

ORIGINAL
Volume II of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM FLORENCE COUNTY

Thomas A. Russo, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAVID GERRARD JOHNSON,

APPELLANT

Appellate Case No. 2012-209267

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS IS ON FILE WITH THIS COURT:

STATE'S EXHIBITS #9 (PHOTOGRAPH OF PILLOWS), # 42 (PHOTOGRAPH OF MATTRESS), #47 (PHOTOGRAPH OF MATTRESS), #56 (PHOTOGRAPH OF BODY), #57 (PHOTOGRAPH OF BODY), #58 (PHOTOGRAPH OF BODY), #59 (PHOTOGRAPH OF BODY), #60 (PHOTOGRAPH OF BODY), #61 (PHOTOGRAPH OF BODY), #62 (PHOTOGRAPH OF BODY), #116 (AUDIO CD)

SW - A. WILSON - DIRECT

- 1 Q And which side of the house was that?
- 2 A The right side.
- 3 Q All right. And what did you do when you got to
- 4 the window, and who else was there with you?
- 5 A David and Rashawn.
- 6 Q David and Rashawn? I'm sorry for repeating you.
- 7 Please speak up.
- 8 A David and Rashawn.
- 9 Q When you got to the window what happened, what
- 10 did you do?
- 11 A David asked me to go through the window.
- 12 Q What were you thinking when he asked you to go
- 13 through the window?
- 14 A Go through the window.
- 15 Q All right. How did you get the window open?
- 16 A They had some kind of bar trying to pry it open.
- 17 Q Was it locked or unlocked?
- 18 A I don't know.
- 19 Q Could you get it -- was it easy to get open or
- 20 hard to get open?
- 21 A He had to struggle to get it open.
- 22 Q Did you help him?
- 23 A Yes, sir.
- 24 Q And when you got the window open what happened
- 25 next?

SW - A. WILSON - DIRECT

1 A David told me to go through the window. I tried
2 to jump through, couldn't get through so he pushed
3 me through the window.

4 Q Why couldn't you get through the window?

5 A I was too small; I was too short.

6 Q You were too small to jump through the window?

7 A Yes, sir.

8 Q Why did they ask you to go through the window, if
9 you know?

10 A I guess I was the smallest one.

11 Q You were the smallest one?

12 MR. HOFFMEYER: Your Honor.

13 THE COURT: Solicitor.

14 MR. CLEMENTS: I'm sorry.

15 THE COURT: You got to stop repeating the
16 answers.

17 MR. CLEMENTS: I'm sorry. Please speak up
18 for me.

19 THE COURT: I mean, you're clearly hearing
20 it 'cause you're repeating his answers verbatim
21 so...

22 MR. CLEMENTS: I understand, Your Honor.

23 BY MR. CLEMENTS:

24 Q Now who helped you get through the window?

25 A David.

SW - A. WILSON - DIRECT

1 Q What were you supposed to do -- well, let me ask
2 you this, how about Rashawn?

3 A Yes, sir.

4 Q All right. Was Rashawn there?

5 A Yes, sir.

6 Q All right. When you went through the window what
7 were you supposed to do?

8 A Go through the window, open the front door for
9 him.

10 Q Who told you to do that?

11 A David.

12 Q When you went through the window what happened
13 first?

14 A I knocked over the grill, picked the grill up,
15 and opened the door.

16 Q What'd the grill look like?

17 A Like a white crock pot.

18 Q A grill like you find outside or a George Foreman
19 type grill?

20 A A George Foreman type grill.

21 Q Okay. After you knocked it over what did you do
22 then?

23 A Picked it up and went and opened the door.

24 Q I want to show you State's Exhibit 18. What on
25 that picture shows what you're talking about there,

SW - A. WILSON - DIRECT

- 1 if anything?
- 2 A The kitchen grill.
- 3 Q Can you point to it please?
- 4 A (Indicates by pointing.)
- 5 Q Okay. Now after you put that back where did you
- 6 go next?
- 7 A Open the front door.
- 8 Q What did you do at the front door?
- 9 A Let them in.
- 10 Q And who came in?
- 11 A David, Rashawn.
- 12 Q What did you do next?
- 13 A Walked in the living room, stayed there for a
- 14 minute. Rashawn went in the room. They went around
- 15 the corner, peaked through the crack.
- 16 Q All right. So you say the room, it was -- was
- 17 that the front room in the house, bedroom, living
- 18 room, what kind room was it?
- 19 A Where I was?
- 20 Q Yes.
- 21 A Living room.
- 22 Q All right. And where was Rashawn?
- 23 A In the room next to the door, front door.
- 24 Q Okay, all right. Where did David go?
- 25 A To the bedroom.

SW - A. WILSON - DIRECT

1 Q All right. You said he peaked through a crack a
2 minute ago. What kind of crack was that?

3 A In the bedroom door.

4 Q Bedroom door. What was anybody saying, if
5 anything?

6 A Peaked through the crack and he was like, oh
7 shit, the lady is in there.

8 Q Who said that?

9 A David.

10 Q All right. What happened next?

11 A I went around the corner 'cause I thought he was
12 lying. I went around the corner to see. He was
13 sitting on the lady over her body.

14 Q Where at?

15 A In the room.

16 Q And I mean, well where was her body in the room?

17 A Oh, laying on the bed.

18 Q And where was he sitting?

19 A Over the body.

20 Q And what was happening? What was he doing?

21 A He got a pillow right here, told me to come in.

22 Q What did you do?

23 A I stepped in the room.

24 Q And what happened next?

25 A Pulled a knife open, he gave it to me, and told

SW - A. WILSON - DIRECT

1 me to stab her.

2 Q What kind of knife was it?

3 A Pocket knife.

4 Q About how long was it with the blade open?

5 A It was about (indicating).

6 Q Can you hold your hands up about ---

7 A About like that (indicating.)

8 Q Do you know what it looked like? Can you
9 describe it?

10 A Silver blade, black handle.

11 Q Okay. What else did he tell you, if anything,
12 other than to stab her with it?

13 A I was like, naw, man, I ain't want to do that.

14 He was like, man, go ahead, is you scared. I -- no,

15 I ain't going to stab nobody. He point -- kept
16 boosting me up so I stabbed her.

17 Q And as he was boosting you up to stab her what
18 was Ms. Hayes doing?

19 A She was trying to say something. I couldn't
20 understand because the pillow was over her head.

21 Q Did you stab her?

22 A Yes, sir.

23 Q How many times?

24 A Once.

25 Q Where was David when you stabbed her?

SW - A. WILSON - DIRECT

1 A Sitting over the body.

2 Q And you stabbed her one time. What did you do
3 then?

4 A I stood there for a minute, pulled the knife out,
5 seen blood, panicked, and left.

6 Q What did you do with the knife?

7 A Gave it back to David.

8 Q When you say you left how did you leave?

9 A I went out the room, went through the kitchen,
10 went out that door. There was another door, the
11 back door, had a two-by-four. I took the
12 two-by-four and left.

13 Q When you were coming out the room where was
14 Rashawn?

15 A I don't know, like this here.

16 Q Was he in the house?

17 A He was in the house.

18 Q What was he doing?

19 A I guess stealing.

20 Q All right. Did y'all have any type of
21 flashlights or anything like that?

22 A No, sir.

23 Q What kind of lighting was in there?

24 A The lights in the house.

25 Q Were they on or off?

SW - A. WILSON - DIRECT

1 A On.

2 Q On?

3 A Yeah.

4 Q All right. Beg the Court's indulgence just a
5 moment. While you were in the bedroom did you
6 notice, or not, anything about the size of the room?

7 A It was small.

8 Q Small?

9 A Yes, sir.

10 Q What kind of furniture was in the room?

11 A It was a chair by the bed, and like a, I forgot
12 what they call it, that little thing that keeps
13 clothes in.

14 Q A wardrobe?

15 A Yeah.

16 Q Anybody else in the room that you know of?

17 A Besides me and David?

18 Q Yes, sir.

19 A No, sir.

20 Q Now when you went out the back door and you
21 removed the two-by-four, where did you put the
22 two-by-four?

23 A Tossed it beside the door.

24 Q Do you recall which side you put it on?

25 A The right.

SW - A. WILSON - DIRECT

- 1 Q The right-hand side?
- 2 A Yes, sir.
- 3 Q And when you went out the back door where did you
- 4 go?
- 5 A Sit on the swing over there in front of Rashawn's
- 6 house.
- 7 Q Who went out there with you?
- 8 A No one.
- 9 Q Why did you leave out and go to the swing?
- 10 A I saw the blood and panicked.
- 11 Q Well, what happened next?
- 12 A I sat on the swing for a couple of minutes.
- 13 David came up. Shawn went the other way. David
- 14 came and he was like, come help me.
- 15 Q Come help you?
- 16 A Yes, sir.
- 17 Q When you went to help him what did you go to help
- 18 him do?
- 19 A Remove the body from the house.
- 20 Q When you went back in the house can you explain
- 21 to the jury how you found the body?
- 22 A On the bed wrapped up in the covers.
- 23 Q And when she was wrapped up in the covers how did
- 24 y'all move her?
- 25 A I grabbed the feet and he grabbed the head and

SW - A. WILSON - DIRECT

- 1 carried her out the back door.
- 2 Q Where did you take her out the back door?
- 3 A To her car.
- 4 Q Where was her car?
- 5 A Parked in the backyard.
- 6 Q Who put the car in the backyard?
- 7 A David.
- 8 Q Where in the car did you put her?
- 9 A The trunk.
- 10 Q Where, if you know, where did the items she was
- 11 wrapped up in come from?
- 12 A Off the bed.
- 13 Q Off the bed?
- 14 A Yes, sir.
- 15 Q I'm sorry, I didn't mean to repeat that. Please
- 16 speak up for me. After you put Ms. Hayes in the
- 17 trunk where did you go?
- 18 A Went to dispose of the body.
- 19 Q All right, but where did you go do that? Where
- 20 in the car did you get?
- 21 A Passenger seat.
- 22 Q Front or back?
- 23 A Front.
- 24 Q Who drove?
- 25 A David.

SW - A. WILSON - DIRECT

1 Q Do you know where Rashawn went at that time?

2 A No, sir.

3 Q When y'all drove and left the house which
4 direction did you go in?

5 A To the right towards the cemetery.

6 Q All right. And where did y'all go?

7 A Rode around north Florence a little while and
8 pull up on the dirt road.

9 Q Where were y'all -- what were y'all doing while
10 y'all were just driving around north Florence?

11 A We were trying to decide where to put the body.

12 Q So where did y'all end up going?

13 A Dirt road that was on the road.

14 Q And do you know name of that dirt road?

15 A No, sir.

16 Q All right. After you got on that dirt road what
17 did y'all do, what happened?

18 A Started -- told me to get out. I got out the
19 car, laid the body in the ditch, got back in the
20 car. He was like, can you see the body. I was
21 like, move my shoulder, and saw the body and said
22 yeah.

23 Q Which side of the car did you put the body on,
24 which side of the road, passenger side or driver's
25 side?

SW - A. WILSON - DIRECT

1 A Passenger side.

2 Q Okay. And he asked you if you could see the body
3 and you could see the body so what did you do next?

4 A I got out the car, grabbed some weeds and dirt
5 and threw it on the body.

6 Q Who did that?

7 A Me and David.

8 Q All right. And after you put some weeds and dirt
9 on top of the body what did you do next?

10 A Got back in the car, went to Roughfork Street.

11 Q What did you on Roughfork Street?

12 A Sat there for a minute and then Greg came through
13 the path.

14 Q All right. And when you say Greg who was that?

15 A His cousin.

16 Q His cousin?

17 A Cousin -- well, something.

18 Q And what nickname does he have, if anything?

19 A G.

20 Q When G came through the path what did y'all do
21 next, or what kind of conversation did y'all have?

22 A Went back to the house.

23 Q Went back to which house?

24 A The victim house.

25 Q The victim's house and did what?

SW - A. WILSON - DIRECT

1 A Well, I stayed in the kitchen area. They started
2 picking up stuff to take.

3 Q All right. And what did you do while you were
4 there in the kitchen area?

5 A Nothing really.

6 Q Who was smoking in that house, if anyone?

7 A G had a cigarette and he walked in. I took a hit
8 off of it and went back in.

9 Q When you say you took a hit off it what exactly
10 does that mean?

11 A I took a puff off.

12 Q All right. And after you put it in your mouth
13 and took a puff off of it you did what with it?

14 A I gave it back to Greg.

15 Q What did Greg do with the cigarette?

16 A Put it in water in the sink and threw it in the
17 trash can.

18 Q What trash can?

19 A In the kitchen.

20 Q All right. And after that where did you go and
21 what did you do?

22 A We left. I went and knocked on Rashawn's window.
23 He came to the window, let me in, and we laid on
24 the couch.

25 Q And you stayed there how long?

SW - G. MONTGOMERY - DIRECT

1 A Because I had stuff in the house.

2 Q What time of day?

3 A Nighttime.

4 Q What did you take, if anything?

5 A Pack of chicken and Kool-aid.

6 Q All right. Did you go in that house at any time;
7 and if you did when, while Ms. Hayes was in that
8 house?

9 A No, sir.

10 Q Okay. Before you went in that house who did you
11 see over on Roughfork Street?

12 A David Johnson and Amp.

13 Q Where did you see David Johnson and Amp?

14 A In the car.

15 Q In what car?

16 A Ms. Hayes' car.

17 Q All right. How did you know it was Ms. Hayes
18 car?

19 A Because I had seen it on the news when they had
20 got locked up so I had put two and two. I didn't
21 know at first.

22 Q You didn't know at first, okay, all right?

23 A No, sir. That's what I was getting at.

24 Q At that time whose car did you know that to be?

25 A Nobody's.

SW - G. MONTGOMERY - DIRECT

- 1 into.
- 2 Q That's the refrigerator you went into where?
- 3 A In Ms. Hayes' house.
- 4 Q What did you get out of that refrigerator?
- 5 A Pack of chicken and Kool-aid.
- 6 Q Okay. I'm gonna show you State's Exhibit 35. Do
- 7 you recognize that at all?
- 8 A Not at first, but yes, sir.
- 9 Q What is that?
- 10 A That's the back door to Ms. Hayes' house.
- 11 Q What time of day was it when you went in there?
- 12 A At nighttime.
- 13 Q Okay. Did you enter the house at that location
- 14 or somewhere different?
- 15 A That location.
- 16 Q Okay. That's the back door?
- 17 A Yes, sir.
- 18 Q All right. Standing as if you were standing
- 19 looking at that photograph, which direction would
- 20 your house where you live be to the right or to the
- 21 left?
- 22 A To the right.
- 23 Q To the right?
- 24 A Yes, sir.
- 25 Q Okay. Mr. Montgomery, if you would have a seat

SW - G. MONTGOMERY - DIRECT

1 back up there. Thank you.

2 A (Witness complies.)

3 Q Gregory.

4 A Yes, sir.

5 Q Do you have a nickname?

6 A They used to call me G but...

7 Q Who used to call you G?

8 A Amp, Rakim, and them. Yes, sir. They used to

9 call me G. The reason they used to call me G

10 because my name was Gregory so they used it for G.

11 Q All right. What nickname did David call you by?

12 A Greg.

13 Q All right. He ever call you G ever?

14 A No, sir, he just used to call me Greg.

15 Q Used to call you Greg?

16 A Yes, sir.

17 Q All right. Now can you please tell this jury

18 what you were doing, where you were going when you

19 saw David Johnson and Amp Wilson with that car and

20 take us through what happened and what you did and

21 what they did?

22 A Okay. It had start off I was at home so had

23 called David and see what he was doing so I had

24 called him and he answered the phone and I had said,

25 what you get into. He said in the backyard. I say

SW - G. MONTGOMERY - DIRECT

1 in the backyard? Back of my house rather, in the
2 back of my house. So I said the back of my house?
3 Then he say yeah, through the path, you want to come
4 too. So basically I said, yeah. So I had walked
5 through the path. When I had walked through the
6 path is when I had seen David and Amp in the car.
7 They was in the driver's side; Amp was in the
8 passenger side. So me, I had sat in the back seat.
9 Yes, sir, I had sat in the back seat. I asked him,
10 I asked David where he had got the car from. He
11 said he had pulled a lick.
12 Q He had done what?
13 A Had pulled a lick.
14 Q What does pull a lick mean?
15 A A robbery.
16 Q Okay. What else did you ask him?
17 A And I asked him, I said, I said, to get a car
18 like this right here. And then that's when he had
19 told me, that's when he had told me I'd be scared if
20 he tell me.
21 Q And what did you say?
22 A I said, well I don't want to know.
23 Q All right. What happened next?
24 A Okay. We had rode around. We had rode around
25 the block. We didn't went nowhere. We had just

SW - G. MONTGOMERY - DIRECT

- 1 rode around. We had come back through the path.
2 David parked the car through the path. That's when
3 he asked me do I want to pull a lick, pull a
4 robbery. So we had got out the car. That's when we
5 had walked through the path. When we had walked
6 through the path that's when I had seen Terrance.
7 You know, Terrance had come with us. He was
8 standing outside. I think it's his house. He was
9 standing outside. So basically we had -- they had
10 showed us where the house they had broke into. We
11 didn't know the house was broke into at first until
12 we had got to the door, and the door was already
13 open. Only thing they did was just open the back
14 door. And we had just had went in the house. You
15 know, I was smoking a cigarette, and Amp did ask for
16 a drag on the cigarette so I gave him a drag on the
17 cigarette so ---
- 18 Q What did you do with the cigarette after that?
- 19 A When I was walking around the house I had went to
20 the kitchen. Before I even went to the refrigerator
21 I had put the cigarette out and I had threw it in
22 the trash can.
- 23 Q Where did you put it out at?
- 24 A On the stove.
- 25 Q All right. And what trash can did you throw it

SW - G. MONTGOMERY - DIRECT

1 in?

2 A It was -- it was, I think it was like a black
3 little trash can, yes, sir.

4 Q What room was it in?

5 A I think in the kitchen.

6 Q Okay. What -- what was going on while you were
7 walking around and smoking, what were you doing?

8 A I was looking around; but I didn't see nothing
9 that's I wanted like a TV, VCR, and stuff like that.

10 I didn't see none of that stuff on my wanted so

11 basically I started to think they had already went

12 in the house, did whatever they had did, because I

13 didn't see nothing in there suspicious or nothing.

14 So basically I just had went to the refrigerator and

15 I had got a pack of chicken and Kool-aid. After

16 that that's when we had left. I had went home and

17 went to sleep. That next morning that's when

18 Terrance had came and knocked on my window. So I

19 came outside and started talking to Terrance and

20 asked me what ---

21 Q Don't say what the ---

22 MR. HOFFMEYER: Object to any hearsay.

23 THE COURT: Sustained.

24 BY MR. CLEMENTS:

25 Q You can't say what Terrance said to you. He's

SW - L. DRAYTON - DIRECT

1 would call Investigator Sergeant Larry Drayton.

2 THE COURT: All right, Investigator
3 Drayton, if you would please come around and be
4 sworn, sir.

5 THE CLERK OF COURT: Sir, if you will
6 place your left hand on the Bible and raise your
7 right hand.

8 WHEREUPON,

9 **LARRY DRAYTON,**
10 having been duly sworn by the Clerk of Court,
11 testified as follows:

12 THE CLERK OF COURT: Please be seated and
13 state your full name for the record.

14 THE WITNESS: Larry Drayton.

15 **D I R E C T E X A M I N A T I O N**

16 BY MR. CLEMENTS:

17 Q Could you please tell the jury where you work and
18 how many years experience you have and what exactly
19 that you do.

20 A I'm employed with the City of Florence Police
21 Department. I began my career with the City of
22 Florence Police Department September 29th, 1980
23 from. 1980 until 1983 I was assigned to work with
24 uniform patrol division. 1983 until 1986 I worked
25 the special investigation unit, narcotics unit.

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1 1986 until 1991 I was reassigned -- from 1990 to
2 1991 I was deployed with Desert Storm. 1991, came
3 back to the department, was assigned to the criminal
4 investigation division where I'm still currently at.
5 From 2003 I had a short deployment again, 2004,
6 still assigned to criminal investigation division as
7 supervisor of investigations.

8 Q 2008, was that out of military deployment?

9 A That's correct.

10 Q All right. And you -- were you on-call or how
11 did you come to be involved in the investigation of
12 the disappearance of Ms. Willie Mae Hayes,
13 August 25th, 2008?

14 A On the date in question I was working day shift
15 with the -- as an investigator in the regular
16 assigned duties. Sometime that afternoon -- I can't
17 remember exactly what time it was. 1:30, between
18 1:30 and 2 on that day I remember Sergeant Godwin
19 coming across the radio. I remember hearing traffic
20 on the radio in reference to a missing person 200
21 Liberty Street. As a result of that I responded
22 along with several others at the location and met
23 with Sergeant Godwin.

24 Q When you responded can you tell this jury what
25 you found and who all was there and what you did.

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1 A Upon my arrival I remember -- I can't remember
2 everyone that was there, but I remember patrol
3 officer London Jordan who was the initial responding
4 reporting officer. I think maybe Sergeant Lee Davis
5 may have been who was then patrol supervisor.
6 Corporal Ford may have been there; I'm not sure in
7 the area. I know he was in the area later on.
8 Sergeant Godwin. I can't remember if the crime
9 scene tech was already there before I got there or
10 not either. But once I arrived Sergeant Godwin gave
11 us a brief of what was going in reference to a
12 missing person, looked suspicious, of a suspicious
13 nature.

14 Q All right. And from that point of you got
15 briefed what did you begin to do?

16 A Sergeant Godwin and myself, we did what we call
17 canvassing the neighborhood which is basically going
18 to the door, just talking to people in the
19 community, asking if they'd seen or heard anything.
20 Sergeant Godwin and myself, we were out there doing
21 that, going door to door. And a short time later
22 traffic came across the radio that Corporal Ford
23 located a vehicle belonging to the victim on a
24 street, one street to the rear of Liberty Street on
25 Roughfork Street so we proceeded over to that

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1 location and met with Corporal Ford.

2 Q When you met with Corporal Ford what did you
3 find?

4 A At the location it was like a duplex on Roughfork
5 Street. The victim's vehicle was at the location.

6 We verified that by the tag number and the VIN
7 number and also the description that was given
8 reference to the victim's vehicle.

9 Q And what did you do in that neighborhood on that
10 block?

11 A We spoke with some other individuals in that
12 block and then like three or four houses radius of
13 that block was kind of like, feel like a
14 triangulation (ph) as far as if you were, where the
15 car was located look to your left, to your right,
16 different angles, and whatever residence that you
17 could see, we went to those houses thinking maybe
18 someone in those houses may have seen someone who
19 was occupying this vehicle, that vehicle --

20 Q After doing that what, if any, leads did you
21 begin to pursue?

22 A We received information that there was two
23 individuals was seen leaving the vehicle. One
24 individual was described as a Afro-American male,
25 brown complexion with dreads. And the second was

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1 individual described of afro-American male or dark
2 complexion.

3 Q All right. And tell us, what did you do to
4 followup on that?

5 A We went back again canvassing the neighborhood
6 talking to different people, different residences.
7 We end back up on the Liberty Street, the apartment
8 complex on Liberty Street. We had talked about it
9 earlier reference to the horseshoe apartments. We
10 end up that section where we spoke with an
11 individual who ---

12 Q After speaking with other individuals what then
13 were you looking for?

14 A After speaking with several -- well, after
15 speaking with some individuals in the area we were
16 given the name of, one of the individuals ---

17 MR. HOFFMEYER: Your Honor, I object to
18 any hearsay.

19 THE COURT: All right.

20 BY MR. CLEMENTS:

21 Q Don't tell us what anybody said, okay? Well,
22 what did you begin to look for?

23 A We began to look for an individual. We began to
24 look for an individual.

25 Q Did you know who that individual was?

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1 A We just had a first name.

2 Q Okay, all right. And what did you do after that?
3 What did you to do pursue that information?

4 A We went to a residence that was close proximity
5 where the victim lived looking for this particular
6 individual. Upon our arrival there were several
7 individuals who identified. We didn't know any of
8 the individuals at the time, but there were several
9 people including the homeowners at the residence at
10 that time. We spoke with several of the people at
11 the house.

12 Q What, what did you ask them?

13 A We asked them, told them what we were doing,
14 we're looking for an individual by the name of
15 David, did anyone know an individual by the name of
16 David. Fitting the basic description that was
17 given, we were told no so we left at that time.

18 Q All right. And from there what did you begin to
19 do?

20 A Continue talking with individuals, continue
21 speaking with people. And there was one of the
22 individuals -- there was an individual that we had
23 spoke with him and his mother, and we asked that
24 individual, his mother -- he was a juvenile at the
25 time -- to come down to this building, the

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1 City-County Complex, to speak to us in reference to
2 the matter so we brought that person down juvenile
3 at the time.

4 Q And after you talked with that individual what
5 was the next -- who was that individual's name?

6 A Rakim Floyd.

7 Q Okay. What was his mother's name?

8 A I want to say Tasha Brown if I'm not mistaken.

9 Q And after speaking with them what was the next
10 step you took in the investigation?

11 A After speaking with her we -- if I'm not mistaken
12 we went back over into the residence where we went
13 the first time looking for David, and we spoke with
14 an individual. Went looked for -- we had a name by
15 the name of Rashawn Bailey, and we start looking for
16 him.

17 Q Did you find him?

18 A Not at that time.

19 Q Okay, all right. So what was the next step in
20 your investigation?

21 A Continued talking with the individuals in the
22 neighborhood doing the same thing, canvassing,
23 talking with people in the neighborhood. Sometime
24 after that Rashawn Bailey, we located him, and we
25 brought him down to the City-County Complex and we

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1 spoke with him in detail.

2 Q All right. And after speaking with him where, if
3 anywhere, did you go to look for anything?

4 A While speaking with -- during the investigation
5 speaking with him, he gave names of individuals who
6 he said was involved with the incident, the
7 homicide, the missing person homicide type case. He
8 took us to a residence located at [REDACTED]
9 [REDACTED] 'cause we were looking for David. He said,
10 we asked him: do you know David, he said yes, he had
11 seen David, we asked him did he know where David was
12 living.

13 MR. HOFFMEYER: Your Honor, this is all
14 hearsay.

15 MR. CLEMENTS: Your Honor, may we
16 approach.

17 THE COURT: All right.

18 (WHEREUPON, counsel approached the Bench
19 for an off-the-record discussion.)

20 BY MR. CLEMENTS:

21 Q Investigator Drayton, after speaking some with
22 Mr. Bailey where did you go?

23 A If I'm not mistaken the address is [REDACTED]
24 [REDACTED].

25 Q And when you went to Sumter Street who did you

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1 see there?

2 A Individual came to the door, Mr. Jordan if I'm
3 not mistaken.

4 Q And what did you tell Mr. Jordan?

5 A That we were looking for his son David, and we
6 need to speak with him reference to a matter.

7 Q And what was David's last name?

8 A Johnson.

9 Q All right. And after speaking with him where did
10 you go next?

11 A We returned back to the complex, the conference
12 room of the second floor of this building.

13 Q What, if anything, did you tell Mr. Jordan to
14 relay to his son if he saw him?

15 A If and when he saw his son to have his son get in
16 contact with us. And we left -- I'm pretty sure I
17 left my card with him.

18 Q Where else did you leave that information or put
19 that information?

20 A Just different people in the streets, just by
21 that time different indi-- we were receiving
22 information from different individuals so we just
23 put the word out in the street that we were looking
24 for an individual by the name David Johnson so if
25 anyone saw him just advise us, come see us.

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1 Q After talking with Rashawn Bailey where else did
2 you go?

3 A I can't remember exactly when it was, but I
4 received some information to actually go to Rashawn
5 Bailey's house and spoke with his mother.

6 Q Okay, all right. I want to back up a little bit
7 from that. What -- who were you looking for at this
8 time?

9 A The individuals?

10 Q Who was the man that you were looking for?

11 A David Johnson was the main person we were looking
12 for at that time.

13 Q As a suspect but who else that wasn't a suspect
14 that you were looking for had not been found yet?

15 A We were looking for David Johnson, Rashawn Bailey
16 --

17 Q Who was the victim?

18 A --Anthony Wilson. Pardon?

19 Q Who was the victim?

20 A Ms. Hayes.

21 Q Had you located her yet?

22 A Oh, excuse me, I'm sorry. During this entire
23 incident we were -- myself and Sergeant Godwin
24 weren't particularly specifically out looking for
25 Ms. Hayes at that time; but other officers, other

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1 members of the Police Department, as a matter of
2 fact, the Sheriff Department actually had
3 individuals from up the jurisdiction to include SLED
4 looking, other individuals continuously looking for
5 the body of Ms. Hayes.

6 Q I'm sorry when I confused you when I was saying
7 who were you looking for, I meant law enforcement
8 all together, I apologize.

9 A Right, yes, sir.

10 Q Okay. So after talking and receiving other
11 information, where if anywhere, did you and
12 Detective Godwin, or where did you send anybody else
13 to look for Ms. Hayes?

14 A To look for Ms. Hayes specifically, if that's the
15 question that you're asking?

16 Q Yes.

17 A It was -- while we were still interviewing
18 Mr. Bailey we received some information that a
19 location where Ms. Hayes may be located at and --

20 Q Did you check that out?

21 A Yes, I was with one of the officers that did go
22 to that particular location.

23 Q And where was that location?

24 A If you're familiar with north Florence area
25 Oakland Avenue, Royal Street, right on Royal Street

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1 to go down to Malloy Street, make a left on Malloy
2 Street and it turns into unimproved portion of the
3 road called dirt road. It was on a dirt road. It
4 goes back out to old Marion Highway where Wilson
5 High School is located at.

6 Q Well, where is Washington Street at?

7 A Washington Street is located off of north Irby
8 Street, if you're familiar with I think it's a
9 learning center, day care school, on north Irby
10 Street just before you get to Roughfork Street.
11 Washington Street, it's like two streets prior to
12 Roughfork.

13 Q What did y'all find when y'all looked at
14 Washington Street?

15 A Well, we went there also because we were directed
16 to go there to look for -- this was prior to going
17 to Malloy Street. We went there and to an abandoned
18 residence. We were told that her body may ---

19 MR. HOFFMEYER: Your Honor, I object to
20 hearsay.

21 MR. CLEMENTS: Don't tell me what anybody
22 told you.

23 THE COURT: Sustained.

24 THE WITNESS: We received information that
25 the body that may have been at that location. We

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1 went there and the body was not at that location.

2 BY MR. CLEMENTS:

3 Q Okay, all right. So after you went there and
4 checked that out where did you go back to?

5 A Back here at the complex. We came back to the
6 complex here.

7 Q All right. And by that time who would come up to
8 the complex during that time that y'all were looking
9 for?

10 A David Johnson.

11 Q Okay. When David Johnson got to the complex did
12 you see him or Melvin Godwin see him, or who saw him
13 there?

14 A I saw him. I know I saw him. I think Sergeant
15 Godwin may have saw him briefly also. We were in
16 the process of interviewing another individual and
17 what we did was ask him -- he said my name is David
18 Johnson, heard y'all looking for me. Yes, sir, we
19 are. We're talking with someone else right now, if
20 you can just have a seat in another part of the
21 investigation division which would have been with
22 Lieutenant Compton at the time and asked him to have
23 a seat with Lieutenant Compton and we would get with
24 him as soon as we could.

25 Q Okay. And from that point forward -- beg the

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1 Court's indulgence a moment.

2 THE COURT: Yes, sir.

3 BY MR. CLEMENTS:

4 Q Now who were the individuals that you talked to
5 before you talked to David Johnson that were
6 suspects in this case?

7 A The first person was Rakim Floyd. We spoke with
8 Rakim and his mother. Next was Rashawn Bailey and
9 then David Johnson.

10 Q Okay. And when did you talk to Anthony Wilson,
11 before or after you talked to David Johnson and the
12 others?

13 A After.

14 Q After, okay.

15 A Correct.

16 Q All right. Now I want to back you up to
17 something you were starting to tell me about, and I
18 jumped ahead, I apologize. But tell us what
19 interaction you had with a Ms. Leia Mitchell. First
20 tell me who she is.

21 A Leia Mitchell is the mother of Rashawn, excuse
22 me, stepmother of Rashawn Bailey I think it is. I
23 think I heard some testimony about Terrance
24 Mitchell, his mother.

25 Q His mother, okay. Did you have an occasion to go

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1 back to her house?

2 A Yes, sir, I did. I received information, phone
3 call.

4 Q And as a result of that phone call what did you
5 do?

6 A I went to her residence.

7 Q And getting to a residence what, if anything, did
8 you retrieve from her residence?

9 A I was given -- I retrieved -- I was given, if I'm
10 not mistaken, two necklaces and two credit cards.

11 Q All right.

12 MR. CLEMENTS: At this time, Your Honor,
13 I'd ask permission for Sergeant Drayton to step
14 down.

15 THE COURT: Yes, sir.

16 (Witness complies by stepping off the witness
17 stand.)

18 BY MR. CLEMENTS:

19 Q I'm gonna ask you to stand over there please.

20 A Sure.

21 Q That's State's Exhibit 77. Sergeant Drayton, can
22 you tell us if you can identify that and what that
23 is.

24 A Yes, I can. That's one of the necklaces that was
25 given to me.

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1 Q All right. And where did you recover that from?

2 A The residence of Rashawn and Terrance Mitchell's.

3 Q And what was it in?

4 A A clear type grocery bag, Piggly Wiggly, Bi-Lo
5 grocery bag.

6 Q Plastic bag?

7 A Plastic bag.

8 Q I want to show you State's Exhibit 78. And can
9 you tell me what that is, if you can recognize that.

10 A Yes, that was the second necklace. The portion
11 that's appeared to have been broken, attached to it
12 sometime.

13 Q Where did you recover that from?

14 A Same location, same bag.

15 Q All right. I want to show you State's Exhibit
16 79. Can you tell me what that is and where you
17 located that.

18 A That's a Safe Federal Credit Union visa card and
19 with the -- you can see the name here, I guess,
20 Willie M. Hayes, the victim's name on the credit
21 card in the same bag.

22 Q You recovered that from the same place?

23 A Yes.

24 Q I'm gonna show you State's Exhibit Number 80.
25 Can you tell us what that is.

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1 A Yes, that is a Bank of American platinum visa
2 credit card, and the person it's issued to is Willie
3 Hayes.

4 Q And where did you recover that from?

5 A All the items were recovered from this same
6 plastic bag.

7 Q All right.

8 A From the residence of Terrance Mitchell and
9 Rashawn Bailey.

10 Q All right. You can step back up here. Thank
11 you.

12 A (Witness complies.)

13 Q Can you tell us, what did your investigation
14 reveal about who was in and out of that house where
15 Leia Mitchell lived?

16 A During our investigation we were able —

17 MR. HOFFMEYER: Your Honor, I would object
18 to that. That's got to be hearsay.

19 MR. CLEMENTS: I'm not sure. May we
20 approach.

21 (WHEREUPON, counsel approached the Bench
22 for an off-the-record discussion.)

23 THE COURT: I'll sustain as to the form of
24 the question. You can rephrase your question.

25

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1 BY MR. CLEMENTS:

2 Q Sergeant Drayton, what did your investigation
3 reveal about who resided in that house?

4 A Leia Mitchell, her boyfriend, I think his name
5 was Lavern -- I can't remember the last name. It
6 was Lavern. Terrance Mitchell, Rashawn Bailey
7 resided at the residence.

8 Q And who resided in the apartments right next to
9 it?

10 A Rakim Floyd.

11 Q Okay, all right. And were there ever any other
12 individuals involved in this that you saw there when
13 you went to that house?

14 A That I saw involved with this?

15 Q Yes, that you knew who they were either then or
16 later?

17 A Mr. Anthony Wilson.

18 Q Okay, all right. When if any time did you see
19 David Johnson there or not?

20 A I don't remember seeing David Johnson there.

21 Q Okay.

22 A When we went there the first time I don't recall
23 if he was there, if I saw him or not. There were
24 several individuals there and we asked for him, but
25 I don't remember if I saw him there or not.

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1 Q Several other individuals?

2 A Several young males was there.

3 Q Okay, all right. Now let me take you back to the
4 City-County Complex. When you finished talking to
5 Mr. Rashawn Bailey what did you do next and who did
6 you talk to next or where did you go next?

7 A When we...

8 Q When you were finished with Mr. Bailey?

9 A I was trying to think 'cause we had several
10 conversations with him. If I'm not mistaken we
11 finished our conversation with Mr. Bailey. That's
12 when we spoke with David Johnson.

13 Q Okay. And tell us about that. Tell us about
14 your encounter with Mr. Johnson and where you went.

15 MR. HOFFMEYER: Your Honor, this is
16 subject to my -- or I'm renewing my prior objection.

17 THE COURT: All right, so noted.

18 MR. HOFFMEYER: Thank you, sir.

19 THE COURT: Overruled.

20 BY MR. CLEMENTS:

21 Q Please answer the question. You need me to
22 repeat that?

23 A I think I understand it. This would be -- I was
24 talking to earlier about when -- I'll go back
25 through it again, the location off Malloy Street.

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1 As a result of talking to Mr. Johnson we went to
2 Malloy Street, a dirt road portion of Malloy Street.

3 Q Who took you there?

4 A David Johnson directed us there. He gave
5 directions and he was driven there.

6 Q Okay. Was he in the vehicle with you?

7 A No, he wasn't. He was in the vehicle I think it
8 was Lieutenant Compton, Sergeant Drulis. Lieutenant
9 Calhoun I think was in the lead vehicle.

10 Q How many vehicles went out there?

11 A Two.

12 Q Okay. They were the lead vehicle?

13 A That's correct.

14 Q Who was in the vehicle with you?

15 A Major Raines was driving, myself, and Sergeant
16 Godwin.

17 Q All right. And where exactly did y'all go?

18 A Once again Oakland Avenue. Oakland Avenue goes
19 towards Pet's Superette, Wilson Road. Royal Street,
20 make a right on Royal Street, go down to Malloy
21 Street would be the first, the entrance of going to
22 a housing development commonly referred to as
23 Woodland. Left on Malloy Street which turns into an
24 unimproved road which is commonly referred to as a
25 dirt road. Going back towards Wilson Road which

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1 will take you to Wilson High School.

2 Q All right. And what happened after y'all got on
3 the dirt section of the road?

4 A Shortly after we got on the dirt portion the lead
5 vehicle stopped. When the lead vehicle stopped, I
6 don't remember the conversation but the lead vehicle
7 stopped. When the lead vehicle stopped Sergeant
8 Godwin exited the vehicle that we was in. Sergeant
9 Godwin made two or three steps toward the ditch and
10 he said we have something here.

11 Q Okay. And what was that that was there in the
12 ditch?

13 A Later -- at the time we didn't know. It was
14 subsequent revealed to be the body of Ms. Hayes.

15 Q And after finding that where did you go?

16 A Returned back to the City-County Complex with
17 David Johnson.

18 Q And who else?

19 A Sergeant Godwin and Lieutenant Compton.

20 Q All right. Now when you got back to the complex
21 with David Johnson, Compton, Godwin, and yourself,
22 where did y'all go?

23 A To the -- returned back to the conference room
24 second floor of this building is where we
25 typically -- there's a conference room. It's a

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1 large conference room we also use it for meetings
2 and also it serves as an interview room also.

3 Q Did you mirandize Mr. Johnson yourself?

4 A No, sir, I did not.

5 Q Was Mr. Johnson mirandized in your presence?

6 A Several times.

7 Q And who mirandized him?

8 A Sergeant Godwin.

9 Q Okay. And that was in your presence?

10 A Yes, sir, it was.

11 Q Okay. What did you observe about Mr. Johnson
12 while he's being mirandized and while y'all were
13 having your initial conversations with him?

14 A I observed that he was being attentive. He was
15 paying attention. He was answering questions that
16 we were asking, participating in conversation.

17 Q Did y'all take a statement from him?

18 A Yes, that was the last thing we did. We took an
19 audio recording of his conversation.

20 Q Okay. And as a result of talking with him where,
21 if anywhere, did you go?

22 A We returned back to the residence of 415 West
23 Sumter Street which was the residence that he was
24 residing at that time.

25 Q What corner was that on?

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- 1 A Corner of Sumter and Sanborn.
- 2 Q Are you sure about the exact number of the house?
- 3 A I'm pretty sure [REDACTED] I know the corner of Sumter
4 and Sumter and Sanborn.
- 5 Q It is the corner of Sumter and Sanborn?
- 6 A Correct.
- 7 Q And whose house was that?
- 8 A David Johnson.
- 9 Q Okay. Who took you there?
- 10 A David Johnson.
- 11 Q And what was his purpose for taking you there?
- 12 A He stated that there were some items located at
13 the residence that came from the victim's residence.
14 He wanted to show — he voluntarily wanted to show
15 us where the items were at.
- 16 Q And where were those items?
- 17 A If you go around to the rear of the residence by
18 a little back porch stoop type there was a crawl
19 space at the edge of the house, right at the edge of
20 a crawl space.
- 21 Q And what did you find there?
- 22 A If I remember it was like maybe two DVDs, VCRs,
23 electronic equipment, several items of electronic
24 equipments.
- 25 Q And who did you have recover those?

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1 A Well, when we first saw the two items, when I
2 first saw the items I didn't go -- didn't do
3 anything, notified crime scene. Corporal Hill with
4 the crime scene unit, he responded to that location.
5 Told him what we had, I advised him what we had. He
6 took possession of all the items at that time.

7 Q And tell me, Sergeant Drayton, what if anything,
8 did you and Compton and Godwin do to threaten or
9 coerce or scare Mr. Johnson into taking y'all out
10 there to Sumter and Sanborn?

11 A Absolutely nothing. He volunteered to show us.

12 Q All right. And who did he say put those items
13 out there?

14 A If I recall correctly he said that other
15 individuals the other involved with this may be
16 Rashawn, Rakim -- I'm not sure, but he said other
17 individuals that was with him, that he didn't do it.

18 Q Okay, all right. Did you ever have occasion to
19 go to -- well, let me ask you this first, did you
20 know where Mr. Amp Wilson lived?

21 A Did I know?

22 Q Yeah.

23 A At the time, no, we didn't.

24 Q Did you find out after talking to him?

25 A Not after talking to Mr. Johnson.

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1 Q Okay.

2 A How we located Mr. Wilson, we got information,
3 name of his mother. We went to an area in east
4 Florence side of town. It took us a while to find
5 his mother, but we located her. And she directed us
6 where he was at, that he was located in the Magnolia
7 Trace Apartments located at Oakland Avenue with some
8 individuals there. That's where we located him.

9 Q But where did he live with his mother?

10 A His mother's address was on Palmetto Street if
11 I'm not mistaken; but the address where he was,
12 where we locate him at, was off Royal Street, the
13 Magnolia Trace Apartments. That's where he was
14 located at.

15 Q All right. What, if anything, related to this
16 incident was recovered from his mother's home on
17 Palmetto Street or where you located him at Magnolia
18 Trace Apartments?

19 A There were no items related to this incident
20 recovered at either location.

21 Q All right. Did you have occasion to go to or
22 send anyone to Stackley Street?

23 A Yes, sir, I responded to Stackley Street as well.

24 Q Why did you go to Stackley Street?

25 A If I'm not mistaken, the morning of the 29th --

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1 this incident occurred on the 24th, 25th, we
2 responded the 25th. The morning of the 29th, I was
3 at home getting dressed prepared to come to work on
4 day shift. It was -- normally our hours begin at
5 8:30 in the morning. I -- I can't remember exact
6 what time, it was before 8:30. I got a call at home
7 to respond to Stackley Street. And it was in
8 reference to one of the individuals we were looking
9 for, individual by the name of Rakim Floyd may --
10 that he may have been located in an abandoned
11 apartment on Stackley Street.

12 Q And did you find Rakim Floyd at Stackley Street?

13 A Yes, sir, we did.

14 Q What was he doing there?

15 A When I walked in I was one of the first ones to
16 go in behind one of the uniform patrol guys. He was
17 lying on a mattress on the floor asleep.

18 Q Okay. What, if anything, property wise was there
19 that relates back to Ms. Hayes, her car, or her home
20 at Liberty Street?

21 A There were no items we could relate back to
22 Ms. Hayes, Liberty Street, or her car.

23 Q Nothing?

24 A Nothing, no items.

25 Q All right. Beg the Court's indulgence a moment.

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1 Sergeant Drayton, what were any remaining leads at
2 that time, 2008, that were left to be followed up
3 on, if any?

4 A There was none. We exhausted all leads we had at
5 that time.

6 Q When did anything else come to light to followup
7 on any other leads?

8 A I don't recall the exact date, but it was
9 sometime, latter part of maybe in October 1st, first
10 part of November of 2011 when we received some
11 information that to speak with attorney by the name
12 of Guy Ballenger, the attorney of Mr. Wilson.

13 Q All right. As a result of talking with
14 Mr. Ballenger and Mr. Wilson, what did you do or
15 what did you have forensics do?

16 A We resubmitted some evidence that was collected
17 and initially was provided to SLED. We resubmitted
18 some evidence to SLED for further analysis.

19 Q And what did you submit with that for comparison,
20 from what individual?

21 A We submitted a what we call a buccal swab from an
22 individual for comparison.

23 Q And who was that individual?

24 A Mr. Gregory Montgomery.

25 Q All right. Had you ever heard Gregory

SW - L. DRAYTON - DIRECT

1 Montgomery's name before in this?

2 A Going back in direct -- early in investigation
3 we -- I heard a name, nickname G or Greg, but we had
4 no idea who it was. But the full name Gregory
5 Montgomery, we didn't know who that was until we
6 spoke with Mr. Ballenger.

7 Q And earlier in the investigation where did you
8 get the name, who mentioned the name Greg and said
9 his nickname was G?

10 A Greg and G, that would have come from David
11 Johnson.

12 Q Okay. And who did David Johnson refer to him as?

13 A His cousin.

14 Q Okay. Now I want to back up now, if I may, to
15 the statement that you said you took from Mr. David
16 Johnson.

17 A Yes, sir.

18 Q How did y'all take this statement and maintain
19 it?

20 A It was a -- the statement was a recorded audio
21 statement that was a department issued voice
22 recorder each investigator is issued. Once we --
23 the statement was recovered, was secured, the
24 statement was then taken to crime scene or crime
25 scene unit; I can't remember which one. The crime

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1 scene tech we gave it to with the protocol, and we
2 did follow the protocol. We would give that
3 statement to, the tape recorder, to one of the crime
4 scene techs. They will take that statement,
5 download it to their computer system. I can't tell
6 you exactly how they do it, with the investigation
7 part of it, let them do their part. And
8 subsequently it will be given to a secretary, if you
9 will, type within the police department. She will
10 then transcribe it. And then you will have a, the
11 transcription, which would be what we call the hard
12 copy. Then you also have the digital part on a CD
13 and we place it in evidence.

14 Q All right. I'm gonna show you what's State's
15 Exhibit 116, and you know what this is?

16 A Statement of David Johnson.

17 Q In CD form?

18 A In CD form, yes, excuse me.

19 Q Now while y'all were talking to him would y'all
20 talk to him before y'all cut on the recorder?

21 A Yes, sir, it's suggested -- and we follow this
22 protocol, this practice. Even though Lieutenant
23 Compton had already spoke with him and advised us
24 things that were said, myself and Sergeant Godwin
25 were the co-lead investigators in this case so what

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1 we did was re-interview him in a interview status,
2 advise his rights by Sergeant Godwin before we
3 interviewed him. And we just talk about the entire
4 case, talk about the entire incident.

5 Q Let me stop you right here. Did Compton to your
6 knowledge do a full interview or just get some
7 information?

8 A I'm not sure how much he got, but there more came
9 out the interview we came to talk with him.

10 Q Okay, all right. Please continue. I didn't mean
11 to interrupt you.

12 A Yes, sir. And at some point -- and there's never
13 a time limit when you're interviewing someone.

14 They're never a time limit on it. And we felt like
15 there was nothing else to ask or anything else he
16 could assist as far as statements he was giving. We
17 asked him did he mind we record the conversation.

18 He stated no at that time so he was advised of his
19 Miranda warnings, his rights again, and we recorded
20 the statement.

21 Q All right. What else, if anything, in addition
22 to reading his Miranda rights do you do to make sure
23 his rights are protected? Do you get him to do
24 anything?

25 A Yes. During one of those times his rights was

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1 read to him by Sergeant Godwin. It was read from a
2 form we call -- it's a local form issued by the
3 Florence Police Department called a waiver of rights
4 form where ---

5 Q Well, if I might -- and excuse me for
6 interrupting you, pass to you State's Exhibit 120.
7 Can you identify that.

8 A Yes, this is the waiver of rights form that was
9 read to him.

10 Q All right. And are there any names or signatures
11 on that?

12 A The first name it was -- it says: I, David
13 Johnson, which Mr. David Johnson print his name.

14 Q Did he do that in your presence?

15 A Yes, he did.

16 Q Okay.

17 A And then after the conclusion of the statement
18 there's a portion, a place for Mr. Johnson to have
19 signed his name, which he did in my presence. It's
20 dated. Sergeant Godwin signed it and I signed it.

21 Q Where did Sergeant Godwin sign it?

22 A Sergeant Godwin's signature is directly up
23 Mr. Johnson signature, then my signature under
24 Sergeant Godwin signature.

25 Q Was that done in your presence?

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1 A Yes, sir, it was.

2 Q Okay. What was the date on this?

3 A The date was August the 27th, 2008.

4 Q All right. Why do you do this?

5 A It's a matter of documentation in reference to
6 provide if we need any further -- that we did advise
7 individual of his constitutional rights, and he did
8 sign a waiver indicating he understood his rights
9 and was willing to talk to us without attorney
10 present.

11 Q What was your conclusion and your observation of
12 Mr. Johnson understanding what y'all were talking to
13 him about?

14 A It appeared to me at the time and throughout the
15 statement that Mr. Johnson clearly understood his
16 rights and didn't have any problems or answering any
17 questions or giving the statement free and
18 voluntarily.

19 Q And what caused you to draw that conclusion?

20 A Just based on his response. We'd ask him a
21 question; he would respond back. He didn't ask us
22 to repeat over and over again. Seemed he understood
23 our questions like several, many, many interviews
24 that I've conducted before, statements I received
25 before. There was nothing different than from any

SW - L. DRAYTON - DIRECT

1 of the others.

2 Q What, if any, inappropriate responses either
3 verbally or by his body language did he give?

4 A None.

5 Q All right. Have you ever encountered people to
6 give inappropriate response?

7 A Yes, sir, I have.

8 Q When that happens and you interview them what did
9 you do?

10 A Just stop the interview.

11 Q Okay. Was there anything or not that occurred
12 with Mr. Johnson that caused you to hesitate or
13 caused you to want to stop and make sure what was
14 going on?

15 A No, sir, there was nothing, no indication Mr.
16 Johnson gave that he did not understand what was
17 being said, what, didn't understand his rights.

18 Q Let me ask you this, how about what he said to
19 you? Were you able to understand what he was saying
20 to you?

21 A Yes, sir.

22 Q Okay. What, if anything, was done that could
23 have scared Mr. Johnson or threatened him or coerced
24 him or beat down his will to get him to talk to
25 y'all?

SW - L. DRAYTON - DIRECT

- 1 A Nothing.
- 2 Q What did he do, if anything, that was voluntary
3 to you?
- 4 A First thing we took knowledge that he understood
5 his rights the first time. Sergeant Godwin read
6 them to him. To answer questions during the
7 interview, to sign the waiver of rights form, to --
8 the third time he advised Sergeant Godwin that he
9 did understand his rights. And during the
10 statements he answered all the questions freely and
11 voluntarily. He answered the questions when he was
12 asked. And made statements freely. Some portion of
13 his statement there was like we asked a question he
14 would like give a brief sentence or a bullet
15 comment, if you would, and at some portion of his
16 statement he would actually go into details about
17 the event.
- 18 Q All right. And what did he do, if anything,
19 physically to followup on things that he told you?
- 20 A From information he provided us?
- 21 Q Yeah. From information he provided you, what did
22 he do to actually physically followup on what he
23 told you to show you --
- 24 A He showed us -- he took us to two locations.
- 25 Q Okay.

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1 A He directed us to two locations based on his
2 statements.

3 Q And the first location was?

4 A The dirt road portion of Malloy Street.

5 Q Where the ---

6 A Where Ms. Hayes' body was located.

7 Q And what was the second location?

8 A To his residence where items that came from his
9 Ms. Hayes' residence was located.

10 Q All right.

11 MR. CLEMENTS: Your Honor, at this time
12 we'd ask the Court's permission to publish State's
13 Exhibit 116, which is the statement of David Johnson
14 dated August 27th, 2008.

15 THE COURT: All right. I'm going to note
16 your objection to that, Mr. Hoffmeyer.

17 MR. HOFFMEYER: Yes, sir.

18 THE COURT: Which the Court has overruled
19 but it's noted for the record, and I'm going to
20 allow you to play it.

21 MR. HOFFMEYER: Thank you, sir.

22 (State's 116, audio statement of David Johnson, was
23 played for the jury.)

24 BY MR. CLEMENTS:

25 Q Suspect Drayton, who did you talk to first?

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- 1 A Rakim Floyd.
- 2 Q Who second?
- 3 A Rashawn Bailey.
- 4 Q Who third?
- 5 A David Johnson.
- 6 Q Who last?
- 7 A Well, the next ---
- 8 Q The fourth ---
- 9 A ---would have been ---
- 10 Q In 2008 who did you talk to last?
- 11 A Anthony Wilson and then Rakim Floyd.
- 12 Q And then in 2011 you talked to who?
- 13 A Gregory Montgomery.
- 14 Q How old was Rakim Floyd at that time?
- 15 A 14 years of age.
- 16 Q How old was Anthony Wilson at that time?
- 17 A 14 years of age.
- 18 Q How old was Rashawn Bailey at that time?
- 19 A 19 years of age.
- 20 Q And how old was David Johnson at that time?
- 21 A 22 years of age.
- 22 Q Thank you. Please answer any questions
- 23 Mr. Hoffmeyer has.
- 24 THE COURT: Before we do that, ladies and
- 25 gentlemen, I'm gonna get you to step into your jury

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1 room. I have a matter of law I need to take up.
2 Have no conversation about the case. Let Mr. Propps
3 know if you need anything. And this will just be a
4 short break.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 2:53 p.m., and the following
7 proceedings commenced in open court.)

8 THE COURT: All right, Mr. Hoffmeyer.

9 MR. HOFFMEYER: Thank you.

10 **PROFFER EXAMINATION**

11 BY MR. HOFFMEYER:

12 Q Sergeant Drayton, you testified a little while
13 ago now about the statement you took from my client
14 Mr. Johnson?

15 A Yes, sir.

16 Q And at that time you had no knowledge of his
17 intellectual disability back in 2008, did you?

18 A I did not.

19 Q Okay. And I'm sure when you interview folks you
20 want to make sure they understand the statement,
21 understand what they're doing when they give you a
22 statement; is that right?

23 A That's correct.

24 Q And you would -- if you were aware of someone's
25 intellectual disability that is something you would

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1 consider when you take a statement from them; is
2 that right?

3 A That's right.

4 Q Okay. And now -- but before I get there, if you
5 were aware of mental disability would you take
6 further steps before interviewing a person to make
7 sure they understood?

8 A If I believe the person did not understand the
9 questions.

10 Q Okay. If it raised a concern to you?

11 A Yes, sir.

12 Q And now you are aware having been present and by
13 the State's own expert, that my client suffers from
14 a mental retardation intellectual disability.

15 You're aware of that; is that right?

16 A Based on statements from experts, yes.

17 Q Yes, sir. And if you had been aware of his
18 intellectual disability at the time that you took
19 the statement in 2008 that you are aware now, would
20 you have gone further to make sure he understood his
21 rights?

22 A I would have did nothing different than what we
23 did that night.

24 Q Thank you, sir. I don't have anything.

25 THE COURT: All right. And just to

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1 reiterate the Court's ruling, you will obviously be
2 allowed to ask him about what he knew about his
3 educational background, his schooling, his abilities
4 to read, write, whatever. Where the line is and
5 where it has been throughout the case was any
6 references of you putting in any evidence that he
7 has an intellectual disability.

8 MR. HOFFMEYER: Yes, sir.

9 THE COURT: So anything short of that
10 you're certainly free open to ask.

11 MR. HOFFMEYER: Thank you.

12 THE COURT: Okay.

13 (WHEREUPON, a recess was taken from the
14 proceedings.)

15 THE COURT: Mr. Propps, if you will please
16 ask the jury to join us please.

17 (WHEREUPON, the jury was returned to the
18 courtroom at approximately 3:04 p.m., and
19 the following proceedings commenced in
20 open court.)

21 THE COURT: All right. Thank you, ladies
22 and gentlemen for your courtesy. We'll now
23 recognize Mr. Hoffmeyer for his cross-examination.

24 MR. HOFFMEYER: Thank you.

25 **CROSS - EXAMINATION**

SW - L. DRAYTON - CROSS

1 BY MR. HOFFMEYER:

2 Q Officer Drayton, I just have a few questions for
3 you I believe. First of all, I'd like to take you
4 back to that, to the statement for just a few
5 moments. It's my understanding and I believe this
6 has been testified to and you're probably aware that
7 this statement was taken, recorded statement was
8 taken at 3:15 a.m., correct?

9 A The recorded statement, yes, sir.

10 Q Yes, sir. And Officer Drayton, my client had
11 been there from 4 to 4:30 in the afternoon through
12 on up to midnight, 3:15 a.m. is when the recording
13 started, correct?

14 A That's correct.

15 Q Now the statements that were taken from my client
16 Mr. Johnson before the recording started were not
17 recorded in any form or fashion, were they?

18 A That's correct; they were not.

19 Q Okay. And y'all didn't even take notes of what
20 he was saying at that time that you can provide for
21 me to look at; is that right?

22 A That's correct.

23 Q Now as far as what occurs, the Miranda rights are
24 read and you were present for that at least when
25 Officer Godwin was reading them and my client

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1 indicates he understands and therefore you go
2 forward with the statement; is that right?

3 A That's correct.

4 Q And you didn't do anything further or other than
5 that to make sure he understood, did you?

6 A No, sir.

7 Q Now with regard to my client, at that time you
8 had no knowledge of his educational background, did
9 you?

10 A No, sir, I did not.

11 Q You wouldn't have had knowledge of in writing his
12 name whether he could read or write, would you?

13 A No, sir, I would not.

14 Q And you would not have had any knowledge if he
15 was in special educational classes in school, would
16 you?

17 A I would have not.

18 Q And you would have not had any knowledge if he
19 was suffering from mental retardation or
20 intellectual disability, would you?

21 A I would have not.

22 Q And if someone is suffering from mental
23 retardation or has problems mentally you go further
24 to make sure they understand their rights; don't
25 you?

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1 A That's correct.

2 Q Now Officer, as far as my client you have
3 indicated that he gave you this statement, and in
4 fact, it seems that you were telling us on direct
5 examination that he was very cooperative; isn't that
6 right?

7 A That's correct.

8 Q And when you would ask a question or Officer
9 Godwin would ask a question he would do the best he
10 could to answer, by what you were seeing?

11 A That's correct.

12 Q And in fact, he gave you a statement that aided
13 your investigation; didn't he?

14 A It assisted with the investigation and
15 corroborated with information we'd already received,
16 yes, sir.

17 Q Well, you weren't aware where Ms. Hayes was at
18 that time ---

19 A That's correct.

20 Q ---before he told you?

21 A That's correct.

22 Q You didn't know?

23 A That's correct.

24 Q And in fact, you'd been looking at a house on
25 Washington Street; hadn't you?

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1 A That's correct.

2 Q And not only that he cooperated to the extent as
3 you told us, he took you over to his dad's house?

4 A That's correct, he did.

5 Q Now you had met with Rasheem, or Rakim I believe
6 it is, Bailey before you talked to my client; didn't
7 you?

8 A Yes, sir.

9 Q And you were meeting with him when my client
10 first got there, is that right, approximately?

11 A That's correct also.

12 Q And so you had been -- if this statement was
13 taken at 3:15 a.m. you had been discussing the ins
14 and outs of the case to a certain extent with Rakim
15 Bailey for hours; is that right?

16 A That's correct.

17 Q I believe it's Rashawn Bailey; is that correct?

18 A Rashawn, yes, Rashawn Bailey.

19 Q I apologize. I got you. Now you also took a
20 statement from Anthony Wilson in the case, right?

21 A Yes, sir.

22 Q And that statement was taken on August 27th,
23 2008; wasn't it?

24 A That's correct.

25 Q With regard to what you have told us in terms of

SW - L. DRAYTON - CROSS

1 finding things, I believe you discussed with us that
2 there were two necklaces and credit cards found at
3 Ms. Mitchell's house; is that right?

4 A That's correct.

5 Q And that was Ms. Lilly Mitchell; is that right?

6 A It's Lilly or Leia Mitchell. It's the mother of
7 Terrance Mitchell and the stepmother of Rashawn
8 Bailey.

9 Q Mother of Terrance Mitchell and mother of Rashawn
10 Bailey; is that right?

11 A Yes, stepmother. Mother/stepmother, yes, sir.

12 Q And isn't that where my client told you you'd
13 find those things?

14 A No, sir.

15 Q Didn't he say Ms. Lilly?

16 A He didn't tell us that's where we found if I
17 remember correctly. He did not tell us that's where
18 it was found. How I found out they were there I
19 received a phone call. I don't know if it's hearsay
20 or not. I received a phone call from ---

21 Q Well, just don't tell me what they said. You
22 received a phone call?

23 A Yes, sir.

24 Q Well, do you remember in his statement saying
25 that Anthony Wilson took the necklaces and the

SW - L. DRAYTON - CROSS

1 credit cards to Ms. Lilly's, do you remember that?

2 A Yes, sir, I do.

3 Q Do you know whether that was Ms. Lilly Mitchell?

4 A He was saying the same person.

5 Q It was the same person?

6 A I believe the same person, yes, sir.

7 Q So he told you that Anthony Wilson had taken
8 those things to the Mitchell residence which turned
9 out to be true?

10 A During his statement he made mention the stuff
11 was taken there. Later on it turned out to be true,
12 yes, sir.

13 Q So he was being truthful and cooperative about
14 that as well; wasn't he?

15 A The information he gave was turned out be true
16 that was there, yes, sir.

17 Q Wasn't he cooperative?

18 A He was cooperative.

19 Q Thank you. Now Rashawn Bailey lived there and
20 Terrance Mitchell, right, with Ms. Mitchell?

21 A Yes, sir, that's correct.

22 Q And you went over there to the residence at some
23 point; didn't you?

24 A Yes, sir.

25 Q And I believe you told us on direct that when you

SW - L. DRAYTON - CROSS

1 went over there you saw Rashawn Bailey there; didn't
2 you?

3 A No, sir.

4 Q You did not?

5 A No, sir.

6 Q Didn't you see Rakim Floyd there?

7 A Rakim Floyd.

8 Q Okay, you saw Rakim there?

9 A Yes, sir.

10 Q And you also saw Anthony Wilson there; didn't
11 you?

12 A Yes, sir.

13 Q Okay. So you find these things from the victim's
14 residence at a home where Rakim Floyd and Anthony
15 Wilson are there, right?

16 A They were not there at the time, but they were
17 there prior to.

18 Q Prior to you going and getting the stuff?

19 A Yes, sir.

20 Q So Rakim Floyd and Anthony Wilson were there at
21 that residence prior to your finding the items from
22 the victim's residence, right?

23 A Yes, but Mr. Johnson also stated he was there at
24 one time also.

25 Q Well, you didn't tell us that on direct. Now you

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1 remember that?

2 MR. CLEMENTS: Your Honor, I object to
3 this line of questioning at this point. I think it
4 was an objection to the question I asked about
5 that, and we didn't go any further at that time.

6 MR. HOFFMEYER: We're talking about the
7 defendant ---

8 THE COURT: Come on up.

9 (WHEREUPON, counsel approached the Bench
10 for an off-the-record discussion.)

11 THE COURT: All right.

12 BY MR. HOFFMEYER:

13 Q Now you said as you just told us that my client
14 said he'd been to the Mitchell residence too; is
15 that right?

16 A That's correct.

17 Q And he told you that?

18 A That's correct.

19 Q So he cooperated with you there too; didn't he?

20 A By telling us he was at the residence, yes, sir.

21 Q Yes, sir. And we also found out these two other
22 individuals was there and Rakim Floyd lived near
23 there, is that correct, on Liberty Street?

24 A That's correct.

25 Q And of course, Rashawn, who you said was not

SW - L. DRAYTON - CROSS

1 there at that time, lived with his mother obviously
2 right there on Liberty Street, correct?

3 A That's correct.

4 Q And that bloody -- those bloody items found in
5 the bag was found in close proximity to, well
6 relatively close, half a block or block from Ms.
7 Mitchell's house, right?

8 A That's correct.

9 Q Now when it comes to your going over to Stackley
10 Street you went over there; didn't you?

11 A I did.

12 Q It was an abandoned house; wasn't it?

13 A Correct, apartment, yes, sir.

14 Q It was abandoned except Rakim Floyd was there,
15 correct?

16 A Correct, he was in the apartment.

17 Q And Rakim Floyd had shaved his head; hadn't he?

18 A That's correct.

19 Q And with Rakim Floyd were clothings and a
20 clothing and a backpack, correct?

21 A That's correct.

22 Q And Rakim Floyd was hiding from law enforcement;
23 wasn't he?

24 A I'm not saying he was hiding from law
25 enforcement. He was found in that abandoned

SW - L. DRAYTON - CROSS

1 residence.

2 Q Okay. You're not telling this jury he was hiding
3 from law enforcement; but he was found in an
4 abandoned residence with a shaved head, with a
5 backpack, and clothing, right?

6 A That's correct.

7 Q Now the Solicitor asked you about submitting
8 items from Gregory Montgomery that showed up over
9 three years later to talk with y'all to SLED, the
10 buccal swabs?

11 A Yes, sir.

12 Q You didn't submit any fingerprint evidence from
13 Mr. Gregory Montgomery, did you?

14 A No, sir, we did not.

15 Q If you'll excuse me one second.

16 MR. HOFFMEYER: Your Honor, if you'd
17 indulge me one second.

18 THE COURT: Yes, sir.

19 MR. HOFFMEYER: Thank you very much,
20 Officer Drayton. I don't have anything further.

21 THE WITNESS: Thank you, sir.

22 THE COURT: Redirect?

23 MR. CLEMENTS: Yes, Your Honor. Please
24 the Court.

25 **REDIRECT EXAMINATION**

SW - L. DRAYTON - REDIRECT

1 BY MR. CLEMENTS:

2 Q Sergeant Drayton, Mr. Hoffmeyer just asked you
3 about the bloody pillows and the plastic bag that
4 was found in close proximity to the house. Well,
5 can you tell this jury how close was that plastic
6 bag, black garbage bag where pillows found to where
7 David Johnson parked the car on Roughfork Street?

8 A I would probably say probably about the same
9 distance.

10 Q About the same ---

11 A The same distance. Where the car was parked, if
12 you would go to the rear of the apartment complex
13 and take a path it would lead to the rear of the
14 apartment duplex. And from that duplex where one of
15 the individuals live at. It's about the same
16 distance to where Ms. Hayes house was at,
17 approximately the same distance.

18 Q All right. Now he asked you about the credit
19 cards and necklaces and what turned out to be true.
20 And I want to ask you specifically, what turned out
21 to be true, that they were there or that David
22 took -- I mean, that Amp took them?

23 MR. HOFFMEYER: Your Honor, I object to
24 that. That's causing, I mean, that's speculative
25 and asking him what's true and what's not true.

SW - L. DRAYTON - REDIRECT

1 That's for the jury to decide.

2 MR. CLEMENTS: Your Honor, he asked him
3 wasn't it true —

4 MR. HOFFMEYER: Your Honor, we need to
5 approach.

6 THE COURT: All right, come up.

7 (WHEREUPON, counsel approached the Bench
8 for an off-the-record discussion.)

9 BY MR. CLEMENTS:

10 Q Sergeant Drayton, Mr. Hoffmeyer asked you about
11 what David Johnson told you about the necklaces and
12 the credit cards and being at Ms. Leia Mitchell's.
13 And where did you find the credit cards at Leia
14 Mitchell's? Where did you find the credit cards and
15 the necklaces?

16 A At Leia Mitchell's residence.

17 Q What knowledge do you have whatsoever about who
18 might have took them there?

19 A Absolutely none. Actually when I asked — I
20 asked direct question does she know who brought them
21 in the house.

22 Q Don't tell me what anyone said.

23 A We were not able to determine where the items
24 came from, only that they were recovered from that
25 location.

SW - L. DRAYTON - REDIRECT

1 Q Okay. And again just, who all had been in that
2 house?

3 A Our investigation revealed that -- during our
4 investigation it was determined that all the
5 individuals that have been charged to include David
6 Johnson was in the house at some time.

7 Q Thank you. Sergeant Drayton, that's all we have
8 right now. Thank you very much.

9 THE COURT: All right, anything further,
10 Mr. Hoffmeyer?

11 MR. HOFFMEYER: No, sir.

12 Thank you, Officer Drayton.

13 THE WITNESS: Thank you.

14 THE COURT: Thank you, sir. You may step
15 down.

16 MR. CLEMENTS: At this time, Your Honor,
17 the State rests.

18 THE COURT: All right. Ladies and
19 gentlemen, the State has rested their case. It
20 requires me to take up matters of law at the close
21 of the State's case so I know you about to feel like
22 a yo-yo back and forth but I am gonna need to ask
23 you to step into the jury room. Do not discuss the
24 case and I'll get you back out here shortly after I
25 take up these matters of law.

1 past and more recently today twice.

2 THE COURT: All right, and what is the
3 decision?

4 MR. HOFFMEYER: Your Honor, my client
5 Mr. Johnson will not testify.

6 THE COURT: All right.

7 MR. HOFFMEYER: Chooses not to.

8 THE COURT: All right, Mr. Johnson, let me
9 get you to stand. I'm gonna just talk with you. I
10 know you've already discussed this with Mr.
11 Hoffmeyer, but I'm gonna go over some things with
12 you too, okay? Now do you understand through
13 talking with Mr. Hoffmeyer that if you wanted to
14 testify that you have the right to do that, you
15 understand that, correct?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Johnson, let me get you to
18 give Madam Clerk your attention. She's going to
19 place you under oath, and then I'm gonna ask you
20 some questions.

21 THE CLERK OF COURT: Please raise your
22 right hand please.

23 WHEREUPON,

24 **DAVID JOHNSON,**
25 having been duly sworn by the Clerk of Court,

1 testified as follows:

2 THE COURT: And so you understand that if
3 you -- if it was your decision or your desire to
4 testify you could do that if you wanted to. You
5 understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. And you also have the
8 right to remain silent. You have the right under
9 the constitution to not testify. You understand
10 that as well?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Now Mr. Hoffmeyer has
13 indicated to the Court that you have decided that
14 you will not testify. Now you understand, sir, that
15 what I'm gonna do is when it comes time for me to
16 give the jury the instructions on the law, I'm gonna
17 instruct the jury that the State has the burden of
18 proof and that you don't have to prove anything.
19 Okay? And I'm gonna tell them that you have the
20 right to remain silent. And the fact that you have
21 decided to remain silent, that they cannot hold that
22 against you in any way. You understand I'm gonna
23 tell them that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: I'm also gonna tell them that

1 the fact that you decided to exercise your right to
2 remain silent, that they cannot even talk about it
3 in the jury room. In other words, they're not to
4 consider that at all, and I'm gonna instruct them
5 that. You understand that, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Now the decision,
8 Mr. Johnson, to remain silent or to testify, that's
9 a decision that has to be your decision. You
10 understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: No one can make that decision
13 for you. Mr. Hoffmeyer is your lawyer and he gives
14 you his advice. He gives you his thoughts about it;
15 but what the point I'm trying to make is, he can't
16 tell you what to do. That has to be a decision that
17 you make on your own. You understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now you have indicated that
20 you wish to exercise your right and to remain silent
21 and not testify; is that correct?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Has that been your decision,
24 Mr. Johnson?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Has anybody forced you or
2 coerced you or threatened you in any way to get you
3 to make that decision?

4 THE DEFENDANT: No, sir.

5 THE COURT: That's been a decision you've
6 made on your own after ---

7 THE DEFENDANT: Yes, sir.

8 THE COURT: ---after talking with your
9 lawyer, correct?

10 THE DEFENDANT: Yeah.

11 THE COURT: Okay, all right, sir. Thank
12 you. You may have a seat.

13 Now Mr. Hoffmeyer, would there be any other
14 case that the Defense will put up, any other
15 witnesses?

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

17 THE COURT: All right. Let me suggest
18 this, let me bring the jury out, recognize you on
19 behalf of the Defense and allow you to rest on the
20 record. Then at that point I will instruct them
21 that that's the close of all the evidence and
22 basically give them some instruction before I send
23 them home, and we will do argument and charge the
24 first thing in the morning. We'll remain this
25 afternoon so we can go over the charge and do that.

1 wash up if you stab someone once and then walk away.
2 Well, it -- because he did more than that. As my
3 client told you he stabbed her multiple times. That
4 statement of my client that was taken at 3:15 a.m.
5 He's been with law enforcement 11 hours and 15
6 minutes, and the State nitpicks here and there,
7 picks this and that, whatever seems to fit; but he
8 was telling the truth. The forensic pathologist,
9 she was stabbed tragically 7 times, which is exactly
10 the type of thing that my client described for you
11 Anthony Wilson was doing.

12 Now as far as the bloody items that was found
13 in that bag, as I touched on they were found near
14 Rakim and Rashawn's house, what little we know about
15 them that the State has brought you. And the State
16 during questioning seems to want to infer that
17 during the evidence and trial of this case, well,
18 that would have been near where Mr. Johnson parked
19 the car too; wouldn't it? But Anthony Wilson who
20 was with, according to them, with my client at that
21 time never mentioned anything about that. He was in
22 the car according to them. He never mentioned
23 anything about my client having anything to do with
24 that bag.

25 And that brings up another interesting thing

1 about the car, what the evidence shows. That was a
2 lot of zeros that the Solicitor put up, a lot of
3 zeros. I was never good at math, still not good at
4 math, not sure how many zeros were there up but that
5 has nothing to do with this case, neither does the
6 fingerprint. Because my client has always admitted
7 he at one point later on after this tragic incident
8 after that night drove that car. And you know what
9 else he said? He said that he was the one that
10 parked the car on Roughfork Street so it would make
11 sense that his fingerprint would be there. It would
12 make sense that his DNA would be on the steering
13 wheel. They tell you, this stuff doesn't last that
14 long, it's one time. And one moment it's, oh, we
15 can't find this evidence, it's never there, it's
16 never there because it goes away. And another
17 instance, well, his DNA was there so he had to have
18 been driving the car the whole time? No. Because
19 see, it is sometimes a case as they told you where
20 DNA and things like that because of different
21 conditions go away. And so the last person that
22 would have parked the car is more likely to have a
23 fingerprint or that touch DNA, which is what he told
24 you he did. But that's a far cry from participating
25 in being involved with a murder and a armed robbery,

1 statement. We know based upon what he told us 14
2 year olds can do terrible, horrendous, evil things.
3 Would a 14 year old try and minimize what he did
4 even after he had admitted the terrible thing.
5 Would a 14 year old try and minimize, try to lessen
6 the terrible acts that he did? Of course we find
7 out again Rakim was there; now Rakim is not there.
8 We find out, well, from him my client allegedly used
9 a crowbar but then at trial. In this statement, no,
10 it was unlocked, we just pushed it up. Wants to
11 make sure he tells each of you that my client put a
12 pillow over her head, didn't mention it in his
13 statement. Not one word about that.

14 When you think about what he says he did,
15 does it make sense? Does it make sense that he
16 stabbed her, turned around, and handed a knife to
17 somebody? Or does it make sense that Ms. Hayes
18 would have tried to tell where her money was and ask
19 who is this, and the things that Mr. Johnson said.
20 As he told you he was standing in the door shaking
21 his head while this Anthony Wilson does these
22 terrible things. In hindsight, should he have tried
23 to stop him? No doubt. But that doesn't make him
24 guilty of what the State is trying to prove him
25 guilty of. How on earth could Anthony Wilson have

1 done that and then expect people to believe she just
2 laid there while we're doing it. Well, now it's all
3 of a sudden he put a pillow over her head, didn't
4 mention that in the statement.. And of course we
5 know, as I mentioned earlier, that he washed up
6 after this tragedy, this horrendous act. He also
7 said another interesting thing on the witness stand
8 when I was asking him why he told officers certain
9 things, why he said Rakim said, why he told them
10 things such as that, that now he's changing his
11 story. Which is it? He said, I told them,
12 referring to the officers, I told them what they
13 wanted to hear. I told them what they wanted to
14 hear. He's facing, Mr. Wilson, two life sentences,
15 plus even more time for the other crimes. You think
16 he has any motive now, any reason to tell the State
17 what they want to hear? But you folks don't let
18 witnesses get away with that. You people don't
19 allow that.

20 Now my client Mr. Johnson, David, after being
21 there with the officers eight plus hours before
22 meeting with Mr. Com-- before talking with Mr.
23 Compton, 11 plus hours before talking with Officers
24 Godwin and Drayton, tells them what occurred and
25 tells them he stood there and it happened and tells

1 them other things that made clear he was telling the
2 truth. He told them where some items Anthony Wilson
3 had put at his house, at my client's house, at
4 David's house. Would a 14 year old who is willing
5 to stab somebody take items and try to hide them
6 something else other than where his momma would see
7 them? Would he? My client didn't have to tell them
8 about it. He wanted to tell them about it so he
9 took them there and showed them. He had been to the
10 scene of where Ms. Hayes was taken. He told you
11 that in his statement. He couldn't believe what
12 happened in the house, but he told you in his
13 statement. And he took them there. Did he have to
14 do that? Could he send them to Washington Street as
15 they'd been before or somewhere else? No, he wanted
16 to take them there. Remember what Mr. Compton said,
17 he got up to take him. He got up to lead them to
18 her. That's credible. That's believable.

19 He also told them about the things at
20 Ms. Lilly's house. Now his statement was taken on
21 August 26th into the 27th I believe the testimony
22 was, shortly after this terrible thing. Where did
23 they find that stuff? At her house. So the things
24 that he told the officers, unlike these other
25 individuals, he not only told them but he showed

1 them. Of course he also told the officers again
2 truthfully, that he stood in that hallway and saw
3 what Anthony Wilson did and think how fast that's
4 happening, that terrible horrendous thing; but it
5 doesn't mean that he's guilty of murder under either
6 of the State's theory, theories, which again they
7 seem to say if not this, then that.

8 Now ladies and gentlemen, if your verdict was
9 to say to us and to the Hayes' family that this was
10 a terrible tragedy, everybody would certainly agree
11 with that. A verdict in this case though is about
12 whether they've proven him guilty beyond a
13 reasonable doubt. Your verdict cannot be based on
14 passion or sympathy because if it was -- if a
15 verdict particularly in this case with a lady like
16 Ms. Hayes, regardless of who is on trial, if it was
17 about passion or sympathy and compassion and being
18 sorry for this terrible loss to this family and her
19 loss herself, then clearly anybody should be
20 convicted. But this verdict has to be based upon
21 proof beyond a reasonable doubt that he's guilty of
22 the crimes. And so we know you will share with one
23 another, talk with one another, talk about this
24 evidence; and when you do you'll make that terribly
25 hard decision. It will be a decision that while

1 this case. While the Court has determined that the
2 statement is admissible, I instruct you that you
3 make the ultimate decision of whether or not the
4 defendant made the statement. If the defendant did
5 make the statement you must determine whether the
6 statement was made by the defendant voluntarily and
7 of his own free will. This means that the statement
8 was not caused by pressure, force, fear, threats,
9 coercion, or intimidation, or by hope or promise of
10 leniency or reward of any kind. In determining
11 whether the statement was voluntarily you should
12 consider both the characteristics of the defendant
13 and the details of the questioning. Some of the
14 factors that you may consider are the age of the
15 defendant, the defendant's education or lack of
16 education, the defendant's mental ability or
17 capacity, the defendant's IQ or intelligence, the
18 defendant's background, and the environment, the
19 place and the length of the detention, the nature of
20 the questioning, and the advice or the lack thereof
21 to the defendant of his constitutional rights;
22 including but not limited to, the right to remain
23 silent, that any statement could be used against him
24 in a court of law, the right to have a lawyer
25 present, that he would — that if he could not

1 afford a lawyer a lawyer would be appointed to
2 represent him without any cost, and that he could
3 stop making a statement at any time. The State has
4 the burden of proving beyond a reasonable doubt that
5 the alleged statement was made by the defendant and
6 that it was voluntarily given. You must carefully
7 consider all of the surrounding circumstances before
8 you give any weight to an alleged statement.

9 Now I instruct you and I emphasize that the
10 fact that the defendant did not testify is not a
11 factor to be considered by you in any way in your
12 deliberations and in your consideration on the
13 question of guilt or innocence of the defendant. It
14 must not be considered by you in any manner
15 whatsoever. A defendant has the constitutional
16 right to remain silent, and the assertion of that
17 right must not be considered by you in your
18 deliberations. I repeat, under your oath you are to
19 draw no conclusion whatsoever from the fact that the
20 defendant in this case did not testify. The fact
21 that this defendant did not testify should not even
22 be discussed in the jury room. The burden of proof
23 as I've stated to you is on the State. The
24 defendant is not required to prove his innocence.
25 The burden of proof remains on the State to prove

1 Carolina, County of Florence, Court of General
2 Sessions, Twelfth Judicial Circuit. State of South
3 Carolina versus David Gerard Johnson, indictment
4 number 2009-GS-21-1564: As to the count number one
5 of murder, we the jury, find the defendant David
6 Gerard Johnson guilty of murder; as to count two,
7 first degree burglary, we the jury, find the
8 defendant David Gerard Johnson guilty of first
9 degree burglary; as to count three, armed robbery,
10 we the jury, find the defendant David Gerard Johnson
11 guilty of armed robbery; as to count four,
12 possession of a weapon during the commission of a
13 violent crime, we the jury, find the defendant David
14 Gerard Johnson, guilty of possession of a weapon
15 during the commission of a violent crime; as to
16 count five, criminal conspiracy, we the jury, find
17 the defendant David Gerard Johnson guilty of
18 criminal conspiracy. Dated February 17th, 2012
19 signed Shannon Anderson, the forelady. Members of
20 the jury, if this is your verdict please raise your
21 right hand.

22 (All jurors complied by raising their hand.)

23 THE COURT: All right. Thank you very
24 much, ladies gentlemen. Y'all may have a seat.

25 Mr. Hoffmeyer, anything further for the jury,

1. stay there and view from the box if you want. So
2 I'm gonna leave that up to you. Whoever wants to go
3 may go, whatever you want to do. Stay can stay.
4 We're gonna just be at ease just a moment.

5 Solicitor, have you got sheets prepared?

6 MR. CLEMENTS: All done, Your Honor.

7 MR. HOFFMEYER: Your Honor, I do have a
8 post-trial motion.

9 THE COURT: Sure, absolutely. I was just
10 going to let things clear before we start back.

11 (WHEREUPON, a recess was taken from the
12 proceedings.)

13 THE COURT: Ladies and gentlemen.

14 MR. JEPERTINGER: Your Honor, I defer to
15 Mr. Hoffmeyer.

16 THE COURT: Mr. Hoffmeyer, I'll be happy
17 to take up any motions you have at the close of the
18 verdict.

19 MR. HOFFMEYER: Yes, sir, Your Honor. At
20 this time we would move for a new trial. Your
21 Honor, the basis for the new trial — well, there's
22 several bases. One, is the fact as you are aware I
23 made a motion in limine related to the statement of
24 my client which was allowed into evidence. That's
25 one reason. We would ask that in essence based upon

1 senseless and needless. I do not know why, what
2 goes on in the hearts of folks. This burglary could
3 have occurred by simply burglarizing this home and
4 leaving Ms. Hayes. There was nothing in the
5 evidence -- there's nothing that I'm aware of that
6 caused them to assault Ms. Hayes. She was, from
7 what I understand, actually asleep in her bed so she
8 wasn't bothering anybody.

9 There is a course of conduct, Mr. Johnson,
10 that we've seen from you. I heard all the testimony
11 and I heard all of the evidence regarding your
12 intellectual disability, and I have -- there's
13 nothing that I know of that would cause me to
14 question that at all. I don't question that. What
15 I do question is to the level that Doctor Price
16 seemed to think that disability, to the depth that
17 he seemed that disability went. I've spoken to you
18 on several occasions and asked you questions, and I
19 think you've understood my questions. You appear to
20 have understood them. I think you intelligently
21 answered the questions that I've asked of you. I
22 listened to the interview tape that you gave. I
23 don't believe there was -- I would agree with the
24 jury's assessment that that was a statement that was
25 voluntarily given. I do believe you understood your

1 rights and the way you responded to the questions
2 from law enforcement during that interview seemed to
3 show me that you understood their questions and your
4 responses were appropriate with regards to answering
5 those questions. And so although I do believe and I
6 understand that you may have some level of
7 intellectual disability as the doctors determined, I
8 do believe that you're clearly a competent
9 individual who understood the difference between
10 right and wrong and the consequence of your actions.
11 Believing that that leaves me only to the conclusion
12 that there's something evil, there's some level of
13 meanness that is there that is absolutely a danger
14 to this community. To go into a lady's home is bad
15 enough to do that, and then without any provocation
16 just decide to kill her in the manner in which she
17 was killed, and then to take on top of that the
18 disrespect to simply wrap her in a blanket and throw
19 her in the trunk of a car and toss her into a ditch
20 is unspeakable. There -- it's just difficult to
21 imagine on numerous levels.

22 And I understand you were not operating
23 alone, but what I do believe is that none of this
24 would have occurred but for your actions. And if
25 I'm wrong I apologize; but based on everything I

1 know about this case, those two 14 year olds didn't
2 go in there without some form of leadership from
3 you, and that 17 year old as well. And I just don't
4 understand it. Sometimes we say it in a joking way,
5 but the truth is it's not a joke. Sometimes there
6 are just some things we're not meant to understand.
7 One thing I do understand is that I don't believe
8 that you are someone that needs to be in this
9 community.

10 On indictment 2009-GS-21-1564, count one, the
11 count of murder, sentence of the Court is that you
12 be committed to the State Department of Corrections
13 for the remainder of your natural life without the
14 possibility of any parole. Count two of that
15 indictment, burglary in the first degree, sentence
16 of the court you be committed to the State
17 Department of Corrections for the remainder of your
18 natural life without the possibility of parole.
19 Those two sentences are to run consecutive to each
20 other. On indictment -- on that same indictment
21 count three, armed robbery, the sentence of the
22 court you are to be committed to the State
23 Department of Corrections for a period of 30 years.
24 On count five of the indictment, conspiracy, the
25 sentence of the Court that you be committed to the

1 State Department of Corrections for a period of five
2 years. The armed robbery and the conspiracy charge
3 are to run concurrent with the other two counts.

4 With regards to count four, the possession of
5 a weapon during the commission of a violent crime,
6 that carries a maximum penalty of five years.

7 However, if I'm not mistaken the law deems that to
8 be subsumed with the life sentence so I won't be
9 imposing a sentence on that charge. Good luck to
10 you, sir.

11 I want to thank Mr. Clements, Mr.
12 Jepertinger, Mr. Hoffmeyer, for the professional way
13 that you conducted yourselves throughout the trial
14 and the courtesies that you have shown to the Court
15 this week. It's been a very big help, and I
16 appreciate it very much with the way you conducted
17 yourselves.

18
19 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *
20
21
22
23
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Copy

ELC 09-1564

Beverly A. H. Buscemi, Ph.D.
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 David A. Goodell
 Associate State Director
 Operations
 Kathi K. Lacy, Ph.D.
 Associate State Director
 Policy
 Thomas R. Waring
 Associate State Director
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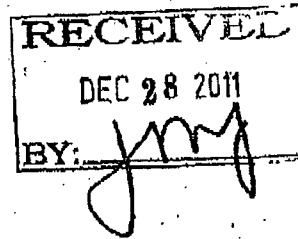


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December 22, 2011

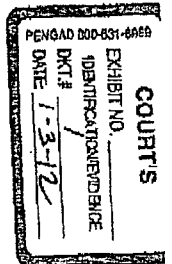
Mr. Ed Clements, III, Esq.
 12th Circuit Solicitor's Office
 180 N. Irby Street
 MSC-Q Room 1101
 Florence, SC 29501



Re: State v. David Gerrard Johnson
 Indictment # 2009-GS-21-1564
 Competency to Stand Trial Evaluation

Dear Mr. Clements:

This letter is in response to previous communications with you and W. James Hoffmeyer (Defense Attorney) regarding whether David Gerrard Johnson is intellectually disabled (mentally retarded) and therefore ineligible for the death penalty. Mr. Johnson was interviewed for a court-ordered evaluation of Competency to Stand Trial on December 6, 2011 by Alicia Hall, Ph.D., and by the undersigned. A second interview was necessary to complete that evaluation and has been scheduled for January 12, 2012. A complete report will be submitted upon completion of the evaluation, and this letter will not address the issue of whether the defendant is competent to stand trial.



In addition to giving an opinion regarding competency to stand trial, the Department of Disabilities and Special Needs (DDSN) is also required by S.C. Code Ann. §44-23-420 to render an opinion regarding whether or not a defendant meets the criteria for a diagnosis of intellectual disability (mental retardation). This letter is written to provide, as requested, advance notice of that opinion. Alicia Hall, Ph.D., is the lead examiner in this case, and she concurs with the opinion.

The S.C. Code Ann. §44-20-30 defines intellectual disability (mental retardation) as "significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period." It is our opinion that Mr.

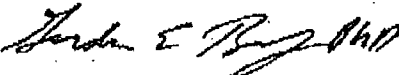
P.O. Box 239 Clinton, SC 29325-5328 Phone: (864) 938-3497	DISTRICT I Midlands Center - Phone: 803/935-7500 Whitten Center - Phone: 864/833-2733	1 9995 Miles Jamison Road Summerville, SC 29485 Phone: 843/832-5576	DISTRICT II Coastal Center - Phone: 843/873-5750 Pee Dee Center - Phone: 843/664-2600 Saleeby Center - Phone: 843/332-4104
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Johnson meets the criteria for a diagnosis of intellectual disability (mental retardation). This opinion is based on the following information:

1. Mr. Johnson received special education services beginning in the second grade and throughout school and was classified as Educable Mentally Disabled or as having a Mild Mental Disability, classifications which are generally most consist with a diagnosis of intellectual disability (mental retardation).
2. There are two complete psychoeducational evaluation reports (1993 and 1996) from the school district, with both indicating concurrent deficits in intellectual and adaptive functioning.
3. Information provided by defense counsel includes results of a privately obtained psychological evaluation in 2011, and those results are consistent with previous test results.
4. Mr. Johnson's performance in the interview on December 6, 2011 was consistent with mild mental retardation as he appeared to be putting forth a good effort but having difficulty with some of the material being discussed.

It is the opinion of the examiners that the preponderance of the evidence clearly supports a diagnosis of intellectual disability (mental retardation).

Sincerely,



Gordon E. Brown, Jr., Ph.D.
Chief Psychologist-Clinical Services

cc: Mr. W. James Hoffmeyer, Esq., Attorney for Mr. Johnson

FLORENCE POLICE DEPARTMENT

INDIVIDUAL GIVING STATEMENT: David Johnson
DETECTIVE TAKING STATEMENT: Det. M. Godwin
REFERENCE: 2008-008466
DATE AND TIME OF STATEMENT: August 27, 2008/3:15 a.m.
PAGE #: 1

Godwin: Today's date is August the 27th. It is 3:15 a.m. We're here at the Florence Police Department in the conference room. With me, this is Detective Godwin; with me is Detective Sergeant Compton, Detective Sergeant Larry Drayton and Mr...

Johnson: David.

Godwin: Speak up a louder sir.

Johnson: Mr. David.

Godwin: Alright sir you signed a Waiver of Rights Form. This is concerning the case number 8466, a Burglary that occurred on _____ where the home owner, Ms. Willie Mae Hayes, was assaulted and killed. Sir what I'm gonna read to you is your Miranda Warnings. Once I complete them I need you to answer whether you understand them or not, okay. You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to talk to an attorney and have him or her present with you while you're being questioned. If you cannot afford to hire an attorney, one will be appointed to represent you before any questions, if you want. You can decide at any time to exercise these rights and not answer any questions or make statements. Do you understand these rights as I have explained them to you?

Johnson: Yes sir.

Godwin: Having these rights in mind do you wish to talk to us now?

Johnson: Yes sir.

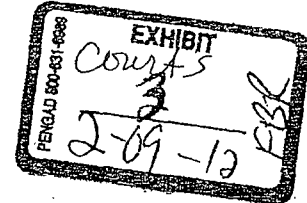
Godwin: Alright. Mr. Johnson.

Johnson: Yes sir.

Godwin: On August the 24th, can you tell me what happened over at _____ . And you also signed a Waiver of Rights Form. Is that correct?

Johnson: Yes sir.

Godwin: Alright. Speak clearly please.



Johnson: Go?

Godwin: Yeah, go ahead.

Johnson: I ain't, I ain't, I ain't know how...

Godwin: Just ahead. You, you and who was over at West Liberty Street...

Johnson: Okay me, Amp, Rakeem was on Liberty Street and ...

Godwin: What's, what's Amp real name?

Johnson: I don't know his, I don't know his real name. The only person know his whole is uh Terrence.

Godwin: What about Rakeem?

Johnson: Terrence know his whole name. Rakeem, I don't know his whole name either. I just know the first name.

Godwin: Okay.

Johnson: Of him and uh Rashawn.

Compton: What does he go by. What's, what's his nickname?

Johnson: I don't know that either.

Compton: You, you told me earlier.

Johnson: Who Amp?

Compton: No, no, no. Rakeem.

Johnson: No, I told you my cousin last name. My cousin whole name. They call him Dec.

Compton: But you said Rakeem goes by uh (inaudible) 13.

Johnson: I ain't say he go by, no I said Gregory, my cousin, he go by the name of 'G'. They say do anybody got a nickname...

Compton: Uh-huh.

Johnson: You know what I'm saying, that was just...

Compton: Let's just move on, okay.

Johnson: Okay. Well yeah um Amp opened the uh, the, the window with the crow, with the, with the bar, the crow bar and you know he went in, he went in the room, I mean in the house; opened the front door.

All of us went in the front door; left from out the front door and that when we went right into the room. The other boy was already going round the house. Me and Amp...

Godwin: Doing what?

Johnson: They was in the house just searching for stuff, trying to see what they could steal. Me and Amp went in the room; the lady was sleep when, doing nothing right in her bed, she was sleep. He jump on the lady; I was standing right there at the door. He jump on the lady and cut the lady, I think from neck to neck, he cut her. And then he put the pillow over her head; he sat on the head. So I walked out the room then that when I look at the other boy; they done had the DVD player, tape player, and all that in their hand. So they walk out the door. So when they walk out the door with the stuff I left out the door. Then that when Amp was, him and uh Rakeem went, Rakeem went back in the room with Amp. And he put they, they help the pillow over the head and then they had wrapped the lady up with the, with the stuff that she was sleeping on. And they was full of blood... full of blood. And he wrapped her up and then that when they took her to the car. I, I went to the car to sit in the car while they came outside of the car. And as the dude left from there, they, they, know what I'm saying, all of us we went and we drop the body off. Then that when, know what I'm saying, we left from there. They, well, aft, drove the car went right back to the house. Left back from where they drop the lady off at; went back to the house. They left from the house and they got, know what I'm saying, DVD player and all that but they left from the house and that was it ... when they left from the house.

Godwin: What time was this; when did this happen exactly? What day...

Johnson: It was some time, it was sometime, it was sometime that night. It wasn't that late late, probably bout one...

Godwin: What day?

Johnson: I ... see I can't remember; I don't know if it was Sunday night or Monday. I think it was Sunday night; Sunday night or Sunday morning.

Godwin: Okay.

Johnson: Somewhere round up in there but that, that what happened; that what we had ...

Godwin: So they pried the window open...

Johnson: Uh-huh.

Godwin: Made entry; come and open the front door?

Johnson: They open the front door and all of em went in the front door.

Godwin: Okay who is all of us?

Johnson: Me, David, Amp, Rashawn, and Rakeem.

Godwin: Okay.. All y'all went in; you and who went to the bedroom?

Johnson: Me and Amp went to the bedroom. Rakeem was passing by looking but you know he was back there trying to unplug the DVD player from the TV which he act like he gone plug the DVD player from the TV...

Godwin: Um-hum.

Johnson: And that, that when they had it; that when they took all the stuff after they, we drop the lady off that when they came back and got all the stuff.

Godwin: So Ms. Hayes was in the bed?

Johnson: She was in the bed sleep. And Amp jump on her and cut her and then he just put the pillow over her head and I was standing right there looking.

Godwin: Did she wake up and try to make a fight or anything like that or what?

Johnson: Yes sir.

Godwin: She woke up when y'all went in the room?

Johnson: After we went in the room I stood by the door, he was like, he was like watch this, watch this, know what I'm saying, cause the boy already done was bribing him. Was like 'man, you ain't gone do that, you scared, you ain't gone do that'. So he try to be Mr uh big, you know, had to prove his shelf. So by he did it; he went up to her, jump on the bed and cut her. She was like, 'who this, who this, who this'. I was standing right there at the door like just looking at him just shaking my head. He was like 'who this, who this, who this, what y'all want from me, what y'all want from me'. I did not say nothing. He the one say 'where, where your money at, where your money at, where your money at'. So I was like, I was sitting here like shaking my head like 'dang', you know what I'm saying. He kept saying 'where the money at, where the money at'. She say, she say let me up and I'll tell you where it at, let me, I'll tell you where it at'. He would never let her up. So I stayed, just I kept getting back and back to the door; get close to the door. Then that when he, he just kept sitting on (inaudible); kept jumping on her up and down sitting on her..

Godwin: What kind of knife he had?

Johnson: It was a little look like, a lil, lil raz, it was a knife bout like this right here but the blade, the blade probably no bigger, no longer than this right here.

Compton: Alright when did, when did he cut her throat?

Johnson: He, he cut her like when she was laying cross the bed and real sleep.

Compton: So she was asleep when he cut her throat?

Johnson: Yes sir, she was sleep. She had her light on and he went up to her, jump on the bed and he cut her. That when he put the pillow over her head like that right there and I was standing to the door looking like, shaking my head like 'dang' and he jump on the bed and he cut her.

Compton: Alright but you, you said that she jumped up and said 'who's this, who's this.

Johnson: Like, like she, she was trying to get up. She was like 'who is this, who is this, who is this, let me see your face, let me see your face'. He was like 'nah, nah, nah, you ain't gone see my face, you ain't gone see my face'; know what I'm saying. So I was just looking him like, like they were here but the whole time I was just watching him; I ain't touch her or none of that. I was just watching em.

Compton: You said there was blood everywhere, right?

Johnson: Blood everywhere.

Compton: Alright how can she talk if her throat is cut?

Johnson: No I'm talking bout before that like he was, he was like he ain't cut her all the way; he was cutting her a little bit. Know what I'm saying, a little bit after little bit. That how he was doing; he was cutting her and then after that, you know what I'm saying, like he just kept cutting her, cutting her. Must cutting her deeper and deeper cause he kept doing this right here, pressing down hard on her, pressing down hard. He kept going like this right here and I was like 'dang', you know I was just shaking my head, (inaudible) I'm doing, shaking my head looking at him ... the whole time while he was doing it. The rest of the boys knocking down stuff in the house.

Godwin: But y'all knew she was in the house, right ... the night that y'all went in there; y'all knew she was in the house, correct? Y'all knew she was home?

Johnson: Yes sir cause (inaudible) they, well that's when Amp them, they seen the car there. So they came, they came and got me. They was like 'come on, come on'. I was like 'nah' at first, then I was like, when Amp went through the window that when, know what I'm saying, they called me in. I went through the door with them boys... with Amp and Rakeem and Rashawn and all them.

Godwin: Okay. What happened when, when she was on the bed and y'all done got what ... what all was taken out of the house?

Johnson: I seen em with, well they had a TV, a uh DVD player...

Drayton: Describe the TV.

Johnson: A flat screen TV just like, it something like that right there; bout that size right there. A flat screen TV.

Compton: But the size of that picture?

Johnson: Yes sir. A flat screen TV bout that size right there. And I seen em when they, know what I'm saying...

Compton: Where, where was it at in the house?

Johnson: Okay you walk in the house it was sitting on, on top of like, like on the wall you hang up. It's uh, it's uh a flat screen TV where you can hang up on the side of a wall.

Compton: Was it on the wall?

Johnson: Yes sir. It was on the wall.

Compton: In what room?

Johnson: It was like in a front room, soon as you come in the door.

Compton: Okay. Where's was the DVD player?

Johnson: The DVD player, that was like right there in the kitchen part like right here in the kitchen part where like in the kitchen where the refrigerator right here. Her room right here and it was right here. The TV right here too; it was two TV's. A TV in her room and a TV right here.

Compton: Uh-huh.

Johnson: And that when I seen Amp and them boys, that when Amp had cut her, know what I'm saying, jump on the bed with her but Rakeem and Rashawn, them boys the one had took the DVD player and all that stuff. And then they gave it to Amp.

Compton: And you just stood there?

Johnson: Yes sir. I ain't touch her or nothing; I was just stand and looking at her cause see they had (inaudible) they had (inaudible) doing that, not me. You know what I'm saying, they, they kept saying 'nah man, you scared, you scared. You ain't gone do nothing, you ain't gone do nothing man. You, you ain't no big dog like, like me man'. I was like, I was just looking at em. Then he was like 'bump, I'm gonna show y'all, I'm on show, I'm on show you'. So that when he went up in the house and then all us had went out, out the door. We went through the back door. That how the back door came unlock.

Compton: Okay.

Johnson: Went through the back door.

Compton: Now when they steal the stuff, okay, did you steal the stuff first or did you...

Johnson: No we...

Compton: What did you do with the body?

Johnson: Well I was in the back seat and Amp, all us was in the car; me, uh Rashawn, and uh Rakeem. All us was in the car. We, we drop the body off...

Drayton: Who was driving?

Johnson: Rakeem was driving then. Rakeem was driving then Amp drove back. Know what I'm saying, but how, how the car got park on uh...

Drayton: No, no go back to the part, you getting ready to say 'he drop the body off'.

Johnson: Okay he dropped the body off then he left from there...

Drayton: Where?

Johnson: On the ditch; right there in the ditch on (inaudible)..

Drayton: Tell me how, tell me how to get there.

Johnson: How to get there?

Drayton: From the house, how do, which route did you take and where was the body dropped off at?

Johnson: I took, well, well, Amp, know what I'm saying, well Rakeem was driving. We took by the graveyard coming out from Liberty Street from the graveyard and we turned left and then we turned right at

the stop sign. Then we went all the way down then we made a left at the stop sign again.

Drayton: You tun left on what street?

Johnson: I don't, I don't know the name of the street. I don't know the streets like that; I don't know the street names.

Drayton: What was it near?

Johnson: It was near like the graveyard; it wasn't too far from, from down from (inaudible) like if you come from the other way, it was the other way..

Drayton: If you come the other way, that's the other way. Okay that's not telling me anything. Coming from which direction?

Johnson: From right here, right there where the corner store is. You know where the corner store at?

Drayton: Yes.

Johnson: Right there where the corner store. They, know what I'm saying...

Drayton: Corner store.

Johnson: Came that way and then they went all the way down; at Liberty Street. That whole Liberty Street going down.

Compton: Okay but what street is uh where the corner store at; what street is that?

Johnson: I don't know the streets. I don't know the streets like that.

Drayton: From the corner store. The corner store for the record is located at Dargan and Liberty...

Johnson: Uh-huh.

Drayton: And from which way do you go from the corner store?

Johnson: We went straight up then we bust out and left cause the graveyard right here in front of us.

Drayton: Bust that left...

Compton: And you make a right or left or you went into the graveyard.

Johnson: No we go right. Yes you had to turn right or left.

Compton: Okay.

Johnson: So we turned left, then he went to the stop sign; I don't know what street that is he turn right, left, went to the stop sign.

Compton: Okay.

Johnson: Bust a right, I think it probably like on Vista, well Vista Road somewhere...

Drayton: That's Vista Street; continue please.

Johnson: Okay went straight on bust that right, went all the way down to that other stop sign on Vista uh road. Then we turn left ...

Drayton: Which road is that?

Johnson: Um I don't know which street that; right, right there where the church at.

Drayton: Onto church. Okay.

Johnson: The church right here in front of it.

Drayton: That would be Oakland Avenue; go ahead.

Johnson: Okay. We went left then we went around that little curve...

Compton: Uh-huh

Johnson: Grocery store on the left hand side; liquor store on the right. Turn right to go down, know what I'm saying, I think go toward Wil Mart...

Compton: You're on Royal Street.

Johnson: Uh-huh. Royal Street. Went straight down Royal Street ... they made, well we had left, turn right there by the church. Got on a dirt road...

Drayton: What area, what area you called a little while ago. You said go nest to what?

Johnson: Going toward uh ... where you say, Royal, Royal Gardens, no Oakland.

Drayton: The street you said just now.

Johnson: What?

Drayton: You said going towards...

Godwin: What neighborhood you were headed towards?

Drayton: You said Woodmont.

Compton: When you were going down Royal Street, you're going towards Woodmont.

Drayton: What is Woodmont?

Johnson: Oh Woodmont like right there where, where we turn.

Drayton: What is it?

Johnson: It, it's a place. It like where houses at; they call it Woodmont.

Drayton: Houses, got you, call it Woodmont; okay.

Johnson: And they turn right, you know, turn right there. And then they right here by the church cause the church right here on the dirt road. The church on the left hand side on the dirt road, went straight round that little curve; went straight down on the dirt road. And it's another dirt road on the right that lead you, you know, back around...

Compton: Uh-huh.

Johnson: Back around that way. I do not that. Back around that, then you know like you go straight further down; that, that when we stopped and that when they got out the car and they throw the body in the, in the ditch. And me and other dude, we stayed in the back of the seat.

Drayton: Who is they?

Johnson: Huh?

Drayton: Who is they ... got the car? You said they got out of the car.

Johnson: Ra, Rakeem and um Rashawn. They got out the car and they dumped the body and they, me and Amp was still in the car; know what I'm saying. They all, they got back in the car then, then we left.

Drayton: If you dumped the body in, dumped the body where?

Johnson: They dumped the body right there on, right there on the dirt road in the ditch.

Drayton: In a ditch; okay.

Johnson: And then I sit, I sit in the car and I watched them cover her up.

Compton: (inaudible) they just cover her up.

Johnson: Like, like they start pulling out leaves and stuff, putting leaves out, out of the bushes and stuff, the bushes...

Compton: Uh-huh.

Johnson: Start throwing bushes and stuff on her. I was looking at them do that, that same thing; throwing bushes, like throwing bushes on her.

Compton: Now who was that; did that?

Johnson: Rakeem and uh Rashawn.

Compton: Okay.

Johnson: They was the one throw the thing, me and Amp was sitting in the car still. We just watching em, that's it; we just looking at em.

Compton: Why weren't y'all outside?

Johnson: Nah because you know, I mean I had went in there with them in the house but I know I wasn't gone do nothing with her. I, I ain't touch her; I'm not gone touch her like that. I, I watched. Amp did it.

Compton: Okay.

Johnson: Watched him cut that lady and then sit on her with a pillow. And then that, that when they cover her up, put her in the trunk. And I was still sitting in the back seat and they put her in the trunk; all three of them.

Godwin: Y'all go back to the house after that?

Johnson: Yes sir. After they, well all us left when they put the body in the ditch and then that when they went back. That when they had continue to steal stuff. I was just, I was just sitting in the car and I came, and they came back out with a whole bunch of stuff, know what I'm saying. Like DVD players, a TV, a whole bunch of stuff; DVD player, TV, probably say one (inaudible) flashlight or something. But I ain't seen the flashlight. I seen it when they had it in their hand but I haven't seen it ever since then.

Compton: Uh-huh.

Johnson: But I know that when I came out that door that, that morning from my house, I seen Amp and stuff; they had put the stuff right there behind, behind, behind uh my house.

Compton: Now what's behind your house?

Johnson: Cause see they, they know where I stay to; right there cause my window's right here...

Compton: Yeah. What's behind your house?

Johnson: What's behind it; the DVD player and a tape player that Amp had put back there after he came to my house in the car.

Compton: Okay why did he put it behind your house?

Johnson: I ain't know. He probably ain't have no where else to put it so, you know what I'm saying, that where he put it to; he ain't have nowhere else to put it to.

Compton: And where's the TV?

Johnson: I haven't seen the TV. I seen it when he had it in his hand but I ain't know what he did with the TV. I just seen what they did with the DVD player though.

Compton: Do you have any jewelry or anything?

Johnson: No I ain't took nothing out of there.

Compton: You don't nothing.

Drayton: Do you recognize anything that's on the table here now. There are two credit cards, one broken necklace, one necklace that's in tact. Do you recognize any of these items here?

Johnson: I don't remember...

Drayton: Have you seen any of these items.

Johnson: I don't remember who took the necklace, the two necklaces but I remember uh both of the credit cards. I seen when Amp took the credit cards out the lady pocketbook. It was a black pocketbook sitting right there on the bed. The lady's told, know what I'm saying, before she had done pass away he took, she told him where the pocketbook was at. After she done pass away he, he jump back off her and left her there for a minute. He went back from out the room and went where she say the pocketbook was at and got a couple, couple of dollars out of it. It wasn't even a couple of dollars, you know what I'm saying. A couple of dollars out of it. What he did with the money I don't know. I ain't had none of the money; I ain't touch none of the money. But Amp, he did have them two credit cards in his hand cause he tried to give it to me at Lilly house. And I said no, know what I'm saying. I was like 'no I ain't want it'. Cause I, I did see her name on it so I was like I ain't wanted it.

- Compton: Let me ask, let me ask you this. Why would you put, why, why would you go into her house and commit this burglary at night time and murder and everybody else get something but you don't get nothing. I mean what, why did you go in there at all if you're not gonna go in there and and uh benefit from it. Let's put it that way. What'd you benefit out of this whole deal?
- Johnson: Nothing, know what I'm saying. He, Amp tried to give me the DVD player and the stuff that he took from out the, out of the lady house. He, he tried to give it to me. That why he probably put behind my house. And it should still be back there right now. You go back there right now; it should be still back there.
- Compton: Uh-huh
- Johnson: You know what I'm saying; it should be still back there.
- Compton: Did he offer it to you?
- Johnson: He was like, well he was trying to sell it to me. I was like 'nah I, I ain't want to buy nothing like that, you know what I'm saying.
- Compton: I mean he tried to sell something that you had part in.
- Johnson: He tried to sell me the DVD player, the tape player but I already got one. I been had mine; I bought mine from the, the store, you know what I'm saying, I been bought mine. So he tried to give me another one. He thought I ain't had one but he was like 'huh, huh, huh, you went in there with us, you get something too'. I was like 'I don't want that'. I say I, I as just watching out, I was just watching out for him, that's all I was doing.
- Godwin: You wasn't watching out, you were in there.
- Johnson: That what I'm saying, I was in the house but I was looking out. I, I ain't wanted nothing. I ain't wanted nothing.
- Compton: But he thing is uh if he trying to sell you the DVD player and the VHS tape player uh and then all of a sudden he just leaves it in the back yard ... behind, in your back yard?
- Johnson: Uh-huh because ...
- Compton: Why would he do that?
- Johnson: Because he left out, he left out from my house in the car. He left out in the car.
- Compton: Why didn't he just keep it in the car and could've tried to sell it in a pawn shop or to a crack head.

Johnson: He ain't got no ID; he ain't go no ID to sell it. I mean to go to the pawn shop. The only person had an ID is me.

Compton: Okay.

Johnson: And probably Rashawn. I don't know if he have on or not but probably him cause he probably the next oldest too.

Compton: You didn't, you didn't profit at all in this whole thing; you didn't get anything?

Johnson: No sir. I, I ain't wanted nothing.

Compton: Nothing at all?

Compton: I was just in there with em.

Godwin: At what point you...

Johnson: In there with em.

Godwin: Did you park the car on Roughfork Street?

Johnson: Where park?

Godwin: How did you get the car to drive over to Roughfork Street; when did you get the car?

Johnson: When Amp came to (inaudible) K-Mart he picked me up. We went on Roughfork Street and that when uh he left out again. He left out again in the car; went to the store. He went and put gas in the car; he took the money from the lady. He put gas in the car and that when we left from the store, from Tiger Mart, from putting gas in the car. We left there and I drove all the way back from there. But I drove it back and we parked it on Roughfork Street and we left it there.

Compton: So who went in and paid for the gas?

Johnson: Amp.

Compton: Amp did?

Johnson: Uh-huh. And then he came back out and pumped it. I ain't never had got out the car.

Compton: Bout what time was this?

Johnson: See it was, it was that morning probably bout one, one or two, three; it was in the morning though.

Compton: Bout how long after the murder?

Johnson: Probably bout an hour or two. It wasn't even (inaudible), probably bout a hour or two. He had went to the store and got some gas after everybody else got in the car.

Compton: Where was Rakeem and Rashawn?

Johnson: They went back to round, Rashawn went back to Lilly house. Rakeem was suppose to had meet us, suppose to had meet me and Amp right there on Roughfork Street. When we parked the car there Rakeem was coming through the path. But we had already done left the car there. We was like, know what I'm saying, bumping, you know what I'm saying.

Compton: Okay.

Johnson: They just left the car there and you know what I'm saying, we just

Compton: What Detective Godwin is getting at is earlier during the day...

Johnson: Yeah I know, I know.

Compton: Okay so ...

Johnson: Yes sir.

Compton: Tell, tell us about that part where you parked the car in the day time.

Johnson: Yeah that what I'm saying, I parked the car there 'cause me and Amp was in the car. We parked the car there, left the car there and went back to Lilly's house.

Compton: Okay where'd you park the car?

Johnson: Right there on Roughfork Street.

Compton: Where at on Roughfork?

Johnson: Right there by Dame old house. By a dude name Dame old house.

Compton: Uh-huh.

Johnson: Right there by Roughfork Street, it right here. Right here a lil, little parking spot. He park it right there and the church on the left hand...

Compton: Over by the duplex?

Johnson: Yes sir, right there.

Compton: Okay.

Drayton: For the record they were talking about [REDACTED].

Johnson: Yeah, park it right there.

Compton: Okay.

Johnson: And we just left there. Then I went to my cousin Greg house cause Rashawn went to his momma house. Rakeem went to his momma house. Then everybody had came back out the house and got back up together. Me and my cousin Greg was just talking but they came back up together; they was just kept talking and bragging about, know what I'm saying, what they had already done did.

Compton: What, where did Amp go to?

Johnson: Amp, he had, he went to Lilly's house that night too.

Compton: Okay.

Johnson: And that when I say I, all of us was at Lilly house but (inaudible), my old lady, she came and got me from down there. I was sleep. She came, she say, 'come on, come on, come on down there with me'. I say 'alright'. So went down there at her house. It was, it was sometime in the morning; probably bout one or two that morning. We left, went to her house. And ever since then I ain't came back out til that next morning. I just came back out that next morning.

Godwin: Uh-huh.

Compton: Let me ask you this: how do you feel about what happened?

Johnson: I feel bad, you know what I'm saying. I wish it can, I mean I wish I could take it back, know what I'm saying. I wish the boys too, know what I'm saying. I know they wish they could take it back too. You know what I'm saying. I feel real bad it happened. I wish it had never happened to her or nobody else. You know what I'm saying cause that ain't how it was suppose to happen.

Compton: What get, what gets me is I haven't seen any emotion what so ever, you know. I haven't, I didn't seen anything.

Johnson: Yes sir..

Compton: Okay.

Godwin: Do you recognize any of this stuff Detective Drayton had on the table right there?

Johnson: Huh that what I say, I didn't know nothing about the two necklaces but that the two cards uh Amp was trying to give it to me. And I told him like, you know what I'm saying, we, we can't do nothing with the cards. Know what I'm saying, we don't have the lady nothing; we don't have nothing. So how can we get the money; we don't get no money out the card. So he wanted to get the money off the card. But I was like 'nah'. So he kept the cards. He kept them right there at Lilly house...

Godwin: Uh-huh.

Johnson: And that how all the necklace and all that got over there. Because Amp, Amp or Rashawn took it over there.

Drayton: The card in question that we are referring to is a Bank of America Platinum Visa Card in the name of the victim Ms. Willie M. Hayes and a Safe Federal Credit Union Visa Card also in the victim's name. Alright sir ... and one gold necklace in tact, one gold necklace smaller that's broken, and one partial piece of a necklace for identification purposes belonging to the victim.

Compton: Let me ask this: we, we haven't forced you at all to give this statement. Is that correct?

Johnson: No, no sir.

Compton: In actually we've been really nice to you. Is that not correct?

Johnson: You did, yeah you did, right.

Compton: Okay. And then you do know what you're doing here today giving us this statement of what happened ...

Johnson: Yes sir.

Compton: On Liberty.

Johnson: You know I'm really sorry about that happening; sorry.

Compton: What you done.

Johnson: Sorry. I apologize.

Compton: Okay. So what you're telling us is the whole truth; is that correct?

Johnson: Nothing but the truth.

Compton: Okay. That's all I have.

Johnson: Nothing but the truth.

Godwin: All, alright this concludes this statement. It's twenty minutes to four a.m. Thank you.

Signature of Person Giving Statement

____/____/____
Date

Witness

____/____/____
Date

Witness

____/____/____
Date

SWORN TO BEFORE ME THIS

____ DAY OF _____, 2001

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA.

MY COMMISSION EXPIRES: _____

Case Number: 2008-008466

Officer: 286A COMPTON, T

Date Entered/Changed: 11/19/2008

Reviewer: 286A

Review Date: 11/19/2008

DETAILED STATEMENT OF INVESTIGATION:

MURDER

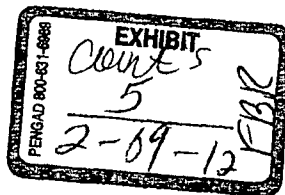
CASE # 2008-008466

DATE: 11-16-08

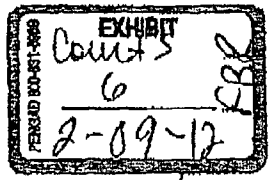
TIME: 2015 HRS.

SGT. TIM COMPTON

CASE STATUS: ARREST



ON WEDNESDAY 08-27-08 THE SUSPECT DAVID GERRARD (JOHNSON) WAS PUT IN MY OFFICE UNTIL DET. SGT. (GODWIN) AND DET. SGT. (DRAYTON) COULD INTERVIEW HIM. DURING THE TIME THE SUSPECT WAS IN MY OFFICE I GOT HIM SOMETHING TO DRINK AND EAT OUT OF THE DRINK AND SNACK MACHINE. THE SUSPECT SLEPT SOME TOO AS I DID SOME WORK. THE SUSPECT CHATTED WITH ME AND I READ HIM THE MIRANDA WARNINGS ONCE I DECIDED TO TALK TO HIM ABOUT THE MURDER CASE. HE STATED HE WANTED TO TALK. I ASKED HIM WHAT HAPPENED AND HE FIRST STARTED BY SAYING HE THINKS THE OTHER SUSPECTS BROKE INTO THE VICTIM'S RESIDENCE BUT HE DID NOT SEE ANYTHING. HE STATED HE WAS OUTSIDE WITH HIS GIRLFRIEND AND SAW THE SUSPECTS MESSING AROUND THE VICTIM'S RESIDENCE. I TALKED TO HIM FOR A FEW MINUTES AND TOLD HIM TO TELL THE TRUTH AND HE STARTED SAYING HE WAS THERE WHEN THE SUSPECTS WENT INTO THE VICTIM'S HOUSE AND STOLE SOME ITEMS. MAJOR (RAINES) CAME INTO MY OFFICE ONCE HE SAW THE SUSPECT TALKING TO ME AND SHORTLY AFTER THAT NARCOTIC AGENT (DRULIS) CAME INTO THE OFFICE. THE SUSPECT (JOHNSON) THEN STATED HE WENT INTO THE VICTIM'S RESIDENCE. I EXPLAINED TO THE SUSPECT (JOHNSON) HE NEEDED TO TELL US WHERE THE BODY WAS BECAUSE THE OTHER DETECTIVES HAVE BEEN SEARCHING EVERYWHERE AND IT IS TIME WE FOUND THE BODY FOR THE VICTIM'S FAMILY AND THE SUSPECT (JOHNSON) STATED HE COULD TAKE US TO THE BODY. I TOLD HIM I DID NOT WANT TO GO ON A WILD GOOSE CHASE AND HE STATED HE COULD TAKE ME STRAIGHT TO THE BODY. I ASKED HIM HOW DO YOU KNOW WHERE THE BODY IS AND HE STATED "AMP" TOLD HIM WHERE HE PUT IT. I AGAIN ASKED HIM IF HE WAS SURE HE COULD TAKE US TO THE BODY AND HE STATED "YES". HE GOT UP TO SHOW US AND I TOLD HIM WE WOULD IN A MINUTE BUT FIRST TELL ME HOW WAS SHE KILLED AND HE STATED THEY CUT HER THROAT. WE GOT UP AND WAS WALKING OUT AND MET WITH SGT. (DRAYTON) AND TOLD HIM THE SUSPECT (JOHNSON) WAS GOING TO TAKE US TO THE BODY. NARCOTIC AGENT SGT. (CALHOUN), NARCOTIC AGENT CPL. (DRULIS), THE SUSPECT (JOHNSON) AND MYSELF GOT INTO ONE VEHICLE AND MAJOR (RAINES), DET. SGT. (DRAYTON) AND DET. SGT. (GODWIN) WAS IN ANOTHER VEHICLE. THE SUSPECT (JOHNSON) DIRECTED US TO MALLOY ST. AND AS WE WERE DRIVING HE TOLD US TO STOP RIGHT HERE AND ONCE WE GOT OUT OF THE VEHICLES DET. SGT. (GODWIN) FOUND THE BODY AS SOON AS HE GOT OUT OF THE VEHICLE. I GOT BACK INTO THE VEHICLE AND I TOLD THE SUSPECT (JOHNSON) THERE IS ONLY (2) TWO WAYS HE COULD HAVE KNOWN EXACTLY WHERE THE BODY WAS AND THAT IS HE WAS TAKEN HERE BY THE SUSPECTS AND SHOWED HIM THE BODY WAS OR HE WAS HERE WHEN THEY DUMPED THE BODY. THE SUSPECT (JOHNSON) STATED " YES SIR ". I TOLD THE SUSPECT WE NEED TO GO BACK TO THE OFFICE AND FOR HIM TO TELL US THE TRUTH AND AGAIN HE STATED " YES SIR ". DET. SGT. (DRAYTON), DET. SGT. (GODWIN), CPL. (DRULIS) AND MYSELF WENT TO THE CONFERENCE ROOM WHERE THE SUSPECT WAS READ HIS MIRANDA WARNINGS AGAIN. THE SUSPECT (JOHNSON) CONFESSED TO BEING IN THE VICTIM'S BEDROOM WHEN "AMP" KILLED THE VICTIM BY CUTTING HER THROAT AND PUTTING A PILLOW OVER HER HEAD. HE GAVE A TAPED STATEMENT, SEE HIS TAPED TRANSCRIPT FOR MORE DETAILS. THE SUSPECT (JOHNSON) STATED HE HAD SOME OF THE STOLEN ITEMS FROM THE VICTIM'S RESIDENCE AT HIS RESIDENCE. ONCE THE SUSPECT (JOHNSON) GAVE HIS TAPED STATEMENT, I WENT HOME.



STATE OF SOUTH CAROLINA
 COUNTY OF FLORENCE
 STATE VS
DAVID GERRARD JOHNSON
 AKA:
 Race: Black Sex: Male Age: 20
 DOB: 10-14-85 SSN# [REDACTED]
 Address: [REDACTED]
 City, State, [REDACTED]
 DL# [REDACTED] SID# 5001463931

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2005 -GS- 21 - 1109
 A/W#: 1303768
 Date of Offense: JUNE 18-19, 2005
 S.C. Code §: 16-11-311
 CDR Code #: 0 1 0 1 7 1 9
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Count 1 as Burglary (2nd degree, non-violent) [0 to 15 yrs]
 In violation of § 16-11-312(A) of the S.C. Code of Laws, bearing CDR Code # 0, 0, 8, 0
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. NO CONCURRENCE
 ATTEST:
Robert A. Wells, Jr. Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of _____ days/months/years or under the Youthful Offender Act not to exceed 5 years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections.

SPECIAL CONDITIONS:

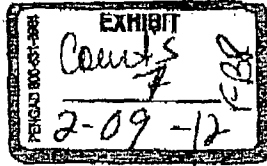
RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms:
 set by SCDPPPS

PTUP _____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol Testing
 and may be pd. in equal, consecutive weekly/monthly
 prmts. of \$ 10.00 beginning 7/20/05
 \$ _____ paid to Public Defender Fund
 Other: Order Book - money

Recipient:	
*Fine:	\$
§14-1-208 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§ 35.13 (Public Def/Prob)	\$500 \$
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 3.75
TOTAL	\$ 178.75

[Signature] Clerk of Court, Deputy Clerk
 Court Reporter: [Signature]

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.
 PRESIDING JUDGE [Signature]
 Judge Code: _____
 Sentence Date: 10/16/05



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE
STATE VS
DAVID GERRARD JOHNSON
AKA:
Race: Black Sex: Male Age: 20
DOB: 10-14-95
Address:
City, State, Zip
DL#
SID# SC01463931

INDICTMENT/CASE#: 2005 GS- 21 - 1109
AW#: I303469
Date of Offense: June 18-19, 2005
S.C. Code §: 16-13-30(B)(2)
CDR Code #: 0 1 4 1 7 1 9
CASE RESTORED SENTENCE
PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Court 2, Grand Larceny (\$5000 or greater) [0 to 10 yrs]
In violation of §16-13-30(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0 1 4 1 7 1 9
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State concurrent
ATTEST: Robert A. Wells, Solicitor; David Johnson, Defendant; M. J. [Signature], Attorney for Defendant

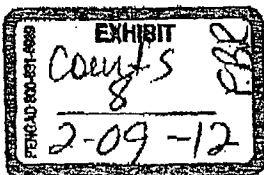
WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of days/months/years or under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:
RESTITUTION: Heard, Waived, Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
set by SCDPPPS
Recipient:
*Fine:
\$14-1-206 (Assessments 107.5%)
\$14-1-211(A)(1) (Conv. Surcharge) \$100
\$14-1-211(A)(2) (DUI Surcharge) \$100
\$56-5-2995 (DUI Assessment) \$12
\$35.13 (Public Def/Prob) \$500
\$73.3, 1B TP (Law Enforce. Funding) \$25
\$33.7, 1B TP (Drug Court Surcharge) \$100
\$50-21-114(BUI Breath Test Fee) \$50
\$56-5-2942(J) (Vehicle Assessment) \$40/ea
3% to County (if paid in installments)
TOTAL \$17825

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
[Signature] may be pd. in equal, consecutive weekly/monthly
prmts. of \$ 100 beginning [Signature]
\$ paid to Public Defender Fund
Other: Order shall be [Signature]

Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.
PRESIDING JUDGE [Signature]
Judge Code:
Sentence Date: 10/26/05

Clerk of Court/Deputy Clerk
Court Reporter: [Signature]



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE
STATE VS.
DAVID GERRARD JOHNSON
AKA:
Race: Black Sex: Male Age: 20
DOB: 10-14-85 SS#:
Address:
City, State, Zip
DL#

INDICTMENT/CASE#: 1109
2005 -GS- 21
AW#: I303473
Date of Offense: June 19, 2005
S.C. Code §: 16-21-80(3)
CDR Code #: 0 1 4 1 3 1 0
[] CASE RESTORED SENTENCE
[X] PLEA [] TRIAL

In disposition of the said indictment comes now the Defendant who was [] CONVICTED OF or [X] PLEADS TO: Count 3. Possession of Stolen Vehicle (\$5000 or greater) [0 to 10 yrs.] in violation of § 16-21-80(3) of the S.C. Code of Laws, bearing CDR Code # 0 1 4 1 3 1 0
[X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] 17-26-45

The charge is: [X] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury.
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [X] Recommendation by the State, W/A concurrent
Solicitor: [Signature] Defendant: [Signature] Attorney for Defendant: [Signature]

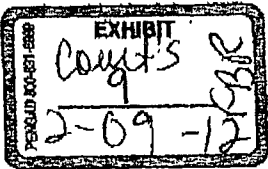
WHEREFORE, the Defendant is committed to the [] State Department of Corrections, [] County Detention Center, for a determinate term of ___ days/months/years or [X] under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$ ___; provided that upon the service of ___ days/months/years and/or payment of \$ ___; plus costs and assessments as applicable; the balance is suspended with probation for ___ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
[X] CONCURRENT or [] CONSECUTIVE to sentence on:
[X] The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:
[] RESTITUTION: [] Heard, [] Waived, [] Ordered
Total: \$ ___ plus 20% fee: \$ ___
Payment Terms: [] set by SCDPPPS
Recipient:
*Fine:
\$14-1-206 (Assessments 107.5%) \$
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$
\$56-5-2995 (DUI Assessment) \$12 \$
\$ 35.13 (Public Def/Prob) \$500 \$
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$
\$50-21-114(BUI Breath Test Fee) \$50 \$
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$
TOTAL \$ 118.75

PTUP ___ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
[] may be pd. in equal, consecutive weekly/monthly
prmts. of \$ TWA beginning
\$ paid to Public Defender Fund
Other: Order of Public Defender

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]

[] Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.
PRESIDING JUDGE: [Signature]
Judge Code:
Sentence Date: 10/26/05



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE
 STATE VS.
DAVID GERRARD JOHNSON
 AKA:
 Race: Black Sex: Male Age: 20
 DOB: 10-14-85 SS#: [REDACTED]
 Address: [REDACTED]
 DL# [REDACTED] SID# SC01463931

INDICTMENT/CASE#: 2005-GS-21-1109
 A/W#: 82339 DE
 Date of Offense: June 19, 2005
 S.C. Code §: 56-5-750(B)(2)
 CDR Code #: 0101615
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Count 4 Failure to Stop for Blue Light (L57) ID to 3172
 in violation of §56-5-750(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0101615
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. YOA concurrent
 ATTEST: Robert A. Wells, Jr. Solicitor David Johnson Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections. NO days

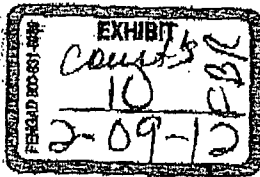
SPECIAL CONDITIONS:
 RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient:		
*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>22</u>
TOTAL		\$ <u>25.75</u>

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.
 PRESIDING JUDGE [Signature]
 Judge Code: _____
 Sentence Date: 10/16/05

Clerk of Court Deputy Clerk [Signature]
 Court Reporter: [Signature]



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE
STATE VS.
DAVID GERRARD JOHNSON
AKA:
Race: BLACK Sex: M
DOB: 10-14-85
Address:
DL#
SID# SC0146393

INDICTMENT/CASE#:
2005 -GS- 21 - 1109
AW#: T303492
Date of Offense: June 14, 2005
S.C. Code §: 16-13-160
CDR Code #: 0121518
CASE RESTORED SENTENCE
PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Court 5, BVE of Motor Vehicle (0 to 5 yrs)
In violation of § 16-13-160 of the S.C. Code of Laws, bearing CDR Code # 0121518
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
ATTEST: Robert N. Wells, A. Solicitor; David Johnson Defendant; [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of days/months/years or under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
set by SCBPPPS

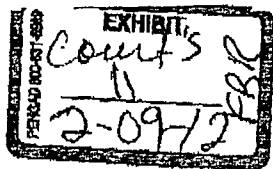
Table with columns for Recipient, *Fine, and amounts. Includes items like \$14-1-206 (Assessments 107.5%), \$14-1-211(A)(1) (Conv. Surcharge) \$100, \$14-1-211(A)(2) (DUI Surcharge) \$100, \$56-5-2995 (DUI Assessment) \$12, \$35.13 (Public Def/Prob) \$500, \$73.3, 1B TP (Law Enforce. Funding) \$25, \$33.7, 1B TP (Drug Court Surcharge) \$100, \$50-21-114(BUI Breath Test Fee) \$50, \$56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments), TOTAL \$11615.

Court Reporter: [Signature]

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve WE beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Other: Order shall incarceration

Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]
Judge Code:
Sentence Date: 10/12/05



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE
STATE VS. DAVID GERRARD JOHNSON
AKA:
Race: BLACK Sex: Male Age: 20
DOB: 10-14-85 SS#:
Address:
City, State, Zip
DL# SID# SC01463931

INDICTMENT/CASE#: 2005 GS- 21 - 1109
AW#: I 303491
Date of Offense: 6-14-2005
S.C. Code §: 16-13-30(B)(2)
CDR Code #: 0 1 4 1 7 1 9
CASE RESTORED SENTENCE
PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Count 6, Grand Larceny (\$5000 or greater) [0 to 10 yrs]
In violation of § 16-13-30(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0 1 4 1 7 1 9
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State, Concurrent
ATTEST: Robert N Wells, Jr. David Johnson John A. [Signature]
Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of days/months/years or under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

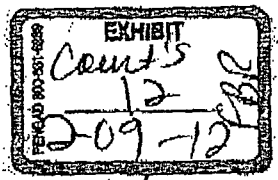
SPECIAL CONDITIONS:
RESTITUTION: Heard, Waived, Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
set by SCDPPPS
Recipient:
*Fine:
\$14-1-206 (Assessments 107.5%)
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$
\$56-5-2895 (DUI Assessment) \$12 \$
\$ 35.13 (Public Def/Prob) \$500 \$
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 75.00
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$
\$50-21-114(BUI Breath Test Fee) \$50 \$
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$ 3.00
TOTAL \$ 128.00

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ TBA beginning [Signature]
\$ paid to Public Defender Fund
Other: Order stock compensation

Appointed PD or appointed other counsel, \$35.13 TP Requires \$500 be paid to Clerk during probation.

Clerk of Court Deputy Clerk
Court Reporter: [Signature]

PRESIDING JUDGE [Signature]
Judge Code:
Sentence Date: [Signature]



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE
 STATE VS.
DAVID GERRARD JOHNSON
 AKA:
 Race: BLACK Sex: Male Age: 30
 DOB: 10-14-85
 Address: [REDACTED]
 City, State, Zip
 DL# [REDACTED] SID# SC01463931

INDICTMENT/CASE#: 2005 -GS- 21 - 1109
 A/W#: I303434
 Date of Offense: 6-9-2005
 S.C. Code §: 16-21-80(2)
 CDR Code #: 0 1 5 1 3 1 8
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Count 1. Possession of Stolen Vehicle (\$1000 to \$5000) (0 to 5 yrs)
 in violation of § 16-21-80(2) of the S.C. Code of Laws, bearing CDR Code # 0, 5, 3, 1, 8
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. YOA consecutive
 ATTEST: Robert N. Wells, Jr. Solicitor David Johnson Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of _____ days/months/years or under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: set by SCDPPPS

Recipient: _____
 *Fine:

\$14-1-206 (Assessments 107.5%)	
\$14-1-211(A)(1) (Conv. Surcharge)	\$100
\$14-1-211(A)(2) (DUI Surcharge)	\$100
\$56-5-2995 (DUI Assessment)	\$12
§ 35.13 (Public Def/Prob)	\$500
§73.9, 1B TP (Law Enforce. Funding)	\$25
§33.7, 1B TP (Drug Court Surcharge)	\$100
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(j) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	
TOTAL	\$1725

PTUP _____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol Testing
 (Fees may be pd. in equal, consecutive weekly/monthly) prmts. of \$ 100.00 beginning 7/20/05
 \$ _____ paid to Public Defender Fund
 Other: Order shock incarceration

CERTIFIED A TRUE COPY
 [Signature]
 CLERK OF COURT, P. & S.
 FLORENCE COUNTY, S.C.

[Signature] Clerk of Court/Deputy Clerk
 Court Reporter: [Signature]

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.
 PRESIDING JUDGE [Signature]
 Judge Code: _____
 Sentence Date: 10/26/05

WAIVER OF RIGHTS FORM

Division of Police
Florence, South Carolina

DATE: 8/27/08

PLACE: Florence Police Dept

I, David Johnson, voluntarily -- without threats, duress, force, promises of immunity or reward -- agree to be questioned by the Florence Police Department.

I fully realize that I have the right to remain silent the entire time I am here, anything I may say can be used against me in any court of law, I have the right to have an attorney present, and if I cannot afford an attorney and desire to be represented one will be appointed for me prior to any questioning, without cost to me.

Even after signing this form, I realize that I have the opportunity to exercise these rights at any time I wish to while I am here. I also realize I have the right first to consult with an attorney or anyone else I wish to before signing this form or answering any questions. Nevertheless, I voluntarily request and authorize the Florence, South Carolina Police Department to proceed with the questioning.

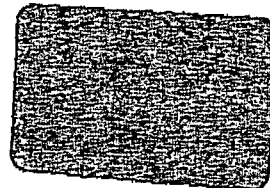
In addition, I represent that I feel all right both mentally and physically, and I know of no mental or physical ailment which might be impaired by any questioning.

IMPORTANT NOTICE: If you do not understand any part of this form, do not sign until you do.

David Johnson

8/27/08
DATE

[Signature]
[Signature]



SWORN TO BEFORE ME THIS
____ DAY OF _____



Police
Department
Drawer JJ
City-County Complex
Florence, SC
29501-3456
(803) 665-3191
FAX # 803-665-3111

City of Florence
POLICE DEPARTMENT
RELEASE FORM

08-00006 619

RECEIVED Ch

Date: 9/5/08

2012 FEB -7 A 11: 01

Time: 0805

OFFICE OF SOLICITOR
12TH JUDICIAL CIRCUIT
FLORENCE, SC

Place: FLO. CO. DETENTION CTR

I, the undersigned, do hereby voluntarily consent that the City of Florence Police Department obtain from me the following items for the Suspect Evidence Collection Kit:

1	Pulled Head Hairs
(2)	Saliva Sample
3	Pulled Pubic Hairs
4	Pubic Hair Combing
5	Blood Samples
6	Photos
(7)	Fingerprints

Signed:

D. Van Johnson

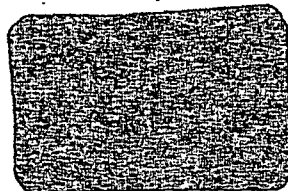
Witnessed By:

SE Hill

Date:

9/5/08

BUSINESS
FIRST
PEOPLE
ALWAYS



WAIVER OF RIGHTS FORM

Division of Police
Florence, South Carolina

DATE: 8/27/08

PLACE: Florence Police Dept

I, David Johnson, voluntarily -- without threats, duress, force, promises of immunity or reward -- agree to be questioned by the Florence Police Department.

I fully realize that I have the right to remain silent the entire time I am here, anything I may say can be used against me in any court of law, I have the right to have an attorney present, and if I cannot afford an attorney and desire to be represented one will be appointed for me prior to any questioning, without cost to me.

Even after signing this form, I realize that I have the opportunity to exercise these rights at any time I wish to while I am here. I also realize I have the right first to consult with an attorney or anyone else I wish to before signing this form or answering any questions. Nevertheless, I voluntarily request and authorize the Florence, South Carolina Police Department to proceed with the questioning.

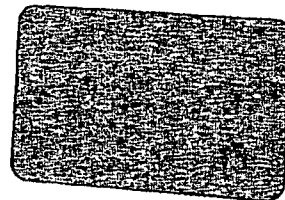
In addition, I represent that I feel all right both mentally and physically, and I know of no mental or physical ailment which might be impaired by any questioning.

IMPORTANT NOTICE: *If you do not understand any part of this form, do not sign until you do.*

David Johnson

8/27/08
DATE

[Signature]
[Signature]



SWORN TO BEFORE ME THIS
____ DAY OF _____

The State of South Carolina



OFFICE OF SOLICITOR
Twelfth Judicial Circuit
City-County Complex, Room 1101
180 North Irby Street, MSC-Q
Florence, South Carolina 29501

E.L. Clements, III
Solicitor

Telephone (843) 665-3091
Fax (843) 669-3947
solicitor@florenceco.org

September 2, 2009

Mr. Robert E. Lee, Esq.
McLain & Lee
2141 D Hoffmeyer Rd.
Florence, S.C. 29501

RE: The State v. David Gerrard Johnson
Indictment # 2009-GS-21-882

Dear Mr. Lee,

Pursuant to §16-3-20, *et. seq.*, specifically §16-3-26 of the Code of Laws of South Carolina, as amended, this is to notify and inform you and Mr. Johnson that the State will seek the death penalty in the above-entitled case if the defendant is found guilty on the charge of Murder presently pending against him. This, of course, refers to the death of Willie Mae Hayes, which occurred in Florence County on or about August 24, 2008.

You will be notified at a later date of the aggravating circumstances upon which the State will rely in seeking the death penalty. Moreover, this case will be called for trial pursuant to the Court's scheduling, but not before thirty days has elapsed upon receipt of this letter. In light of this letter, we shall have a formal hearing whereby a second attorney shall be appointed to represent the Defendant.

If you have any questions concerning this matter, please contact me at your earliest convenience.

Very truly yours,

A handwritten signature in dark ink, appearing to read "E.L. Clements, III".

E.L. Clements, III, Solicitor
Twelfth Judicial Circuit

Cc: David Johnson, Defendant

The State of South Carolina



OFFICE OF SOLICITOR

Twelfth Judicial Circuit
 City-County Complex, Room 1101
 180 North Irby Street, MSC-Q
 Florence, South Carolina 29501

E.L. Clements, III
 Solicitor

Telephone (843) 665-3091
 Fax (843) 669-3947
 solicitor@florenceco.org

October 14, 2009

Robert E. Lee, Esquire
 Post Office Box 1096
 Marion, SC 29571

RE: The State v. DAVID GERRARD JOHNSON
 Indictment No.: 2009-GS-21-1564

Dear Mr. Lee,

Pursuant to §16-3-20, et. seq. of the Code of Laws of South Carolina, 1976, as amended, this is to notify and inform you and Mr. Johnson that the State will seek the death penalty in the above-entitled case if the defendant is found guilty on the charge of Murder presently pending against him. This, of course, refers to the death of Willie Mae Hayes, which occurred in Florence County on or about August 24, 2008.

You will be notified at a later date of the aggravating circumstances upon which the State will rely in seeking the death penalty. Moreover, this case will be called for trial pursuant to the Court's scheduling.

If you have any questions concerning this matter, please contact me at your earliest convenience.

Sincerely,

E.L. Clements, III
 Solicitor
 Twelfth Judicial Circuit

P.S. This letter is subsequent to the prior letter of September 2, 2009, the only change being the new indictment number of 2009-GS-21-1564, which was true billed on October 1, 2009.

ELC/cvl
 cc: W. James Hoffmeyer
 David Johnson, Defendant

The Supreme Court of South Carolina

The State of South Carolina,

Prosecutor,

v.

David Gerrard Johnson,

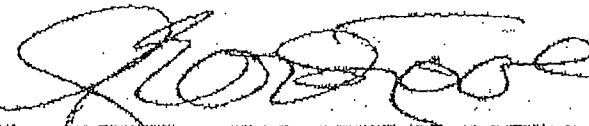
Defendant.

Florence County
2009-GS-21-1564

ORDER

IT IS ORDERED that the Honorable Thomas A. Russo be vested with exclusive jurisdiction to hear and dispose of the above case. Judge Russo shall decide all matters pertaining to this case, including motions to appoint or relieve counsel and shall retain jurisdiction over this case regardless of where he may be assigned to hold court and may schedule such hearings as may be necessary at any time without regard as to whether there is a term of court scheduled.

IT IS FURTHER ORDERED that the Order dated October 19, 2009 assigning this case to the Honorable Ralph King Anderson, Jr. is hereby rescinded.



Jean Hoefe Toal
Chief Justice

June 11, 2010
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)
)
 STATE OF SOUTH CAROLINA,)
)
 Plaintiff,)
)
 v.)
)
 David Gerrard Johnson,)
 Defendant,)

IN THE COURT OF GENERAL SESSIONS
 TWELFTH JUDICIAL CIRCUIT
 INDICTMENT NO.: 2009-GS-21-1564

ORDER
 (ATKINS HEARING)

FILED
 2012 JAN -9 PM 4:27
 CORNELL SHELLEY
 CLERK
 CCCP & GS
 FLORENCE COUNTY, SC

This matter came before me on January 3, 2012 at 2:30 p.m. on defense counsels' Motion for an Atkins hearing pursuant to the United States Supreme Court case of Atkins v. Virginia, 536 U.S. 304 (2002) and the State of South Carolina Supreme Court case of Franklin v. Maynard, 356 S.C. 276 (S.C. 2003).

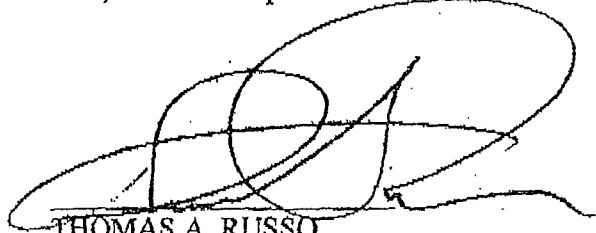
The defense has asserted that the Defendant meets the criteria for a diagnosis of intellectual disability (mental retardation) and therefore the State is precluded from seeking the death penalty.

Both defense counsel and the State have had the Defendant evaluated for intellectual disability. As part of the record at this hearing, the Court reviewed a letter supplied by Gordon E. Brown Jr., Ph.D. who is a Chief Psychologist of Clinical Services at the Department of Disabilities and Special Needs. This letter was made Court's Exhibit Number One (1). That letter from Dr. Brown indicates that it is their opinion that the Defendant meets the criteria for a diagnosis of intellectual disability (mental retardation). The letter also indicates that Alicia Hall, Ph.D., who is the lead examiner in the case, concurs with that opinion.

Therefore this Court finds by a preponderance of evidence that the Defendant has intellectual disability (mental retardation) and this Defendant, as a matter of law, is not eligible for the death penalty.

Based upon the above referenced findings IT IS HEREBY ORDERED that because the Defendant has been diagnosed with intellectual disability (mental retardation) and has intellectual disability (mental retardation) the State is precluded and barred from seeking the death penalty in this case.

IT IS SO ORDERED,



THOMAS A. RUSSO
Presiding General Sessions Judge
Judge for the Twelfth Judicial Circuit

In Chambers,

January 4th, 2012

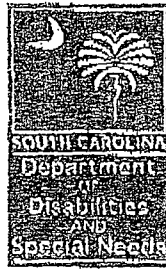
2012 JAN -9 PM 4:27
CORRIE REED-SHEARIN
CCOP & SS
FLORENCE COUNTY, SC

FILED

Copy

ELC 09-1560

Beverly A. H. Buscemi, Ph.D.
State Director
 David A. Goodell
Associate State Director
Operations
 Kathi K. Lacy, Ph.D.
Associate State Director
Policy
 Thomas R. Waring
Associate State Director
Administration



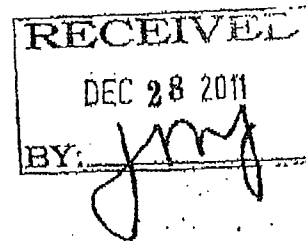
COMMISSION
 Richard C. Huntress
Chairman
 Fred Lynn
Vice Chairman
 Christine Sharp
Secretary
 Nancy L. Banov, M.Ed.
 Kelly Hanson Floyd
 Deborah C. McPherson
 Harvey E. Shiver

3440 Harden Street Ext (29203)
 PO Box 4706, Columbia, South Carolina 29240
 803/898-9600
 Toll Free: 888/DSN-INFO
 Website: www.dds.sc.gov

December 22, 2011.

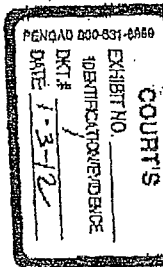
Mr. Ed Clements, III, Esq.
 12th Circuit Solicitor's Office
 180 N. Irby Street
 MSC-Q Room 1101
 Florence, SC 29501

Re: State v. David Gerrard Johnson
 Indictment # 2009-GS-21-1564
 Competency to Stand Trial Evaluation



Dear Mr. Clements:

This letter is in response to previous communications with you and W. James Hoffmeyer (Defense Attorney) regarding whether David Gerrard Johnson is intellectually disabled (mentally retarded) and therefore ineligible for the death penalty. Mr. Johnson was interviewed for a court-ordered evaluation of Competency to Stand Trial on December 6, 2011 by Alicia Hall, Ph.D., and by the undersigned. A second interview was necessary to complete that evaluation and has been scheduled for January 12, 2012. A complete report will be submitted upon completion of the evaluation, and this letter will not address the issue of whether the defendant is competent to stand trial.



In addition to giving an opinion regarding competency to stand trial, the Department of Disabilities and Special Needs (DDSN) is also required by S.C. Code Ann. §44-23-420 to render an opinion regarding whether or not a defendant meets the criteria for a diagnosis of intellectual disability (mental retardation). This letter is written to provide, as requested, advance notice of that opinion. Alicia Hall, Ph.D., is the lead examiner in this case, and she concurs with the opinion.

The S.C. Code Ann. §44-20-30 defines intellectual disability (mental retardation) as "significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period." It is our opinion that Mr.

P.O. Box 239
 Clinton, SC 29325-9328
 Phone: (854) 938-3497

DISTRICT I
 Midlands Center - Phone: 803/935-7500
 Whitten Center - Phone: 864/833-2733

9995 Miles Jamison Road
 Sumterville, SC 29485
 Phone: 843/832-5576

DISTRICT II
 Coastal Center - Phone: 843/873-5750
 Pee Dee Center - Phone: 843/664-2600
 Salceby Center - Phone: 843/332-4104

Johnson meets the criteria for a diagnosis of intellectual disability (mental retardation). This opinion is based on the following information:

1. Mr. Johnson received special education services beginning in the second grade and throughout school and was classified as Educable Mentally Disabled or as having a Mild Mental Disability, classifications which are generally most consistent with a diagnosis of intellectual disability (mental retardation).
2. There are two complete psychoeducational evaluation reports (1993 and 1996) from the school district, with both indicating concurrent deficits in intellectual and adaptive functioning.
3. Information provided by defense counsel includes results of a privately obtained psychological evaluation in 2011, and those results are consistent with previous test results.
4. Mr. Johnson's performance in the interview on December 6, 2011 was consistent with mild mental retardation as he appeared to be putting forth a good effort but having difficulty with some of the material being discussed.

It is the opinion of the examiners that the preponderance of the evidence clearly supports a diagnosis of intellectual disability (mental retardation).

Sincerely,



Gordon E. Brown, Jr., Ph.D.
Chief Psychologist-Clinical Services

cc: Mr. W. James Hoffmeyer, Esq., Attorney for Mr. Johnson

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF GENERAL SESSIONS
CASE NO.: 2009-GS-21-1564

State of South Carolina,)
)
v.)
David Gerrard Johnson,)
)
Defendant,)

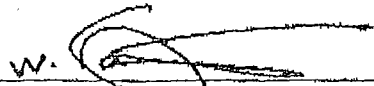
MOTION TO SUPPRESS EVIDENCE
ILLEGAL SEARCH AND SEIZURE

2011 DEC 22 AM 10:29
CORRIE REEL-SHEARIN
CCJP & GS
FLORENCE COUNTY, SC
FILED

YOU WILL PLEASE TAKE NOTICE that the Defendant, through counsel, will move before the Court, at such time as the Circuit Court schedules a hearing, to suppress any evidence seized or derived from the search of the Defendant's residence at [REDACTED] [REDACTED] Florence, South Carolina. The Defendant bases this motion to suppress on the Fourth Amendment of the United States Constitution which establishes the right of people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. U.S. Const. Amend IV. The Defendant also bases his motion on Article I, § 10 of the S.C. Constitution which establishes the right of people to be free from unreasonable searches and seizures and in addition establishes a specific prohibition against unreasonable invasion of privacy.

On August 27, 2008 investigators with the Florence Police Department went to the residence of the Defendant at approximately 4:12 a.m. An investigator walked to the north side of the residence and located a crawlspace under the back porch. The officer then searched the crawl space. Inside the crawlspace was located a Samsung VCR/DVD player, an Emerson DVD player, an Orion VCR, a remote control to the Samsung unit and a black patch cable. There was no search warrant issued for the Defendant's residence. Clearly the Defendant would have had an expectation of privacy at his residence and there is no reason that an officer did not seek to

secure a warrant other than he simply chose not to do so. Therefore, the investigator searched the residence of the Defendant without a search warrant and any evidence derived from that search should be suppressed. Further, any other evidence that was later derived from this illegal search should be suppressed as well.


W. JAMES HOFFMEYER
125 Warley Street
Florence, South Carolina 29501
(843) 664-0009
(843) 664-0105 *facsimile*

KATHY P. ELMORE
Post Office Box 2527
Florence, South Carolina 29503
(843) 667-6613
(843) 667-0340 *facsimile*

ATTORNEYS FOR DEFENDANT

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF GENERAL SESSIONS
INDICTMENT NO.: 2009-GS-21-1564

State of South Carolina,)

v.)

David Gerrard Johnson,)

Defendant.)

MOTION TO SUPPRESS STATEMENTS
OF THE DEFENDANT AND TO SUPPRESS
ANY EVIDENCE DERIVED
FROM THOSE STATEMENTS

FILED
2011 DEC 22 AM 10:28
CORINNE E. SHEARIN
CLERK OF COURT
FLORENCE COUNTY, SC

YOU WILL PLEASE TAKE NOTICE that the Defendant, David Johnson, by and through defense counsel, hereby moves to suppress the statements that the Defendant gave to the City of Florence investigators in the above-captioned matter.


A statement obtained as a result of a custodial interrogation is inadmissible unless the suspect was advised of and voluntarily waived his rights. Miranda v. Arizona, 384 U.S. 436. (1966). If a suspect was advised of his Miranda rights and made a statement, the burden is on the State to prove by a preponderance of evidence that the Defendant's rights were voluntarily waived. State v. Washington, 296 S.C. 54, 370 SE 2d 611 (1988). A statement is not admissible unless it was voluntarily made and the voluntariness requirement is in addition to the intelligent waiver mandate of Miranda. See State v. Middleton 288 S.C. 21, 339 SE 2d 692 (1986). Statements elicited during interrogation are only admissible if the prosecution can establish the suspect "knowingly and intentionally waived his privilege against self incrimination and his right to retained or appointed counsel." Miranda v. Arizona, 384 U.S. at 475.

Statements were taken from the Defendant on August 26, 2008 and August 27, 2008. When the first statement was taken the Defendant was at the City-County Complex in the presence of investigators while other suspects were also present at the City-County Complex but not in the same room as the Defendant. At that point the Defendant was in custody, as under the

totality of circumstances a person in the Defendant's position would not believe they were free to leave. There were no Miranda warnings given before the first statement and, further, the statement was not freely and voluntarily given. While the statement is not inculpatory, the Defendant asserts that, because the statement was taken without the Defendant being Mirandized and, further, was not freely and voluntarily given, the statement is not admissible for any purpose whatsoever.

With regard to the second statement of the Defendant, it was taken on August 27, 2008 beginning at approximately 3:15 a.m. It appears the Defendant was Mirandized and further this statement was recorded and transcribed. In that statement the Defendant does give somewhat inculpatory responses. The Defendant asserts this statement was not freely and voluntarily given and further the statement was in violation of Miranda due to the inability of the Defendant to understand the Miranda Warnings.

With regard to both of these statements, the Defendant moves that they be suppressed and not allowed into the evidence in this case. Further, the Defendant requests that any evidence derived from these statements be suppressed as "fruit of the poisonous tree."


W. JAMES HOEPMAYER
125 Warley Street
Florence, South Carolina 29501
(843) 664-0009
(843) 664-0105 *facsimile*

KATHY P. ELMORE
Post Office Box 2527
Florence, South Carolina 29503
(843) 667-6613
(843) 667-0340 *facsimile*

ATTORNEYS FOR DEFENDANT

December 21, 2011

WITNESSES

Melvin Godwin

Florence Police Department

DOCKET NO. 2009-GS-21-1564

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2009

E. L. CLEMENTS, III

THE STATE

vs.

ARREST WARRANT NUMBER

DAVID GERRARD JOHNSON

2009-GS-21-1564 2009-GS-21-1564A
2009-GS-21-1564B

2009-GS-21-1564C 2009-GS-21-1564D

ACTION OF GRAND JURY

Indictment for

MURDER,
BURGLARY FIRST DEGREE,
ARMED ROBBERY,
POSSESSION OF WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME,
AND CONSPIRACY

Melvin Godwin

Foreperson of Grand Jury

Date:

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

FILED

2009 SEP 10 PM 1:06

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

INDICTMENT FOR
MURDER, BURGLARY FIRST DEGREE,
ARMED ROBBERY, POSSESSION OF WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME
AND CONSPIRACY

At a Court of General Sessions, convened on SEPTEMBER 10, 2009 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- MURDER

CDR: 0116 16-03-0010, 0020, 16-01-0060

That DAVID GERRARD JOHNSON did in Florence County, on or about August 24, 2008, feloniously, willfully, and with malice aforethought, kill one Willie Mae Hayes, by means of stabbing her with a knife, and that the said Willie Mae Hayes did die as a proximate result thereof, in violation of Sections 16-03-0010, 0020 and 16-01-0060, S. C. Code of Laws, 1976, as amended.

COUNT TWO- BURGLARY FIRST DEGREE

CDR: 0079 16-11-0311, 16-01-0060

That DAVID GERRARD JOHNSON did in Florence County on or about August 24, 2008, willfully and unlawfully enter the dwelling of Willie Mae Hayes, located at [REDACTED] Florence, SC, without consent and with the intent to commit a crime therein, and/or said defendant entered or remained in said dwelling in the nighttime; and/or when effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the crime was armed with a deadly weapon or explosive; and/or caused physical injury to a person who is not a participant in the crime; and/or used or threatened the use of a dangerous instrument; and/or displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; in violation of Sections 16-11-0311 and 16-01-0060, S. C. Code of Laws, 1976, as amended.

COUNT THREE - ARMED ROBBERY

CDR: 0139 16-11-0330(A), 16-01-0060

That DAVID GERRARD JOHNSON did in Florence County on or about August 24, 2008, while armed with a deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, to wit: a knife, did feloniously rob one Willie Mae Hayes, by means of force or intimidation, goods or monies of the said Willie Mae Hayes, in violation of Sections 16-11-0330(A) and 16-01-0060, S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR MURDER, BURGLARY FIRST DEGREE, ARMED ROBBERY, POSSESSION OF WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, AND CONSPIRACY WITH THE AFORESAID NAMES(S) OF DAVID GERRARD JOHNSON SHOWN THEREON:

**COUNT FOUR- POSSESSION OF WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME**

CDR: 0549

16-23-0490

That DAVID GERRARD JOHNSON did in Florence County, on or about August 24, 2008, possess and/or visibly displayed a weapon, to wit: a knife, during the commission of a violent crime, to wit: Murder, Burglary First Degree, and/or Armed Robbery, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT FIVE- CONSPIRACY

CDR: 0049

16-17-0410

That DAVID GERRARD JOHNSON did in Florence County on or about August 24, 2008, unlawfully, willfully, knowingly, wickedly and feloniously unite, combine, conspire, confederate, agree between and among three other co-defendants, and have tacit understanding with each other for the purpose of committing the crimes of Murder, Burglary First Degree, and/or Armed Robbery, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

COUNTY OF Florence
STATE VS.
David Gerrard Johnson
AKA:
Race: B Sex: M Age: 26
DOB: 10-14-1985 SS#:
Address:
City, State, Zip:
DL#: 100215019 SID#:

INDICTMENT/CASE#: 2009-GS-21-1564
A/W#: 2009GS2101564
Date of Offense: 8/24/2008
S.C. Code §: 16-03-0010; 16-03-0020
CDR Code #: 0116

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder (30 to life)

CONVICTED OF or PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Clements, III, E. L. Defendant
Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of Life without Parole days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: Count 2 Burglary 1st
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-19-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
days/hours Public Service Employment

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments), TOTAL \$105.00

Other:
Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: J. Baker
Court Reporter: J. Baker
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2141
Sentence Date: 2-17-2012

636 COUNTY OF Florence STATE VS. David Gerrard Johnson

INDICTMENT/CASE#: 2009-GS-21-1564

AKA:

A/W#: 2009GS2101564A

Race: B Sex: M Age: 26

Date of Offense: 8/24/2008

DOB: 10-14-1985 SS#:

S.C. Code §: 16-11-0311

Address:

CDR Code #: 0079

City, State, Zip:

SENTENCE SHEET

DL#: 100215019 SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Burglary / Burglary (After June 20, 1985) - First degree (15 to life) CONVICTED OF or PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Clements, III, E. L. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to State Department of Corrections, County Detention Center, for a determinate term of Life without Parole or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: Count 3 and 5

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP days/hours Public Service Employment

Total: \$ plus 20% fee: \$ Obtain GED Attend Voc. Rehab. or Job Corp.

Payment Terms: Set by SCDPPPS May serve W/E beginning

Recipient: Substance Abuse Counseling Random Drug/Alcohol testing

*Fine: § 14-1-206 (Assessments 107.5 %) § 14-1-211(A)(1) (Conv. Surcharge) \$100 § 14-1-211(A)(2) (DUI Surcharge) \$100 § 56-5-2995 (DUI Assessment) \$12 § 56-1-286 (DUI Breath Test) \$25 Proviso 47.9 (Public Def/Prob) \$500 § 14-1-212 (Law Enforce. Funding) \$25 § 14-1-213 (Drug Court Surcharge) \$150 § 50-21-114(BUI Breath Test Fee) \$50 § 56-5-2942(J) (Vehicle Assessment) \$40/ea Proviso 90.5 (SCCA Surcharge) \$5 3% to County (if paid in installments) \$ TOTAL \$105.00

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge Judge Code: 2141

Court Reporter: SCCA/217 (03/2011) Sentence Date: 2/17/2012

COUNTY OF Florence
STATE VS. David Gerrard Johnson
AKA:
Race: B Sex: M Age: 26
DOB: 10-14-1985 SS#:
Address:
City, State, Zip: FLORENCE, SC 29501
DL#: 100215019 SID#:

INDICTMENT/CASE#: 2009-GS-21-1564
A/W#: 2009GS2101564B
Date of Offense: 8/24/2008
S.C. Code § : 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Clements, III, E. L. SC Bar# 15295 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on: Counts 1, 2 and 5
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Table with columns for assessment type, amount, and total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), and TOTAL \$105.00.

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA 217 (02/20/11)

Presiding Judge
Judge Code: 2141
Sentence Date: 2-17-2012

STATE OF SOUTH CAROLINA

638

COUNTY OF Florence VS. STATE

David Gerrard Johnson

AKA:

Race: B Sex: M Age: 26

DOB: 10-14-1985 SS#:

Address:

City, State, Zip: FLORENCE, SC 29501

DL#: 100215019 SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death (5 yrs)

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549 [X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [X] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: [X] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST: Clements, III, E. L. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

[] CONCURRENT or [] CONSECUTIVE to sentence on: [] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. [] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED []

[] Set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

*Fine: Substance Abuse Counseling []

§ 14-1-206 (Assessments 107.5 %) \$ \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$

TOTAL \$ 105.00

Clerk of Court/ Deputy Clerk

Court Reporter:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-21-1564

A/W#: 2009GS2101564C

Date of Offense: 8/24/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

Presiding Judge

Judge Code: 2141

Sentence Date: 8-17-2012

COUNTY OF Florence
STATE VS.

David Gerrard Johnson

AKA:

Race: B Sex: M Age: 26

DOB: 10-14-1985 SS#:

Address:

City, State, Zip: FLORENCE, SC 29501

DL#: 100215019 SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined (0-5)

INDICTMENT/CASE#: 2009-GS-21-1564

A/W#: 2009GS2101564D

Date of Offense: 8/24/2008

S.C. Code §: 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Clements, III, E. L. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on: Cont 1, 2, 3
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:
*Fine:
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$
TOTAL \$ 108.00

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

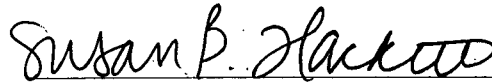
Clerk of Court/ Deputy Clerk
Court Reporter:

Presiding Judge
Judge Code: 2141
Sentence Date: 2/17/2012

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

August 2nd, 2013



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Florence County

Thomas A. Russo, Circuit Court Judge

RECEIVED

AUG 02 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

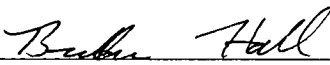
v.

DAVID GERRARD JOHNSON,

APPELLANT

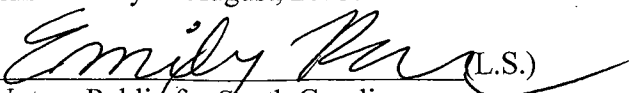
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Melody J. Brown, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 2nd day of August, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 2nd day of August, 2013.



(L.S.)
Notary Public for South Carolina

My Commission Expires: November 16, 2022.