today?

16 **A** I did.

17 **Q** Okay. And how did you describe him?

18 **A** Light skin.

19 **Q** Would you -- you concede that you're a light  
20 skinned person, don't you?

21 **A** That's true.

22 **MR. WILLIAMS:** That's all I have.

23 **THE COURT:** Thank you very much, Mr. Williams.  
24 Solicitor.

25 \*\*\*\*\*

1 REDIRECT EXAMINATION

2 BY MR. MAYE:

3 Q Mr. Cave, you've always been able to identify  
4 Alex and Julio Hunsberger. You just didn't know  
5 them by name; isn't that correct?

6 MR. WILLIAMS: Objection, Your Honor, he's  
7 leading.

8 THE COURT: You may rephrase the question,  
9 Solicitor.

10 BY MR. MAYE:

11 Q Did you always know which one was Alex and  
12 which one was Julio?

13 A Yes, sir.

14 Q Okay. But let me ask you this: By name, did  
15 you know them always?

16 A No, sir.

17 Q Okay. Let me ask you again: Is the  
18 individual, one of the two individuals that you've  
19 collectively referred to as the Hunsbergers, is he  
20 here present in this courtroom?

21 A Yes, he is.

22 Q Julio Hunsberger that you've previously  
23 identified, you're a hundred percent certain of  
24 that?

25 A Yes, sir.

1 Q Okay. In the early stages of this, you had  
2 trouble with their names as to which was Alex and  
3 which was Julio, did you not?

4 A Yes, sir.

5 Q Okay. Prior to seeing them there and them  
6 showing up that night at the green house, did you  
7 know either one of them?

8 A No, sir.

9 Q Do you have anything against Alex and Julio  
10 Hunsberger?

11 A No, sir.

12 Q Do you have any connection with that property  
13 out there in the scene of this murder except for  
14 Alex and Julio Hunsberger?

15 A No, sir.

16 Q At all times have you been able to identify  
17 Julio Hunsberger as one of the two individuals that  
18 was out there?

19 A Yes, sir.

20 Q Whatever his first name was?

21 A Yes, sir.

22 MR. MAYE: Answer anything the defense has for  
23 you.

24 THE COURT: Mr. Williams.

25 \*\*\*\*\*

1                    RECROSS-EXAMINATION

2            BY MR. WILLIAMS:

3            Q     Isn't it true that you indicated that you told  
4            law enforcement authorities from the very beginning  
5            that you didn't recognize them?

6            A     Yes, sir.

7            MR. WILLIAMS: Thank you.

8            THE COURT: Thank you very much, Mr. Cave. You  
9            may step down.

10           MR. MAYE: Your Honor, I have one other  
11           question along with that line if I may be permitted.

12           THE COURT: Is it new?

13           MR. MAYE: Directly deals with what he just  
14           asked there.

15           THE COURT: All right. I'll allow it under  
16           Rule 611.

17                    RE-REDIRECT EXAMINATION

18           BY MR. MAYE:

19           Q     You'd previously been asked did you misidentify  
20           them. You first lied, told law enforcement you  
21           didn't know any of them, didn't you?

22           A     That is true.

23           Q     Told them you didn't know Antonio, didn't you?

24           A     That's right.

25           Q     Told them you didn't know anybody or anything



1 about this, didn't you?

2 A Yes, sir.

3 Q But you later cooperated with law enforcement  
4 and gave full information, didn't you?

5 A And told the truth.

6 MR. MAYE: Nothing else. Thanks.

7 THE COURT: Mr. Williams.

8 RE-RE-CROSS-EXAMINATION

9 BY MR. WILLIAMS:

10 Q When you told law enforcement you didn't  
11 recognize them, you weren't under oath, were you?

12 A No, sir.

13 Q But when Mr. Hadden, his former attorney, asked  
14 you if you had not recognized them, you were,  
15 weren't you?

16 A Yes, sir.

17 MR. WILLIAMS: All right. Thank you, Your  
18 Honor.

19 THE COURT: Thank you very much, Mr. Cave. You  
20 may step down, Mr. Cave. Good luck to you.

21 All right. Ladies and gentlemen, momentarily  
22 we're going to take our luncheon recess. I would  
23 like to say, as you may recall in my opening  
24 comments to you, that my rulings on evidence or my,  
25 from time to time, asking you to step out on my own

1       has nothing whatsoever to do with the parties or the  
2       parties' manner in which they may be presenting  
3       their case.

4               They are advocates, the Solicitor, of course,  
5       for the State of South Carolina and Mr. Williams, of  
6       course, for his attorney [sic], Mr. Hunsberger. And  
7       my rulings in no way should indicate that I favor  
8       one side or the other. I do not -- I do not have  
9       any opinion about the facts of this case. The law  
10      and our constitution does not allow me to have such  
11      an opinion. Please keep that in mind.

12             I will remind you of your responsibilities and  
13      your duties under your oath during these recesses.  
14      Perhaps you'll be able to state this back to me  
15      before the week is out, before the case is over.

16             During this recess, you may not discuss this  
17      case with anyone including your fellow jurors, lunch  
18      mates, family, friends or anyone else. If anyone  
19      tries to talk with you about the case, please let me  
20      know immediately. Do not read, listen to or watch  
21      any news reports about the case.

22             You may not use your computer, cellular phone  
23      or other electronic device with communication  
24      capabilities or any other method to obtain or  
25      disclose information about the case when you're not

1 in court. Information about the case includes, but  
2 is not limited to, the following: information about  
3 a party, a witness, an attorney or a court officer,  
4 news accounts of the case, information collected  
5 through juror research on any topics raised or  
6 testimony offered by any witness or information  
7 collected through juror research on any other topic  
8 that the juror might think would be helpful in  
9 deciding the case.

10 As you've heard me say in the past and you will  
11 hear me say again, you decide the case based on the  
12 evidence and the testimony you hear from the  
13 witnesses testifying under oath in this courtroom  
14 and the law as I instruct you on the law.

15 Please remember to keep an open mind about the  
16 case and do not begin any deliberations until I  
17 instruct you to do so.

18 We'll take our luncheon recess. It is now, if  
19 my computer is correct, I have about 1:15. We'll  
20 say till 2:30. If you'll be back promptly at 2:30  
21 in your jury room. If you leave your notes upside  
22 down on your chair, I will have the Clerk's office  
23 secure them during the recess.

24 Thank you very much. I hope y'all have a  
25 pleasant lunch.

1 (The jury was excused for lunch.)

2 **THE COURT:** If there is going to be  
3 cross-examination of other witnesses that involve  
4 prior statements or prior testimony, I would order  
5 that I be provided a copy of those transcripts. And  
6 if both sides doesn't have them, share them.

7 I'm not complaining about you. I just know a  
8 lot can happen to files over ten years and a lot of  
9 times they're not where you want them to be at the  
10 time you may need them. I think if we all cooperate  
11 in that regard at least, it would make those issues  
12 go smoothly. And I know you have two other,  
13 potentially, two other witnesses that may be in the  
14 same position.

15 **MR. WILLIAMS:** Yes, sir, Your Honor. I'll make  
16 sure. I did have an extra copy, but I thought the  
17 Solicitor actually had -- well, I think he does  
18 because I got them from him.

19 **THE COURT:** I'm sure he does, but he may not  
20 have it right there on his desk.

21 **MR. MAYE:** I do. I just didn't have it in the  
22 courtroom.

23 **THE COURT:** That was the only point I was  
24 making, too. I'm not fussing at you at all,  
25 Mr. Williams.

1           **MR. WILLIAMS:** Yes, sir.

2           **THE COURT:** Madame Clerk, would you secure the  
3 jurors' notes during the luncheon recess?

4           **THE CLERK:** Yes, sir.

5           **THE COURT:** Anything else before we take our  
6 break, Solicitor?

7           **MR. MAYE:** Nothing else. Thank you, Your  
8 Honor.

9           **THE COURT:** Mr. Williams?

10          **MR. WILLIAMS:** No, sir.

11          **THE COURT:** Thank y'all very much. I hope  
12 y'all have a pleasant lunch.

13               (Whereupon, there was a luncheon recess.)

14               (State's Exhibit Number 54, photograph,  
15 marked for identification purposes.)

16          **THE COURT:** All right. The parties are  
17 present, the Solicitors on behalf of the State and  
18 Mr. Williams on behalf of his client who is also  
19 present, Mr. Hunsberger.

20               Anything before we bring in our jury from the  
21 State?

22          **MR. MAYE:** Not from the State, Your Honor.  
23 Thank you.

24          **THE COURT:** From the defense?

25          **MR. WILLIAMS:** No, sir, Your Honor.

1           **THE COURT:** All right. Bring in our jury,  
2 please.

3           (The jury returns to the courtroom.)

4           **THE COURT:** All right. Our jury is back  
5 present in the courtroom. We're continuing the  
6 trial of the case by the presentation of testimony  
7 and evidence by the State in its case in chief.

8           Solicitor, you may call your next witness.

9           **MR. MAYE:** The State would call Dr. Joel Sexton  
10 to the stand.

11          **THE COURT:** All right. Dr. Sexton.

12                         JOEL STEVEN SEXTON,

13          having been duly sworn, testified as follows:

14          **THE CLERK:** State your full name and spell your  
15 last name, please.

16          **THE WITNESS:** Dr. Joel Steven Sexton.

17                         DIRECT EXAMINATION

18          BY MR. MAYE:

19          **Q**     Dr. Sexton, if you would, tell the ladies and  
20 gentlemen of the jury a little bit about your  
21 background and your particular area of expertise.

22          **A**     I'm a pathologist with a subspecialization in  
23 forensic pathology. That means that I went through  
24 medical school, finishing in 1968, at the then  
25 Medical University of South Carolina. I, after

1       that, took a residency in pathology, which is  
2       basically the study of disease as interpreted by  
3       examining tissue.

4             Pathologists supervise the laboratory to ensure  
5       that the tests that are done on urine and spinal  
6       fluid and blood are done accurately. And the  
7       pathologist also helps your physician interpret  
8       those results to know whether you're getting better  
9       or worse or, to begin with, whether you have some  
10      sort of illness or disease. A pathologist is also  
11      the person that examines tissue removed at surgery  
12      to determine if there's cancer in that tissue or  
13      some other condition that's treatable to help your  
14      physician better understand how to treat you.

15            The pathologist is the person that does  
16      autopsies on persons dying in the hospital with the  
17      consent of the family and the request of the  
18      physician to learn more about that person's illness  
19      or disease and how they might be able to treat it  
20      better in the future, as well as for the family's  
21      benefit to understand and the doctor's benefit to  
22      understand exactly what the symptoms were due to.

23            Forensic pathologists have this same training,  
24      but in addition have further training in how to  
25      investigate a body at a scene of death, a body in

1       the morgue and where we do a complete external  
2       examination and autopsy collecting samples of  
3       evidence, as well as fluids for toxicology and for  
4       examination under the microscope to make sure we  
5       understand if there's any natural disease present  
6       and whether it played a role, whether there's a  
7       traumatic injury that was or was not fatal and  
8       whether there's any sort of drug or chemical that  
9       might have affected the person's judgment or caused  
10      death.

11             The toxicology is examined by the State Law  
12      Enforcement Division. We simply collect those  
13      samples for them.

14             So as a forensic pathologist in the last 28  
15      years, actually I've been retired three years, for  
16      the last 31 years in Newberry, I've been the  
17      supervisor of the pathology department, which means  
18      I supervise the laboratory there, as well as acting  
19      as a consultant for the coroners in the upper part  
20      of the state, about 28 of them sent cases to us.

21             Prior to that, I was the chief medical examiner  
22      in Charleston, South Carolina, from '72 until '83  
23      when I moved to Newberry. And I was also an  
24      associate professor of pathology at the medical  
25      university during that time.



1           As a medical examiner, that means a medical  
2           equivalent of a coroner, a person that examines  
3           bodies at scenes of death, determines if an autopsy  
4           is needed and then does that autopsy.

5           Q     Dr. Sexton, have you been previously qualified  
6           as an expert witness in the area of forensic  
7           pathology in the courts of the State of South  
8           Carolina?

9           A     Yes, I have.

10          Q     Approximately, how many times have you been  
11          qualified?

12          A     Hundreds of times, probably over 700 times in  
13          the 40 years I've been doing this.

14          Q     Dr. Sexton, I would say it's probably safe that  
15          you've testified more and examined more bodies than  
16          just about anybody in the courts of the State of  
17          South Carolina, haven't you?

18          A     Possibly. For a short period of time or  
19          actually a pretty extended period of time, there  
20          were only two of us doing most of the cases from  
21          Charleston. For the last 30 years, we've probably  
22          had about five in the state doing forensic autopsies  
23          with specialized training in forensic pathology.  
24          Like myself, I have board certification nationally  
25          in anatomical, clinical and forensic pathology.

1           **MR. MAYE:** Your Honor, at this time, I'm going  
2           to offer him for an expert in the area of forensic  
3           pathology and certainly offer him up to the defense  
4           for any cross-examination as to his qualifications  
5           as an expert.

6           **THE COURT:** Thank you, Solicitor.

7           Mr. Williams.

8           **MR. WILLIAMS:** Your Honor, I'm familiar with  
9           Dr. Sexton's lengthy record of work in the State of  
10          South Carolina. I have no objection to him being  
11          qualified as an expert in the area of forensic  
12          pathology.

13          **THE COURT:** Thank you, Mr. Williams.

14          Mr. Foreman, ladies and gentlemen of the jury,  
15          normally a person cannot give opinion testimony.  
16          Normally when a person testifies, they must testify  
17          as to either what they saw, heard or sensed by smell  
18          or something of that nature. However, there is an  
19          exception. When someone is qualified because of  
20          education, training, experience in a particular  
21          field, they are permitted to give their opinion in  
22          certain areas if the Court qualifies them that way.

23          This witness, Dr. Joel Sexton, will be  
24          qualified in the area of forensic pathology to give  
25          opinion testimony in that area. That does not mean

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1       that you must accept the opinion, but it is evidence  
2       for you to use in any way you see fit.

3             Thank you, Solicitor. You may continue.

4       BY MR. MAYE:

5       Q     Dr. Sexton, let me ask you, as it pertains to  
6       this case on November the 21st of 2001, were you  
7       provided with information and items of apparently  
8       human remains in order to examine in your capacity  
9       as a forensic pathologist in this case?

10      A     Yes. The coroner from here, Mr. Thurmond  
11      Burnett, contacted us and told us that they had  
12      found some human remains, what he felt were human  
13      remains and we told him to go ahead and bring them  
14      to us. We examined these. And it turns out there  
15      was some clothing including a pair of jeans that  
16      were a size 46 with a belt and at least most of a  
17      human body.

18             The skull and the jawbone were present with  
19      almost all of the teeth present only two were  
20      missing that had fallen out after skeletonization  
21      because the socket was not healed. It was an open  
22      socket.

23             In addition, the -- most of the right leg bone  
24      was present as part of the right hip. The left leg  
25      only had the lower portion of the leg present. And

1       there was a portion of the right shoulder, but none  
2       of the arms were present. But there was enough for  
3       us to make an identification and to determine a  
4       cause of death because when we examined the skull,  
5       we noted there was a gunshot wound and x-rays showed  
6       that there was still a bullet inside the skull.

7               When we examined the entire body along with the  
8       personal effects and compared that with the medical  
9       records, dental records and the history that was  
10      brought with the body, we were able to make an  
11      identification.

12             The decedent had with him some keys in this  
13      pocket of his jeans that opened his residence, had  
14      on the key chain a tag that was for Bi-Lo and it was  
15      registered in his sister's name. The clothing was  
16      about his size. And the belt had his name embossed  
17      on it. Samuel Sturrup, Jr. was embossed on the back  
18      of the belt. In addition, the dental records did  
19      match with this -- the dental records matched the  
20      teeth that we found with the skeleton.

21             In addition, the x-rays, as I mentioned, showed  
22      a bullet inside the skull. When we removed the top  
23      of the skull to look at that carefully to see what  
24      damage had occurred, we could see the bullet along  
25      with some brain tissue that showed a contusion,

1 meaning it had been traumatized as if you get a  
2 bruise on your arm if you're hit with something and  
3 it swells up and turns different colors of purple  
4 and maroon and brown and finally yellow and goes  
5 away. That kind of bruising is where small vessels  
6 are broken and the blood oozes out and this can  
7 occur in the brain tissue as well. So we know this  
8 gunshot wound occurred while the decedent was alive;  
9 otherwise, there would not have been contusion of  
10 that portion of brain that's left.

11 It's always amazed me that you get a body  
12 that's almost completely skeletonized and still have  
13 brain tissue remaining in many of these cases.

14 So it was clear that he was shot in the back of  
15 the head, somewhat close to the top of the back of  
16 the head with the bullet passing downward, to the  
17 left and toward the front and being lodged here on  
18 the left side of the skull when we examined the  
19 body.

20 Q Dr. Sexton, excuse me just a moment.

21 (Pause.)

22 Q Dr. Sexton, I'm going to show you three charts  
23 here that have been premarked, State's 26, State's  
24 25 and State's 24. I'd ask you are these diagrams  
25 that you prepared contemporaneous with doing your

1 forensic examination of the remains that were  
2 provided to you?

3 A Looking at my records that I brought with me,  
4 these are identical blowups to the dental record  
5 that I prepared there, a dental chart, a chart of  
6 the skeletal remains and a diagram of the head  
7 showing the path of the bullet.

8 MR. MAYE: At this time, I'm going to offer  
9 these three exhibits, these blowups, into evidence  
10 subject to any objection, of course, from the  
11 defense.

12 MR. WILLIAMS: There are no objections, Judge.

13 THE COURT: State's 24, 25 and 26 is in  
14 evidence without objection.

15 (State's Exhibit Numbers 24 through 26,  
16 diagrams, admitted into evidence.)

17 BY MR. MAYE:

18 Q Dr. Sexton, I'm going to show you a photograph  
19 marked State's Exhibit 22, ask you if you can  
20 identify that?

21 A Yes. This Exhibit 22 is a blowup photograph of  
22 one of the photographs I took of the bullet. The  
23 bullet was what's referred to as a semi-jacketed  
24 bullet. Hollow point bullets are frequently  
25 semi-jacketed, meaning the outside of the bullet is

1 copper. It's a cup made out of copper in which lead  
2 is poured and solidified so that when it strikes  
3 something, it tends to expand and stay in the  
4 individual.

5 A part of the copper jacket had fragmented the  
6 core, the lead core. And lead is easily moldable,  
7 had flattened out. So you have multiple pieces, but  
8 it represents one bullet. There was only one bullet  
9 hole in the skull. And this is -- these are the  
10 jacket and the core with fragments from one bullet  
11 that are removed from the head of Samuel Sturup and  
12 photographed.

13 MR. MAYE: At this time, I'm going to offer  
14 this photograph into evidence at this time if  
15 there's no objection.

16 MR. WILLIAMS: No objection.

17 THE COURT: State's 22 is in evidence without  
18 objection.

19 (State's Exhibit Number 22, photograph,  
20 admitted into evidence.)

21 BY MR. MAYE:

22 Q Dr. Sexton, I'm going to hand you eight  
23 individual photographs and I'm going to ask you if  
24 these are photographs that were taken there at the  
25 time that you performed the autopsy on the skeletal

1 remains of the -- pursuant to the request by the  
2 coroner here in Edgefield County?

3 A Yes. These are duplicate photographs of the  
4 ones that I have with me and they each bear the  
5 autopsy number and a ruler that's a one-inch ruler  
6 that also shows centimeters at the bottom. And  
7 these are photographs taken at the time of autopsy  
8 by myself of Samuel Sturup, Jr.

9 MR. MAYE: Your Honor, I'm going to offer these  
10 photographs, these eight, into evidence at this time  
11 subject to any objection.

12 MR. WILLIAMS: There are none, Your Honor, no  
13 objection.

14 THE COURT: All right.

15 BY MR. MAYE:

16 Q Dr. Sexton, if I can ask you to utilize the  
17 blowups, State's 24, 25, and '6, and whatever  
18 photographs that are in evidence here that would  
19 assist you in explaining to the jury what you  
20 carried out as a result of your examination of the  
21 remains provided to you.

22 A May I approach the bulletin board?

23 Q Absolutely.

24 THE COURT: Just one moment. State's 55  
25 through 62 is in evidence without objection. Thank



1       you. You can continue.

2               (State's Exhibit Numbers 55 through 62,  
3       photographs, were marked and admitted into  
4       evidence.)

5               (Witness leaves the witness stand.)

6               **THE WITNESS:** This represents a view as though  
7       you opened your jaw wide enough for the dentist to  
8       see the inside of your upper jaw and lower jaw. And  
9       all that's showing is that there were some teeth  
10       that were missing after death and some that had  
11       restorations in it. And it was this we used along  
12       with the other information to identify Samuel  
13       Sturup, Jr.

14              **THE COURT:** What exhibit is that, Doctor?

15              **THE WITNESS:** I apologize. This is Exhibit 26.

16              **THE COURT:** Thank you.

17              **THE WITNESS:** I've already discussed Exhibit  
18       22, which is -- I'll place over here.

19              Exhibit 25 is just a means of identifying what  
20       portions of the skeleton were still there. Once we  
21       cleaned the skeleton up, there was a complete skull,  
22       most of the vertebrae from the spine and part of the  
23       thorax, number of ribs from both sides and most of  
24       this leg and the bottom of the portion of this leg  
25       with a little bit of this left shoulder, but as you

1 see, a major portion of the body had been removed  
2 after decomposition and by animals.

3 So this just gives us an idea of what portions  
4 of the body were still present, but the important  
5 portions were the skull, which shows this entrance  
6 gunshot wound and enough of the skeleton to know it  
7 was one individual and it was a black male.

8 This, which is Exhibit Number 24, simply shows  
9 four views of the head -- or of a head. And we're  
10 simply showing that the bullet entered here high on  
11 the back of the head, passed downward into the front  
12 and to the left and that it became somewhat  
13 fragmented as shown in Exhibit 22, which shows the  
14 lead core and the -- the lead core and the copper  
15 jacket with some fragments of both surrounding the  
16 two major portions of the bullet.

17 I'll show this to both ends of the jury. This  
18 is Exhibit 55 and it again shows the same  
19 photograph, the lead core, the copper jacket and  
20 fragments of the same.

21 Again, Exhibit 55 shows the bullet fragment.  
22 You can see a lead core here at this point and a  
23 copper jacket with fragments of the jacket.

24 I always take it from both sides so I can  
25 identify it later, plus it had some identifying

1 marks on it.

2 Here again is from the other side you can see a  
3 little different picture. You can see part of the  
4 base and the lead core here. You can see the powder  
5 base of the jacket, although I'm sure from where you  
6 are, it's pretty hard to see that, but when you look  
7 at it close up, you can.

8 So this helps me identify the bullet in court  
9 later as being a single bullet with a lead core that  
10 has a base, a copper jacket that has a base and  
11 multiple fragments. Some of the jacket -- most of  
12 them are a jacket, some are from the core.

13 This shows the skeleton as we found it or as we  
14 were able to reconstruct it. As you can see, all  
15 the bones are there nice and clean at this point  
16 with some black curly hair.

17 **THE COURT:** What number was that, Doctor?

18 **THE WITNESS:** This last one is 62 showing the  
19 skeleton. We've laid the skeleton out, the portions  
20 that we had, along with the black curly hair that  
21 was present.

22 Exhibit Number 56 shows the left side of the  
23 skull. And we can tell from the appearance of this  
24 that that's the side that was against the ground  
25 because of the damp looking appearance here with

1           some mold on it.

2           The reason I show this on this Exhibit 56 is  
3           that in addition to the normal suture lines that  
4           allow your skull to slowly grow as you get older,  
5           there's a fracture line here that doesn't have those  
6           little zigzags that you see on the suture line below  
7           it and above it, but it's a fracture line that stops  
8           at one of those suture lines. And the bullet was  
9           found underneath this area. There's another  
10          fracture right under the number. And that was 56.

11          58 shows the other side of the head and the  
12          fracture extended all the way across the front of  
13          the head and stopped here at this suture line in  
14          Exhibit Number 58. So the impact on the inside of  
15          the head was sufficient to not only fracture the  
16          point of impact here on the left, but all the way  
17          across the front of the head to the other side.

18          And so 56 shows the left side of the skull with  
19          the damp moldy area here indicating that side was  
20          down on the ground at the time the body or the  
21          skeleton was found, fracture across here, fracture  
22          underneath it right here, the bullet's inside the  
23          skull there, the fracture extends on across. Down  
24          below this is one of the normal suture lines which  
25          are little zigzag lines where the bones are growing

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1 slowly apart.

2 58 shows a close up of the other side of the  
3 head where you can see that fracture comes all the  
4 way across the skull to the other side of the head  
5 indicating how severe the impact was.

6 Exhibit 60 shows the back of the head. You can  
7 see above the ruler the little zigzag line or the  
8 suture line that goes from the front of the head  
9 back to the back and the bullet hole goes in almost  
10 inside that suture line. So this is where the  
11 bullet enters. It's a larger hole than usual  
12 because I'm sure it's probably been partially  
13 changed by animals after death.

14 61, Exhibit Number 61, shows a copy of the  
15 x-ray that we took showing the bullet present inside  
16 of the skull.

17 Exhibit 59 shows the x-ray from the front. And  
18 you can see the hole here in the back and you can  
19 see the lead fragments and the jacket over here on  
20 the left side adjacent to a little fracture.

21 Exhibit 60 shows the back of the skull and  
22 above. You can see the suture line coming down from  
23 above this label and you can see the hole here near  
24 the back and the top of the skull.

25 Exhibit 61 shows an x-ray -- photograph of an

1 x-ray showing the bullet with its fragments here on  
2 the front of the skull in the left area. It's clear  
3 on Exhibit 59 that the hole is here in the back of  
4 the skull and here to the left are fragments of the  
5 bullets. It's a little hard to see on the frontal  
6 view because you're looking through the thickness of  
7 the skull only down one side, which is near the  
8 entrance of the bullet. And there's a little  
9 fracture there, as well as a fracture coming out of  
10 that hole in the back of the head. And that's each  
11 of the photographs.

12 (Witness resumes the witness stand.)

13 BY MR. MAYE:

14 Q Dr. Sexton, the remains that you were presented  
15 were primarily skeletal. All of the soft tissue had  
16 either been -- you said there was evidence of --  
17 that animals had gnawed on the body, is that  
18 correct, or the remains that you were provided with?

19 A That's correct. A lot of the bones were  
20 missing. The ones that were present, the ends of  
21 the bones had been gnawed. So it was obvious that  
22 animals had attacked the body after death, as well  
23 as decomposition.

24 Q So you had no soft tissue left?

25 A That is correct except --

1       Q     And so if there was any injury to soft tissue,  
2       you would have no way of knowing that, would you?

3       A     Except for the brain tissue that I mentioned  
4       earlier which did show --

5       Q     That was inside the skull?

6       A     Inside the skull which did show a contusion.  
7       But as far as the rest of the body, there could have  
8       been other injuries that could not -- would not be  
9       detected because we did not have all of the tissue.

10      Q     Okay. So if you had bullet wounds that passed  
11      through and through in soft tissue, you wouldn't  
12      have any way of knowing that, would you?

13      A     That's correct. Even if they hit bone that was  
14      later removed by the animals, I still would not have  
15      any indication that that occurred.

16      Q     And you did not have all the bones in order to  
17      examine them?

18      A     That is correct.

19      Q     There's also a possibility -- sometimes when  
20      slugs enter a body, they lodge in soft tissue, they  
21      don't pass through and through, do they?

22      A     Most of the time they do lodge in the body.  
23      It's just some of the larger calibers that'll go  
24      through, but often times they will stay in the body.

25      Q     So if animals scattered remains, you don't know

1       where evidence or even if there was any at that  
2       point, you just can't tell, can you?

3       A     That is correct.

4       Q     Dr. Sexton, let me ask you this: To a  
5       reasonable degree of medical certainty, do you have  
6       an expert opinion as to the identity of the remains,  
7       skeletal remains, that were provided to you in this  
8       case here from Edgefield County?

9       A     I do.

10      Q     Who was that individual based on your -- to a  
11      reasonable degree of medical certainty, who was that  
12      individual?

13      A     In my opinion within reasonable medical  
14      certainty, the decedent was Samuel Sturup, Jr.

15      Q     Let me ask you this: To a reasonable degree of  
16      medical certainty, do you have an expert opinion as  
17      to the cause of death as to Samuel Sturup, Jr.?

18      A     Yes, I do.

19      Q     What would that be?

20      A     It was the destruction of brain tissue and  
21      fracture of the bone due to the gunshot wound to the  
22      back of his head.

23      Q     Dr. Sexton, as to whether or not there were any  
24      other injuries or he was dying from other injuries  
25      that may or may not have been mortal or fatal, you



1 did not have information with which to draw any  
2 other conclusions as to soft tissue injuries, did  
3 you?

4 **A** That is correct. He certainly could have had  
5 an injury or injuries other than this that with time  
6 would have killed him, but certainly a gunshot wound  
7 in this area (indicating), the back of the skull  
8 going through not only the brain tissue, but a area  
9 called ventricles.

10 Inside the brain fluid is manufactured in the  
11 choroid plexus and it circulates inside the brain  
12 and then outside so that it allows the brain to be  
13 cushioned by floating in this cerebrospinal fluid.  
14 When the bullet passed through this ventricle on the  
15 left side, it also -- as you know, any force exerted  
16 on a liquid is carried in every direction. So the  
17 force of that blast of the bullet going through the  
18 left ventricle on this side would have gone down to  
19 the brain stem because that ventricle passes on  
20 through that part of the brain. And that part of  
21 the brain, the brain stem, the medulla and the pons,  
22 control our heartbeat and respiration, so it would  
23 have immediately caused unconsciousness and probably  
24 would have caused death in a very short period of  
25 time.

1           **MR. MAYE:** Begging the Court's indulgence.

2           (Pause.)

3           BY MR. MAYE:

4           **Q**    Dr. Sexton, there's one other item I'm going to  
5           show you marked State's 33. I probably should have  
6           given you earlier, but I'm going to ask you, for the  
7           purposes of making a complete record here, if you  
8           can identify the items in State's 33?

9           **A**    This is an evidence bag that I sealed and  
10          labeled across the seal at the top with heat seal.  
11          It has the name of the decedent and our autopsy  
12          number on it. It has a vial in it. And it's  
13          labeled as Exhibit 33.

14          Inside the plastic bag is a vial that's also  
15          labeled by myself with my initials and the autopsy  
16          number and the name of the decedent. Inside the  
17          vial is the lead core and the copper jacket and the  
18          multiple fragments. And the lead core has my mark  
19          as does the jacket. So this is the bullet that I  
20          removed from the skull of Samuel Sturup, Jr.

21          **MR. MAYE:** At this time, Your Honor, I'm going  
22          to offer that into evidence.

23          **THE COURT:** Mr. Williams.

24          **MR. WILLIAMS:** I have no objection.

25          **THE COURT:** All right. State's 33 is in

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1 evidence without objection.

2 (State's Exhibit Number 33, bullet  
3 fragments, admitted into evidence.)

4 BY MR. MAYE:

5 Q Dr. Sexton, let me show you what's been marked  
6 for identification here as State's 28 and State's 32  
7 and ask you if those are case histories and  
8 summaries of the results of the autopsy that you  
9 performed in your forensic examination of the  
10 remains that you determined were Samuel Sturup,  
11 Jr.?

12 A Actually 32 and 28 are both identical copies of  
13 the autopsy report that I prepared. 28 is out of  
14 order, but the pages are numbered at the top right.  
15 And this one happens to have the second page on top  
16 whereas 32 has them in order.

17 MR. MAYE: At this point in time, Your Honor,  
18 I'm going to offer State's 32 into evidence at this  
19 time.

20 MR. WILLIAMS: Your Honor, I will offer an  
21 objection to it as duplicative.

22 THE COURT: All right. Mark it for  
23 identification purposes only, State's 32 for I.D.  
24 only.

25 MR. MAYE: And, Your Honor, I've withdrawn any

1 duplication. I only have 32 that has those three  
2 copies and not the other that I would offer in  
3 evidence at this time, not duplicate copies of  
4 anything that's previous enter -- previously been  
5 put into evidence.

6 MR. WILLIAMS: Your Honor, I still believe it's  
7 duplicate to the testimony offered by the expert.

8 THE COURT: All right. I've had it marked as  
9 32 for I.D.

10 MR. WILLIAMS: Thank you.

11 (State's Exhibit Numbers 28 and 32, autopsy  
12 report, marked for identification purposes only.)

13 MR. MAYE: Please answer any questions the  
14 defense has for you at this time.

15 THE COURT: Thank you very much, Solicitor.

16 Mr. Williams.

17 CROSS-EXAMINATION

18 BY MR. WILLIAMS:

19 Q Good afternoon, Dr. Sexton.

20 A Good afternoon.

21 Q I would ask that -- you know, I'm just a lawyer  
22 and not a doctor, so there are certain medical terms  
23 that you've used in your findings that I probably  
24 can't really pronounce, but as it relates to the  
25 region of the brain, which you indicated that the

1 bullet passed from the rear downward and to the  
2 left, what's that region of the brain?

3 A Well, there are several regions. It went  
4 through the occipital lobe, which is the back  
5 portion of the brain, and then the left parietal  
6 lobe and actually caused some damage to the left  
7 temporal lobe. But, what was more significant is in  
8 that region, there's a hollow space that is filled  
9 with liquid, the cerebrospinal fluid, and we call  
10 that region a ventricle and that ventricle  
11 communicates to the base of the brain which controls  
12 your heartbeat and respiration.

13 Q And, Dr. Sexton, you also indicated earlier  
14 that there was a fracturing that would have gone  
15 from one side of the skull to the other; is that  
16 right?

17 A That's correct. The fracture started in this  
18 location (indicating) sort of like a crow's foot.  
19 In other words, it started here and it radiated  
20 across the front of the head across the back side of  
21 the head and upward from that location.

22 Q So it was kind of a spidering of sorts or a  
23 spider webbing kind of a fracture?

24 A Yes, that's correct.

25 Q And you also indicated that if there was that

1 sort of trauma to the brain -- or you would expect  
2 it to be to the brain based on the brain matter that  
3 you found?

4 A That's correct.

5 Q And you would have expected that it actually  
6 passed through the brain; is that right?

7 A Yes, that's correct.

8 Q And then upon its lodging or its impact on the  
9 opposite side of the skull from which it entered or  
10 the portion of the skull in which it impacted, it  
11 created the fractures?

12 A Yes, that's correct, from within.

13 Q Yes, sir. You would expect that to occur  
14 within a very short period of time if one were to  
15 suffer that kind of injury, wouldn't you?

16 A If you were giving statistics, yes, you would  
17 say within a fairly short period of time would be  
18 most likely. There are also exceptions to the rules  
19 in general, but when it goes through that part of  
20 the brain because it tends to stop your heartbeat  
21 and respiration, then you can only live a matter of  
22 minutes before the brain itself starts to die. So I  
23 would have expected him to have died within minutes  
24 and would have been unconscious immediately after  
25 receiving this particular gunshot wound to the head,

1 but that's within a reasonable medical certainty,  
2 that's not absolute.

3 Q And that is your opinion, however, that death  
4 would have occurred within a very short period of  
5 time with that kind of injury that you discovered?

6 A Yes, that's correct.

7 Q And, Dr. Sexton, finally, with that sort of  
8 injury, you didn't find any other trauma to the body  
9 parts or the skeletal remains that you were  
10 provided?

11 A Yes, that's correct. No other injuries were  
12 present on what we received. But as I mentioned,  
13 there was no soft tissue and a number of bones that  
14 were not received that were lost either to animals  
15 or just not able to be found.

16 Q And let me make sure I ask this question  
17 properly. So your opinion of the death that would  
18 have occurred within a reasonable degree of medical  
19 certainty in a short period of time is based upon  
20 the injury that you found?

21 A Yes, that is correct.

22 MR. WILLIAMS: Court's indulgence, Your Honor.

23 THE COURT: Yes, sir.

24 (Pause.)

25 MR. WILLIAMS: I have nothing further, Dr.

1       Sexton.

2               **THE COURT:** Thank you.

3               Solicitor.

4               **MR. MAYE:** Nothing else. Just ask that Dr.  
5       Sexton be released.

6               **THE COURT:** Thank you very much, Doctor. You  
7       may be excused.

8               **MR. YOUNG:** State calls Gerald Richardson.

9                       GERALD RICHARDSON,  
10       having been duly sworn, testified as follows:

11               **THE CLERK:** Have a seat. State your full name  
12       and spell your last name, please.

13               **THE WITNESS:** Gerald Richardson,  
14       R-i-c-h-a-r-d-s-o-n.

15                               DIRECT EXAMINATION

16       BY MR. YOUNG:

17       **Q**    Mr. Richardson, do you own property in  
18       Edgefield County?

19       **A**    Yes.

20       **Q**    All right, sir. And do you know roughly how  
21       much property it is?

22       **A**    It's a total of 82 acres.

23       **Q**    And what part of the county is it located in?

24       **A**    Trenton, South Carolina.

25               **THE COURT:** I can't hear.



1           **THE WITNESS:** Trenton.

2           **BY MR. YOUNG:**

3           **Q**     And how long have you owned this property?

4           **A**     Since 1986.

5           **Q**     And would you be able -- prior to court, you  
6           were asked to recognize possibly some diagrams, some  
7           photographs associated with your property. Would  
8           you be able to recognize those again if you saw  
9           them?

10          **A**     Yes.

11          **Q**     Let me show you what's been marked and admitted  
12          as State's Exhibit Number 14. Do you recognize that  
13          photograph?

14          **A**     Yes.

15          **Q**     All right. Let me have that back for just a  
16          second. And I'm going to show you a diagram,  
17          State's Exhibit Number 4. And you've seen this  
18          before?

19          **A**     Yes.

20          **Q**     Okay. And does this diagram, this picture,  
21          bear a relationship to property you own?

22          **A**     Yes.

23          **Q**     Okay.

24                 **MR. YOUNG:** Your Honor, I'm going put this up  
25          on the board here.

1       Q     Using that pointer, and I'm going to turn this  
2             slightly for you so you can see it better, and can  
3             you tell me, and just use that pointer to roughly  
4             outline any property you may own that's on this  
5             diagram?

6       A     Let me get oriented.

7       Q     Let's just start with the photograph. How  
8             about this, this photograph?

9       A     Okay.

10       THE COURT: What photograph?

11       MR. YOUNG: This is State's Exhibit 14, Your  
12             Honor.

13       THE WITNESS: The property goes along this line  
14             and straight down the fence and straight to the  
15             page.

16       BY MR. YOUNG:

17       Q     Let me put this up here. Can you see that from  
18             there?

19       A     Yes.

20       Q     All right. Now, how about step down there  
21             briefly.

22       THE COURT: Keep your voice up, please, when  
23             you're away from the microphone.

24             (Witness leaves the witness stand.)

25       BY MR. YOUNG:

GERALD RICHARDSON - DIRECT BY MR. YOUNG

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1       Q     What I want you to do is use that pointer and  
2       roughly outline the area you own with the pointer on  
3       that picture, State's 14.

4       A     Back...

5       **THE COURT:** Solicitor, I can't hear and it's  
6       not getting in the record.

7       BY MR. YOUNG:

8       Q     Step back right here. I want you to point out,  
9       again using the pointer, point out the area on the  
10      picture, which is State's Exhibit 14, the area,  
11      outline the area of the land you own.

12      A     (Witness complies.)

13      Q     All right. Now, do you see -- do you see a --  
14      in this picture here, do you see any dwellings in  
15      that picture?

16      A     Trailer.

17      Q     All right. I'm going to put this back up here  
18      and ask you point to that trailer you just pointed  
19      out to me.

20      A     It's not on here.

21      Q     Well, show on the picture.

22      A     On the picture?

23      Q     Yes, sir, on the picture.

24      A     (Witness complies.)

25      Q     Now, who put that trailer there?

- 1       A     I did.
- 2       Q     You put that trailer there. Do you know what
- 3       that address is?
- 4       A     355 Lakeview Road.
- 5       Q     Okay. Now, that trailer is located on this
- 6       land. And can you point out on this diagram, using
- 7       the pointer again, roughly the same outline of land
- 8       and where that trailer might be?
- 9       A     That would go down to here, across to here,
- 10      that trailer would be over in here somewhere.
- 11      Q     The trailer would be off to the right?
- 12      A     Correct.
- 13      Q     All right. And that's on your land?
- 14      A     Yes.
- 15      Q     Okay. Now, what's up on this diagram? Is all
- 16      of this in Edgefield County?
- 17      A     I'm not certain where the county line is.
- 18      Q     Is your land in Edgefield?
- 19      A     My land is in Edgefield County.
- 20      Q     All right. And when you first bought this
- 21      property, did you own more of what's owned up here
- 22      than you now own?
- 23      A     Yes.
- 24      Q     Did you sell any of it?
- 25      A     Yes, ten acres.

GERALD RICHARDSON - DIRECT BY MR. YOUNG

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- 1 Q All right. And where was that acreage you  
2 sold?
- 3 A It would be from beyond this fence out here,  
4 but this isn't there, it's over here.
- 5 Q Okay. That's fine.
- 6 A It goes from here, out to the road and over and  
7 down through here.
- 8 Q So you sold some land?
- 9 A Yes.
- 10 Q In addition to what's up here? In other words,  
11 you don't own it now, but you did own it?
- 12 A Correct.
- 13 Q All right. And you put a trailer on that  
14 property?
- 15 A Yes.
- 16 Q Would you take your seat again?
- 17 A (Witness resumes the witness stand.)
- 18 Q Now, do you know a person by the name of Julio  
19 Hunsberger?
- 20 A Yes.
- 21 Q Do you know Alex Hunsberger?
- 22 A Yes.
- 23 Q How do you know them?
- 24 A I was married to their mother.
- 25 Q You were married to their mother?

1       **A**     Yes.

2       **Q**     And during the period of time that you owned  
3       this property, were you married to their mother?

4       **A**     Yes.

5       **Q**     And you still own the property?

6       **A**     Yes..

7       **Q**     And to your knowledge, did Alex and/or Julio  
8       Hunsberger have access to that trailer --

9               **MR. WILLIAMS:** Your Honor, I'm going to object  
10       to him continuing to use the name of my client's  
11       brother.

12              **THE COURT:** What's the grounds? What rule do  
13       you cite for that to be objectionable?

14              **MR. WILLIAMS:** Your Honor, my client's here on  
15       trial and I'd just ask the Solicitor to keep his  
16       comments related to my client.

17              **THE COURT:** I'll overrule the objection.  
18       Solicitor, you may continue.

19              **MR. YOUNG:** Thank you, Your Honor. May I  
20       rephrase the question?

21              **THE COURT:** Certainly.

22       **BY MR. YOUNG:**

23       **Q**     During the time that you owned this property,  
24       you were married to Ms. -- what's her name?

25       **A**     Ezra Hunsberger.

1       Q     Hunsberger. And during the period of time that  
2       you were married to her, were you acquainted with  
3       Julio and Alexander Hunsberger?

4       A     Yes.

5       Q     To your knowledge, did either Julio and/or  
6       Alexander Hunsberger have access to that trailer?

7       A     Yes.

8       Q     And that trailer, did they have a key?

9       A     Yes.

10      Q     All right.

11           **THE COURT:** Well, I tend to agree with  
12      Mr. Williams now. It's not did they have a key.  
13      You need to rephrase that question. I will strike  
14      that question from the record and Mr. Richardson has  
15      not responded to that question.

16           **MR. YOUNG:** Thank you, sir.

17      BY MR. YOUNG:

18      Q     Did Alex Hunsberger have a key?

19      A     Yes.

20      Q     Okay. And have you seen either Alex and/or  
21      Julio in that trailer before?

22      A     Yes.

23      Q     Or since?

24           **THE COURT:** I'm going back to Mr. Williams now.  
25      The question is, have you seen Julio Hunsberger --

1                   **MR. YOUNG:** I'll rephrase it to Julio  
2           Hunsberger.

3 THE COURT: -- in that trailer?

4 BY MR. YOUNG:

5 Q Have you seen Julio Hunsberger in that trailer?

6            **A**    Yes.

7 Q All right. And do you also own any property on  
8 or around

9                    **A**                    Yes.

10 Q What do you own there?

11           A       Mobile home.

12 Q Mobile home. And have you ever seen Julio  
13 Hunsberger at

14 .            **A** .    Yes.

15 Q And who resides at 270 Sandy Springs?

16                    **A**            Ezra.

17 Q Your wife, your former wife?

18            **A**     Yes. .

19                   **MR. YOUNG:** I don't have any further questions.  
20           Would you answer any questions Mr. Williams may have  
21           for you?

22           **THE COURT:** Thank you very much, Solicitor.  
23           Mr. Williams.

24 \*\*\*\*\*

25 \*\*\*\*\*



## 1 CROSS-EXAMINATION

2 BY MR. WILLIAMS:

3 Q Mr. Richardson, I just have a couple of  
4 questions for you. How many mobile homes were on  
5 your property here in Edgefield County?

6 A At one point, there were three.

7 Q Okay. At one point, there were three?

8 A (Witness nodded head.)

9 Q Ezra stayed at the Sandy Springs Road address?

10 A Correct.

11 Q And that would -- that would be Ezra  
12 Richardson; is that right?

13 A Yes.

14 Q Your former wife?

15 A Yes.

16 Q The mother of my client?

17 A Yes.

18 Q Did Tony Popple stay at one of your mobile  
19 homes?

20 A I don't know him.

21 Q You don't know Antonio Popple?

22 A No, sir.

23 Q Do you know Kay Kyles?

24 A Yes.

25 Q Did she stay at one of the mobile homes on your

1 property?

2 A Yes.

3 Q But you don't know Antonio Popple?

4 A Not by that name. Are you talking about Tony,  
5 Ms. Kyles' son?

6 Q Yes.

7 A Okay. I knew him.

8 Q He stayed in a different mobile home on your  
9 property, did he not? Ms. Kyles stayed in one and  
10 Tony stayed in another; is that right?

11 A Yes.

12 Q Ezra stayed in the third one?

13 A Correct.

14 MR. WILLIAMS: All right. Thank you, sir.

15 MR. YOUNG: I don't have any further questions,  
16 Your Honor.

17 THE COURT: Thank you very much,

18 Mr. Richardson. You may step down.

19 All right. You may call your next witness.

20 MR. YOUNG: The State calls Richard [sic]  
21 Gordon.

22 Your Honor, if we may ask that the last witness  
23 be excused.

24 THE COURT: Any objection, Mr. Williams?

25 MR. WILLIAMS: No, sir.

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1           **THE COURT:** All right. Mr. Richardson, the  
2 last witness, is excused.

3           I also excused Dr. Sexton. I assume you had no  
4 objection?

5           **MR. WILLIAMS:** No, sir, I did not. Thank you,  
6 Your Honor.

7                               JAMES GORDON,  
8 having been duly sworn, testified as follows:

9           **THE WITNESS:** Gordon, G-o-r-d-o-n. My first  
10 name is James.

11                           DIRECT EXAMINATION

12           BY MR. YOUNG:

13           **Q**     Mr. Gordon, where do you work and how long and  
14 describe your job?

15           **A**     I work with the Richmond County Sheriff's  
16 Office. I've worked there since 1996. Prior to  
17 that -- well, there was a consolidation. So prior  
18 to consolidation, I worked with the Augusta Police  
19 Department.

20           **Q**     All right, sir. And what do you do for a  
21 living?

22           **A**     I work, as I said before, with the Richmond  
23 County Sheriff's Department. I work in the crime  
24 scene unit for the Richmond County Sheriff's Office.  
25 I have been in that there since 2001.

1 Q Okay. And during the period of January 2002,  
2 did you have occasion to be assigned to go collect  
3 evidence at two locations in Augusta?

4 A I did.

5 Q That would be Wrightsboro Road. I believe the  
6 address would be And the other one would be

7  
8 A 177, I think, Cherry --

9 Q Okay.

10 A Yes.

11 Q All right. And did you, in fact, go to 170  
12 Cherry Street -- to the Cherry Street address?

13 A I'm sorry?

14 Q Did you go to that Cherry Street address?

15 A I did.

16 Q Okay. Would you be able to recognize a picture  
17 of it if you saw it again?

18 A I would.

19 Q Let me show you what's been admitted as State's  
20 Exhibit 20 and ask you if you recognize it?

21 A I do.

22 Q And what's the address mentioned on that?

23 A It is

24 Q Oh, okay. Thank you. With regard to  
25 while you were there at that

1 location, what were you looking for?

2 A I was there assisting other officers in a  
3 search. I was generally looking for items in  
4 connection with another incident that had occurred.  
5 I collected items from that location. And I can  
6 advise you what items I collected, received, if you  
7 wish.

8 Q Did you also expose photographs?

9 A I did.

10 Q Okay. Actually, did you expose the photograph  
11 that was State's 20?

12 A I did.

13 Q All right. And when you were there -- would  
14 you be able to recognize some of these pictures you  
15 described at the Cherry Street address?

16 A Yes.

17 Q All right. I'm going to show you what's been  
18 marked as State's Exhibit 30 and 31. Can you  
19 recognize those?

20 A I do.

21 Q And what are they, sir?

22 A They are photographs taken from behind the  
23 residence at of a ladder and  
24 underneath the ladder, two automobile struts.

25 Q Two automobile struts?

1       A     Correct.

2       Q     What do you mean by struts?

3       A     Hydraulic -- just hydraulic struts, the lifts  
4       that hold a vehicle on.

5       Q     Would you be able to recognize one of those  
6       again if you saw it?

7       A     Yes.

8       Q     Let me hand you up what's been marked as  
9       State's Exhibit 21 and ask you if you can recognize  
10      it?

11      A     I do.

12      Q     What is that?

13      A     I'm sorry?

14      Q     What is that?

15      A     This is the black strut that was there.

16      Q     The black strut. You collected -- that's one  
17      of the two you collected?

18      A     It is, sir.

19      Q     And can you just briefly describe where this  
20      was in relation to the front, back or side of the  
21      house, where this was found?

22      A     It was in the rear of the house. The ladder  
23      was essentially up against the house. It was  
24      underneath the ladder in the back.

25      Q     Do both these pictures fairly and accurately

1 describe the position and location of where you  
2 recovered these two struts?

3 A Yes.

4 Q Of which 21 is one?

5 A Yes.

6 MR. YOUNG: Any objection to it?

7 MR. WILLIAMS: No objection.

8 THE COURT: State's?

9 MR. YOUNG: 30 and 31, Your Honor.

10 THE COURT: I thought it was 21. I'm sorry.

11 THE WITNESS: 21 is this.

12 THE COURT: You're offering photos?

13 MR. YOUNG: I have two photos, Your Honor, 30  
14 and 31. The strut has been admitted already as --  
15 it has not been admitted, it's 21.

16 THE COURT: All right. So 30 and 31, photos,  
17 are in evidence without objection. Is that correct,  
18 Mr. Williams?

19 MR. WILLIAMS: The photos, yes, Your Honor.

20 (State's Exhibit Numbers 30 and 31,  
21 photographs, admitted into evidence.)

22 BY MR. YOUNG:

23 Q And, sir, is this, in fact, the strut, as you  
24 call it, that you collected from underneath these  
25 ladders?

1       **A**    It is.

2               **MR. YOUNG:** The State would offer State's  
3       Exhibit Number 21, Your Honor.

4               **MR. WILLIAMS:** I would object to it on the  
5       basis of its relevance to the facts alleged against  
6       my client.

7               **THE COURT:** All right.. 21 is in evidence  
8       subject to objections.

9               **MR. WILLIAMS:** Thank you, Your Honor.

10               (State's Exhibit Number 21, shock absorber,  
11       admitted into evidence.)

12       **BY MR. YOUNG:**

13       **Q**    All right, sir. Would you be able to recognize  
14       a map showing the location of Cherry Street in  
15       relation to its surrounds?

16       **A**    I would.

17       **Q**    Let me show you what I have marked as State's  
18       Exhibit Number 29 and ask you, sir, what is that?

19       **A**    It's a map. It's generally of the Augusta area  
20       showing                       on it.

21       **Q**    Okay. And does that fairly and accurately set  
22       out where                       was?

23       **A**    Where it was, yes.

24       **Q**    It's not there anymore, is it?

25       **A**    That is correct.



1 Q is fairly and accurately  
2 displayed in this map?

3 A It is.

4 Q And this is to scale?

5 A Yes, it appears to be to scale.

6 MR. WILLIAMS: I have no objection to it.

7 MR. YOUNG: Your Honor, this is State's Exhibit  
8 29, we offer it.

9 THE COURT: State's 29 is in evidence without  
10 objection.

11 (State's Exhibit Number 29, map, admitted  
12 into evidence.)

13 BY MR. YOUNG:

14 Q Just so you can describe it for the jury, if  
15 you're coming down Washington Road from I-20, where  
16 would Cherry Street be?

17 A If you're coming down Washington Road from  
18 I-20, it would be essentially on top of the hill.  
19 As you rise, you go past Longhorns, California  
20 Dreaming. It would be on your -- it's not quite a  
21 mile and a half away from I-20. It would be on your  
22 right. And if you turn down Cherry Street, you  
23 would be stopped eventually by the railroad tracks.

24 Q Okay. So it abuts up to the back of the  
25 railroad track area?

1           **A**       It does.

2 Q Okay. And on the opposite side of the railroad  
3 track from Cherry Street, what would there be?

4 . **A** River Watch Parkway.

5 Q Okay. Thank you. All right, sir. Now, did  
6 you also have occasion, as I indicated, to go to

7 ?

8           **A**       I did, sir.

9 Q And your purpose in going there, sir?

10           **A**     Was to assist Investigator Scott White in  
11           collecting evidence, basically, a fire burning  
12           location.

13 Q All right. And you were looking for evidence  
14 of any burning in that area?

15                    **A**       Yes.

16 Q And did you locate such evidence?

17       **A**    Yes. I located a fire pit. Next to the fire  
18       pit was like a 50-gallon drum that had been used to  
19       burn items.

20 Q And did you collect any evidence from the drum?

21       **A**       I collected the drum itself and items from it  
22       and items from that fire pit.

23 Q Did you expose photographs of that?

24           **A**       I did.

25 Q Would you be able to recognize them again if

1       you saw them?

2       **A**     I would.

3       **Q**     Let me show you what's been marked as State's  
4       Exhibit 34, which is a photograph, and State's  
5       Exhibit 35 and ask if you can look at them and  
6       recognize them?

7       **A**     Yes.

8       **Q**     What are they?

9       **A**     34 is the big drum, the 55-gallon drum, and the  
10      fire pit in the rear of       -- correction --

11                   . And State's Exhibit 35 are items  
12      that was -- excuse me -- that were recovered from  
13      the fire pit.

14               **MR. YOUNG:** The State offers into evidence  
15      Exhibits 34 and 35, which are the burn barrel and  
16      the residue from the burn barrel.

17               **THE COURT:** Mr. Williams.

18               **MR. WILLIAMS:** Your Honor, I don't have any  
19      objection to the photographs.

20               **THE COURT:** State's 34 and 35 is in evidence  
21      without objection.

22                   (State's Exhibit Numbers 34 and 35,  
23      photographs, admitted into evidence.)

24               **BY MR. YOUNG:**

25       **Q**     Sir, as to the type of residue noted in this

1 photograph, which I hold up is 35, this residue that  
2 you found in the bottom of 34, which is the burn  
3 barrel, how would you describe this residue?

4 A Burnt.

5 Q Well, in terms of what it was?

6 A There were metal pieces, there were work  
7 pieces, there was some cloth, there were some  
8 eyeglass frames. I have a list if you would rather  
9 me read off what was in there.

10 Q Did you find any evidence of fabric and other  
11 things?

12 A Yes. There was a piece of cloth.

13 MR. YOUNG: Would you please answer any  
14 questions Mr. Williams has for you?

15 THE COURT: Thank you, Solicitor.

16 Mr. Williams.

17 MR. WILLIAMS: Court's indulgence, Your Honor.

18 THE COURT: Yes, sir.

19 (Pause.)

20 CROSS-EXAMINATION

21 BY MR. WILLIAMS:

22 Q Mr. Gordon, you were familiar with that Cherry  
23 Street address and residence at the time it existed  
24 back in 2001 -- well, early 2002?

25 A In 2002, yes, sir.

1 Q Okay. And did you have the occasion to  
2 actually go into the inside of that residence?

3 A I had been on the inside of the residence  
4 during the course of the search.

5 Q And only if you recall, do you recall if there  
6 was power in that residence?

7 A I cannot say for sure, sir.

8 Q You don't remember?

9 A I do not remember. It was a daylight search.

10 Q Would you describe it as a fairly run down  
11 home?

12 A It wasn't really run down. It was a bit  
13 cluttered.

14 Q Cluttered, okay. And off Washington Road -- at  
15 night, did you ever go to the residence at night?

16 A I've been by the location at night many times.

17 Q And is it well lighted?

18 A It's generally visible, but it's -- in terms of  
19 well lighted, I was not there during the night in  
20 reference to whether there's a street light right  
21 there. I just do not know.

22 Q Okay. You said it was visible to you, though?

23 A Yes.

24 Q I mean, even at night?

25 A Even at night, you know, you knew where the

1 location was. As I said, it sits right next to a  
2 Longhorns and -- or just across the street from it.  
3 And, normally, I've eaten there several times since  
4 then even since it's been gone and I can see where  
5 it was.

6 Q Okay. But it's back -- it's not on Washington  
7 Road, it's back from Washington Road?

8 A It is down Cherry Street, yes, sir, it is.

9 MR. WILLIAMS: No more questions, Your Honor.

10 MR. YOUNG: No further questions, Your Honor.

11 THE COURT: Thank you very much, Mr. Gordon.

12 You may step down.

13 MR. YOUNG: We'd ask that Investigator Gordon  
14 be released, Your Honor, so he can return to his  
15 duties.

16 MR. WILLIAMS: No objection.

17 THE COURT: Thank you. You may be released.

18 THE WITNESS: Thank you, sir.

19 THE COURT: All right. You may call your next  
20 witness.

21 MR. MAYE: The State will call Antonio Griffin.

22 THE COURT: How long is this witness going to  
23 be?

24 MR. MAYE: It won't be extremely brief, Your  
25 Honor, I wouldn't imagine.

1           **THE COURT:** Why don't we take a recess.

2           Mr. Foreman, ladies and gentlemen of the jury  
3 panel, I think we'll take our afternoon recess.  
4 I'll remind you during this recess please do not  
5 discuss this case with anyone, that includes your  
6 fellow jurors or anyone else.

7           We'll take about a 15-minute recess. If you'll  
8 leave your pads upside down on the chair. They'll  
9 be secured during this break. Thank you very much.  
10 You may now go with your bailiff.

11           (The jury retires to the jury room.)

12           **THE COURT:** All right. Court will be in recess  
13 15 minutes.

14           (Brief Recess.)

15           **THE COURT:** All right. Anything from the State  
16 before we bring in our jury?

17           **MR. MAYE:** Nothing from the State, Your Honor.  
18 Thank you.

19           **THE COURT:** Defense?

20           **MR. WILLIAMS:** Your Honor, I have a couple of  
21 transcriptions that I may want to go ahead and  
22 provide to the State and the Court.

23           **THE COURT:** All right. Yes, sir.

24           **MR. WILLIAMS:** As it relates to this witness.

25           **THE COURT:** All right. Thank you.

1 (Mr. Williams hands documents to the  
2 Solicitors and the Judge.)

3 THE COURT: Thank you, Mr. Williams.

4 MR. WILLIAMS: Your Honor, it's one more.

5 THE COURT: Sure.

6 MR. WILLIAMS: I learned.

7 THE COURT: Thank you.

8 All right. Bring us the jury, please.

9 (The jury returns to the courtroom.)

10 THE COURT: All right. Our jury is back.

11 Solicitor, you may call your next witness.

12 MR. MAYE: The State would call Antonio  
13 Griffin.

14 ANTONIO GRIFFIN,

15 having been duly sworn, testified as follows:

16 THE CLERK: Have a seat. State your full name  
17 and spell your last name, please.

18 THE WITNESS: Antonio Griffin, G-r-i-f-f-i-n.

19 DIRECT EXAMINATION

20 BY MR. MAYE:

21 Q Mr. Griffin, tell the ladies and gentlemen of  
22 the jury where you're from.

23 A Augusta, Georgia.

24 Q Let's go back to 2001 just before Labor Day of  
25 2001. Who were you living with and who were your



1 family members? Where did you reside over in  
2 Augusta?

3 A My mom and all my family is from Augusta.

4 Q Okay. What were you doing day-to-day just  
5 before Labor Day 2001? Day in, day out, what were  
6 you doing?

7 A I was working, going to school. I was in the  
8 band.

9 Q You were in the band?

10 A Yes, sir.

11 Q What kind of band are we talking about?

12 A High school band.

13 Q Okay. Did you know Richard Cave and was he a  
14 friend of yours?

15 A Yes, sir.

16 Q Okay. Tell the ladies and gentlemen of the  
17 jury how you and Mr. Cave came to know Steven Lewis  
18 Barnes.

19 A A girl that I was with at the time, we was  
20 broke up at the time. When we got back together,  
21 she was hanging with Barnes. So me being her  
22 boyfriend, I wanted to know who he was so that's how  
23 I met him.

24 Q Did y'all start to hang out with Steven Lewis  
25 Barnes at that time?

1       **A**     Yes, sir. We went to the club my first time  
2       meeting him.

3       **Q**     Okay. Did you hang out with him some prior to  
4       Labor Day of 2001 when all these events took place?  
5       Did you get together with him a few times?

6       **A**     Yes, sir.

7       **Q**     Okay. Why did you like hanging out with Steven  
8       Lewis Barnes? What was the attraction?

9       **A**     He had some nice cars with rims on it. And we  
10      went to the club. We was, like, in three cars. He  
11      had a lot of females and it was a lot of guys. So I  
12      liked the environment, you know, be around a lot of  
13      females like that.

14      **Q**     I understand. Let's talk about Labor Day,  
15      September 3rd of 2001. What were you doing that day  
16      and what happened?

17      **A**     Me and Richard -- we didn't have school the  
18      next day, it was on a Sunday, and me and Richard  
19      wanted to go out to the club again. So we was  
20      calling Big Man, which is Barnes. We was calling  
21      him all day and he wouldn't never answer his phone.  
22      So he called back later on that night and we asked  
23      him to come pick us up. He said he couldn't, he was  
24      taking care of some business. He was like, But if  
25      y'all get dropped off up here where I'm at, then

1 I'll drop y'all back off at home later on.

2 So we asked Richard's stepdad, he was on his  
3 way to work on Washington Road. So he said, I'll  
4 drop y'all off. So he dropped us off. That's how  
5 we end up at Cherry Street.

6 Q Okay. Show you State's 20, the green house,  
7 Cherry Street. Do you recognize that?

8 A Yes, sir.

9 Q What happened when you got to the green house?

10 A We got there, Barnes was there, Sam and his  
11 brother, Little Man. They was arguing with Sam over  
12 some money, saying some money was missing, fighting,  
13 arguing over money.

14 Q Tell us what was going on, what was going back  
15 and forth in between them?

16 A We got there, Sam was like he didn't have the  
17 money. And they kept accusing him of having some  
18 money. And then at first, when we got down there,  
19 we shook hands and everything. And he was like,  
20 yes, he done stole my money. So I'm thinking he  
21 talking about me and Richard. We was like, Who? He  
22 was like, No, Sam. We was like, Who was Sam?  
23 Because I done see him before, but I never knew his  
24 name. I seen him when we went to that club that one  
25 time. So he told Sam to come there again. Then he

1 was like, This is Sam.

2 So he was like -- they got back to arguing  
3 again about the money. So he was like, Man, y'all  
4 jump him. So he told me and Richard to jump him.  
5 So I looked at Richard, Richard looked at me crazy.  
6 And Sam actually thought we was going to jump him so  
7 I guess he wanted to get the first lick off of me,  
8 swung at me. Me and him just got to fighting,  
9 nobody else just me and him, but the fight didn't  
10 last long. Big Man, Little Man broke it up.

11 Q What was the next thing that happened?

12 A I remember he kept going back to him asking him  
13 about money and he wanted to hit on Sam. And Sam --  
14 it was a car in the yard, which was Little Man's  
15 car, and he was chasing him around the car telling  
16 him, There ain't no need to run because when I hit  
17 you, when I connect, you're going to feel it, this  
18 and that.

19 So I remember somehow China name, which was  
20 Charlene, her name got in it saying that she  
21 might've had the money. So I remember they called  
22 her out the house, that's when I know that she was  
23 there, they called her out the house. And they  
24 asking her where the money. She's like she ain't  
25 got no money.

1           So they start beating her down with a broom and  
2           she fell back through the door, through the screen  
3           of the door while it was closed. And they told her,  
4           Bring it back out your purse. So she brought it  
5           back out her purse. And I remember they got it and  
6           emptied it out on the porch and she didn't have the  
7           money. She was crying, was like, I told you I ain't  
8           had no money. So they was like, uh, well, he must  
9           be lying on you. So they was like, yeah.

10           So he gave her the broom and was like, Well,  
11           hit him. She was like, No, I'm not fixing to hit  
12           him. And he was like, Bitch, if you don't hit him,  
13           I'm going to hit you again with the broom. So she  
14           walked up to him, was tapping him soft like this  
15           (indicating). So they're laughing, which is Little  
16           Man and Big Man, and, Hit him harder, hit him  
17           harder. So tapping on him again. So they was like,  
18           Man, just go on back in the house. So they went  
19           back in the house.

20           Q     What was the next thing that happened?

21           A     I remember he came and asked me and Richard,  
22           What y'all think about this, what y'all think? We  
23           was like, We don't know, man. We don't know what's  
24           going on.

25           So I remember Little Man name came in it, which

1        is Big Man's brother, that he might have had the  
2        money. So Little Man got heated. He pulled out a  
3        gun and said, I ain't got no money. He pulled out a  
4        wad of money also saying, I got money. I ain't got  
5        to steal from my brother. And I remember him  
6        telling Sam to open his mouth. He put the gun in  
7        Sam's mouth, was fixing to shoot him and Big Man  
8        actually stopped him, was like, Man, that's serious,  
9        you ain't got to do all that.

10       And I remember later on Little Man got a call  
11       on his phone. He walked to the street, which is  
12       outside the yard, came back in the yard, said, Man  
13       I'm fixing to go, I'll be back. So Big Man came  
14       again asking, Man, what y'all think, smoking a  
15       cigarette. We was like, Man, we don't know, we  
16       don't know what's going on.

17       So he went back and asked Sam again and I  
18       remember Sam saying, Yeah, man, I got your money.  
19       He was like, You sure you got my money? He was  
20       like, Yeah, man. He was like, Well, where is it?  
21       He said, It's at the house. He's like, What, you  
22       done gave it to your mama or something? He's like,  
23       No, man, I got it hid. He's like, Hid where? He's  
24       like, I got it hid good behind the toilet. So he's  
25       like, you mean to tell me if I'm going to go to your

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1 house, I'm going get my money? He was like, Yeah,  
2 man. So he was like, If we go up there and you try  
3 to scream for help, I'm going to kill everybody in  
4 the house.

5 So he came back again to me and Richard was  
6 like, We're going to go. We're going to wait till,  
7 like, after some time after 12 o'clock and go and  
8 then we'll go get the money then. So I remember he  
9 went back and asked Sam after a while, Man, you sure  
10 you got my money? And Sam wouldn't answer him. I  
11 remember Sam was just sitting there looking at him.

12 So he jumped at him, Man, you got my money? He  
13 was like, No, man. He was like, What? He's like,  
14 Man, I just wanted you to stop hitting me, man. He  
15 said, I ain't got no money, man. So he hit him,  
16 pow, Yes, you do got my money because you wanted a  
17 grill in your mouth and this and that. So he pulled  
18 out a gun, was like, Forget it, I'm through talking,  
19 this and that. He say, We fixing to go for a walk.

20 So he called Charlene back out the house. And  
21 I remember we walked around the house through some  
22 woods and got on the railroad tracks. We walked  
23 down the railroad tracks and he made Sam walk in  
24 front of us. I remember we stopped some ways down,  
25 then he tried to give Charlene the gun to shoot him

1        then. And she was like, No, I'm not fixing to shoot  
2        him. He was like, Well, somebody fixing to shoot  
3        somebody because one of y'all got my money. And he  
4        actually pretended like he was fixing to give Sam  
5        the gun and she started screaming and hollering and  
6        grabbed it and was like, Please don't let him shoot  
7        me, please don't let him shoot me. So he laughed  
8        and stuff. He was like, I ain't going to let him  
9        shoot you.

10        So he looked at me and Richard was like, Y'all  
11        want to shoot him? We was like, No, man. So he was  
12        like -- Sam was like, Man, just go on and take me  
13        home, man, I ain't got no money, just take me home.  
14        He was like, All right, I'll take you home.

15        So all us walk back to the house and he told us  
16        to go in the yard while he walked up the street. He  
17        walked up the street for a while. He was on his  
18        cell phone. So after a while, I really don't know  
19        how long it was, he came back down the street. When  
20        he came back down the street, a car pulled in the  
21        yard.

22        Q        Who pulled up in that car?

23        A        The two brothers.

24        Q        Last names?

25        A        Two Hunsbergers.



1 Q The two Hunsberger brothers pulled up?

2 A Yes, sir.

3 Q Okay. What was the next thing that happened?

4 A Well, I remember they got out the car. They  
5 went to the street because Big Man was still in the  
6 street. They went and talked to him for a quick  
7 little hot second. They came back and stood by the  
8 car. Then he called me and Richard to him. He was  
9 like, Man, I'm fixing to go on and take him home  
10 since he want to go home so bad. He's like, Y'all  
11 want to ride with me or y'all want me to drop y'all  
12 off at home? We was like, Man, we cool, we'll ride  
13 with you.

14 So he called Charlene out the house, like,  
15 Y'all go on and get in my car. So we got in his  
16 car. I remember I got in the front seat, Charlene  
17 and Richard got in the back seat. Then after a  
18 while, he came and got in the car, then we followed  
19 their car to Carolina.

20 Q Let me ask you this: When the two Hunsbergers  
21 got there, was there enough light for you to be able  
22 to see what was going on?

23 A Yes, sir.

24 Q Was your attention focused on them? Could you  
25 see them?

1       **A**     Yes, sir.

2       **Q**     All right. Is Julio Hunsberger, is he present  
3       here in the courtroom today? Is that one of the  
4       ones that was there?

5       **A**     Yes, sir.

6       **Q**     Where is he here in the courtroom today?

7       **A**     The guy with the black suit on next to the  
8       black lawyer with a suit on.

9       **Q**     To the left of the lawyer there?

10      **A**     Yes, sir.

11           **MR. MAYE:** I'd just like for the record to  
12      reflect he's identified the defendant in this case,  
13      Julio Hunsberger.

14           **THE COURT:** So reflected.

15           **BY MR. MAYE:**

16      **Q**     Are you absolutely certain that that's the same  
17      guy that showed up there at the green house?

18      **A**     Yes. I'll never forget nothing about that  
19      night who was there or whatever.

20      **Q**     All right. Tell me everybody that got in the  
21      car with Barnes there.

22      **A**     Me, Barnes, Charlene and Richard.

23      **Q**     Okay. What happened? What did the Hunsbergers  
24      do in the car that they were driving? What happened  
25      next?

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1       A     I remember Big Man, his car was in front of the  
2       yard, he came and got in the car. Their car backed  
3       out the yard. We backed up and followed them and we  
4       came to Carolina.

5       Q     Who was leading the way?

6       A     The Hunsbergers.

7       Q     Did anybody in the car that you were in do  
8       anything to direct where y'all went once y'all left  
9       the green house?

10      A     No, sir. We was following them.

11      Q     Okay. As best you can recall tell them about  
12      what kind of roads you went on and what happened as  
13      y'all were following the Hunsbergers?

14      A     I remember we went back down Washington Road,  
15      somehow we got to Broad Street. We went over 15  
16      Street Bridge and got on -- I remember going down  
17      25, remember making a right on a road, then turning  
18      off on a dirt road, then going across a field.

19            So when we go on across the field, we stop and  
20      Big Man and one of the -- the driver of the other  
21      car got out the car, they talked for about a quick  
22      five seconds and then got back in the car. They  
23      turned their headlights off and then we went through  
24      some woods and came to another open field.

25      Q     Let me talk to you about State's Exhibit 4.

1 Talking about you went through one field and then  
2 through a narrow gap and then to a bigger field; is  
3 that correct?

4 A Yes, sir.

5 Q I want you to look at State's 4 up there. Is  
6 that a fairly consistent diagram of the way the  
7 first field was laid out, the gap y'all went through  
8 and the second open field that y'all ended up in?

9 A Yes, sir.

10 Q Okay. Who was leading the way when y'all  
11 turned off the dirt road and went across those  
12 fields?

13 A The Hunsbergers.

14 Q Okay. Did y'all have any communication with  
15 anybody in the car or anything as that car turned  
16 off the dirt road and went across those fields and  
17 back up in those woods?

18 A No, sir.

19 Q Okay. What happened when y'all stopped?

20 A When we stopped, Big Man got out the car and  
21 the driver of the other car, they got out -- both of  
22 them got out the car. One of them had a gun. I  
23 remember the driver, whoever was driving, they had a  
24 gun and Big Man had a gun. I remember they popped  
25 the trunk of their car and Sam was in the trunk.

1 Q Okay. At that point in time were you aware  
2 that Sam Sturup was in the trunk of the car that  
3 the Hunsbergers were in?

4 A No, sir.

5 Q Did you see them put him in the trunk at the  
6 scene?

7 A No, sir.

8 Q Okay. What was the next thing that happened?

9 A Well, they tried -- I thought he was dead  
10 because they was telling him to get up, but he was  
11 sleep. And they kept tapping him, like, Get up, get  
12 up, man. So he got up. He got out of the trunk.

13 And I remember Big Man telling him, Walk, walk.  
14 He was like, For what? He was like, Man, if you  
15 don't walk, I'm going to shoot you right here. So  
16 he made him walk in front of us. We walked across  
17 the field, got to a gate, crossed the gate, went  
18 through some more woods and came through an open  
19 area inside the field -- inside the woods.

20 Q Let me show you State's 6. Is that the gate  
21 y'all crossed?

22 A Yes, sir.

23 Q Once y'all crossed that gate to start with, the  
24 metal gate, where did you then go?

25 A Through some woods, then we came to a little

1 open area inside the woods.

2 Q Let me show you State's 7. Is that the path  
3 y'all walked up through the woods?

4 A Yes, sir.

5 Q What was the next thing that happened?

6 A I remember he made us stop, but he made Sam  
7 walk off in front of us some, a couple of yards or  
8 whatever. And he was like, okay. Big Man was like,  
9 okay, this is what's fixing to happen, everybody  
10 fixing to shoot, but I'm going to make China shoot  
11 first so if she tell, everything will fall back on  
12 her.

13 She started crying again, like, Big Man I told  
14 you I'm not fixing to shoot nobody, I got a kid, I  
15 don't want this on my head. He was like, Bitch, if  
16 you don't shoot him, I'm going to kill you. He  
17 looked at me and Richard, That go for y'all too.

18 So she started crying. He gave her the gun.  
19 He backed up behind all of us. And she was standing  
20 there for a long time just with the gun. She was  
21 like, I don't know how to shoot. So he came behind  
22 her, aimed, said, All you got to do is pull the  
23 trigger. He backed up again. And she sat there for  
24 a long time just crying, holding the gun and she  
25 shot.

1           And one of the brothers got the gun from her,  
2           he shot. He shoved the gun to me. I walked up,  
3           shot at the ground. Richard got the gun. Then the  
4           last one who shot had his own gun. So that's when  
5           Big Man was like, Y'all go on back to the car. So  
6           we run on back through the field --

7           Q     Let me get this straight. One of the  
8           Hunsbergers had their own gun there?

9           A     Yes, sir.

10          Q     But you don't know which one?

11          A     No, sir.

12          Q     And one of them you said had a gun when they  
13          got out of the car; is that correct?

14          A     Yes, sir.

15          Q     Okay. What was the next thing that happened?

16          A     Running back through the field, jumped the  
17          gate, got to the cars -- before we got to the car, I  
18          heard another shot. So when we got to the cars, I  
19          turned around, Charlene and Big Man running through  
20          the -- running across the field now because they was  
21          the only ones left in the woods.

22                So we got back in the car. We leaving. And I  
23          remember I asked Big Man, I was like, Man, how you  
24          know this man ain't fixing to get up and go get some  
25          help? Because he was alive when we left the woods.

1           So he was like, He ain't going to get up, he  
2           ain't going to get up. So I was like, Man, how you  
3           know? I said, That man was alive when we left the  
4           woods. He was like, I shot him in the head, he  
5           ain't going to get back up. So I'm like (indicating  
6           sound), All right. So we go to a trailer --

7           Q     Who led the way once y'all left the field where  
8           the automobiles were, who led the way out of there?

9           A     The Hunsbergers.

10          Q     Did y'all follow them?

11          A     Yes, sir.

12          Q     Were they in their car?

13          A     Yes, sir.

14          Q     And y'all got back in the same car you arrived  
15          in?

16          A     Yes, sir.

17          Q     What happened next?

18          A     Got to the trailer. They led the way in. They  
19          opened the door. We came through the kitchen. And  
20          I remember Big Man was like, Y'all sit down in the  
21          living room, I'll be back.

22          Q     Okay. Who got in the trailer? Who led the way  
23          in the trailer?

24          A     The Hunsbergers.

25          Q     Who opened it up and who went in it?



1       A     The Hunsbergers.

2       Q     Okay. What happened once you got up inside  
3       this trailer?

4       A     We got in the trailer. We went through the  
5       kitchen and came to the living room and Big Man was  
6       like, Y'all sit down right here, I'll be back. So  
7       the Hunsbergers and Big Man went back to the back  
8       room. And we was there for a while.

9             And I remember I was sitting there watching  
10       T.V. MASH was on, whatever time that come on,  
11       12:00, one o'clock, whatever, that's around what  
12       time it was. So I remember he came back to check on  
13       us. And I asked him for a cigarette. And, um, I  
14       got cousins who smoke cigarettes, they said it calm  
15       your nerves. So I tried to smoke a cigarette  
16       because I'm scared, I don't know what's going on.

17            And he sat down, was like, uh, he laughing. He  
18       was like, If something like this go down again,  
19       y'all think y'all can do it again? So I looked at  
20       him. So he's laughing. So he was like, Y'all going  
21       to be all right, y'all going to be all right.

22            So he went back to the back. They stayed back  
23       there for a long time again. So he came back, like,  
24       Y'all come on. So he had a bag in his hand. So we  
25       left and headed back to Augusta.

1 Q And y'all all left. Where did the Hunsbergers  
2 stay?

3 A They stayed at the trailer.

4 Q They stayed at the trailer, okay. What was the  
5 next thing that happened?

6 A I remember he made Richard drive and Big Man  
7 was in the passenger seat and I was in the back with  
8 China. And I remember we come across the bridge  
9 coming back to Augusta. And he threw the bag over  
10 to me in the back seat, like, I want you to throw  
11 this in the water. So he made Richard stop and I  
12 got out the car. He was like, Hold on, not yet, not  
13 yet. Because cars was coming. So I wait till the  
14 car passed, whatever. I just stepped one foot out,  
15 threw it in the water, got back in the car. We went  
16 back to the green house.

17 Q Y'all went back to the green house?

18 A Yes, sir.

19 Q Let me ask you this to go through: At the  
20 green house, out there when y'all got out of the  
21 car, when you went up in the woods and when you got  
22 back to the trailer, did you have an adequate  
23 opportunity to see Julio Hunsberger, the defendant  
24 in this case?

25 A Yes, sir.

1       Q     You're absolutely 100 percent sure that the  
2       individual that's seated right there that you've  
3       identified as Julio Hunsberger is the same person  
4       that was there at all of those places?

5       A     Yes, sir.

6       Q     Could you see him inside that trailer? Was it  
7       lit up in there?

8       A     Yeah. Lights on, all the lights was on when we  
9       got in there, the kitchen light, living room light,  
10      all that.

11      Q     You recognize his facial features and you know  
12      who he is?

13      A     Yes, sir.

14      Q     Okay. What was the next thing that happened  
15      once y'all got back over there to the green house?

16      A     Got back to the green house and I remember I  
17      fell asleep in the car because I wouldn't get out  
18      the car and he woke me up. I remember Big Man woke  
19      me up, was like, Man, you can go in the house and  
20      lay down. So when I went in the house and laid  
21      down, Richard was already in there in one of the  
22      rooms in the bed laying down. So we woke up in the  
23      morning, a guy -- because we come through the house,  
24      come back outside, it was daytime. So a guy was  
25      like, Big Man said he'll be back later to come get

1 y'all.

2 So he came back later on and he took us to a  
3 hotel on Bobby Jones. And when we got to the hotel,  
4 Charlene was in the hotel. So he dropped us off.  
5 He was like, Man, I'm going to be back. I got to go  
6 take care of something. Y'all just stay here. So  
7 we're like, All right. So we stayed there for a  
8 long time, but I remember he called twice to check  
9 up on us asking if we was all right, whatever.

10 He finally came and got us, took us home. He  
11 took me home first. And we sat in the car and he  
12 gave me a bag, was like, Man, I want y'all to burn  
13 your clothes, burn y'all clothes y'all got on. So I  
14 was like, All right. He was like, You got something  
15 to burn them? I was like, Yeah.

16 So he was like, Man, look, I don't want y'all  
17 to run your mouth, the same thing can happen to  
18 y'all. Y'all ain't got nothing to worry about  
19 because if any heat going to fall down, it's going  
20 to fall down on me or my brother. His mama, don't  
21 nobody know y'all, so y'all just keep your mouth --  
22 I said, Man, you ain't got to worry about me saying  
23 nothing. And he was like, all right.

24 So he dropped me off. And I think the next day  
25 I went and got Richard clothes and we went in my

1 backyard and I burnt the clothes.

2 Q You burnt your clothes in your backyard?

3 A Yes, sir.

4 Q 34, is that the burn barrel at your house?

5 A Yes, sir.

6 Q 35, burned up items of clothes, clothing, stuff  
7 out of that burn barrel at your house?

8 A Yes, sir.

9 Q You did what he told you, you burned the stuff  
10 up, didn't you?

11 A Yes, sir.

12 Q After he left and you burned up all those  
13 items, did you go back to doing your normal day in,  
14 day out activities?

15 A Still going to school, working, not saying  
16 nothing to nobody.

17 Q When did you realize that they had found Sam  
18 Sturup's body over here? What happened?

19 A Some time later I remember I was in history  
20 class and the teacher, sometimes he'll give out  
21 newspapers and have the class to read it and explain  
22 what you read, you know, brush up on your vocabulary  
23 and stuff like that and comprehension. So I  
24 remember a girl was sitting next to me and she was  
25 reading about this body being found. So I'm like, I

1 want to read that after you get through. She was  
2 like, Yeah. So I read it and I remember I asked the  
3 teacher can I go to the bathroom. So I went to the  
4 bathroom and I just sat there about 15, 20 minutes  
5 just looking in the mirror.

6 And I remember when I got home later on that  
7 day, Big Man called me, he was like, Have you heard?  
8 I was like, Yeah, man. He was like, Man, look, I  
9 said y'all just don't say nothing, man, you know  
10 what I'm saying. Like I say, any heat fall down on  
11 us, it's going to be on me and my brother, don't  
12 nobody know about y'all. Like I say, the same thing  
13 going to happen to y'all, man. Y'all just are going  
14 to keep y'all mouth closed. I was like, Yeah, man.  
15 I said, I ain't going to say nothing, man.

16 And I remember before then he had called me and  
17 he was like, Guess what? So I'm like, What? He was  
18 like, Man, he was like, Man, I was taking a walk in  
19 my backyard, and he say, I seen little pieces of  
20 paper shredded up everywhere. So I'm like, Yeah.  
21 He say, So I followed the trail to the paper.

22 And I guess he had his money buried in the  
23 backyard. I guess that's what all this about, some  
24 money.

25 Then he's like, Man, he said, Man, the dogs got

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1 to my money, man. The dogs had found the money, dug  
2 the money up and ripped the money up. So he's like,  
3 So he didn't steal the money. So I'm like, What?  
4 So he was like, Well, what's done is done. So I'm  
5 like...

6 So we hung up the phone and, I mean, the man  
7 died for nothing. I mean, I started crying and I  
8 just laid down in my bed because, I mean, that  
9 hurted [sic] me.

10 Q Came a time afterwards that you got arrested  
11 though, didn't it?

12 A Yes, sir.

13 Q You got charged with kidnapping, you got  
14 charged with aggravated assault, didn't you?

15 A Yes, sir.

16 Q When you first talked to Richard Roundtree, you  
17 told him a bunch of lies too, didn't you?

18 A I told him I ain't know nothing and know  
19 nobody. Because I was in 12th grade, I was in class  
20 when the police came and locked me up and I left  
21 school in handcuffs. So I'm thinking I'm just  
22 fixing to talk to them when they come -- I ain't  
23 never been in no trouble before, no record, nothing  
24 like that. So I'm thinking he was just fixing to  
25 talk to me and bring me back to school. So I'm

1       like, Man, I don't know nothing. I don't know these  
2       folks and this and that.

3               So he was like, If you don't tell me what I  
4       want, I'm going to tell the judge to give you life,  
5       this and that, yelling at me and all this other  
6       stuff there. So he left, came back about 15, 20  
7       minutes. I was like, Man, I'll tell you what you  
8       want to know, so.

9       Q     You didn't tell all the truth. You just told  
10      what little bit you had to tell, didn't you?

11      A     He ask me a question, I tried to answer it as  
12      discrete as possible because I -- I'm thinking still  
13      I'm fixing to go home or I got to go back out. I'm  
14      still thinking about my family. These folk know  
15      where my mama stay, they know where my girl stay,  
16      know where my cousin stay, you know, know where my  
17      family stay at.

18             So, I mean, if they tell about -- if they kill  
19      somebody over some money, what you think they'll do  
20      over somebody who rat on them, tell them? So he  
21      asked me questions, I answer with a yes or no  
22      answer, try the smallest possible -- if he ain't ask  
23      me nothing, I ain't tell him.

24      Q     If he didn't already know something, you didn't  
25      cooperate, that's right, isn't it?



1       A     Yes, sir.

2       Q     You didn't put anybody's name in unless you  
3       already knew about it -- or he knew about it, did  
4       you?

5       A     Yes, sir.

6       Q     Came a time, though, that you did fully  
7       cooperate though, didn't you?

8       A     Yes, sir.

9       Q     But you pleaded guilty to aggravated assault  
10      and you got an 18-year sentence in prison in  
11      Georgia, didn't you?

12      A     Yes, sir.

13      Q     Did you have, prior to going over there,  
14      following the Hunsbergers out to this spot in South  
15      Carolina, did you have any connection with this  
16      piece of property or this place in South Carolina  
17      where Sam Sturup got murdered?

18      A     No, sir. I ain't never been there.

19      Q     Who led the way over there?

20      A     The Hunsbergers.

21      Q     Have you ever had any trouble being able to  
22      identify Julio Hunsberger, the defendant in this  
23      case?

24      A     No, sir.

25      Q     All right. Has anybody ever asked you in

1       testifying in any proceeding to say anything that  
2       wasn't the truth in this case?

3       **A**     No, sir.

4       **Q**     Is what you've told the jury up here about the  
5       participation of Julio Hunsberger, the defendant in  
6       this case, the truth?

7       **A**     Yes, sir.

8               **MR. MAYE:** Answer any questions the defense has  
9       for you.

10              **THE COURT:** Thank you, Solicitor.  
11              Mr. Williams.

12              **MR. WILLIAMS:** Thank you, Your Honor.

13                              CROSS-EXAMINATION

14       BY MR. WILLIAMS:

15       **Q**     Mr. Griffin, you admit you are a liar, don't  
16       you?

17       **A**     No, sir.

18       **Q**     Well, when the Solicitor asked you just a  
19       moment ago if you had told some untrue things to  
20       Investigator Roundtree, you told him you had, didn't  
21       you?

22       **A**     I told him at first that I didn't know anybody,  
23       then I told the truth after that.

24       **Q**     That wasn't true when you told Investigator  
25       Roundtree that you didn't know anybody, was it?

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- 1       A     No, sir.
- 2       Q     Well, if it's not true, it's thus untrue, isn't
- 3       it?
- 4       A     Yes, sir.
- 5       Q     Now, as I look at you here today, I notice
- 6       you're in an orange jumpsuit. Where were you housed
- 7       before you came to Edgefield County?
- 8       A     Prison.
- 9       Q     Where?
- 10      A     Georgia.
- 11      Q     Where?
- 12      A     A prison in Georgia.
- 13      Q     Yes, sir, which prison in Georgia?
- 14      A     South Georgia, Autry.
- 15      Q     What's the name of it?
- 16      A     Autry.
- 17      Q     Autry? Did you say Autry?
- 18      A     Yes, sir.
- 19      Q     Okay. And over in Georgia, you were
- 20      represented by an attorney, Leon Lark; isn't that
- 21      true?
- 22      A     Yes, sir..
- 23      Q     And you entered into a plea deal over in
- 24      Georgia, didn't you?
- 25      A     Yes, sir.

1 Q In exchange for your testimony, kidnapping was  
2 not prosecuted; isn't that true?

3 A Yes, sir.

4 Q And kidnapping in the State of Georgia carries  
5 a life sentence, doesn't it?

6 A I think so.

7 Q So you agreed to testify in order to remove the  
8 life sentence from over your head; isn't that true?

9 A That was in the plea agreement.

10 Q That was in your plea agreement?

11 A Yes, sir.

12 Q Here in Edgefield you're still -- you still  
13 face the possibility of prosecution, don't you?

14 A Yes, sir.

15 Q But you're cooperating here today, aren't you?

16 A Yes, sir.

17 Q Are you hoping that maybe the same thing that  
18 happened in Georgia will happen in South Carolina?

19 A Yes, sir.

20 Q You're testifying here today, aren't you?

21 A Yes, sir.

22 Q Do you recall testifying in the trial of my  
23 client in September of 2006?

24 A Yes, sir.

25 Q Okay. Do you recall indicating, after you had

1       taken an oath to tell the truth, that you did not  
2       know them prior to their arrest?

3       **A**     Besides the night of the crime.

4       **Q**     Okay. And on that night, you indicated that  
5       you thought they were white boys, didn't you?

6       **A**     I didn't know they was Hispanic or white. I  
7       didn't know them.

8               **MR. WILLIAMS:** Court's indulgence, Your Honor.

9               **THE COURT:** Yes, sir.

10              (Pause.)

11             **BY MR. WILLIAMS:**

12            **Q**     In the trial of my clients in Georgia, you  
13            testified that you really thought the individuals  
14            that arrived at the green house were two white boys,  
15            did you not?

16            **A**     Yes, sir.

17            **Q**     Okay. Now, this even after you would have had  
18            the opportunity to go to South Carolina and observe  
19            them in close proximity to each other or in a  
20            lighted trailer, you still thought they were white  
21            boys, didn't you?

22            **A**     I really didn't pay attention to them like  
23            that. I mean, I remember everybody face that was  
24            there and just I never met them before, never seen  
25            them again afterwards. So they got out the car, I

1       seen this light skin, his brother's light skin, so I  
2       was like white boys, okay. Never met them before.

3               I met plenty Hispanics, her color, her color  
4       (indicating). They're Hispanic, though. You  
5       wouldn't know though unless they tell you. Met some  
6       speak perfect English, you wouldn't know unless you  
7       tell me.

8       Q       But here today you can recognize my client  
9       without a problem and you know it was him back then;  
10      is that right?

11     A       I recognize him from the crime.

12     Q       That's what I understand, but even in the  
13     testimony of the trial in 2006, you said that's what  
14     you thought they were, white boys?

15     A       Yes.

16     Q       Isn't that true?

17     A       Yes, sir.

18     Q       Isn't it true in that trial you admitted that  
19     you thought it was Investigator Roundtree who had  
20     told you the name of the Hunsbergers?

21     A       No, I seen it in the paper.

22               MR. WILLIAMS: Court's indulgence, Your Honor.

23               (Pause.)

24     Q       How far did you go in school?

25     A       Twelfth grade.

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1 Q Did you wind up graduating after this incident?

2 A No, I got my GED.

3 Q Did you do that while you were in prison?

4 A Yes, sir.

5 MR. WILLIAMS: May I approach the witness, Your  
6 Honor?

7 THE COURT: Yes, sir.

8 BY MR. WILLIAMS:

9 Q I'm going to pass you the trial transcript of  
10 this case, okay. And at the bottom, there are  
11 numbers and I want you to refer to this number,  
12 okay?

13 A Yes, sir.

14 Q Now, I'm going to ask you to turn to page 358.

15 A (Witness complies.)

16 Q Did you find 358?

17 A Yes, sir.

18 Q Okay. I'm going to ask you to look at line  
19 nine. Do you see line nine?

20 A Yes, sir.

21 Q I'm going to ask you the question there and I  
22 would like for you to read the response. Now, you  
23 were under oath in that trial, weren't you?

24 A Yes, sir.

25 Q You're under oath today, aren't you?

1       A     Yes, sir.

2       Q     Did the investigator ever say we want you to  
3       come in and identify Alex or Julio or Carlos or Rico  
4       or anything like that? What was your answer?

5       A     No.

6       Q     And what was your further response?

7       A     I remember him asking me about who came in the  
8       other car or what car Sam was in. I told him two  
9       white boys, the other dudes were there and he told  
10      me. -- I think he told me the Hunsbergers then.

11      Q     So it was Investigator Roundtree who told you  
12      the name of the Hunsbergers, right?

13      A     Yes, sir.

14      Q     Okay. You had never met them before?

15      A     No, sir, not prior to this incident.

16      Q     Admittedly in September at nine o'clock at  
17      night or ten o'clock at night, it's dark, isn't it?

18      A     Yes, sir.

19      Q     You didn't ride in the car with the two  
20      individuals that arrived at the green house, did  
21      you?

22      A     No, sir.

23      Q     Do you remember indicating to Investigator  
24      Roundtree that you didn't know who led the way into  
25      the woods? Do you remember saying that?



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1       **A**    No, sir, I really don't.

2       **Q**    Okay.  If I gave you something to refresh your  
3       recollection, do you think you would be able to give  
4       me a response?

5       **A**    If you're fixing to showing me a transcript  
6       from when I got locked up 2002 --

7       **Q**    Yes, sir.

8       **A**    -- they played a tape of my transcript in that  
9       court and they found out it was a lot of misprints  
10      in that transcript.

11      **Q**    Okay.  Well, I'm going to ask you do you recall  
12      indicating that you didn't know who led the way?

13      **A**    I'll read it if you want me to read it, but  
14      like I told you, it was a lot of misprints in that  
15      transcript.  They played my tape for the jury and  
16      the jury even saw that a lot of stuff that was on  
17      that paper wasn't even in my -- on my tape.

18      **Q**    All right.  Let me ask you this:  Out there  
19      when Mr. Sturup was being beat up, you joined in,  
20      didn't you?

21      **A**    No.  I fought him.  I was the only one that had  
22      fought him and Big Man hit him.  Ain't nobody jump  
23      on him.  I admitted to that.

24      **Q**    And Investigator Roundtree asked you why did  
25      you do that, didn't he?

1       A     Yes, sir.

2       Q     And you said because he had took my money;  
3       isn't that right?

4       A     No, sir.

5       Q     All right. Now, again, if I ask you to refer  
6       to a transcript --

7       A     Yeah, I read that's in there, but that's -- I  
8       never said that. If you can bring my tape here from  
9       there, you'll see on that tape I never said that was  
10      my money.

11      Q     You said you were dropped off by Mr. Cave's  
12      stepfather; is that right?

13      A     Yes, sir.

14      Q     How far did he work away from where you were?

15      A     From what I know, he worked at a skating rink  
16      called Red Wing, that was -- it wasn't too far, it  
17      wasn't too close.

18      Q     It wasn't too far and it wasn't too close.

19      A     No.

20      Q     Okay. It was September, wasn't it, early  
21      September, Labor Day?

22      A     Yes, sir. We didn't have school that next day.

23      Q     Here in the south Labor Day isn't very cold, is  
24      it?

25      A     No. I remember I had on a T-shirt that night.

1       Q     Okay. What prevented you and Mr. Cave, for  
2       that matter, from walking to where his stepfather  
3       was when all of this was going on with guns,  
4       fighting, beating people with a shock absorber?  
5       What prevented y'all from walking to where his  
6       stepfather was?

7       A     Well, first of all, nobody never beat nobody  
8       with a shock absorber. Second of all, put yourself  
9       in my position, you done seen two guns already. If  
10      you call yourself like, man, I'm fixing to go, now  
11      these folks fixing to plan on killing this man, if  
12      you fixing to go, I mean they may think, what, y'all  
13      fixing to go tell? I mean, he didn't really know  
14      me, I didn't really know him. So I just stayed,  
15      waited it out.

16             Then he said, I'm fixing to take him home and  
17      I'll take y'all home later. So I thought it was  
18      over with. I'm not fixing to leave, I mean, that's  
19      stupid. I ain't had no way home. I stayed way from  
20      Washington Road to -- from the bottom, if you know  
21      about Augusta, from all the way where this at, how  
22      am I going to get home? You know what I'm --

23      Q     That skating -- I'm sorry. Go ahead.

24      A     I mean, that was -- I'm not fixing to leave.  
25      And then there ain't nobody plan on -- there ain't

1       nobody tell us, well, I'm fixing to go kill him, is  
2       you going to come with me or nothing like that. It  
3       wasn't none of that.

4       Q     That skating rink that you're talking about,  
5       isn't it right near the Mercedes dealership or the  
6       -- I believe it's the Mercedes dealership right on  
7       Washington Road just beyond Rhinehart's? Do you  
8       know where I'm talking about?

9       A     I heard of Rhinehart's, but I don't know what  
10      kind of dealership is in -- nothing like that. I  
11      really don't.

12     Q     Well, the skating rink, let's say, it's not  
13     very far from the California Dreaming or the  
14     Longhorn Steakhouse, is it?

15     A     I really can't recall where them places at. I  
16     know across the street is a Waffle House. I done  
17     went to that Waffle House before, Burger King, I-20  
18     Highway Bridge, whatever. I mean, it's a lot of  
19     restaurants on that street. A lot of them I never  
20     went to so I don't know exactly where each  
21     restaurant is.

22     Q     You were hanging out with the Big Man, weren't  
23     you?

24     A     That was my second or third time meeting him.

25     Q     And he had plenty of girls around. Did you

1 know those girls were prostitutes?

2 A No, sir. I only seen all those girls, which it  
3 was a lot of guys also, and all us wasn't in one  
4 car. All us went out, he paid everybody way in the  
5 club. I had money in my pocket myself, but he paid  
6 everybody way in. And, you know, everybody was on  
7 all the girls. I mean, never mentioned to me that  
8 he had no prostitutes. I ain't never seen him have  
9 no women on no block and whatever pimps do,  
10 whatever.

11 Q Did you ever know him to have them in hotel  
12 rooms?

13 A No, sir. I never seen none of those girls no  
14 more -- the first time I met them, we went to a club  
15 called County Line. I never seen them females no  
16 more. I only seen China, which is Charlene, the  
17 night of the incident and I probably seen her once  
18 again after that. But I always thought that was his  
19 girlfriend because every time I seen her she was  
20 hugged up on him kissing him and stuff like that,  
21 so.

22 Q So you saw China again after this incident; is  
23 that right?

24 A I think I seen her one time after this incident  
25 again.

1       Q     So did you see her in the presence of one  
2       Steven Lewis Barnes after this incident?

3       A     Yes, sir.

4       Q     So you went back around this guy even after you  
5       knew he killed somebody?

6       A     Yes, sir.

7       Q     You were hanging with the Big Man, weren't you?

8       A     He told us, You tell, the same thing going to  
9       happen to y'all. So if he call my house and try to  
10      come around, like I said, and I try to avoid him,  
11      the first thing he's going to think, well, he must  
12      fixing to tell. He know where my mama and everybody  
13      stay at.

14            So if he call, you know, I sit there and talk  
15      to him. I try to gain his trust, you know what I'm  
16      saying, so he wouldn't think I was going to tell or  
17      anything like that. So if he wanted to hang out, I  
18      hang out with him. If he wanted to call and talk to  
19      me, I talk to him. If he wanted to come to my house  
20      and just sit in the front yard and talk, okay.

21      Q     Do you admit that you were guilty of assaulting  
22      Samuel Sturup, Jr.?

23      A     I took a plea for that.

24      Q     Do you admit that you were guilty of assaulting  
25      him in an aggravated manner?

## ANTONIO GRIFFIN - REDIRECT BY MR. MAYE

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1       **A**     Yes, sir, I fought him.

2               **MR. WILLIAMS:** Court's indulgence, Your Honor.

3               **THE COURT:** Yes, sir, certainly.

4               (Pause.)

5               **MR. WILLIAMS:** I don't have any further  
6 questions, Your Honor.

7               **THE COURT:** Thank you very much.

8               Solicitor, any redirect?

9               **MR. MAYE:** Just a couple, Your Honor.

10               REDIRECT EXAMINATION

11       **BY MR. MAYE:**

12       **Q**     You were asked specifically about items that  
13 were on page 358 of the transcript of the  
14 Hunsbergers trial, September -- between September  
15 the 5th and the 12th of 2006. I'd like for you to  
16 look at page 357, the very page before, on line 12  
17 and 13, in response to this question, All right --

18               **MR. WILLIAMS:** Your Honor, I object. I'd like  
19 for him to do what I was required to do and just ask  
20 a question.

21               **MR. MAYE:** Your Honor, I'm going into a prior  
22 consistent statement in response to him being  
23 impeached off of the very next page of this same  
24 transcript.

25               **THE COURT:** All right. Tell me what line are

1       you going to refer to, Solicitor.

2               **MR. MAYE:** Page 357 question line eight through  
3       11, answer line 12 and 13.

4               **THE COURT:** All right. Give me just a moment.

5               (Pause.)

6               **THE COURT:** All right. That would be  
7       appropriate under Rule 106 and State versus Jackson.  
8       Your objection is noted, Mr. Williams.

9               **MR. WILLIAMS:** Thank you, Your Honor.

10              **THE COURT:** You may proceed, Solicitor.

11       BY MR. MAYE:

12       **Q**     Let me read you this question: All right. How  
13       did you ever put a name to these people you called  
14       -- a couple of dotted lines -- When you testified  
15       yesterday, you called two Hispanic guys, how did you  
16       ever put a name to these two Hispanic guys?

17              How about read for me your answer, line 12 and  
18       13, on that page. What's your response to that  
19       question?

20       **A**     When we got locked up and they was in the  
21       paper, I learned their names. I guess they were  
22       Spanish.

23       **Q**     Did you have any difficulty identifying Julio  
24       Hunsberger in 2006?

25       **A**     No, sir.



ANTONIO GRIFFIN - RECROSS BY MR. WILLIAMS

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1           **Q**     Do you have any difficulty identifying him here  
2           in this courtroom today?

3           **A**     No, sir.

4           **MR. MAYE:** Nothing else. Thanks.

5           **THE COURT:** Recross, Mr. Williams.

6                       RECROSS-EXAMINATION

7           BY MR. WILLIAMS:

8           **Q**     You also indicated that you believe you learned  
9           their names from Investigator Roundtree, didn't you?  
10          You indicated that as well?

11          **A**     I guess he mentioned their name, yes, sir.

12          **MR. WILLIAMS:** Thank you.

13          **THE COURT:** All right. Thank you very much,  
14          Mr. Griffin. You may step down.

15          All right. Solicitor, who is your next  
16          witness?

17          **MR. YOUNG:** Mr. Stephen Curtis, Your Honor.

18          **THE COURT:** All right. Call your next witness,  
19          please.

20          **MR. WILLIAMS:** Your Honor, may we approach?

21          **THE COURT:** Yes, sir.

22                   (Whereupon, a bench conference was held off  
23          the record, in the presence of the jury, but out of  
24          the hearing of the jury.)

25          **THE COURT:** How long will this next witness

1 take?

2 MR. YOUNG: Approximately 15 to 20 minutes for  
3 us.

4 THE COURT: He's from out of town?

5 MR. YOUNG: Yes, sir, he is.

6 THE COURT: All right. Mr. Foreman, ladies and  
7 gentlemen, we need to take a quick refreshment  
8 break, rest. However, there is one witness I would  
9 like to conclude today that will, famous last words,  
10 won't be that lengthy. You'll probably learn before  
11 the week's out that South Carolina trial judges  
12 don't know how to tell time.

13 But I would like to get through this one  
14 witness this evening if at all possible. So let's  
15 take about a ten minute recess. One of the parties  
16 needs a refreshment break. If you'll leave your  
17 notes upside down on the table. Do not discuss the  
18 case during this brief recess.

19 Does anyone have a commitment this evening now?

20 All right. Thank you so much.

21 (The jury retires to the jury room.)

22 THE COURT: All right. Sheriff, I understand  
23 Mr. Hunsberger needs to use the restroom, if y'all  
24 would make those arrangements. We'll be in recess  
25 about ten minutes.

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1 (Brief recess.)

2 **THE COURT:** All right. Anything before we  
3 bring in our jury, Solicitor?

4 **MR. YOUNG:** No, sir.

5 **THE COURT:** Mr. Williams.

6 **MR. WILLIAMS:** No, sir, Your Honor.

7 (The jury returns to the courtroom.)

8 **THE COURT:** All right. Our jury is back,  
9 present in the courtroom.

10 Thank you very much, ladies and gentlemen, for  
11 your patience. This would be our last witness of  
12 the day and I would ask you to please continue to  
13 give the parties your complete and undivided  
14 attention.

15 Madame Clerk, would you swear our witness?

16 STEPHEN CURTIS,

17 having been duly sworn, testified as follows:

18 **THE CLERK:** Have a seat. State your full name  
19 and spell your last name, please.

20 **THE WITNESS:** Stephen Curtis, C-u-r-t-i-s. And  
21 Stephen is with a P-H.

22 DIRECT EXAMINATION

23 BY MR. YOUNG:

24 Q Mr. Curtis, give us your background, where  
25 you're employed and go from your time when you first

1 started in law enforcement, sir.

2 A I started quite some time ago. I was  
3 originally employed with the Richland County  
4 Sheriff's Office way back in the mid 80s and I held  
5 a couple of different positions there, deputy,  
6 investigator, that kind of thing.

7 The latter portion of my career was spent at  
8 SLED in Columbia, the South Carolina State Law  
9 Enforcement Division. My main focus there, the  
10 majority of my time was in the crime scene unit.  
11 The last two years I was there I was the lieutenant  
12 in charge of the Internal Affairs Unit.

13 But I retired from law enforcement back in 2008  
14 and have been a college instructor since then. And,  
15 currently, I'm over at Piedmont Tech in Greenwood in  
16 the criminal justice program.

17 Q In 2001, were you employed with SLED?

18 A Yes, sir, I was.

19 Q Specifically, sir, were you asked on January  
20 23rd of 2002 to go to a crime scene as requested by  
21 Edgefield County Sheriff's Office?

22 A Yes, sir. I was in the crime scene latent  
23 print unit at that time and about 2:30 in the  
24 afternoon on the 23rd was asked to respond to a  
25 homicide scene that they had here in Edgefield

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1 County and met a deputy out near Lakeview Road. And  
2 he drove us in and showed us where they needed us to  
3 come in.

4 Q And, sir, I placed up on the board here State's  
5 Exhibit 4, which is a diagram. Do you recognize  
6 this as having a relationship to the crime scene  
7 area that you went to?

8 A Yes, sir. I mean, that shows an overall from a  
9 bird's-eye view from the Lakeview Road where we  
10 would have come in at and then into the pasture  
11 lands was quite a ways off of that road into the  
12 area where they had recovered some remains a couple  
13 of months previous. They had requested me to come  
14 in and assist them with going through the crime  
15 scene, specifically to excavate some of the area  
16 looking for projectiles or spent bullets that may  
17 have been involved in that incident.

18 Q To gain access to the crime scene, did you  
19 cross any kind of barrier?

20 A There was about a half mile, three quarters of  
21 a mile of a field coming off of the Lakeview Road  
22 area there and then through some, a wooded area and  
23 then through another pasture land coming to a, what  
24 I call, a cattle gate, a big metal gate, with some  
25 of the fence running along the side of it.

1 Q Is that depicted anywhere on the diagram?

2 A Yes, sir. Do you want me to --

3 Q Yes. Use that pointer.

4 A All right. Just real briefly, that is part of  
5 the Lakeview Road area. And we would have come in  
6 roughly around in here (indicating) and then crossed  
7 through this field. And this is the wooded area I  
8 was talking about. I recall coming through a small  
9 patch of woods there, brush, bushes and trees, that  
10 kind of thing, and then coming through another  
11 pasture.

12 And then down in this area they had the fences  
13 running along here and we had the gate. And that's  
14 where I met Investigator Doran out there and a  
15 couple of other officers and that's where they  
16 wanted us to take a look and see if we could assist  
17 them with this investigation.

18 Q Did you expose photographs of that gated area?

19 A Yes, sir, I did.

20 Q Would you be able to recognize it again if you  
21 saw it?

22 A Yes.

23 Q Let me show you what's been marked as State's  
24 Exhibit Number 50. Do you recognize that, sir?

25 A Yes, sir. These are three photographs of the

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1 gate from a couple of different angles. And on the  
2 bottom portion of the photographs, there's the SLED  
3 code and the case number that goes along with that.  
4 But that's just -- that's what I call a cattle gate.

5 Q What you call a cattle gate?

6 A Yes, sir, but that's, you know, you can see the  
7 fence, the post and so forth.

8 Q And does this fairly and accurately depict the  
9 gate as you saw it on that day?

10 A Yes, sir, it does.

11 MR. YOUNG: The State offers State's Exhibit  
12 Number 50, Your Honor.

13 MR. WILLIAMS: No objection, Your Honor.

14 THE COURT: State's 50 is in evidence without  
15 objection.

16 (State's Exhibit Number 50, photograph,  
17 admitted into evidence.)

18 BY MR. YOUNG:

19 Q Now, if I could, sir, I'd like now to ask you  
20 do you normally take steps when you come into a  
21 crime scene area to document any findings?

22 A One of the basic premises of processing a crime  
23 scene is to create a historical record, so part of  
24 that is going to be through diagrams, some of it  
25 will be through photography, taking overall

1        photographs of the scene and then individual pieces  
2        of evidence and things of interest within it, and  
3        then sketches and notes to go along with that, try  
4        to completely document it as much as possible to  
5        assist in the investigation as it continues and then  
6        later on for presentation in court.

7        Q     And, sir, did you take any steps to diagram and  
8        make any distance notations as to what you found in  
9        that area?

10       A     Yes, sir. In this particular crime scene, you  
11       know, we found a couple of items in there and we  
12       were marking the location of those and the distances  
13       from, in this instance, from Lakeview Road across  
14       through the fields to give some idea of the spacing  
15       and relationship of items within the crime scene.  
16       So taking measurements, getting sketches,  
17       photographs to go along with that is part of the  
18       process.

19       Q     Yes, sir. And did you sketch it or diagram  
20       that specific area?

21       A     Yes, sir, I did.

22       Q     All right. Would you be able to recognize a  
23       blown up rendition of that sketch or diagram if you  
24       saw it again?

25       A     Yes, sir.



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1       **Q**     Let me show you what has been marked as State's  
2       Exhibit Number 36 and ask you to take a look at  
3       that. Do you recognize that, sir?

4       **A**     That is the -- or is a blowup or enlargement of  
5       the crime scene sketch that I did. It has the case  
6       number and my name on the bottom of that. And this  
7       is just a rough drawing showing the location and  
8       some of the distances and some of the items that we  
9       collected or found in that crime scene.

10           And like I said, the main purpose in the  
11       sketches and stuff is to show a relationship because  
12       you can't capture, a lot of times if the crime scene  
13       is fairly large, you can't capture all of the things  
14       in one photograph. So when it comes time for the  
15       court to see this, the sketch will aid and then  
16       looking at the photograph and piecing that together.

17       **Q**     And this aided you both at the scene and would  
18       it aid the jury now?

19       **A**     Yes, sir, it would.

20       **Q**     Now, I noticed in this particular diagram that  
21       there are a series of numbers with descriptions next  
22       to it at the top left-hand corner. What are those?

23       **A**     Those are items of interest that we found  
24       there, except this crime scene was a little bit old,  
25       so in going in there, I'm looking for -- well, with

1       any crime scene, I'm looking for things that are out  
2       of place or are obviously pieces of evidence or  
3       maybe of interest to the investigation. In this  
4       particular instance, there were several items found  
5       within the proximity of where Investigator Doran was  
6       showing us where they had recovered the body or some  
7       of the skeletal remains and where they were wanting  
8       us to look at for, like I said, to recover possible  
9       projectiles.

10      **Q**   Yes, sir. Now, and these -- the sequence of  
11       numbers, do they bear relationship to the sequencing  
12       in which you actually found these items?

13      **A**   Yes, sir. Again, with the crime scene -- in  
14       working a crime scene from a physical evidence  
15       standpoint, you're looking at coming from the  
16       outside of the crime scene working your way in,  
17       particularly in homicide cases where the body's  
18       going to be almost the central focus point of the  
19       scene. So you don't want to walk into and go  
20       straight to the body because you might damage or  
21       destroy evidence that's there, so you work from the  
22       outside.

23            So in this particular instance, starting at  
24       about the gate, we started looking for evidence.  
25       And when we found things that appeared to be out of

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1 place or could be connected with this incident,  
2 measurements from the gate were taken, the sketch  
3 was completed to show their relationship and then  
4 photographs, some close-up photographs, and then  
5 some midrange photographs to document that as well.

6 So starting with number one, which is going to  
7 be closest to the gate, working my way through the  
8 crime scene until we reached the other edge is one  
9 way that we processed it.

10 Q All right. Does this, therefore, fairly and  
11 accurately represent the crime scene as you  
12 documented it on that day with distances as noted  
13 from the gate toward the rear?

14 A Yes, sir, it is.

15 MR. YOUNG: State would now offer State's  
16 Exhibit Number 36.

17 THE COURT: Mr. Williams.

18 MR. WILLIAMS: Your Honor, I would ask -- I  
19 will take exception to it on the basis of its  
20 failure to be to scale.

21 THE COURT: Is that so indicated, Solicitor?

22 MR. YOUNG: Your Honor, this is indicated only  
23 as to distances. The State will stipulate that it  
24 is not otherwise as to scale other than as to  
25 distance.

1           **THE COURT:** And then the positions of the items  
2 one to the other.

3           **MR. YOUNG:** Yes, sir. It's a relationship of  
4 items one to the other coming from the gate through  
5 the crime scene as it proceeded toward the direction  
6 of Community Road.

7           **THE COURT:** Not to scale?

8           **MR. YOUNG:** Not to scale, sir.

9           **THE COURT:** All right. I will allow State's 36  
10 into evidence subject to Mr. Williams' objection.

11           **MR. YOUNG:** Thank you, Your Honor.

12           (State's Exhibit Number 36, crime scene  
13 chart, admitted into evidence.)

14 BY MR. YOUNG:

15       **Q** Now, with regard to these items that you noted  
16 are found, I'm going to pass up -- you said you also  
17 took photographs?

18       **A** Yes, sir.

19       **Q** All right. Now, I have taken the liberty of  
20 putting these particular photographs in an order  
21 which may or may not relate to the order in which  
22 these items, one through seven, have been noted  
23 here. Would you take a look at these photographs  
24 and tell me if they do bear a relationship and if  
25 they are recognizable?

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1       **A**     Yes, sir. These are some of the photographs  
2       that I took at the crime scene.

3       **Q**     Are these the photographs of items one, two,  
4       three, four and seven?

5       **A**     Yes, sir, they are. In showing the  
6       photographs, one of the things that we do is we  
7       place a placard with a number present on them. So  
8       the placard number in the picture's going to  
9       correspond with the item number on my diagram.

10      **Q**     All right, sir. And in taking these -- and I'm  
11      looking for an additional photograph. I apologize.  
12      Just give me one moment, please.

13             In taking these photographs, you took them in  
14      such a fashion that you fairly and accurately  
15      represent what you saw at the scene?

16      **A**     Yes, sir, they do.

17      **Q**     All right. And are they, in fact, the  
18      photographs you took that day?

19      **A**     Yes, sir, they are. They have the SLED case  
20      number stamped into them.

21      **Q**     All right, sir. Now, with regard to State's  
22      Exhibits Number 38 and 41, take a look at those and  
23      what do they show?

24      **A**     State's Exhibit 38 is a picture of me holding  
25      one of the projectiles that was excavated from the

1 dirt area there on Lakeview Road. And State's  
2 Exhibit 41 is a picture of some blue denim material,  
3 which is item number seven on the diagram from that  
4 same crime scene.

5 Q All right, sir. Now, up on this -- up on this  
6 board, you can use the pointer if you would please,  
7 sir, and you have indicated up there five and six.  
8 What are those?

9 A All right. Five and six back here about two  
10 thirds of the way into the crime scene over to the  
11 left a little bit, that's going to be the location  
12 where the two projectiles were dug up out of the  
13 dirt.

14 Q Okay, sir. And the photograph -- would you be  
15 able to recognize a photograph of that area that you  
16 took projectiles from if you saw it again?

17 A Yes, sir.

18 Q Let me show you what's been introduced as  
19 State's Exhibit Number 10 and ask you if you can  
20 identify that?

21 A This is going to be one of the photographs we  
22 took of the actual area where five and six were  
23 recovered. The ground there is discolored, looks to  
24 be darker in color. It's more moist. It's one of  
25 those things that in working crime scenes

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1 particularly outdoors, when a body decomposes,  
2 you'll get, you know, as the liquids and stuff  
3 escape from the body, they'll soak or saturate  
4 whatever's underneath them, so a lot of times that  
5 will remain there. So when we went out there, you  
6 could tell there was a discoloration in that  
7 particular area.

8 Plus Investigator Doran had indicated to us  
9 when we got out there that this was the general area  
10 where they had found the remains and the information  
11 that he was working on, that's where they wanted us  
12 to concentrate on looking for the projectiles.

13 Q All right, sir. So in taking -- in going to  
14 this area in State's Exhibit Number 10, that relates  
15 to the numbers five and six there?

16 A Yes, sir. Right up -- like I said, right up  
17 there about two thirds of the way into the crime  
18 scene from the gate and then over to the left. And  
19 you can see on my measurements there of ten feet  
20 three inches, approximately, from item number four.

21 Q And 38 and 41 -- or excuse me -- 38 and 41,  
22 yes.

23 A Yes, sir.

24 Q Excuse me. 38 -- I hand -- I'll hand you  
25 another photograph, sir. I'm sorry. 38 and 37,

1       sir. Would you -- do you recognize both of those  
2       photographs as related to the projectiles in any  
3       fashion?

4       **A**     Yes, sir. 37, State's Exhibit 37 is one of the  
5       projectiles. And State's Exhibit 38 is the other  
6       projectile that we were able to dig up.

7       **Q**     And that's where you retrieved those, from five  
8       and six?

9       **A**     Yes, sir. From that location there, like I  
10      said, to the left a little bit where I've indicated  
11      item five and six on the diagram.

12      **THE COURT:** Are those in evidence?

13      **MR. YOUNG:** I have not offered them yet, Your  
14      Honor. I will offer them now, 38 and 37.

15      **BY MR. YOUNG:**

16      **Q**     These are fair and accurate representations of  
17      what you recovered?

18      **A**     Yes, sir, they are.

19      **MR. WILLIAMS:** There's no objection.

20      **THE COURT:** All right. State's 38 -- State's  
21      37 and 38 is in evidence.

22               (State's Exhibit Numbers 37 and 38,  
23      photographs, admitted into evidence.)

24      **BY MR. YOUNG:**

25      **Q**     All right, sir. Now, those two bullets --



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1       excuse me, I apologize -- projectiles, those two  
2       projectiles, would you be able to recognize them now  
3       if you saw them?

4       **A**     Well, the containers that they're in, when  
5       they're recovered, you can see in the photographs  
6       they've got a lot of dirt on them and that kind of  
7       thing. I'm not a ballistics examiner, so I'm not  
8       going to -- when I recover them, I'm going to try to  
9       keep them in as pristine a condition as possible.  
10      So I didn't clean off any of the dirt or anything  
11      like that. So as soon as I collected them, I put  
12      them in tissue paper and then placed them in a metal  
13      or tin container and sealed the container.

14             So I would have marked the container, I  
15      wouldn't have marked the bullets or done anything  
16      with them because I don't want to risk contaminating  
17      or altering those pieces of evidence that might  
18      hinder the firearms examiner. So packaging and  
19      stuff, I would recognize, yes, sir.

20      **Q**     All right, sir. And would you be able to  
21      recognize 23 and 27 if you saw them again?

22      **A**     Item -- State's Exhibit item 23 and 27 are the  
23      two tin containers that I placed the projectiles in.  
24      They have my initial and some information on the  
25      top, as well as the seal tape on the side. The

1 initial and date corresponds with the date they were  
2 collected.

3 Q So 37 -- excuse me -- 37 and 38 are projectiles  
4 that you placed in those two containers?

5 A Yes, sir.

6 Q All right, sir. Now, briefly, if I can go back  
7 now just for the sake of understanding this, you  
8 went from the gate through the crime scene area that  
9 you were processing and numbering as you went and  
10 taking photographs?

11 A Yes, sir.

12 Q All right. Now, just briefly again, does  
13 State's Exhibit Number 48 represent number one along  
14 with State's 49?

15 A 48 is a midrange and 49 is a close-up of the  
16 blue denim material that's indicated as item number  
17 one in the crime scene diagram.

18 MR. YOUNG: The State offers 48 and 49, Your  
19 Honor.

20 MR. WILLIAMS: No objection to them, Your  
21 Honor.

22 THE COURT: State's 48 and 49 is in evidence  
23 without objection.

24 (State's Exhibit Numbers 48 and 49,  
25 photographs, admitted into evidence.)

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1 BY MR. YOUNG:

2 Q Would you take a look at State's Exhibits 39,  
3 42 and 47? Do they relate in any way to item number  
4 two?

5 A 47, 42 and 39 are photographs of item number  
6 two in the diagram, which was a piece of bone or  
7 appeared to be a piece of bone to my knowledge. And  
8 those were in the crime scene.

9 THE COURT: Are those in evidence?

10 MR. YOUNG: We offer these in evidence, Your  
11 Honor.

12 THE COURT: Well, they can't be published if  
13 they're --

14 MR. YOUNG: I'm sorry. I apologize. We offer  
15 those in evidence.

16 MR. WILLIAMS: I have no objection.

17 THE COURT: 39, 42 and 47 is in evidence  
18 without objection.

19 (State's Exhibit Numbers 39, 42 and 47,  
20 photographs, admitted into evidence.)

21 BY MR. YOUNG:

22 Q All right. With regard to item number three,  
23 would you take a look at State's Exhibits 40, 44 and  
24 43?

25 A 40, 44 and 43 are different range photographs

1 of item number three, which also appeared to be a  
2 bone or a piece of bone to me there at the crime  
3 scene.

4 Q Thank you, sir.

5 MR. YOUNG: We offer 40, 44 and 43, Your Honor.

6 MR. WILLIAMS: No objection.

7 THE COURT: State's 40, 43 and 44 is in  
8 evidence without objection.

9 (State's Exhibit Numbers 40, 43 and 44,  
10 photographs, admitted into evidence.)

11 BY MR. YOUNG:

12 Q Now, sir, you had, I believe, item number four  
13 also documented. Would you look at 45 and 46,  
14 please?

15 A 45 and 46 are two more photographs of what  
16 appear to be bone to me and those are items four in  
17 the crime scene diagram.

18 MR. YOUNG: We offer State's Exhibit Number 45  
19 and 46, Your Honor.

20 MR. WILLIAMS: No objection.

21 THE COURT: State's 45 and 46 in evidence  
22 without objection.

23 (State's Exhibit Numbers 45 and 46,  
24 photographs, admitted into evidence.)

25 BY MR. YOUNG:

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1       **Q**    Last but not least, State's Exhibit Number 41  
2       is -- appears to be the last object. Does that bear  
3       any relationship to the diagram?

4       **A**    41 is a photograph of blue denim material,  
5       which is item number seven, the placard that has  
6       number seven on it, so that's going to be item  
7       number seven in the crime scene diagram.

8       **Q**    Does all of this fairly and accurately  
9       represent the photographs you took at the scene?

10      **A**    Yes, sir, they do.

11           **MR. YOUNG:** We offer State's Exhibit 41.

12           **MR. WILLIAMS:** No objection.

13           **THE COURT:** State's Exhibit 41 is in evidence  
14       without objection.

15                   (State's Exhibit Number 41, photograph,  
16       admitted into evidence.)

17       **BY MR. YOUNG:**

18      **Q**    To your knowledge, Investigator Curtis, were  
19       any firearms introduced or offered for comparison  
20       with the projectiles you found?

21      **A**    Not to my knowledge. None of them were turned  
22       into me. It is possible that if Edgefield County  
23       had come across the gun that they wanted compared,  
24       they could have directly submitted that to the  
25       firearms lab in Columbia, but that day that I was

1 out here and the couple times in followup with  
2 Investigator Doran, they never had a firearm to give  
3 to me to take in for examination or anything like  
4 that. So short answer, to my knowledge, no.

5 **MR. YOUNG:** Thank you, sir.

6 Your Honor, the State would go ahead and offer  
7 at this time State's Exhibits Number 23 and 27.

8 **MR. WILLIAMS:** Your Honor, I just would ask  
9 that the witness be allowed to break the seal so the  
10 ladies and gentlemen of the jury will be able to  
11 actually look at what was recovered because it's a  
12 bit unfair for them to look at canisters.

13 **THE COURT:** Do you have an objection to that,  
14 Solicitor?

15 **MR. YOUNG:** No, sir, I don't have an objection  
16 to that at all.

17 **THE COURT:** So you don't have an objection to  
18 the admissibility of the items?

19 **MR. WILLIAMS:** I do not.

20 **THE COURT:** All right. State's 23 and 27 is in  
21 evidence without objection subject, of course, to it  
22 being the items within 23 and 27 that the officer  
23 has testified to.

24 (State's Exhibit Numbers 23 and 27,  
25 projectiles, admitted into evidence.)

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1           **MR. YOUNG:** Yes, sir. And I'll ask him to go  
2 ahead and open them at this time to verify that very  
3 fact.

4           **THE WITNESS:** (Witness complies.)

5           That appears to be a projectile that's still  
6 some dirt on it.

7           **THE COURT:** You need to speak up when you're  
8 that close to --

9           **THE WITNESS:** I'm sorry. State's Exhibit 23 is  
10 a projectile covered with dirt in the container.

11           State's Exhibit 27 is also a projectile wrapped  
12 in tissue paper covered with some dirt.

13           BY MR. YOUNG

14           **Q** Did you place these two projectiles in these  
15 two boxes?

16           **A** Yes, sir, I did.

17           **Q** And are they the projectiles?

18           **A** Yes, sir, they are.

19           **MR. YOUNG:** I believe they've been offered,  
20 Your Honor.

21           **THE COURT:** All right. Mr. Williams.

22                           CROSS-EXAMINATION

23           BY MR. WILLIAMS:

24           **Q** Mr. Curtis.

25           **A** Yes, sir.

1       Q     As it relates to several of the State's  
2       Exhibits, you indicated that it appeared to be bone;  
3       is that right?

4       A     Yes, sir.

5       Q     Okay. But you don't have any educational  
6       training to verify that it was a human bone or an  
7       animal bone or anything of that nature, do you?

8       A     No, sir. I'm not an anthropologist. It just  
9       appeared from my experience, it was bone material.

10      Q     Just bone?

11      A     Yes, sir.

12      Q     Could have been a deer, could have been a dog  
13      and perhaps human as well?

14      A     That is possible, yes, sir.

15           MR. WILLIAMS: I don't have any other  
16      questions.

17           THE COURT: Redirect.

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

19           THE COURT: Thank you very much for being with  
20      us.

21           MR. YOUNG: We ask that Mr. Curtis be excused,  
22      Your Honor.

23           THE COURT: Any objections?

24           MR. WILLIAMS: No, sir, Your Honor.

25           THE COURT: Thank you for being with us,



1 Mr. Curtis. You may step down. You may be excused.

2 Perhaps now would be a good time to take our  
3 evening recess, Solicitor, Mr. Williams.

4 **MR. WILLIAMS:** Yes, sir, Your Honor.

5 **THE COURT:** All right. Mr. Foreman, ladies and  
6 gentlemen of the jury, we are going to take our  
7 evening recess. Again, I will remind you during  
8 this recess, you're not to discuss this case with  
9 anyone, that includes your fellow jurors, family,  
10 friends or anyone else. Do not watch, listen to or  
11 read any news reports about the case. Do not use  
12 your computer, cellular phone or any other  
13 electronic device to obtain or disclose information  
14 about the case.

15 Information about the case includes information  
16 about a party or a witness or an attorney or a court  
17 officer, news accounts of the case, information  
18 collected through juror research on any topics  
19 raised or testimony offered by any witness or  
20 information collected through juror research on any  
21 other topic that you think might be helpful in  
22 deciding the case.

23 Remember you must decide the case based on the  
24 evidence and the testimony you hear from the  
25 witnesses testifying under oath from this witness

1 stand, any diagrams, exhibits or the like placed  
2 into evidence and the law as I tell you the law is.

3 I would like to thank you very much for your  
4 patience today and your hard work and the attention  
5 that you have shown all the parties throughout the  
6 course of this proceeding.

7 With that being said, prior to you leaving, if  
8 you would leave your note pads upside down on your  
9 chair, the Clerk's office will collect them and  
10 secure them overnight. I would ask you to please be  
11 back promptly at 9:30 in the morning and I hope  
12 y'all have a pleasant evening. Thank you very much.

13 (The jury was excused for the day.)

14 **THE COURT:** By my count, Solicitor,  
15 Mr. Williams, in reviewing the witness list on  
16 behalf of the State, it appears the State would have  
17 no more than two more witnesses.

18 **MR. MAYE:** That's correct, Your Honor.

19 **THE COURT:** How long do you anticipate those  
20 will take, Solicitor?

21 **MR. MAYE:** You know, Charlene Thatcher will  
22 take, I would say, as long as either as Mr. Cave or  
23 Mr. Griffin. My last witness, Ms. Sturup, will be  
24 very brief, no more than ten minutes.

25 **THE COURT:** All right. So we may, in fact,

1 finish before the first break or around the time of  
2 the first break.

3 **MR. MAYE:** I would anticipate that absent  
4 something that I'm unaware of, at least the State's  
5 testimony.

6 **MR. WILLIAMS:** Your Honor, I do hope to give a  
7 fairly extensive cross-examination of that witness  
8 Thatcher.

9 **THE COURT:** Sure. And I was just reviewing it  
10 in my mind based on Mr. Griffin and based on  
11 Mr. Cave. It may be longer. It's fine with me if  
12 it takes all day. You understand what I'm saying?  
13 I'm just trying to do it for planning purposes now.

14 Mr. Williams, you did hand up a number of -- a  
15 witness list with a -- eight witnesses listed, one  
16 of which was also listed on the State's witness  
17 list. There are seven remaining unless you wanted  
18 to recall Mr. Dais. I would just advise, of course  
19 I'd have to hear motions and all, but depending on  
20 the outcome of those motions, if the case goes  
21 forward, I would just advise for you to have your  
22 witnesses present and available tomorrow at the call  
23 of court.

24 **MR. WILLIAMS:** Yes, Your Honor.

25 **THE COURT:** All right. If nothing else, here's

1 your transcripts, Mr. Williams.

2 **MR. WILLIAMS:** Thank you, Your Honor.

3 **THE COURT:** Thank you for providing those to  
4 the Court. If you'd have one for me with  
5 Ms. Thatcher in the morning. Court will be in  
6 recess until 9:30. Thank y'all very much.

7 (The proceedings were concluded for January  
8 10, 2012.)

9 (The following proceedings were held on  
10 January 11, 2012.)

11 **THE COURT:** All right. Anything from the State  
12 before we bring in our jury, Solicitor?

13 **MR. MAYE:** Nothing from the State, Your Honor.  
14 Thank you.

15 **THE COURT:** From the defense, Mr. Williams?

16 **MR. WILLIAMS:** No, sir, Your Honor.

17 **THE COURT:** All right. Thank you.

18 If you'll bring our jury, please.

19 (The jury enters the courtroom at 9:45 a.m.)

20 **THE COURT:** Mr. Foreman, ladies and gentlemen  
21 of the jury, good morning. I apologize for the  
22 delay. I had a matter I had to address that had  
23 nothing to do with this case nor these parties.  
24 They're all present, in fact, early and ready to go.

25 Also, I received the note, Mr. Foreman, from

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1 the jury. I wanted to address that this morning. I  
2 do not see the gentleman present at this time.  
3 Typically, I don't allow people in and out of the  
4 courtroom once the trial starts until the break  
5 anyway. If the gentleman appears, I will address  
6 that.

7 All right. With that being said, we're  
8 continuing the trial of the case by the presentation  
9 of evidence and testimony by the State in its case  
10 in chief. If you'll please continue to give the  
11 parties your complete and undivided attention.

12 Solicitor, you may call your next witness.

13 MR. MAYE: The State would call Charlene  
14 Thatcher.

15 THE COURT: All right. If you'd step forward  
16 and be sworn for me, please, Ms. Thatcher.

17 CHARLENE ANN THATCHER,  
18 having been duly sworn, testified as follows:

19 THE CLERK: Have a seat. State your full name  
20 and spell your last name, please.

21 THE WITNESS: Charlene Ann Thatcher,  
22 T-h-a-t-c-h-e-r.

23 DIRECT EXAMINATION

24 BY MR. MAYE:

25 Q Ms. Thatcher, if you would, speak up as much as

1       you can and speak to the jury, tell them where  
2       you're originally from.

3       A     Massachusetts, sir.

4       Q     When did you first come to Augusta, Georgia?

5       A     August 1st, 2001, sir.

6       Q     Okay. Did you know or come to know shortly  
7       thereafter a man named Steven Lewis Barnes over in  
8       Augusta?

9       A     Yes, sir.

10      Q     Did you have association with him and, in fact,  
11      worked with him as a prostitute over in Augusta?

12      A     Yes, sir.

13      Q     All right. I want to talk to you about Labor  
14      Day of 2001, on September the 3rd of 2001. When was  
15      the first time that you encountered Steven Lewis  
16      Barnes on that day and relate to the jury what y'all  
17      did at the very outset when you first talked to him  
18      that day and move forward from there?

19      A     When I first talked to Barnes that day, he came  
20      over to the motel room that he was renting for me to  
21      have sex with me and then he left me there. Then he  
22      came back later on that day to pick me up and he  
23      told me not to bring anything with me, that we're  
24      going on a mission.

25      Q     Going on a mission?

1       A     Yes, sir.

2       Q     Okay. Where did y'all go when you left the  
3 hotel room there? What happened?

4       A     We went to Cherry Street, the green house.

5       Q     Let me show you State's 20. Talking about the  
6 same place? Is that the green house?

7       A     Yes, sir.

8       Q     What happened when you got to the green house,  
9 Ms. Thatcher?

10      A     Barnes ordered me to go inside the house.

11            **THE COURT:** Speak up just a little bit for me.

12            **THE WITNESS:** Barnes ordered me to go inside  
13 the house.

14      BY MR. MAYE:

15      Q     He told you to go inside the house?

16      A     Yes, sir.

17      Q     What was the next thing that happened?

18      A     People were pulling into the parking lot of the  
19 green house.

20      Q     People started arriving?

21      A     Yes, sir.

22      Q     Okay. What happened next, Ms. Thatcher?

23      A     William Harris arrived with Samuel Sturup, and  
24 then, like, maybe 15, 20 minutes later, Tony and  
25 Richard --

- 1 Q Now, let me get this straight. William Harris,  
2 was that Steven Lewis Barnes' brother, right?
- 3 A Yes, sir.
- 4 Q What nickname did they call Barnes?
- 5 A Big Man.
- 6 Q How about his brother, Mr. Harris, what did  
7 they call him?
- 8 A Little Man.
- 9 Q Okay. And you said Cave and --
- 10 A Griffin.
- 11 Q -- Griffin arrived?
- 12 A Yes, sir.
- 13 Q Okay. What happened next, Ms. Thatcher?
- 14 A I was still inside the house. Barnes ordered  
15 Cave and Griffin to fight Sturup.
- 16 Q Describe it, tell them what happened.
- 17 A I really don't know, sir. I just heard a bunch  
18 of commotion because I was inside the house. I  
19 didn't get to see.
- 20 Q Okay. What was the next thing that happened?
- 21 A William Harris came inside the green house and  
22 started beating on me and told me to come outside  
23 and he was beating me with a broom.
- 24 Q Okay. What was that next thing that happened?
- 25 A They sat me on the porch and started, they



1 meaning Harris and Barnes, started questioning me  
2 asking me if I stole some money from Barnes.

3 Q What did you tell them when they asked you  
4 about stealing money?

5 A No. If I had stolen money, I'd be gone.

6 Q Okay. What happened next?

7 A Then for, like, an hour or so, they kept  
8 fighting me and -- well, not fighting me, but  
9 beating on me and Sturup and asking us if we stole  
10 the money. And Sturup kept saying I probably took  
11 it because I was a prostitute and pickpocket. And  
12 then they just kept playing mind games and asking us  
13 questions about the money.

14 Q Okay. What did Sam Sturup, what did you hear  
15 him say and what was the progression of what he told  
16 them when they were accusing him of stealing the  
17 money?

18 A At first, he said that he didn't steal the  
19 money. Then, as time went on, he admitted to  
20 stealing the money.

21 Q Okay. What happened after he admitted that he  
22 had stolen the money, what happened then? What did  
23 Barnes say?

24 A I can't remember exactly what he said, but  
25 Sturup told him that he would -- he asked Barnes to

1 take him home and that he'll give him the money  
2 that's underneath his bed.

3 Q Told him to take him home?

4 A Uh-huh.

5 Q He had the money at home?

6 A Yes, sir.

7 Q Okay. What was the next thing that happened?

8 A Barnes told him that he'll take him home.

9 Q All right. What happened next?

10 A We went -- well, before that, before they said  
11 all that, we was on the train tracks and --

12 Q What happened on the train tracks?

13 A Barnes played this mind game with me and  
14 Sturup saying one of us has to kill each other to  
15 prove that we didn't steal the money. This is  
16 before he admitted to stealing the money. And he  
17 was going to give Sturup the gun to shoot me and I  
18 told him nobody's shooting anybody..

19 Q Okay. What happened next out there at the  
20 tracks at that point in time?

21 A So then Barnes ordered Sturup to walk off with  
22 Cave and Griffin back to the green house and then  
23 Barnes told me that I was going to kill Sam for him.

24 Q He told you that you were going to kill Sam for  
25 him?

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1       A     Yes.

2       Q     Okay. What was the next thing that happened?

3       A     Then we left the train tracks and went back to  
4       the green house. Before we went to the train  
5       tracks, Barnes called the Hunsbergers on the phone  
6       to come meet him at the green house. Then after we  
7       left the train tracks, they were just pulling up.

8       Q     Okay. So tell about when the Hunsbergers  
9       arrived there when they pulled up. Is that who  
10      pulled up? You said they were just arriving, who  
11      arrived?

12      A     Julio and Alex Hunsberger.

13      Q     Okay. What happened next?

14      A     Well, then Barnes started talking to Julio and  
15      Alex and Cave and Griffin and he was asking  
16      everybody what they want to eat and he asked Sam  
17      what do you want to eat for his last meal. And then  
18      Sam just kept begging him to please bring him home  
19      and he told him that he was going to bring him home.  
20      Then he said after a while for everybody to get  
21      inside the vehicles and for Sam to get inside the  
22      Hunsbergers' trunk.

23      Q     He told Sam to get in the trunk of the  
24      Hunsbergers' car?

25      A     Yes, sir.

1 Q Did you actually see them -- him get into the  
2 trunk of the Hunsbergers' car there?

3 A Yes, sir, but nobody forced him to get inside  
4 the trunk, he just went inside the trunk.

5 Q Were the Hunsbergers standing there when he got  
6 into the trunk of their car?

7 A Yes, sir.

8 Q All right. Once he told y'all to get in the  
9 car, what car did y'all get in and who was driving?

10 A I got inside of Barnes' Caprice and Barnes  
11 drove the car. And Cave and Griffin was in the car  
12 with us, also.

13 Q Who led the way once y'all left the green  
14 house?

15 A The Hunsbergers led the way in their vehicle.

16 Q All right. When y'all eventually stopped the  
17 vehicle and got out, where were you? Tell the  
18 ladies and gentlemen of the jury, describe to them  
19 as best you can, what the surroundings were where  
20 you stopped the car after y'all followed the  
21 Hunsbergers over from Georgia.

22 A When the car stopped, I was told to get out the  
23 vehicle. And when I looked up, it was an open  
24 field, like a lot of grass, but very big, wide open  
25 space with trees around, but very open space.

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1 Q Okay. What was the next thing that happened  
2 once y'all got there?

3 A Barnes ordered Sturup to walk in front of  
4 everybody.

5 Q Okay.

6 A And then everybody started walking.

7 Q Did you see Sam Sturup get out of the vehicle?  
8 Did you see him get out?

9 A Yes, sir. He got --

10 Q Where was he and where did he get out of?  
11 Where was he riding?

12 A He got outside of the trunk. They opened the  
13 trunk and he got out of it.

14 Q Okay. What happened next?

15 A Barnes ordered Sturup to walk in front of  
16 everybody. And he walked in front of everybody.  
17 Then everybody followed him, behind him.

18 Q Where did y'all go? Describe how you traveled.

19 A He went over some type of fence like thing.

20 Q Let me show you State's 50. Do you recognize  
21 that?

22 A Yes, sir.

23 Q Is that what y'all traveled over?

24 A Yes, sir.

25 Q Once y'all went over that gate there, what

1       happened next? Where did y'all go?

2       **A**     Barnes told Sam to stop and pick a place to  
3       die. So he kept walking a little bit and then he  
4       stopped and then everybody surrounded him. Barnes  
5       was to my right. Cave and Griffin was to my left.  
6       And the Hunsbergers was to Cave and Griffin's left.  
7       And Barnes ordered me to shoot Sturru and I shot  
8       him in the stomach first.

9       **Q**     How did that happen? How did you do that  
10      shooting and how was it carried out when you shot  
11      him?

12      **A**     Barnes held the gun to my back and Griffin was  
13      pointing a gun towards me from his -- where he was  
14      standing and they was like, Shoot him, shoot him,  
15      shoot him. They kept telling me to shoot him.

16      **Q**     Did you, in fact, shoot him?

17      **A**     Yes, sir.

18      **Q**     What happened next?

19      **A**     Then Barnes took the gun from me and just shot  
20      Sturru in the head.

21      **Q**     Okay. Did you hear other shots or did you see  
22      others fire there at that time?

23      **A**     Yes, sir, but it was, like, very fast and --

24      **Q**     As to each shot when each person fired, did you  
25      see impact or did you see the body shake?

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1       A     Yes, sir.

2       Q     Once everybody there shot -- now, tell me  
3       everybody that was there, name them.

4       A     Me, Barnes, Griffin, Cave and the Hunsbergers.

5       Q     Which of the Hunsbergers, name them  
6       individually?

7       A     Alex and Julio Hunsberger.

8       Q     Everybody shot, you're sure?

9       A     Yes, sir.

10      Q     And everybody hit?

11      A     Yes, sir.

12      Q     All right. Once everybody shot, where do y'all  
13      go? What happens next?

14      A     Once everybody shot, everybody was trying to  
15      leave the scene, but Barnes was standing there  
16      lingering, looking at the body and I was freaking  
17      out and Alex told me to come on and leave the scene.  
18      So I went with him, but I was pulling on Barnes and  
19      he finally came, too.

20           And we left and went back in our vehicles. And  
21      we followed the Hunsbergers to a trailer and we went  
22      inside there and discussed the murder. And the  
23      Hunsbergers went in the back of the trailer to find  
24      something to clean the guns with to take the  
25      fingerprints off. Then Barnes asked us how did we

1       feel about the murder.

2       Q     Did they do that? Did they, in fact, clean the  
3       guns off there?

4       A     Yes, sir.

5       Q     All right. What happened next?

6       A     Then I can't really remember what all happened,  
7       but I know we left, me, Barnes, Cave and Griffin,  
8       and we went inside Barnes' vehicle. We went across  
9       the bridge, halfway, the bridge that comes from  
10      Augusta to South Carolina. And Griffin threw the  
11      guns inside the water, inside of a plastic bag. And  
12      then we left and went to the green house and we  
13      stayed there all night until the next day and then  
14      we went back to my motel room.

15      Q     Okay. Let me ask you this: The individual  
16      that you've identified as Julio Hunsberger that  
17      you've testified that you saw at the green house --

18      A     Yes, sir.

19      Q     -- and again at the scene of the crime when he  
20      got out of the vehicle and in the woods and back at  
21      the trailer where the fingerprints and all were  
22      wiped off, is Julio Hunsberger, is that individual  
23      here in the courtroom today?

24      A     Yes, sir.

25      Q     Could you point him out and describe how he's



1 dressed and where he's seated?

2 A He's sitting at that brown table in a black  
3 suit with a black and white tie.

4 MR. MAYE: Your Honor, I just ask the record to  
5 reflect she's identified the defendant, Julio  
6 Hunsberger.

7 THE COURT: So reflected.

8 BY MR. MAYE:

9 Q You're absolutely certain that that's him,  
10 that's the same individual?

11 A Yes, sir.

12 Q Okay. After the time of this killing out there  
13 and after Labor Day, did you continue to see Julio  
14 Hunsberger?

15 A Yes, sir, numerous times.

16 Q You saw him numerous times?

17 A Yes, sir.

18 Q Okay. What was the nature of your interaction  
19 with him during the subsequent times that y'all saw  
20 each other?

21 A Just him hanging around Barnes a lot and...

22 Q Did you have sexual relations?

23 MR. WILLIAMS: Objection, Your Honor, he's  
24 leading.

25 THE COURT: Yes, sir, you -- I would sustain

1 the objection.

2 BY MR. MAYE:

3 Q How close did you get with Julio Hunsberger,  
4 the individual that you've identified from the  
5 crime?

6 A We've had sexual dealings before.

7 Q After that time, after the time of the killing?

8 A Yes, sir.

9 Q So you know him, don't you?

10 A Yes, sir.

11 Q After all of this took place, after Labor Day,  
12 September the 3rd of 2001, there came a time that  
13 you got arrested and you got caught, didn't you?

14 MR. WILLIAMS: Objection, Your Honor. He's  
15 continuing to lead the witness.

16 THE COURT: I would overrule that. This just  
17 focuses on a particular period of time.

18 You may continue.

19 You may answer the question if you know the  
20 answer, Ms. Thatcher.

21 THE WITNESS: I kind of forgot the question,  
22 sorry.

23 BY MR. MAYE:

24 Q There came a time that you got caught that  
25 y'all got discovered in this, wasn't there?

- 1       A       I was arrested twice, sir.
- 2       Q       Okay. Y'all got arrested in this case because
- 3       William Harris told on you; isn't that right?
- 4       A       Yes, sir.
- 5       Q       Now, Ms. Thatcher, for your participation in
- 6       what went on at the green house over in Georgia, you
- 7       pleaded guilty to aggravated assault, didn't you?
- 8       A       Yes, sir.
- 9       Q       And you also pleaded guilty involving an
- 10       unrelated crime that you were involved in with
- 11       Mr. Barnes and were sentenced to that as well,
- 12       weren't you?
- 13       A       Yes, sir.
- 14       Q       Okay. And you got how much time?
- 15       A       Eighteen years, sir.
- 16       Q       Okay. Ms. Thatcher, as to your involvement in
- 17       this case and your actions there that night, are you
- 18       guilty of murder?
- 19       A       Yes, sir.
- 20       Q       Has anybody promised you anything in regard to
- 21       what would happen with any potential charges that
- 22       you face for the actions and the death -- the
- 23       actions that resulted in the death of Sam Sturup
- 24       here in South Carolina?
- 25       A       No, sir.

1 Q Has anybody made you any specific plea  
2 agreements or promised you anything?

3 A No, sir.

4 Q Is everything you've told the jury up here in  
5 regard to this -- your testimony, is it true?

6 A Yes, sir.

7 MR. MAYE: Beg the Court's indulgence.

8 (Pause.)

9 MR. MAYE: Answer any questions the defense has  
10 for you, Ms. Thatcher.

11 THE COURT: Thank you, Solicitor.  
12 Mr. Williams.

13 MR. WILLIAMS: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. WILLIAMS:

16 Q Ms. Thatcher, you are how old today?

17 A Twenty-eight, sir.

18 Q You're 28 years old. And you say you moved to  
19 Augusta, Georgia, on August the 1st of 2001?

20 A Yes, sir.

21 Q And that was at the behest of whom or at the  
22 request of who?

23 A Jana McCarty, sir.

24 Q Jana McCarty?

25 A Yes, sir.

1 Q You're familiar with Ms. McCarty?

2 A Yes, sir.

3 Q Where were you before you moved to Augusta,  
4 Georgia?

5 A Boston, Massachusetts, sir.

6 Q You weren't in the Washington, DC, area?

7 A No, sir.

8 Q You were never in the Washington, DC, area?

9 A No, sir, maybe on the Greyhound bus traveling  
10 to here, but, no, sir.

11 Q But Boston, Massachusetts?

12 A Yes, sir.

13 Q Now, you indicated at some point earlier that  
14 you had been a prostitute since you were 14 years  
15 old?

16 A No, sir.

17 Q You never testified to that?

18 A No. I was a prostitute when I was 17, sir. I  
19 may have been having sex since I was 14, but not a  
20 prostitute, sir.

21 Q You're facing a murder charge here in the State  
22 of South Carolina, aren't you?

23 A Yes, sir.

24 Q And you realize that murder in South Carolina  
25 would carry a penalty from 30 years up to life in

1 prison?

2 A Yes, sir.

3 Q You know that, don't you?

4 A Yes, sir.

5 Q You were arrested in January of 2002, weren't  
6 you?

7 A Yes, sir, twice.

8 Q All right. You were arrested for armed  
9 robbery, burglary, kidnapping, another count of  
10 kidnapping, prostitution, and the possession of a  
11 firearm during certain crimes. You were charged  
12 with all of those things, weren't you?

13 A I don't remember, sir, but it sounds right.

14 Q It does sound right?

15 A Yes, sir.

16 Q Are you disputing that those -- I mean, you're  
17 admitting that they sound familiar?

18 A Yes, sir.

19 Q All right. And you were represented by  
20 counsel, a Marty Pitts, in the State of Georgia,  
21 weren't you?

22 A Yes, sir.

23 Q In the State of Georgia, armed robbery could  
24 have carried or carries -- do you know the penalty  
25 for armed robbery in Georgia?

1       A     No less than ten years and it can go up to life  
2       I think. I go to a law library, so I studied that  
3       kind of stuff.

4       Q     How about burglary, do you recall what those  
5       carry?

6       A     Less than armed robbery.

7       Q     Now, kidnapping, that could carry up to life in  
8       prison, couldn't it?

9       A     Yes, sir.

10      Q     You had two counts of that, didn't you?

11      A     Not that I recall, sir. I don't really know.

12      Q     Okay. If I showed you your plea agreement,  
13      would that refresh your recollection?

14      A     I know that my plea agreement says that I have  
15      -- I've been sentenced to 20 years, serve 18, two  
16      years probation, and that my kidnapping with bodily  
17      injury was dismissed, and that the deal was under  
18      the aggravated assault charge and pending Columbia  
19      County charges, but they didn't specify armed  
20      robbery, but that's the charge. And that's what my  
21      plea agreement says, sir.

22      Q     And the Columbia County charge, that involved  
23      you and Big Man?

24      A     Yes, sir.

25      Q     Is that right?

- 1       A     Yes, sir, and a couple of other people too,  
2       sir, females.
- 3       Q     And that was a situation in which you had a  
4       prospective John who had a lot of money in his  
5       house; isn't that right?
- 6       A     Three prospective Johns, yes, sir.
- 7       Q     Three prospective Johns?
- 8       A     Yes, sir.
- 9       Q     You were aware of two of them, though, weren't  
10      you?
- 11      A     Yes, sir, until --
- 12      Q     One was hiding in a room, right?
- 13      A     Yes, sir.
- 14      Q     Okay. And you along with someone by the name  
15      of Little Bit; is that right?
- 16      A     Yeah, Marsha Rogers, sir.
- 17      Q     But her nickname was Little Bit, right?
- 18      A     Yes, sir.
- 19      Q     You and Little Bit went into the home and the  
20      plan was to -- or the manner in which this robbery  
21      occurred was that you would call out to Big Man or  
22      give him a signal letting him know that there was  
23      more money in the house; isn't that right?
- 24      A     No, sir, that was not the plan, but that's how  
25      it happened.



## CHARLENE ANN THATCHER - CROSS BY MR. WILLIAMS

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1 Q Okay. Well, the plan was that two of you --

2 A To prostitute and that's it, but then I got the  
3 idea in my head to rob the person, yes, sir.

4 Q And you developed the idea that here's a lot of  
5 money --

6 A Yes, sir.

7 Q And you knew you had somebody big and bad  
8 enough to rob somebody with you, too, didn't you?

9 A Yes, sir.

10 Q And that was Big Man?

11 A Yes, sir.

12 Q He carried a gun most all the time, didn't he?

13 A Yes, sir.

14 Q Did you not testify earlier that the first time  
15 you ever claimed to have seen my client was the  
16 night of September of 2001?

17 A Yes, sir.

18 Q September 3rd?

19 A Yes, sir.

20 Q Okay. You didn't get life in prison for  
21 kidnapping over in Georgia, did you?

22 A No, sir.

23 Q You didn't get life in prison for robbery over  
24 in Georgia, did you?

25 A No, sir.

- 1 Q And the reason why you didn't is because you  
2 chose to cooperate over there, didn't you?
- 3 A Yes, sir.
- 4 Q All right. Now, once you got arrested, you did  
5 what most people do, didn't you, you made a deal?
- 6 A No, sir. I didn't make a deal until 2003, sir.
- 7 Q All right. But you made a deal once you were  
8 arrested, right, or this was after your arrest that  
9 the deal occurred?
- 10 A No, sir. I did not get any plea agreements  
11 until 2003, sir.
- 12 Q You were arrested in 2001, right?
- 13 A Two.
- 14 Q Or 2002?
- 15 A Yes, sir.
- 16 Q So after you were arrested and charged --
- 17 A A whole year and a half later, yes, sir.
- 18 Q -- a year and a half later.
- 19 A Yes, sir, I made a deal.
- 20 Q All right. Well, here we are about ten years  
21 later in this situation, aren't we?
- 22 A Yes, sir.
- 23 Q I want to ask you about Investigator Richard  
24 Roundtree. Over the course of this investigation,  
25 you became familiar with him, didn't you?

1           **A**     Meaning, sir?

2           **Q**     I'm sorry?

3           **A**     Meaning, sir?

4           **Q**     You became familiar with Investigator Roundtree  
5     over the course of this investigation?

6           **A**     Yes, sir, familiar with him like seeing him  
7     more than once, yes, sir.

8           **Q**     All right. As a matter of fact --

9           **MR. MAYE:** Your Honor, I have a matter to take  
10    up outside the presence of the jury at this time.

11          **THE COURT:** All right. Mr. Foreman, ladies and  
12    gentlemen, if you'll please leave your notes upside  
13    down in your chair and return to your jury room. Do  
14    not discuss the case during this brief recess.

15                 (The jury retires to the jury room.)

16          **THE COURT:** All right. Solicitor.

17          **MR. MAYE:** Your Honor, from my participation in  
18    the previous trial involving Steven Lewis Barnes, I  
19    know that it was raised in this case an allegation  
20    that there was an improper relationship on the part  
21    of this witness and Investigator Richard Roundtree.

22                 I would object to any questions along that  
23    line, Your Honor, because we would maintain that  
24    that's self-serving hearsay, unless there's some  
25    foundation -- he can ask her outside the presence of

1 the jury if she did that or if that took place, but  
2 for them to ask her, we would maintain it's  
3 self-serving hearsay, no foundation, nothing prior  
4 to this time and this trial has brought up anything  
5 regarding this matter. I've never seen anything  
6 that indicates that that is the case.

7 I know that it was a naked allegation at the  
8 time of the capital case involving Mr. Barnes, but I  
9 would specifically object and ask if they've got  
10 anything to ask in that regard, that they proffer it  
11 outside the presence of the jury because we would  
12 object on the basis that it is self-serving hearsay  
13 and would only be asked for an attempt to try to  
14 posit that before the jury.

15 **THE COURT:** All right. Mr. Williams.

16 **MR. WILLIAMS:** Your Honor, I would indicate to  
17 the Court that there was an actual press  
18 investigation that was done and I think it was based  
19 on reports that were gleaned from the Richmond  
20 County Sheriff's Office. Investigator Roundtree  
21 allegedly took this particular defendant out of the  
22 jail some seven times and on a number of those  
23 occasions, they were unescorted. And I just had the  
24 article from the Augusta Chronicle printed out and  
25 delivered to me and I can allow the Court to review

1       that article.

2               I have a foundation for asking the question,  
3       Judge, a good faith basis for asking the question.

4               **THE COURT:** What was the question you wanted to  
5       ask? I forgot the question that the Solicitor  
6       referred to -- objected to.

7               **MR. WILLIAMS:** I didn't get to it, Judge, but I  
8       just asked her if she became familiar with  
9       Investigator Roundtree over the course of this  
10      investigation, that was the question.

11              **THE COURT:** She answered that. She said, I was  
12      familiar with him to the extent that I was in his  
13      presence more than one time. That question has been  
14      asked and answered.

15              **MR. WILLIAMS:** Yes, sir. And then, I think,  
16      that's when the Solicitor rose to object to any --  
17      or to address this issue is the reason why he rose  
18      at that time.

19              **THE COURT:** All right. Well, ask the questions  
20      you want to ask her. I don't have anything to rule  
21      on right at this moment.

22              **MR. WILLIAMS:** All right. You want me to ask  
23      her now, Judge?

24              **THE COURT:** Yes, sir.

25                                      \*\*\*\*

1 IN CAMERA EXAMINATION.

2 BY MR. WILLIAMS:

3 Q Ms. Thatcher, you realize you're still under  
4 oath although we're outside the presence of the  
5 jury?

6 A Yes, sir.

7 Q Okay. And you're prepared to tell the truth?

8 A Yes, sir.

9 Q Investigator Roundtree, you did become familiar  
10 with him over the course of this investigation,  
11 didn't you?

12 A Yes, sir.

13 Q Okay. And over the course of this  
14 investigation, he took you out of the jail a number  
15 of times, didn't he?

16 A Yes, sir, to call my family. And I used to ask  
17 him a lot of questions that he would not answer  
18 about my case, but he always let me use the phone.

19 Q Now, what phone did he let you use?

20 A The one in his office.

21 Q Okay. And were you always escorted?

22 A Just by him. I never knew that it was not the  
23 right thing to do or anything like that because he  
24 always came down to the jail and the office is  
25 inside for one -- away, so I did not know that that

1       was not professional or whatever. I didn't know  
2       until all this crap happened on the news.

3       Q     Well, I didn't ask you if you knew it was  
4       appropriate, I just wanted to know if it happened.

5       A     Yes, that's what I'm answering you.

6       THE COURT: Well, if the question is, were you  
7       always escorted, the answer is, yes, she was  
8       escorted by Detective Roundtree, correct?

9       MR. WILLIAMS: I understand. I will probably  
10      go on to ask the question as to whether or not there  
11      was anyone other than Investigator Roundtree.

12      THE COURT: All right. Go right ahead.

13      THE WITNESS: Not in his office, sir, but there  
14      were people up there.

15      BY MR. WILLIAMS:

16      Q     Okay. Was there a door to his office?

17      A     Yes, sir.

18      Q     Could that door be closed?

19      A     Yes, sir.

20      Q     Was there a pane in the window of that office,  
21      if you understand what I'm asking you?

22      A     A window pane in the office, I probably won't  
23      even remember that, sir, honestly.

24      Q     Okay. All right. And are you aware that  
25      Investigator Roundtree was punished or had some

1 punishment relating to that conduct?

2 A No, sir. I've just been investigated that's  
3 all.

4 Q You were investigated by individuals from  
5 Richmond County regarding those issues?

6 A Internal affairs, sir, yes, twice, once in the  
7 jail and once two years ago in prison.

8 Q Okay.

9 MR. WILLIAMS: Your Honor, that's all I would  
10 want. I wouldn't want much more than that.

11 THE COURT: All right. Solicitor.

12 MR. MAYE: Your Honor, it's all hearsay and it  
13 bears no relevance to this case. I would  
14 specifically ask this witness, you know, if any  
15 misconduct took place or anything appropriate [sic]  
16 took place, if she could respond.

17 But, Your Honor, again, I think it's clearly an  
18 attempt to try to interject some collateral issue,  
19 newspaper hearsay. There's nothing else at this  
20 point in time. To my knowledge, I've never been  
21 advised that any action was taken for any  
22 inappropriate behavior. And we would maintain that  
23 any probative value regarding this line of  
24 questioning would certainly be outweighed by any  
25 prejudicial effect. It has nothing to do with the



1 merits of this case.

2 **THE COURT:** Mr. Williams.

3 **MR. WILLIAMS:** Your Honor, I think it  
4 absolutely has a lot to do with the merits of this  
5 case in that Investigator Roundtree basically was  
6 the chief investigator of the case which arose in  
7 Georgia and that had a direct relationship with  
8 information that was shared with Investigator Doran  
9 and that's already in this court's record.

10 **THE COURT:** Well, here's the questions as I  
11 understand them: You followed up on her  
12 familiarity.

13 **MR. WILLIAMS:** I'm sorry, Judge, I didn't --

14 **THE COURT:** Here's the questions as I  
15 understand them: You followed up on the question of  
16 her familiarity with Detective Roundtree, that there  
17 was a number of times he took her out of the jail to  
18 his office and allowed her to call her family from  
19 his office phone and she would ask him questions and  
20 he wouldn't always respond. She was always escorted  
21 by him and there were other officers around. There  
22 was a door to his office that could be shut. And  
23 she does not remember if there was a window pane.  
24 That's not hearsay. That's her testimony as to  
25 events that occurred, that she was allowed to use

1 the telephone.

2 As far as whether or not Investigator Roundtree  
3 was investigated or punished, that is not before the  
4 Court and that would not be admissible, but you can  
5 ask her about using the telephone and being escorted  
6 to his office. I guess the jury could take some  
7 type of inference that by being allowed to call her  
8 family, that she was being untruthful with the Court  
9 or in some manner.

10 **MR. WILLIAMS:** Your Honor, I would venture to  
11 ask the Court permission to also ask her about the  
12 internal affairs investigation.

13 **THE COURT:** No, sir. I'm not going to allow  
14 that, that's not admissible. She says, I don't know  
15 that he was punished. And internal affairs, she was  
16 questioned once in the jail and once two years ago.  
17 I just fail to see the nexus between an internal  
18 affairs investigation on Detective Roundtree and  
19 Ms. Thatcher's testimony before the Court.

20 **MR. WILLIAMS:** Your Honor, as it relates to  
21 Investigator Roundtree's provision of information to  
22 Mr. Doran regarding my client and the eventual  
23 arrest of my client, I think it does bear a  
24 relationship. And I understand the Court's ruling,  
25 but I will just note for the record that I take

1       exception to it.

2               **THE COURT:** Certainly. Well, you know, your  
3       problem is that is hearsay. You know, Detective  
4       Roundtree is not testifying, his credibility is not  
5       before the Court. Detective Doran's is,  
6       Ms. Thatcher's is, Mr. Griffin's is, Mr. Cave and  
7       the other witnesses, law enforcement witnesses and  
8       Dr. Sexton. But you're interjecting an issue based  
9       on hearsay that's not before the Court, so his  
10      credibility is not an issue for this jury.

11             **MR. WILLIAMS:** Your Honor, I would just --

12             **THE COURT:** And I understand your -- I think I  
13      understand your objection for the record.

14             **MR. WILLIAMS:** I am. And I'm also saying for  
15      the record that I believe the Court is limiting my  
16      ability to fully cross-examine this witness.

17             **THE COURT:** I am limiting your ability to the  
18      extent that I'm not allowing you to ask her whether  
19      or not she knows Detective Roundtree has been  
20      punished related to that contact because her answer  
21      is, A, I don't know. So she hasn't --

22             **MR. WILLIAMS:** But she -- excuse me.

23             **THE COURT:** She has no personal knowledge.

24             **MR. WILLIAMS:** But she does know if she was  
25      investigated by internal affairs concerning her

1 familiarity or relationship with Investigator  
2 Roundtree.

3 THE COURT: You want to ask her if she was  
4 interviewed by internal affairs in that regard?

5 MR. WILLIAMS: Yes, sir.

6 THE COURT: I will allow you to ask that. I'll  
7 allow you to ask that.

8 MR. WILLIAMS: Thank you, Your Honor.

9 THE COURT: But you can't comment on the  
10 results of that investigation or anything.

11 MR. WILLIAMS: I'm leaving it at that, I  
12 promise you.

13 THE COURT: Solicitor, do you have anything to  
14 add?

15 MR. MAYE: Your Honor, the only thing -- I just  
16 want to, while we've got the jury out, if he intends  
17 to ask her if she had an inappropriate sexual  
18 relationship with Richard Roundtree, I'd ask that he  
19 ask her outside the presence of the jury and we have  
20 an answer to that if he intends to ask her that when  
21 the jury comes back in. It's my understanding that  
22 we have a pretty clear ruling on those topics being  
23 hearsay, but like I said, I just don't want, through  
24 any window, which I would maintain to be  
25 self-serving hearsay, to interject the idea before

1 the jury that there was an inappropriate sexual  
2 relationship.

3 I know clearly the purpose of these questions  
4 is to interject before the jury that there was an  
5 inappropriate sexual relationship between these two  
6 and Roundtree was investigated, whether or not there  
7 was any truth to that at all or whether or not it  
8 actually took place or not at all.

9 I mean, there's no question, I know -- I've  
10 often heard the Court say, this is a search for the  
11 truth. There's no other reason for this line of  
12 questioning than to put before this jury the idea  
13 that this witness had an inappropriate sexual  
14 relationship with Richard Roundtree, who is not a  
15 witness in this case at all and his credibility is  
16 not an issue, and that internal affairs investigated  
17 it.

18 My only goal in asking the jury to step out,  
19 which is something I don't typically do, is to keep  
20 that which I would maintain is strictly self-serving  
21 hearsay to that end from coming before the jury and  
22 that was my purpose in asking the jury to step out.

23 **THE COURT:** Yes, sir. Thank you very much,  
24 Solicitor.

25 **MR. WILLIAMS:** Your Honor, I intend to limit my

1 question to what the Court told me to limit it to on  
2 that issue.

3 THE COURT: Well, let me make sure I'm clear.  
4 You're not going to ask her about a sexual  
5 relationship between her and Detective Roundtree?

6 MR. WILLIAMS: I am not. I am not.

7 THE COURT: Anything further?

8 MR. MAYE: Nothing else, Your Honor. Thank  
9 you. And I apologize for the interruption.

10 MR. WILLIAMS: Your Honor, I will ask -- I  
11 don't think it's relevant. I don't think it's  
12 relevant.

13 THE COURT: If you need to talk to your client  
14 and you want to ask something else, go right ahead,  
15 Mr. Williams.

16 MR. WILLIAMS: I'm going to ask this other  
17 witness now that we're outside the presence of the  
18 jury, it's something that the client has interjected  
19 and I will ask it of the witness.

20 THE COURT: All right. Well, we'll take it up  
21 outside the presence of the jury. Go right ahead.

22 BY MR. WILLIAMS:

23 Q Did you have an inappropriate sexual  
24 relationship with any of the jailers in the Richmond  
25 County Detention Center?

1           **A**       Yes, sir, one officer, sir. And he was fired.

2           **THE COURT:** All right. You asked.

3           **MR. WILLIAMS:** I did.

4           **THE COURT:** You got the answer.

5           **MR. WILLIAMS:** I would like permission to ask  
6       that question in the presence of the --

7           **THE COURT:** I don't think that's admissible. I  
8       can't think of what rule that would be admissible  
9       under.

10          **MR. WILLIAMS:** I just think --

11          **THE COURT:** This young lady has admitted,  
12       admitted, she's stated, I've been a prostitute since  
13       I was 17 years old. So she's -- that's nine years;  
14       is that right? Didn't you say you're 28,  
15       Ms. Thatcher?

16          **THE WITNESS:** Yes, sir. So that's 11 years.

17          **THE COURT:** Ma'am?

18          **THE WITNESS:** Yes, sir, since I was 17.

19          **THE COURT:** Since you were 17 --

20          **THE WITNESS:** Yes --

21          **THE COURT:** -- isn't that what you testified  
22       to?

23          **THE WITNESS:** Yes, sir.

24          **THE COURT:** All right. So that's -- did I do  
25       my math right? It's 11 years. I'm sorry. I had 18

1       and 27. I went to Catholic school. So that's 11  
2       years.

3               She's admitted, I've been a prostitute for 11  
4       years and had sex since I was 14 years of age.  
5       She's admitted the crime she pled to in regard to  
6       Mr. Sturup. She's admitted, not only has she  
7       admitted the other charges, she's gone into the  
8       details of the other charges, that she was in  
9       Columbia County with three Johns, as these  
10      individuals were described, that had money and she  
11      perceived the idea to rob them.

12             So the fact that -- quite frankly, the fact  
13      that she did or did not have inappropriate conduct,  
14      sexual conduct with a jailer is not admissible under  
15      any rule that I know or else -- I mean, then we're  
16      just trying a different case.

17             **MR. WILLIAMS:** The only thing that I would  
18      offer to the Court is simply that I believe it  
19      affects her credibility. I believe it does affect  
20      her credibility and the fact that this particular  
21      witness may be extremely manipulative.

22             **THE COURT:** Well, then if you look at the Rules  
23      of Evidence on credibility of unconvicted conduct,  
24      that's what you're talking about. I assume she was  
25      not convicted of any crime in regards to having an



1 inappropriate sexual relationship with a jailer.

2 Then I look at -- really, I look at, I guess,  
3 404(b), which is similar to the Lyles testimony,  
4 Character evidence not admissible to prove conduct,  
5 exceptions and other crimes. Those are admissible  
6 to show motive, identity, existence of a common plan  
7 or scheme, or absence of mistake or accident,  
8 intent.

9 You know, that's inappropriate character  
10 evidence. I don't see -- it doesn't come in under  
11 609.

12 Even if she had a conviction, I haven't done  
13 the research, I'll be glad to, but even if she had a  
14 conviction for prostitution, I don't know -- I don't  
15 know the answer to this question, but prostitution  
16 is a crime of dishonesty or false statement. It's  
17 certainly not a crime that I'm aware of for which  
18 you could receive a sentence in excess of one year.  
19 It doesn't come under that anyway. So I don't know  
20 what rule of evidence it would be admissible under.

21 **MR. WILLIAMS:** Yes, sir, Your Honor.

22 **THE COURT:** So I would stand by my ruling, that  
23 will not be admissible.

24 **MR. WILLIAMS:** And just so that I'm clear as to  
25 how far I can go on this issue, I can simply ask

1       this witness essentially that she had a familiarity  
2       with Investigator Roundtree over the course of this  
3       investigation. He took her out of her jail cell  
4       into his office on multiple occasions with only him  
5       escorting her, and that she was spoken to by an  
6       internal affairs investigator regarding that issue  
7       some time ago and then again two years ago.

8               **THE COURT:** If that's her responses. I think  
9       you can ask those questions. I'll allow you to ask  
10      that.

11             **MR. WILLIAMS:** That's as far as I'm going,  
12      Judge. I just wanted to make sure that's as far as  
13      I was permitted to go.

14             **THE COURT:** Anything further, Solicitor?

15             **MR. MAYE:** Nothing else, Your Honor.

16             **THE COURT:** Anything further, Mr. Williams?

17             **MR. WILLIAMS:** No, sir, Your Honor.

18             **THE COURT:** All right. Bring us our jury,  
19      please.

20                     (The jury returns to the courtroom.)

21             **THE COURT:** All right. Welcome back, ladies  
22      and gentlemen. Thank you very much again today for  
23      your patience. We're continuing with the  
24      cross-examination of Ms. Thatcher by Mr. Williams.

25                     Mr. Williams.

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1           MR. WILLIAMS: Thank you, Your Honor.

2                   CROSS-EXAMINATION cont.

3           BY MR. WILLIAMS:

4           Q     Ms. Thatcher:

5           A     Yes, sir.

6           Q     I just wanted to follow up with you. Did you  
7           become familiar with Investigator Roundtree over the  
8           course of this investigation?

9           A     Yes, sir.

10          Q     Okay. And during that time, did Investigator  
11          Roundtree take you from the jail out, down into his  
12          office?

13          A     Yes, sir.

14          Q     Okay. And did he take you down into his office  
15          on multiple occasions?

16          A     Yes, sir.

17          Q     Did he permit you to use the phone to call your  
18          family?

19          A     Yes, sir.

20          Q     Was it just you and Investigator Roundtree on  
21          some of those occasions and no one else?

22          A     Yes, sir.

23          Q     Were you -- were there investigators from the  
24          Internal Affairs Division of the Richmond County  
25          Sheriff's Office who spoke to you about that issue

1       some years ago?

2       A     Yes, sir.

3       Q     And were there investigators from the Richmond  
4       County Sheriff's Office Internal Affairs Division  
5       which asked you about that issue some two years ago?

6       A     Yes, sir.

7       Q     Okay. Ms. Thatcher, I want to direct your  
8       attention, if I might, to the night of September 3rd  
9       of 2001 again. You were working as a prostitute for  
10      Steven Barnes?

11      A     Yes, sir.

12      Q     Okay. And you were familiar with other girls  
13      who worked as prostitutes for Steven Barnes?

14      A     Yes, sir.

15      Q     Now, Mr. Barnes had a lot of rules that he  
16      imposed on you all, didn't he?

17      A     Yes, sir.

18      Q     Some of that included that it would be two of  
19      you going into a hotel room or to a John's house at  
20      one time, right?

21      A     No, sir.

22      Q     Let me make sure I ask the question  
23      appropriately, okay. He would send two of you in,  
24      one of which would take the money back to his car?

25      A     No, sir.

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1 Q That's not how it happened?

2 A That's how the armed robbery happened, but, no,  
3 sir, not every --

4 Q That wasn't one of his rules?

5 A No.

6 Q All right. Was one of his rules that you never  
7 take the money directly from the John's hand?

8 A Yes, sir.

9 Q Okay. Was one of his rules that you --

10 MR. MAYE: Now, Your Honor, I'm going to object  
11 at this point in time to relevance. I've given a  
12 lot of leeway in asking about this. It's not  
13 relevant evidence in this case and I would object to  
14 this line of questioning.

15 THE COURT: Step up here for me, Mr. Williams,  
16 Solicitor, please.

17 (Whereupon, a bench conference was held off  
18 the record, in the presence of the jury, but out of  
19 the hearing of the jury.)

20 THE COURT: I will sustain the objection.  
21 Thank you very much. Thank you, Solicitor.

22 MR. WILLIAMS: Thank you, Your Honor.

23 BY MR. WILLIAMS:

24 Q I'm going to ask you about a young lady by the  
25 name of Janaa McCarty. She was one of the girls that

1       worked with Mr. Barnes as well, right?

2       A     No, sir.

3       Q     Okay. She was not?

4       A     She worked for him before the murder, but after  
5       the murder, no, sir, she worked for herself.

6       Q     Okay. And I want to ask you, on one occasion,  
7       were you familiar that Mr. Sam Sturup was asked to  
8       watch her by Mr. Barnes?

9       A     Yes, sir.

10      Q     Okay. And his duty was to kind of watch her  
11      and not let her go anywhere, right?

12      A     Yes, sir.

13      Q     And Mr. Sturup was supposed to do that for  
14      Mr. Barnes?

15      A     Yes, sir.

16      Q     You were familiar with Mr. Sturup. He hung  
17      around with Mr. Barnes quite a bit?

18      A     No, sir. I only seen him one time before the  
19      murder -- no, two times. The first time -- if you  
20      don't mind me telling you?

21      Q     I don't mind.

22      A     Okay. The first time I met him, Barnes had me  
23      and Ms. McCarty fighting each other and then -- and  
24      he was just watching the fight. The second occasion  
25      I met him was when we went to two different clubs,

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1 the County Line and it used to be called Choo-Choos,  
2 but it's something else now.

3 **THE COURT:** What now?

4 **THE WITNESS:** Two different clubs. And that's  
5 what -- where all this came, the murder and all  
6 that, came from anyway was from that night at the  
7 club. That's it, those are the only two occasions  
8 I've seen him.

9 BY MR. WILLIAMS:

10 **Q** Now, Mr. Sturrrup was seven -- I'm sorry -- 16  
11 years old, right?

12 **A** To my knowledge in jail, yes, but in the  
13 streets, I did not know. Yes, sir.

14 **Q** I understand, but you learned he was 16 years  
15 old, didn't you?

16 **A** Being incarcerated, yes, sir.

17 **Q** Okay. And could you tell me about what size of  
18 a young man he was?

19 **A** He was hefty.

20 **Q** And would you say hefty being six feet tall?

21 **A** I don't know about his height, sir.

22 **Q** But he was stout?

23 **A** Yes, sir.

24 **Q** He was kind of a big boy?

25 **A** Yes. He was taller than some, but I can't

1       really tell you how tall.

2       Q     And he was going to the clubs with Mr. Barnes,  
3       too?

4       A     Yes, sir.

5       Q     Okay. On this particular night, a lot  
6       happened, didn't it?

7       A     The particular night of the club?

8       Q     September -- I'm sorry -- September 3rd of  
9       2001, the night of Mr. Sturup's death?

10      A     Yes, sir.

11      Q     Quite a bit happened, didn't it?

12      A     Yes, sir.

13      Q     Do you recall telling Investigator Roundtree  
14      that you were beat with a broom?

15      A     Yes, sir, by William Harris, sir.

16      Q     By William Harris?

17      A     Yes, sir.

18      Q     On this particular night, do you recall telling  
19      Investigator Roundtree that you were actually poked  
20      between your legs with the broom?

21      A     Yes, sir.

22      Q     And on this particular night, Mr. Barnes sort  
23      of had you and Mr. Sturup pitted against each  
24      other; isn't that right?

25      A     What do you mean pitted, sir?



1       Q     I apologize. He had Mr. Sturrrup wanting to  
2       blame you for stealing money and you in turn were  
3       saying, no, it wasn't me, maybe it was Sam. Didn't  
4       that --

5       A     Yes, sir.

6       Q     So you all were kind of at odds or had -- he  
7       created that though, didn't he?

8       A     Yes, sir.

9       Q     You indicated also that you had never, prior to  
10      this incident, saw my client; is that right?

11      A     Yes, sir.

12      Q     But you testified on direct examination that  
13      subsequent to this incident, you saw my client a  
14      lot?

15      A     Subsequent means afterwards, sir?

16      Q     Yes, I'm sorry.

17      A     That's okay. Yes, sir.

18      Q     In the business of prostitution, you're  
19      required to become familiar or pretend to be  
20      familiar with prospective customers even though you  
21      aren't that familiar with them, aren't you?

22      A     Yes, sir.

23      Q     Kind of create a fantasy?

24      A     Yes, sir.

25      Q     Do you admit that in the business of

1 prostitution, that it's sometimes a bit of a  
2 manipulative business?

3 A No, sir.

4 Q You don't think you manipulate people into  
5 believing something that isn't true?

6 A No, sir.

7 MR. WILLIAMS: Court's indulgence, Your Honor.

8 THE COURT: Yes, sir, Mr. Williams.

9 (Pause.)

10 BY MR. WILLIAMS:

11 Q Do you recall testifying in a trial just last  
12 week?

13 A Yes, sir.

14 Q Do you recall saying in that trial that prior  
15 to the night of the death of Mr. Sturup, you were  
16 familiar with my client?

17 A No, sir.

18 Q You don't recall saying that?

19 A No, sir.

20 Q And prior to, that means before the death of  
21 Mr. Sturup, you knew my client?

22 A No, sir.

23 Q You didn't testify to that?

24 A No, sir.

25 MR. WILLIAMS: If I might approach?

1           **THE COURT:** Yes, sir, Mr. Williams.

2           **BY MR. WILLIAMS:**

3           **Q**     You also indicated that it was just ten days  
4           that you had been working for Mr. Barnes; is that  
5           right?

6           **A**     Yes, sir.

7           **Q**     Okay. I'm going to ask you, if you would, look  
8           at page 17, lines 6 through 13. If you will look at  
9           those and don't read them aloud, just them to  
10          yourself.

11          **A**     (Witness complies.)

12          **Q**     Have you read them?

13          **A**     Yes, sir.

14          **Q**     Okay. In that trial, did you not say that you  
15          knew my client during the ten days leading up to  
16          that night of the death of Mr. Sam Sturrrup, Jr.?

17          **A**     No, sir, I did not say that. May I say what it  
18          says?

19          **Q**     Sure.

20          **A**     Okay. What you're saying is -- what you're  
21          reflecting on is line 14 where it says, Okay, now --  
22          this is the question: Okay. Now, Julio Hunsberger  
23          was, during that ten days that you'd been here, he  
24          was an acquaintance of Steven Barnes; isn't that  
25          right? And I said: Yes, sir.

1 Q Well, how would you know someone is an  
2 acquaintance of an individual?

3 A Because on the tenth day that I knew Barnes, he  
4 called Julio Hunsberger and he showed up on the  
5 tenth day and that's what this is pertaining to,  
6 sir. Sorry.

7 Q And that's your answer?

8 A Yes, sir.

9 Q Okay. And then the question on line 12 and 13,  
10 the question says: Okay. But you knew Julio  
11 Hunsberger, didn't you?

12 A Yes, sir, but it had nothing to do with the  
13 days. It just asked before that about Alex  
14 Hunsberger, if I knew Alex Hunsberger, and I said,  
15 no.

16 Q But you said, yes, you knew Julio Hunsberger,  
17 didn't you, in that trial?

18 A Yes, sir, but it didn't ask when did I know  
19 him, sir.

20 Q You took an oath last week, did you not?

21 A Yes, I did, sir.

22 Q You took an oath this morning?

23 A Yes, sir.

24 Q You took an oath in the trial State of South  
25 Carolina versus Steven Barnes, didn't you?

1           **A**     Yes, sir.

2           **Q**     Do you remember a young lady by the name of  
3           LaShonda Lott or LaShanda Lott?

4           **A**     Yes, sir.

5           **Q**     And she was about 18 years old when you met  
6           her?

7           **A**     No, sir, she was 17.

8           **Q**     Seventeen?

9           **A**     Yes, sir.

10          **Q**     And right when you were arrested on the armed  
11          robbery charges, she was with you all, wasn't she?

12          **A**     Yes, sir.

13          **Q**     And she was reluctant to become a participant  
14          into this escort/prostitution thing, wasn't she?

15          **A**     Yes, she was, sir.

16          **Q**     All right. But part of your job was to kind of  
17          get her ready, wasn't it?

18          **A**     Yes, sir.

19          **Q**     Okay.

20          **MR. MAYE:** Your Honor, again, I'm going to  
21          object to the relevance. This just gets back to  
22          that same issue. It's just not relevant evidence in  
23          this case.

24          **THE COURT:** Yes, sir, move on, Mr. Williams.

25          **MR. WILLIAMS:** Your Honor, I beg the Court's

1 indulgence.

2 THE COURT: Yes, sir, certainly.

3 (Pause.)

4 BY MR. WILLIAMS:

5 Q When you first were investigated by  
6 Investigator Roundtree regarding this issue and this  
7 incident, you talked about what transpired, didn't  
8 you?

9 A Yes, sir.

10 Q Okay. And you essentially said you shot first?

11 A Yes, sir.

12 Q And then didn't you go on to indicate that  
13 Steven Barnes shot him in the head second?

14 A Yes, sir.

15 Q So you were the first shot somewhere in the  
16 area of the stomach you believe?

17 A Yes, sir.

18 Q And then thereafter he begged for his mother,  
19 didn't he?

20 A (No response.)

21 Q He was on his knees. Isn't that what you told  
22 the investigator?

23 A Yes, sir.

24 Q And then he was begging for his mother at that  
25 point, wasn't he?

1       **A**     He was begging for his life.

2       **Q**     And then that's when Mr. Barnes came in and  
3       shot him in the head and that's when you freaked  
4       out, isn't it?

5       **A**     Yes, sir.

6               **MR. WILLIAMS:** I don't have any other  
7       questions.

8               **THE COURT:** Redirect, Solicitor.

9               **MR. MAYE:** Nothing. Thank you.

10              **THE COURT:** Thank you.

11              Thank you very much, Ms. Thatcher. You may  
12       step down.

13              All right. Solicitor, you may call your next  
14       witness.

15              **MR. MAYE:** The State would call Shirley Sturup  
16       to the stand.

17              **THE COURT:** All right. Ms. Sturup, if you  
18       would come around and be sworn, please.

19                      SHIRLEY STURUP,  
20       having been duly sworn, testified as follows:

21              **THE CLERK:** Have a seat. State your full name  
22       and spell your last name, please.

23              **THE WITNESS:** Shirley Sturup, S-t-u-r-r-u-p.

24                                      \*\*\*\*

25                                      \*\*\*\*

1 DIRECT EXAMINATION

2 BY MR. MAYE:

3 Q Ms. Sturup, I'm going to ask you directly, as  
4 a victim in this case, Samuel Sturup, was that your  
5 son?

6 A Yes, sir.

7 Q Let me talk to you about Labor Day of 2001.  
8 Tell me about when you last saw your son and what  
9 the circumstances were.

10 A Will had come to pick my son up and Sam took a  
11 shower, changed. He said he was going to a cookout.  
12 And I last saw him in the afternoon on September  
13 3rd, 2001.

14 Q And you're talking about William Harris --

15 A Yes, sir.

16 Q -- Little Man or Mr. Barnes' brother in this  
17 case. He picked him up there. Was that at your  
18 residence in Augusta?

19 A Yes, sir.

20 Q Did he come home that night?

21 A No, sir.

22 Q How about the next day and the next weeks did  
23 he come home?

24 A No, sir, he never came home.

25 Q I want to talk to you about November the 23rd



1 of 2001. Had you filed reports indicating that your  
2 son was missing at that point in time and had you  
3 been searching for him?

4 A Yes, sir.

5 Q Did Investigator Randy Doran from the Edgefield  
6 Sheriff's Office, did he come to you on November the  
7 23rd of 2001?

8 A Yes, sir.

9 Q Did he bring with him items of personal  
10 property? And I'm going to talk about specifically,  
11 at least one of them, item 17, these keys that are  
12 in this bag here.

13 A Yes, sir.

14 Q Were you able to identify those keys as the  
15 keys that your son, Sam Sturrupe, had, that those  
16 were his keys?

17 A Yes, sir.

18 Q Keys to your residence and the vehicles that he  
19 was allowed to operate?

20 A Yes, sir.

21 Q Did he ask you to make an identification of  
22 items of clothing, a belt with the name Samuel on  
23 it, and items of clothing to see whether or not you  
24 could identify those items as belonging to your  
25 missing son?

1       **A**     Yes, sir.

2       **Q**     Were you able to make an identification of  
3       those clothes --

4       **A**     Yes, sir.

5       **Q**     -- that they showed you the photographs?

6       **A**     Yes, sir.

7       **Q**     Were those items of clothing Samuel's?

8       **A**     Yes, sir.

9       **Q**     You never saw him again after that time he left  
10      with Mr. Harris on the 3rd, September the 3rd of  
11      2001, on Labor Day?

12      **A**     No, sir.

13      **Q**     And you never saw him again?

14      **A**     No, sir.

15             **MR. MAYE:** Please answer any questions the  
16      defense has for you.

17             **THE COURT:** Thank you, Solicitor.

18             Mr. Williams.

19                       CROSS-EXAMINATION

20             **BY MR. WILLIAMS:**

21      **Q**     Ms. Sturup, first off, I hope you're doing  
22      well this morning. Certainly, we understand that  
23      it's not an easy place for you to be.

24      **A**     Yes, sir.

25      **Q**     I just have two questions. Did you report your

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1 son missing immediately?

2 **A** Not immediately because I was hoping and asking  
3 and searching myself hoping that I could find  
4 something out. And then after that, I had to report  
5 it to the authorities.

6 **Q** And had he gotten to that age in which he was  
7 getting a little bit less than easy to control?

8 **A** Yes, sir. The age of 16 is a challenging age,  
9 yes, sir.

10 **MR. WILLIAMS:** Those are the only questions  
11 that I have.

12 **THE COURT:** Thank you, Mr. Williams.  
13 Redirect.

14 **MR. MAYE:** Nothing else. Thank you.

15 **THE COURT:** Thank you very much, Ms. Sturrup.  
16 You may step down.

17 All right. Solicitor, you may call your next  
18 witness.

19 **MR. MAYE:** The State rests at this time, Your  
20 Honor.

21 **THE COURT:** Thank you, Solicitor.

22 Mr. Foreman, ladies and gentlemen of the jury,  
23 you've just heard the State has rested as far as its  
24 case in chief is concerned. You've heard all the  
25 evidence and all the testimony you're going to hear

1 from the State in its case in chief.

2 We're going to take about a 15-minute recess.

3 During this recess, do not discuss this case with

4 anyone including your fellow jurors. Please

5 remember my additional instructions to you. If

6 you'd leave your pads upside down on your chair.

7 Remember to keep an open mind and do not begin your

8 deliberations until you are instructed to do so by

9 the Court. You may now leave your pads and go with

10 your bailiff. Thank you very much.

11 (The jury retires to the jury room.)

12 **THE COURT:** All right. Any motions from the

13 State?

14 **MR. MAYE:** Nothing from the State -- no motions

15 at this time from the State, Your Honor. Thank you.

16 **THE COURT:** From the defense?

17 **MR. WILLIAMS:** Yes, Your Honor.

18 **THE COURT:** All right. I'll be glad to hear

19 you.

20 **MR. WILLIAMS:** Your Honor, at this time, we

21 would move for a directed verdict of not guilty. We

22 believe that the State has not offered sufficient

23 evidence into the record for which a reasonable jury

24 could conclude beyond a reasonable doubt that my

25 client is guilty of the offense of murder. We don't

1 believe that there have been any testimony of any  
2 credible nature that's been offered that implicates  
3 my client into this crime. And we would ask that  
4 the Court would direct a verdict of not guilty on  
5 his behalf.

6 **THE COURT:** All right. I would respectfully  
7 deny the motion. I think there is sufficient direct  
8 and substantial circumstantial evidence.

9 As I review the witnesses, the ten witnesses  
10 that have testified in this case, three witnesses,  
11 Cave, Griffin and Thatcher, place Julio Hunsberger  
12 at the residence known as or  
13 Cherry Road, I'm not sure, Augusta, Georgia, on the  
14 night of 3 September '01 in the presence of  
15 Mr. Barnes and also of William Harris and also of  
16 the victim in this case, Samuel. There's testimony  
17 that Mr. Barnes uses the telephone and two  
18 individuals appear that are identified by each of  
19 these individuals, Cave, Thatcher and Griffin, as  
20 Alex Hunsberger and Julio Hunsberger after  
21 Mr. Barnes has made this phone call.

22 That Barnes, Thatcher, Griffin, Cave get into  
23 Barnes' vehicle, follow a vehicle occupied by Alex  
24 and Julio Hunsberger out of Augusta, out of the  
25 State of Georgia into South Carolina off of

1       Community Road off of Lakeview Road into an area  
2       that is, my understanding from the testimony, is  
3       owned by Gerald Richardson who was previously  
4       married to Julio Hunsberger's mother. That after  
5       they stopped, both vehicles in this caravan, that  
6       the trunk is popped and Mr. Samuel Sturup gets out  
7       of the trunk in a weakened condition.

8               That this -- these number of individuals, would  
9       be one, two, three, four, five, six, go down into  
10      this large field crossing a fence, crossing a barbed  
11      wire -- over a gate, crossing a barbed wire fence.  
12      That Mr. Sturup is basically being forced down into  
13      this area. That there are at least two weapons  
14      involved or seen. That Barnes directs all of the  
15      individuals that they will shoot Mr. Sturup.

16             The testimony, although, is not internally  
17      consistent one with the other. Ms. Thatcher states  
18      she fires first, Barnes second. Cave and Griffin  
19      tell different, but there is testimony that all the  
20      individuals present shoot Mr. Sturup.

21             They leave that location and go to a trailer  
22      located in that general area. There is testimony  
23      that Mr. Julio Hunsberger may have had access to a  
24      trailer in that area and a key to that trailer.  
25      There is testimony that Mr. Julio Hunsberger is a --

1        was an associate of Mr. Barnes. There's other  
2        corroboration of the co-defendants that have  
3        testified including items recovered from Cherry  
4        Street, the shock absorber, and including items that  
5        are recovered from the burn barrel at the 1300 block  
6        -- residence on Wrightsboro Road.

7                So I would respectfully deny your motion. As  
8        you say, it's an issue of credibility, for the jury  
9        to decide the credibility and the believability of  
10       the witnesses that have testified in the case.

11       Any other motions, Mr. Williams?

12               **MR. WILLIAMS:** Yes, sir, Your Honor. I'd like  
13       to simply renew my motion for the dismissal of this  
14       matter in that it was brought to trial in a  
15       substantially delayed manner. And we believe that  
16       with the showing of such inconsistencies of the  
17       memories of the witnesses and with a showing of such  
18       inconsistencies of their testimonies, we believe  
19       that he's been prejudiced by it. And we believe  
20       it's appropriate for the Court to dismiss this on  
21       the basis of this -- of the State's failure to bring  
22       it to trial in a speedy manner pursuant to Article 1  
23       and Section 14 of the South Carolina Constitution,  
24       as well as the Sixth Amendment.

25               **THE COURT:** Thank you, Mr. Williams. I would

1       renew my previous ruling in that regard.

2               Mr. Hunsberger, would you come around, please,  
3       and be sworn? Come around to the microphone, you  
4       and your attorney.

5               Madame Clerk, would you place Mr. Hunsberger  
6       under oath?

7                       JULIO A. HUNSBERGER,

8       having been duly sworn, testified as follows:

9               **THE COURT:** Mr. Hunsberger, I need to go over  
10       some things with you. I do this with everyone who  
11       is on trial and I need your responses to be under  
12       oath, that's why I had the Clerk place you under  
13       oath. Do you understand?

14               **DEFENDANT:** Yes, sir.

15               **THE COURT:** And speak up for me so I can hear  
16       you clearly and distinctly. Tell me your full name.

17               **DEFENDANT:** Julio Angel Hunsberger.

18               **THE COURT:** And how old are you, Mr.  
19       Hunsberger?

20               **DEFENDANT:** Thirty-four, sir.

21               **THE COURT:** How much education do you have?

22               **DEFENDANT:** Eleventh grade.

23               **THE COURT:** We've reached the stage of the  
24       trial where the State has rested and your side, the  
25       defense, now has the opportunity to present evidence



1       for the jury to consider. Do you understand where  
2       we are in the trial?

3               **DEFENDANT:** Yes, sir.

4               **THE COURT:** In that regard, you, through your  
5       attorney, may call witnesses to testify on your  
6       behalf. If you choose to testify yourself, you may  
7       do so. Do you understand?

8               **DEFENDANT:** Yes, sir.

9               **THE COURT:** No one can force you to testify.  
10       You have an absolute right to remain silent. And if  
11       you choose not to testify, I will tell this jury  
12       that they cannot hold your silence against you in  
13       any manner. I will tell them they're not to even  
14       discuss that in the jury room. Do you understand?

15              **DEFENDANT:** Yes, sir.

16              **THE COURT:** If your side offers no evidence at  
17       all, in other words, if neither you nor anyone on  
18       your behalf testifies or offers any exhibits, then  
19       your attorney, Mr. Williams, will get to make the  
20       last, the final argument to the jury. Otherwise,  
21       the prosecutor gets to make the last argument to the  
22       jury. Do you understand?

23              **DEFENDANT:** Sir, I was told that, yes, sir.

24              **THE COURT:** Does the defendant have a criminal  
25       record that would subject him to impeachment under

1 Rule 609?

2 MR. MAYE: Your Honor, he has a conviction in  
3 1996, which is outside of ten years, but it is for  
4 giving false name, address or birth date to a law  
5 enforcement officer and that is from Georgia,  
6 February the 14th of 1996, which we would maintain  
7 is a crime of dishonesty or false statement. He  
8 also has a charge of theft by receiving stolen  
9 property that was a January the 30th of 1998  
10 conviction.

11 He has a burglary conviction, 2/13/1998, for  
12 which he was found guilty, Your Honor. He was  
13 originally charged with two counts of burglary. He  
14 pleaded guilty to one, received a three-year  
15 sentence of incarceration with three years of  
16 probation to follow. We would maintain burglary is  
17 a crime of dishonesty.

18 That's the record that I show. Anything else  
19 that he has prior to that time, driving offenses and  
20 things, that would be too old and would not deal  
21 with dishonesty. We would maintain that those  
22 convictions, though, do deal with dishonesty and  
23 would be eligible for impeachment.

24 THE COURT: All right. When I look at Rule  
25 609(b), Time limits, it indicates that evidence of a

1 conviction more than ten years old as calculated  
2 herein, is not admissible unless the proponent gives  
3 to the adverse party sufficient advance written  
4 notice of intent to use such evidence to provide the  
5 adverse party with a fair opportunity to contest the  
6 use of such evidence.

7 Solicitor, has the State provided Mr. Williams  
8 with written notice of its intent to use this --  
9 convictions that are more than ten years old?

10 **MR. MAYE:** No, sir. I did not do that, Your  
11 Honor, in this case. I did not intend to offer  
12 these. And whatever ruling that the Court dictates  
13 based on that, we'll be happy with.

14 **THE COURT:** All right. I think that's a  
15 mandatory requirement in that regard. So I would  
16 not allow the '96, '98 or '98 conviction for, in  
17 sequence, false information to police, theft of  
18 receiving stolen goods and burglary.

19 Anything others, Solicitor?

20 **MR. MAYE:** Nothing else, Your Honor.

21 **MR. WILLIAMS:** Your Honor, he does have the  
22 kidnapping conviction. Certainly, we would contest  
23 it on the basis of it's essentially the same facts  
24 of this case. And I believe the weight -- the  
25 balancing test is required. I think it would

1       dictate, I hope it would dictate that the Court  
2       would find that it would be too prejudicial to  
3       commit.

4               **THE COURT:** Did you intend to use that? It's  
5       been before the jury quite frankly, the Georgia  
6       trials, the Georgia convictions, not so much as it  
7       goes to credibility of course, but to his  
8       involvement.

9               I would agree with you what a trial judge -- a  
10      trial jury did as far as finding him guilty or not  
11      guilty in Georgia, in other words, if they would  
12      have found him not guilty in Georgia, I would no  
13      more allow that in as I would allow that they found  
14      him guilty in Georgia because it's a different  
15      venue, it's a different jury, it's a different law,  
16      so --

17              **MR. MAYE:** I would not intend to offer it, Your  
18      Honor. I don't even want the Court to have to reach  
19      the balancing test on that. I wouldn't intend to  
20      offer it. I think it's, in all likelihood, probably  
21      before the jury in any regard. So I wouldn't  
22      intend to offer it.

23              **THE COURT:** So, in that regard, I don't think  
24      there's any record -- I think his record has been  
25      settled.

1           **MR. WILLIAMS:** Yes, sir.

2           **THE COURT:** Mr. Hunsberger, the decision about  
3 whether you testify or not is your decision to make  
4 and yours alone. I expect that you may confer with  
5 your attorney or with others whose opinions you  
6 value on life's important decisions, but the  
7 decision about whether or not you testify or not is  
8 your call to make, your decision. Do you  
9 understand?

10          **DEFENDANT:** Yes, sir.

11          **THE COURT:** Has anyone exercised any undue  
12 influence over you to get you to choose to testify  
13 or not to testify?

14          **DEFENDANT:** Other than the situation where he  
15 spoke about back in 2010, September 22nd.

16          **THE COURT:** I'm sorry, I misunderstood.

17          **DEFENDANT:** About the situation in 2010,  
18 September 22nd, when he came and see me for the  
19 first time, he had indicated that the D.A. would --  
20 well, they were supposed to show up over there,  
21 somebody from the office over here was supposed to  
22 show up over there and ask whether or not I was  
23 going to testify against one, Mr. Steven Lewis  
24 Barnes.

25          **THE COURT:** All right. But I'm talking about

1        your testimony in your trial, that's all we're  
2        talking about now. Has anyone used any undue  
3        influence on you to get you to testify or not to  
4        testify in this trial?

5                **MR. WILLIAMS:** Oh, no, sir.

6                **THE COURT:** All right. Today are you under the  
7        influence of any medication, drugs or alcohol or  
8        anything that affects your thinking ability?

9                **DEFENDANT:** No, sir.

10               **THE COURT:** Do you suffer from any physical or  
11       mental or nervous problem that affects your thinking  
12       today?

13               **DEFENDANT:** No, sir.

14               **THE COURT:** Whatever decision you make about  
15       whether to testify or not to testify in your trial  
16       will be your decision made of your own free will and  
17       accord. Do you understand?

18               **DEFENDANT:** Yes, sir.

19               **THE COURT:** Do you have any questions you would  
20       like to ask me about your right to testify or not to  
21       testify?

22               **DEFENDANT:** Nothing that I can think of, sir.

23               **THE COURT:** All right. And if you think of  
24       any, you just let your attorney know and I'll be  
25       glad to address it.

1 I'm not going to ask him what his decision is  
2 at this time. I'll give you the opportunity to  
3 discuss further with him, Mr. Williams.

4 Thank you very much, Mr. Hunsberger.

5 Mr. Williams, could I ask this: Do you intend  
6 to offer any evidence or testimony irrespective of  
7 your client?

8 **MR. WILLIAMS:** Your Honor, we're still talking  
9 about that. And I've explained to him the  
10 repercussion of doing that that the Court just so  
11 very well went over with him.

12 **THE COURT:** All right. Well, we'll take us  
13 about a 15-minute recess -- well, we'll say 20  
14 minutes and perhaps that will give you an  
15 opportunity to speak further with your client in  
16 that regard.

17 **MR. WILLIAMS:** Thank you. Your Honor.

18 **THE COURT:** Thank you very much. Court will be  
19 in recess 20 minutes.

20 (Brief recess.)

21 **THE COURT:** Anything from the State before we  
22 bring in our jury?

23 **MR. MAYE:** Nothing from the State, Your Honor.

24 **THE COURT:** Defense?

25 **MR. WILLIAMS:** Your Honor, I neglected to renew

1       one motion and that was the motion of the malicious  
2       prosecution of my client.

3               And I would also, just for the record, like to  
4       raise that, Your Honor, he's being tried for facts  
5       that are substantially similar for things that he's  
6       already doing time for. And we would ask that the  
7       Court would consider that the State's prosecution be  
8       estopped simply because the issues that were raised  
9       in his previous trial were substantially similar to  
10      the issues raised in this trial. And we believe it  
11      may even be -- the argument of collateral estoppel  
12      may be appropriate and I would ask the Court to  
13      consider that as well.

14             **THE COURT:** I'd be glad to look at any research  
15      you'd like for me to look at.

16             Solicitor, do you care to comment?

17             **MR. MAYE:** Your Honor, only briefly. He was  
18      prosecuted by a separate sovereign for an un --  
19      well, a crime that occurred over in Georgia within  
20      their jurisdiction. The crime of kidnapping can  
21      occur at any point in time. And under this set of  
22      facts, certainly we could have maintained some sort  
23      of prosecution for kidnapping for any period of time  
24      that Samuel Sturup was detained against his will in  
25      the trunk of that automobile. We specifically chose



1 not to.

2 He's charged with murder, a separate and  
3 distinct crime that had occurred in its entirety,  
4 the homicide aspect of it, occurred here with the  
5 exception of him being transported from the scene  
6 there in Georgia. From the research that we did in  
7 this case, I can't imagine there could be any  
8 meaningful challenge to prosecute -- to bar the  
9 prosecution of the murder.

10 **THE COURT:** All right. I'll take it under  
11 advisement. I'm going to look at a couple of cases.

12 Of course, as the Solicitor points out,  
13 kidnapping is a continuing crime. A person  
14 unlawfully restrained in one location, the  
15 kidnapping continues until such time as that person  
16 regains his or her freedom, which, of course, never  
17 occurred in this case. And there are separate  
18 sovereigns.

19 But I'm going to look up a couple of cases. So  
20 I will say I'll take it under advisement in that  
21 regard, Mr. Williams. And if there's any cases you  
22 want me to look at, if you get the opportunity, I'll  
23 also be glad to look at them.

24 **MR. WILLIAMS:** Yes, sir.

25 **THE COURT:** Do you have anything further?

1           **MR. WILLIAMS:** No, sir, Your Honor.

2           **THE COURT:** Might I ask are you going to  
3 present any evidence or testimony?

4           **MR. WILLIAMS:** Your Honor, my client and I have  
5 conferred pretty intently and it is not our intent  
6 to offer any evidence or testimony.

7           **THE COURT:** So the seven witnesses, I believe,  
8 that remain on the witness list, you're not going to  
9 call them?

10          **MR. WILLIAMS:** No, sir.

11          **THE COURT:** All right. So then the -- when the  
12 jury -- generally, what I do, my procedure,  
13 Mr. Williams, is I bring the jury out after the  
14 State has rested at this stage and I tell them again  
15 the State's rested. The defendant -- we're at the  
16 stage now where the defendant may present evidence  
17 and testimony if a defendant chooses to do so, that  
18 the State bears the burden of proving its case  
19 beyond a reasonable doubt and the defendant is  
20 presumed to be innocent. And I say both reasonable  
21 doubt and presumption of innocence, not the full and  
22 complete charge.

23          **MR. WILLIAMS:** Yes, sir.

24          **THE COURT:** And I tell them, of course, the  
25 defendant may present evidence and testimony if he

1 chooses to do so, so we now turn our attention to  
2 Mr. Williams. And I'll ask you, and then I take it  
3 you would then formally rest.

4 **MR. WILLIAMS:** Yes, sir.

5 **THE COURT:** At that point, I tell the jury  
6 you've now heard all the evidence and all the  
7 testimony you're going to hear in the trial of this  
8 case. And I tell them what procedure we then follow  
9 as far as the closing arguments are concerned.

10 Given the hour -- I do not like to break  
11 between closing arguments. I personally don't like  
12 to break between closing arguments and the charge  
13 unless it's a refreshment break. In other words, I  
14 don't want to have the Solicitor make his closing,  
15 sit down and then take a lunch break or either have  
16 the Solicitor make his closing, sit down, then you  
17 make your closing, sit down and then take a lunch  
18 break before I charge.

19 My preference would be to once we start, we  
20 don't stop until we finish, unless we take a  
21 refreshment break depending on how long. If that  
22 suits y'all's schedule, I think I'll let the jury go  
23 to lunch and just tell them to be back at whatever  
24 an hour and a half later is and we'll just start at  
25 that point.

1 Any of y'all have any objection to that? Now,  
2 y'all know me, I'll work right now. We'll press on,  
3 but --

4 MR. WILLIAMS: Your Honor, that'll give me an  
5 opportunity to gather a few of my thoughts, those  
6 that are left and --

7 THE COURT: All right. I agree with that. I  
8 -- I mean, not your thoughts. I agree, having sat  
9 where both of y'all sat over the years, I would have  
10 preferred that, too.

11 Solicitor.

12 MR. MAYE: Judge, I'll do whatever you want me  
13 to do. I'll get up right now and argue or I'll come  
14 back after lunch. I'll do whatever the Court tells  
15 me to do.

16 THE COURT: All right. Thank you very much.

17 I take it the State could also briefly open and  
18 close on the law, but I take it you're just going to  
19 have one argument, Solicitor?

20 MR. MAYE: I'm -- under these circumstances,  
21 certainly I will waive any opening on the law.

22 THE COURT: So you're going to close?

23 MR. MAYE: Yes.

24 THE COURT: And then after your closing, then  
25 Mr. Williams and then -- after that.

1           **MR. MAYE:** Yes, sir.

2           **THE COURT:** All right. Well, after they've had  
3 this extended break, let's bring them out and we'll  
4 give them an extended break.

5           (The jury returns to the courtroom.)

6           **THE COURT:** All right. Our jury is back.

7           Ladies and gentlemen, as you heard prior to the  
8 recess, the State has rested, that means you've  
9 heard all the evidence and all the testimony you're  
10 going to hear from the State in its case in chief.

11           The defendant may now present evidence if the  
12 defendant chooses to do so. A defendant is never  
13 required to prove himself or herself innocent. A  
14 defendant has no burden of proof. The State has the  
15 burden of proving its case and each and every  
16 element of the offense charged by proof beyond a  
17 reasonable doubt.

18           Regardless of the seriousness of the criminal  
19 charge brought against an individual, that  
20 individual is presumed to be innocent throughout the  
21 course of the trial, throughout the course of your  
22 deliberations unless and until you, the jury, are  
23 satisfied by evidence convincing you of the  
24 defendant's guilt beyond a reasonable doubt.

25           So understanding that the defendant does not

1        have to present evidence, that it has no burden of  
2        proof, we now turn to Mr. Williams. As I say, a  
3        defendant can present evidence if he chooses to do  
4        so. And we ask Mr. Williams --

5                Mr. Williams, you may call your first witness.

6                **MR. WILLIAMS:** Your Honor, the defense rests.

7                **THE COURT:** Thank you very much, Mr. Williams.

8                As you've heard now, ladies and gentlemen, the  
9        defense has rested. What that means is you've now  
10       heard all the evidence and all the testimony that  
11       you're going to hear in the trial of this case from  
12       both the State and the defense. We're at the point  
13       of the closing arguments by the attorneys.

14               Now, the procedure we follow in a case such as  
15       this is the State would close first, would present  
16       its closing argument. The Solicitor would present  
17       its closing argument on behalf of the State first.  
18       That will be followed by the closing argument by  
19       Mr. Williams on behalf of his client,  
20       Mr. Hunsberger.

21               After the two closing arguments, I then  
22       instruct you or charge you, as we say, on the law  
23       that applies to the facts of this case, both the  
24       general criminal law and the specific criminal law  
25       as to the offense of murder, and the elements and as

1 to the form of the verdict.

2 It's hard to estimate the time involved in  
3 that. It's hard to estimate how long the closings  
4 may take. They're not as they were at one time in  
5 our society where closing arguments would last  
6 upwards of hours or anything of that nature, but  
7 then again it's a hard thing to estimate. The  
8 advocates do want to present arguments on behalf of  
9 their clients and I certainly give them the  
10 opportunity to do so.

11 My instruction to you is probably in excess of  
12 30 minutes, somewhere around 30 minutes give or  
13 take.

14 With that being said, I think what I'll do -- I  
15 don't like to break those up either. Once we start  
16 the closings, I like to move through them and move  
17 through my charge. I think we're just going to take  
18 our luncheon recess now and have the attorneys come  
19 back fresh so to speak after lunch and we'll start  
20 that procedure and then we'll go right through.

21 I realize you had somewhat of an extended  
22 break. The law requires me to take up certain  
23 matters outside of your presence when the State  
24 rests. I did that. So I think we'll take a recess.

25 I'd ask you to please be back promptly at 1:30

1 -- let me make sure my computer is telling me the  
2 truth today -- well, it's 11:53. We'll say 1:15.  
3 If you'd be back -- y'all remind me of that now.  
4 Don't let me be early or late. Yesterday I came out  
5 early and then I ended up late. 1:15. I'm going to  
6 write it on my hand, 1:15, so I'll remember what  
7 time. If y'all would please be back promptly at  
8 1:15, we'll begin that next stage of the process.

9 I would ask you to please leave your notes on  
10 your chair. They will be secured by the Clerk's  
11 office in your absence. You're now free to go to  
12 lunch.

13 Do not discuss the case with anyone. Do not  
14 begin your deliberations until you're instructed to  
15 do so. Remember to keep an open mind until you've  
16 heard the closing arguments and the instruction on  
17 the law by the Court.

18 You're now released for lunch. Please be back  
19 at 1:15. Thank you very much. I hope y'all have a  
20 pleasant lunch.

21 (The jury was excused for lunch.)

22 **THE COURT:** Any request to charge, Solicitor?

23 **MR. MAYE:** None from the State, Your Honor.

24 Thank you.

25 **THE COURT:** Mr. Williams?



1           **MR. WILLIAMS:** Your Honor, I will just inquire  
2           as to the Court of the -- the Court's charge on the  
3           presumption of innocence and if it doesn't bother  
4           the Court, that I hear what the Court intends to  
5           charge.

6           **THE COURT:** It doesn't bother me a bit.

7           I charge: The defendant has pled not guilty to  
8           this indictment and that plea puts the burden on the  
9           State to prove the defendant guilty.

10          A person charged with committing a criminal  
11          offense in South Carolina is never required to prove  
12          himself -- sometimes I say himself or herself --  
13          innocent.

14          I charge you that it is an important rule of  
15          the law that the defendant in a criminal trial, no  
16          matter what the seriousness of the charge may be,  
17          will always be presumed to be innocent of the crime  
18          for which the indictment was issued unless guilt has  
19          been proven by evidence satisfying you of that guilt  
20          beyond a reasonable doubt. This presumption of  
21          innocence does not end when you begin your  
22          deliberations, but it accompanies the defendant  
23          throughout the trial until you reach a verdict of  
24          guilt based on the evidence satisfying you of that  
25          guilt beyond a reasonable doubt.

1           The presumption of innocence is like a robe of  
2           righteousness placed about the shoulders of the  
3           defendant which remains with the defendant until it  
4           has been stripped from the defendant by evidence  
5           satisfying you of the defendant's guilt beyond a  
6           reasonable doubt.

7           The presumption of innocence is not a mere  
8           legal theory. It is not just a legal phrase. It is  
9           a substantial right to which every defendant is  
10          entitled unless you, the jury, are satisfied from  
11          the evidence of the defendant's guilt beyond a  
12          reasonable doubt.

13          **MR. WILLIAMS:** Your Honor, and with regard to  
14          the Court's instruction on witness credibility.

15          **THE COURT:** I charge a general credibility  
16          charge. I do, you know, that they have to determine  
17          the credibility or the believability and that you  
18          can believe one over many, many over one, part, you  
19          don't count the number of witnesses, you know, and  
20          such as that, and the bias, prejudice, interest. I  
21          also have a charge in here -- and, of course, I also  
22          charge expert testimony --

23          **MR. WILLIAMS:** Yes, sir.

24          **THE COURT:** -- in that regard. That's what I  
25          charge.

1           **MR. WILLIAMS:** Yes, sir, I'm satisfied.

2           **THE COURT:** All right. Now, what about  
3 accomplice liability, Solicitor?

4           **MR. MAYE:** Certainly, Your Honor, hand of one,  
5 the hand of all, I would just ask for a charge in  
6 that regard, and, certainly, that would be the law  
7 in this state.

8           I don't suspect -- last week we had a big issue  
9 about duress and duress is certainly not a defense  
10 to murder. The defense last week asked for a charge  
11 of duress, which the Court declined to do last week.  
12 There's certainly nothing in evidence to indicate  
13 that.

14           And from the cross-examination, I know that  
15 basically mistaken identity and not present -- no  
16 presence at the crime scene is the defense in this  
17 case and -- but I would ask that the Court charge  
18 the hand of one, hand of all.

19           **THE COURT:** If I do that, I'm going to charge  
20 mere knowledge and mere presence.

21           **MR. MAYE:** Agreed, agreed. That's appropriate.

22           **MR. WILLIAMS:** Yes, sir, Your Honor.

23           **THE COURT:** And what about the factors on  
24 identification?

25           **MR. MAYE:** Leave that to the Court's

1 discretion, Your Honor.

2 MR. WILLIAMS: I would want to hear the Court  
3 -- what the Court would propose. I believe it would  
4 be appropriate.

5 THE COURT: Well, you know, as I think back  
6 over the identification testimony, I have this  
7 charge that I use from State versus Simmons: An  
8 issue in the case is the identification that the  
9 defendant is the person who committed the crime  
10 charged, then the State has the burden of proving  
11 identity beyond a reasonable doubt. You must be  
12 satisfied beyond a reasonable doubt of the accuracy  
13 of the identification of the defendant before you  
14 may convict the defendant.

15 Identification testimony is an expression of  
16 belief or impression by a witness. You must  
17 determine the accuracy of the identification of the  
18 defendant. You must consider the believability of  
19 each identification witness in the same way as you  
20 would any other witness.

21 And it goes into the factors, opportunity to  
22 observe, how long or short, how far or close,  
23 lighting, whether the witness had a chance to see  
24 the person or know the person in the past, the  
25 burden's on the State. It specifically includes the

1 identity of the defendant. If, after examining the  
2 testimony, you have a reasonable doubt as to the  
3 accuracy, you must find the defendant not guilty.

4 **MR. WILLIAMS:** Your Honor, I'm satisfied with  
5 that as well.

6 **THE COURT:** All right. Well, why don't we take  
7 our recess and -- 1:15? All right, 1:15. Court  
8 will be in recess till 1:15 -- oh, no, wait just a  
9 minute.

10 Come around here, Mr. Hunsberger, just a  
11 moment. Before I released the jury, I failed to ask  
12 you, and your attorney indicated to me he had  
13 discussed with you during the break whether or not  
14 you were going to testify or not testify, what  
15 decision did you make?

16 **DEFENDANT:** That I will not.

17 **THE COURT:** Is that your decision?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** Is that your own free will and  
20 accord?

21 **DEFENDANT:** Yes, sir.

22 **THE COURT:** Do you have any questions you would  
23 like to ask me about that?

24 **DEFENDANT:** I have a lot of them, but I'm --  
25 disregard, sir.

1           **THE COURT:** And nobody forced you to make that  
2 decision?

3           **DEFENDANT:** No, sir.

4           **THE COURT:** That's your decision?

5           **DEFENDANT:** Yes, sir.

6           **THE COURT:** All right. And, also, you're not  
7 going to call any witnesses or present any  
8 testimony. Was that your decision in conference  
9 with your attorney?

10          **DEFENDANT:** Yes, sir.

11          **THE COURT:** And you understand the form we  
12 follow now is the Solicitor will close first to the  
13 jury followed by your attorney will have the last  
14 argument to the jury?

15          **DEFENDANT:** Yes, sir.

16          **THE COURT:** All right. Thank you. Thank you  
17 very much.

18          **MR. WILLIAMS:** Thank you, Your Honor.

19          **THE COURT:** All right. Court will be in recess  
20 till 1:15.

21          **MR. MAYE:** Your Honor, just one thing for the  
22 record. I'm not necessarily requesting this as a  
23 request to charge, I'm passing up to the Court  
24 merely for informational purposes. I was provided  
25 last week with language of hand of one out of State

1       versus Dickman and mere presence from State versus  
2       Condrey. I'm going to pass those up to the Court.

3               I'm not requesting that they be charged. I'm  
4       only doing that because I happen to have it in my --  
5       if it is of any assistance to the Court, I'm handing  
6       it over. Thank you.

7               **THE COURT:** Dickman is a great assistance to me  
8       because it was cited in a case called State versus  
9       Mattison. You might want to look up some time.

10              **MR. WILLIAMS:** Judge, there was one thing that  
11       was raised this morning, while we're still here and  
12       on the record, and I'm not trying to keep us over  
13       time, but this morning was there an issue that the  
14       jury had and I don't -- I'm not --

15              **THE COURT:** Yes, sir. They wanted me to speak  
16       to the T.V. reporter because he was clicking his  
17       pen. And he never appeared, so I never spoke to  
18       him.

19              **MR. WILLIAMS:** I understand.

20              **THE COURT:** And I was going to speak to him.  
21       And I never heard his pen click, and I've asked the  
22       Clerk staff. But I got that note, Please ask the  
23       news reporter not to click his pen.

24              **MR. WILLIAMS:** I see.

25              **THE COURT:** And since he never appeared, I

1           never addressed it. I didn't address it with y'all.

2           I have that note and I'll have that note marked.

3           **MR. WILLIAMS:** I was just curious.

4           **THE COURT:** All right. Thank you.

5           (Whereupon, there was a luncheon recess.)

6           **THE COURT:** Anything from the State before we  
7 bring in our jury?

8           **MR. MAYE:** Nothing from the State, Your Honor.

9           Thank you.

10          **THE COURT:** Defense?

11          **MR. WILLIAMS:** No, sir.

12          **THE COURT:** All right. Bring our jury, please.

13          (The jury returns to the courtroom.)

14          **THE COURT:** All right. Thank you, Madame

15 Bailiff.

16          Mr. Foreman, ladies and gentlemen of the jury,  
17 welcome back. I hope y'all had a pleasant lunch.

18          As you recall, we're now going to proceed with  
19 the closing arguments by the attorneys. First, will  
20 be the Solicitor on behalf of the State, that will  
21 be followed by Mr. Williams on behalf of his client,  
22 Mr. Hunsberger. After the closing arguments,  
23 depending on how long we've been out here, we may  
24 take a short recess and I will then instruct you on  
25 the law that applies to this case. You will then be



1 directed to begin your deliberations with your  
2 fellow jurors in your jury room.

3 Please give the parties your complete and  
4 undivided attention as you have done so throughout  
5 the trial of this case.

6 With that being said, Solicitor.

7 **MR. MAYE:** May it please the Court, Your Honor.

8 **THE COURT:** Yes, sir.

9 CLOSING ARGUMENT

10 **MR. MAYE:** Ladies and gentlemen, first off, I  
11 want to thank you for being here. I know that when  
12 each of you went down to the mailbox, however long  
13 ago it was, and you got that letter from Ms. Newby  
14 here, the Clerk of Court here in Edgefield, I doubt  
15 if anybody's heart leapt, if they were thrilled that  
16 they had been summoned here for jury duty.

17 Winston Churchill once said that service on a  
18 jury is the highest duty that a citizen has during  
19 peacetime. At one point in time, people used to  
20 have to work on the roads, we had the draft. There  
21 were a variety of different things that were  
22 compulsory public service.

23 Service on a jury is the last one. And it is  
24 vitally important for everyone that lives here in  
25 Edgefield County because just as surely as Judge

1 McMahon sits up there with his robe on and he  
2 presides, I know he jested earlier and said he's in  
3 charge of taking breaks, but unquestionably, you've  
4 seen throughout the course of the trial, the Judge  
5 runs the courtroom. And at the conclusion of all  
6 the arguments in this case, it's undisputed the  
7 Judge is going to charge you with what the law is.

8 But just as surely as Judge McMahon sits up  
9 there with his robe on, the 12 of you that go back  
10 in that jury room to deliberate, each of the 12 of  
11 you sit as the judges of the facts in this case.

12 At the beginning of Labor Day 2001, September  
13 the 3rd of 2001, Samuel Sturup was a healthy,  
14 robust, young man as he left the company of his  
15 mother there in his house in Augusta. By the  
16 evening hours of Labor Day of 2001, by light of a  
17 nearly full moon, Samuel Sturup laid dead here in  
18 Edgefield County in a place he did not know, dead  
19 from multiple gunshots right here in Edgefield  
20 County.

21 Now, you've heard and the State, at the outset  
22 of this case, we've told you we've got the burden of  
23 proof here and we welcome it.

24 Julio Hunsberger sits here in this courtroom  
25 before you today and throughout the course of this

1 trial that you've heard over the last few days,  
2 charged with murder. This is an old and very  
3 historic courthouse. You can look around at the  
4 pictures on the wall up here, but we're talking  
5 about the ultimate crime. There is no more serious  
6 crime heard in any courtroom anywhere than murder.

7 Murder's a little different than a lot of  
8 things. I think any good investigator will tell you  
9 that.

10 This prosecutor never was much of a student of  
11 literature, but you can go all the way back to 1390,  
12 Chaucer wrote in the Canterbury Tales, Murder will  
13 out, that see we day by day. In 1596, Shakespeare  
14 wrote, Truth will come to light. Murder cannot be  
15 hid long.

16 Nowhere more evident than in this case because  
17 when the sheriff's office went out there, Sam  
18 Sturup had gone from when he left his mother's  
19 house on September the 3rd of 2011, by November the  
20 19th of 2001, all that was left of Samuel Sturup  
21 were bones scattered over several acres, a dark spot  
22 in the ground here. All that was flesh and blood of  
23 Samuel Sturup soaked in the ground here, right here  
24 in Edgefield County. For that very reason, Samuel  
25 Sturup, this all happened in Augusta, he was a

1 citizen in Augusta, he'll forever be a citizen here  
2 because all that was flesh and blood of him bleached  
3 out into the ground in the soil right here in  
4 Edgefield County.

5 When Randy Doran and the officers and all of  
6 the sheriff's men went out and began to look at what  
7 had happened, a skull with a bullet hole in it,  
8 bones scattered across the ground, they set to work.  
9 And I submit to you they started the grinding,  
10 tedious work that a good and a seasoned investigator  
11 starts and they started searching and they started  
12 looking. They started, and sometimes it's not very  
13 glamorous, digging in the dirt with their bare hands  
14 and fingers looking for evidence, looking for clues,  
15 doing the tedious, methodical work that a seasoned,  
16 thorough investigator does, sealed off that area and  
17 began to search for bones.

18 They knew they had a skull with a bullet hole  
19 in it. They knew they had human bones. And they  
20 began to search outward in an ever expanding radius  
21 till they found what was left of Samuel Sturup, a  
22 dark spot in the ground, empty pair of blue jeans,  
23 bones scattered when they gathered up his remains to  
24 take them to Dr. Sexton. They couldn't even find  
25 all his bones. The animals had gnawed on him,

1 spread him over who knows where. They couldn't even  
2 recover him all.

3 But Randy Doran set to work as a methodical  
4 investigator and he began to look, gathered up what  
5 he had there. He took it to Dr. Sexton and you've  
6 heard his credentials. He began to look in outlying  
7 counties, was somebody missing. He looked in Aiken  
8 County. It didn't take him long, though, till he  
9 talked to Georgia authorities. He had a belt with a  
10 young man's name on it and he started working.

11 I talked to you a little bit about how murder  
12 is a little bit different than other crimes, but  
13 they say that some crimes whisper, some more serious  
14 crimes speak in a firm voice, but the State submits  
15 to you, ladies and gentlemen, murder cries out, it's  
16 different, cries and wails. When they had nothing  
17 but a pair of blue jeans, the few items of bone that  
18 they found, the few clues that they had, it was just  
19 whispering at that point in time. When they found  
20 out they had somebody missing, it began to speak.

21 Investigator Doran started working on this  
22 case. He gathered up, once he found out they had an  
23 individual missing, he got dental records, he  
24 started gathering evidence in this case. He took  
25 those things to Dr. Sexton. They made an

1 identification of this man.

2 And I submit to you, you heard the scientific  
3 testimony of Dr. Sexton in this case, but I submit  
4 to you when Investigator Randy Doran took these keys  
5 that are in evidence that you'll have to take back  
6 in the jury room and the photographs of empty blue  
7 jeans and a belt to Ms. Sturup over here in her  
8 home, they didn't need any DNA and they didn't need  
9 any advanced scientific techniques. A mama that had  
10 washed that young man's clothes and taken care of  
11 him, do you think they needed anything beyond that?  
12 She knew where the son was at that point in time  
13 that she had been searching for since Labor Day when  
14 he left never to return. He didn't need scientific  
15 evidence, that was it right there. They could have  
16 stopped, but they didn't.

17 And you've already heard in this case from the  
18 evidence, and you've got it. The evidence in this  
19 case comes from the stand up here. The State's got  
20 the burden of proof. We told you at the outset we  
21 welcome the burden in this case.

22 Investigator Doran began working with other  
23 authorities and it didn't take long. And you've  
24 heard it up here from the stand, murder won't stay  
25 hid long because it's the ultimate crime. And

1 William Harris, the very man that took this boy away  
2 from his mama's house there, and you've heard all  
3 about his involvement, him being out there at the  
4 scene, he told on them. And the pieces started  
5 falling together.

6 You've heard the testimony in this case. Sam  
7 Sturup out there at the green house. And the  
8 reason we went through such repetition, is this the  
9 green house, showing people pictures, is this the  
10 gate you went through, Sam Sturup there in the yard  
11 at the green house there over on Cherry Street in  
12 Augusta confronted by Sam -- by Steven Lewis Barnes  
13 arguing back and forth over money.

14 Ladies and gentlemen, I submit to you in this  
15 case Steven Barnes was an evil, evil man, absolutely  
16 no question of that. You won't get anything but an  
17 amen from the State in that regard. And you've  
18 heard a lot of talk in this case about what a  
19 terrible monster he was. He was a pimp. He was a  
20 drug dealer. He was a bad man. He was an armed  
21 robber. He was every conceivable thing that anybody  
22 could be in the world of crime.

23 There's a young man, and you've heard it  
24 alluded to in this case, Sam Sturup, 16, too old to  
25 be clinging to anybody's coat tails, but not really

1       old enough to be a man to make man-size decisions.  
2       He started running around and hanging around with  
3       Barnes.

4               There they are at that house and you heard all  
5       that went back and forth there, the theater of him  
6       accusing him of taking money. Who knows if any  
7       money was even missing. You heard from Antonio  
8       Griffin later, he said he found the money, it wasn't  
9       even missing to begin with.

10              I submit to you it wasn't anything like that.  
11       It was just power control, mean man, pitting them,  
12       playing them off one to the other, laughing and  
13       snickering about it, accusing one of taking the  
14       money and then the other, pitting them against each  
15       other, fighting. You heard all of that drama and  
16       back and forth that went on out there at the green  
17       house.

18              And you heard the testimony from the State's  
19       witnesses in this case and each of them told you,  
20       oh, this is what happened. You know, they were  
21       fighting back and forth. Oh, you know, we fought a  
22       little bit.

23              I am sure you will hear in this case quite an  
24       attack on these witnesses in this case. And I  
25       submit to you their stories don't all match up not



1       in every regard because they're trying to distance  
2       themselves from this, trying to step back from it,  
3       oh, you know, I didn't really beat on him that bad.  
4       Oh, when I went out there in the woods, I shot in  
5       the ground. Just anything they can to distance  
6       themselves, to back away from the evil, the horrible  
7       nature of this case, a savage beating that that  
8       young man incurred out there at the green house.

9               There's no question about that, they beat him  
10       up and they were participating. Well, they were  
11       showing out for Steven Barnes, for each other,  
12       whatever was happening.

13              You know that's a bunch of nonsense, a lot of  
14       regard to, oh, you know, I really didn't do it. I  
15       thought he was going to jump on me. That's a bunch  
16       of junk. That's the State's own witnesses. That's  
17       an attempt on their part to distance themselves from  
18       it. Make no bones about it, they beat that boy  
19       there at the green house.

20              And when he was confronted with that, what did  
21       he say? And you've heard all of the witnesses up  
22       here, as he was confronted, Barnes says, Where's my  
23       money? I want my money. And he eventually says,  
24       oh, I've got it. I got it. It's at home.

25              I submit to you that's a 16-year-old boy, like

1 a homing pigeon, when they get in trouble, not old  
2 enough to be a man, he wants to go home to his mama  
3 when all this starts. When he's there being accused  
4 of taking this money, getting beat up, he wants to  
5 go home.

6 But as much as he wanted to go home, he wasn't  
7 going to bring that on his family to go to their  
8 house and he said, no, that's not true. I just told  
9 you that to get you to quit beating me. So they  
10 never went to their house, because it wasn't about  
11 money.

12 After the beating at the green house, though, I  
13 submit to you Charlene Thatcher told you at the  
14 outset that Steven Barnes had related to her, We're  
15 going on a mission. And throughout the course of  
16 this you heard punctuated, Pick out a spot where you  
17 want to die, somebody's going to die tonight. You  
18 heard all of those. The wheels were set in motion,  
19 he was going to die.

20 But what did Steven Lewis Barnes need over  
21 there at the green house? He needed a place to kill  
22 Sam Sturup and he needed men mean enough and hard  
23 enough to come help him.

24 You heard from Cave and Griffin in this case,  
25 16, 17-year-old little boys in the band trying to

1 run with a thug. They told you out there, Well,  
2 when Barnes said we're all going to leave and get in  
3 the car, we didn't know where he lived. We thought  
4 maybe he was going to take him home.

5 Who knows whether or not they thought that was  
6 the truth or not, it doesn't matter. What Steven  
7 Lewis Barnes needed was two men hard enough, mean  
8 enough and evil enough to come and assist him and he  
9 called the right two men to come.

10 Julio Hunsberger and his brother Alex come over  
11 to the green house in Augusta, Georgia, from  
12 Edgefield to that spot over in Augusta, Georgia,  
13 that green house where a young 16-year-old Sam  
14 Sturup had just been beaten by this group of thugs  
15 because that's all it amounts to. And what did they  
16 do once they were summoned there and they talked to  
17 Mr. Barnes? Where did Sam Sturup go at that point  
18 in time? In the trunk of their automobile like  
19 something out of a bad gangster movie.

20 When you're talking about murder, some of that  
21 language in some of the old cases is good. The  
22 Judge is going to charge you with the law at the  
23 conclusion of this case, but murder is killing  
24 another person with malice aforethought.

25 The old cases define malice as a depraved heart

1 bent on wickedness. Malice, long and short, that's  
2 just meanness.

3 Two men with depraved enough hearts bent on  
4 wickedness that they would put a 16-year-old boy in  
5 the trunk of an automobile. You think they didn't  
6 know what his fate was going to be? Who puts  
7 somebody in the trunk of a car for any other purpose  
8 than taking them to their demise? One, so they  
9 won't know where they're going and nobody else see  
10 it. No chance he was going to jump out if they  
11 stop, they put him in the trunk right there with  
12 Steven Lewis Barnes. And they kidnapped him. They  
13 restrained him against his will when he was placed  
14 in the trunk of that car. And who led the way?

15 Now, Steven Lewis Barnes over there, he had  
16 engineered this beating and pitting all these people  
17 against each other, but he didn't lead the way from  
18 the green house. You've heard witness after witness  
19 testify in this case, they don't know anything about  
20 this spot here in Edgefield County.

21 Who leads the way? Julio and Alex Hunsberger.  
22 Right here to this property, cross the bridge, down  
23 25, cross down Community Road, turning off, going  
24 across one cleared field in the middle of the night,  
25 and you didn't hear any testimony that they stopped

1 or they hesitated or Barnes told them to do one  
2 thing, they go straight from this open field through  
3 this narrow gap into this field in about as remote  
4 of a spot as anyone can imagine in Edgefield County  
5 with this young man and never stop.

6 Ladies and gentlemen, do you think for a moment  
7 that they didn't know that they were taking him to  
8 be murdered? Why in the world else would they have  
9 put him in the trunk of a car and driven straight  
10 from over there on Cherry Street to this spot? What  
11 other reason could there possibly be? They weren't  
12 taking him home. They sure weren't bringing him  
13 over to Edgefield County for a burger at the  
14 poolroom or a drink and a pack of crackers at  
15 Brights Laundry Mat up there at the end of the road  
16 of 25. They were taking him because he was going to  
17 get killed.

18 And the Judge is going to charge you at the  
19 conclusion of this case, the law. And in South  
20 Carolina, the hand of one is the hand of all. The  
21 Judge will charge you with that.

22 As surely as somebody got together with another  
23 group of folks, three people, and they decide they  
24 want to rob a bank and one drives and the other two  
25 go inside and the one driving never sets foot inside

1       the bank, never does a thing, just whistles and  
2       looks out the window while they're in the bank, if  
3       someone in the bank is there carrying out that crime  
4       kills someone, the hand of one is the hand of all  
5       and they're all guilty of murder.

6               When they picked Sam Sturup up and put him in  
7       the trunk of that car and drove him here to  
8       Edgefield County and he got out of the trunk of  
9       their car, dropped off right there, they could have  
10      left at that point in time and gone out about their  
11      merry way and not even been in those woods where Sam  
12      Sturup got shot and they'd still be guilty of  
13      murder. The hand of one is the hand of all.

14             They kidnapped this young man. They brought  
15      him over here from Georgia, from Cherry Street, into  
16      South Carolina. They knew where they were going on  
17      property that belonged to their family members right  
18      there where they live. Who else in the world would  
19      have known this spot existed? Stopping in that  
20      second field, climbing a gate, climbing a barbed  
21      wire fence, going back into a path back into the  
22      woods, who else in the world would have known that  
23      spot even existed other than Alex and Julio  
24      Hunsberger?

25             Steven Lewis Barnes, the monster he was, he

1        didn't know where that spot was. He's from over in  
2        Augusta, Georgia, running wild.

3        These high school boys up here that testified,  
4        Cave and Griffin, these band mates, the marching  
5        band friends, they didn't know where this spot was.  
6        One of them didn't even know what a barbed wire  
7        fence was, didn't know what to call it. City young  
8        men, they didn't have any connection with that spot  
9        here in Edgefield County.

10       Certainly this prostitute, Ms. Thatcher, that  
11       had -- had not long been coming down here from  
12       Boston, Massachusetts, she didn't know where that  
13       spot was, but you can bet Julio Hunsberger did. And  
14       if there was any question about it, later when he  
15       talked to Grover Dais in the Edgefield County  
16       Detention Center and he knew all of the details of  
17       the spot and the evidence that the police had found,  
18       you know he'd been there. He knew where that spot  
19       was because he was there when they took Sam  
20       Sturup's life and he participated in it.

21       They get this young man out of the trunk of  
22       that car. They march him across that gate, across  
23       that barbed wire fence. They take him up in the  
24       woods and they shoot him.

25       And, again, I submit to you the State's

1 witnesses, they're all over the map with this as to  
2 who shot first and, oh, I shot in the ground. I  
3 submit to you they're trying to distance themselves  
4 from it, staying away from that, but they all shot,  
5 whether or not they were showing out for Barnes.  
6 Charlene Thatcher in this case told you, We all  
7 shot. I saw the body jump when each of the shots  
8 struck the body.

9 By the light of a nearly full moon here in  
10 Edgefield County, they shot this boy. They murdered  
11 him, no question about it.

12 You can say anything you want about Charlene  
13 Thatcher, a prostitute, oh, she lines up armed  
14 robberies, all the evil things that she does, every  
15 evil thing, the State let a lot of that go on you  
16 might not have otherwise even heard, misguided young  
17 lady, bad news, prostitute. But she sat right up  
18 there on that stand and she told you, I'm a  
19 murderer, I killed that boy. She knows it just as  
20 soon as she fell in with Steven Barnes as he told  
21 her, we're going on a mission, and they brought him  
22 across here and they fired shots at that young man,  
23 sure, they're murderers. The hand of one is the  
24 hand of all, all of them participated and led to his  
25 demise. Sam Sturup is dead because of all of them,



1 including Julio Hunsberger.

2 This is his trial and his day. It's easy to  
3 let the evil of Steven Barnes overshadow things, all  
4 of the nonsense and the foolishness that went on,  
5 the meanness that took place out there at that  
6 scene. This is Julio Hunsberger's day.

7 What happens after the shooting? They lead the  
8 way. They go back to this trailer on the property.  
9 And what happened? Scheming, manipulating, gaming  
10 this, they killed this boy. Oh, no, the Hunsbergers  
11 in this case, specifically Julio Hunsberger and his  
12 brother Alex, as they get done, they're already  
13 scheming on it, going to clean the fingerprints off  
14 the gun, erasing all this evidence, distancing  
15 themselves [sic] from it.

16 The State's three witnesses up here, the ones  
17 that testified in this case, they attempted to  
18 distance themselves from it, had inconsistencies. I  
19 submit to you if you heard three people tell exactly  
20 the same story on events that took place that long  
21 ago, then somebody put them in exactly the same room  
22 and had them get their stories together and line  
23 them up perfectly. It just doesn't happen that way.

24 But one thing that is consistent with each and  
25 every one of those witnesses, Mr. Cave, Mr. Griffin,

1 Ms. Thatcher, who arrived there in that automobile  
2 over on Cherry Street after the call of Steven  
3 Barnes. Julio Hunsberger and his brother Alex. Who  
4 led the way from South Carolina? Julio and Alex.  
5 Who went out there into the field with us, got the  
6 man out of the trunk of that automobile? Julio and  
7 Alex Hunsberger. Who shot? Julio and Alex  
8 Hunsberger. Whose house did they go back to after  
9 the killing? Julio and Alex Hunsberger. Who wiped  
10 off the guns and helped them cover their tracks?  
11 Julio and Alex Hunsberger.

12 Every single one of them sat up here and  
13 pointed that young man out, Julio Hunsberger. Are  
14 you certain? Are you absolutely, 100 percent  
15 certain that based on what you saw there at that  
16 scene and nothing else, is that the man? Yes. Each  
17 and every one of them, their stories are all  
18 consistent in that regard.

19 And I submit to you you're going to hear some  
20 attempt in this case, oh, some third party, somebody  
21 else, they're confused, made some other  
22 identification, called them -- thought they were  
23 white men at some point in time. That's all been  
24 thoroughly aired out. All of them told you without  
25 hesitation, they've identified him over and over

1       again, Julio Hunsberger. There he sits.

2               You think Charlene Thatcher didn't know him?

3       She had sex with him. She ran with him afterwards,  
4       after the time of this murder. She stayed around  
5       him. She knows who he is. Certainly, she knows who  
6       he is.

7               And mind you, ladies and gentlemen of the jury,  
8       they'd already been told on at the outset because  
9       you know from the testimony in this case, William  
10      Harris had already ratted them out.

11              Police are not stupid. They picked up the  
12      pieces from a scattered remains of Sam Sturup to  
13      the complete case that you've heard here throughout  
14      the last couple of days in this courtroom.

15              You've heard all the evidence in this case.  
16      You've heard from each of the State's witnesses.  
17      Again, Steven Barnes was a bad man. And you heard  
18      testimony up here that, oh, well, you know, when  
19      we're out there, we were told to shoot or get shot.

20              I told you at the outset, the Judge is going to  
21      charge you with what the law in the State of South  
22      Carolina is, but one thing you're not going to hear  
23      from the Judge in this case, I submit to you, is  
24      that duress or shooting somebody else because  
25      somebody threatened you is a defense to murder,

1       because that absolutely is not the law in South  
2       Carolina. You can't shoot somebody else because  
3       somebody threatened you and tells you they're going  
4       to hurt you if you don't. Duress is not a defense  
5       to murder. And I repeat that: It is not a defense  
6       to murder.

7       These young man up here tell you, oh, you know,  
8       I shot the ground, I shot because I thought he was  
9       going to get me. That is not a defense to murder.

10       The State tells you right up front, the three  
11       witnesses we called that were eyewitnesses at the  
12       scene, all of them are murderers. They all  
13       participated. You can't shoot somebody else because  
14       they're told.

15       Now, they could have shot Steven Lewis Barnes  
16       right between the eyes out there. They could have  
17       defended themselves, self-defense, even using deadly  
18       force against him if they'd been threatened in that  
19       regard, but they can't weigh their lives as being  
20       worth more than that of Sam Sturrrup and decide  
21       they're going to murder him, malice, meanness, a  
22       depraved heart bent on wickedness. We don't make  
23       those kind of judgment calls in weighing one life  
24       against another. The law does not permit that.  
25       Duress is not a defense to murder, absolutely not.