Vol. II of II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

ORIGINAL

Appeal from Edgefield County

Honorable Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

RECEIVED
MAR 05 2019
SC Court of Appeals

V.

STEVEN LOUIS BARNES,

APPELLANT

APPELLATE CASE NO 2017-002140

RECORD ON APPEAL

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Q. And did y'all call DNR out to assist you there?
A. Yes, sir. The same -- actually the same team that came out on the 24th.
Q. What date was that?
A. That was the 31st of January.
Q. State's 72, a picture of somebody standing there and there's something out in the water. What are we looking at?
A. That's DNR, the dive team personnel, that's actually in the water doing the search and that's another DNR guy standing in the picture. You have to have a person watch the diver while he's out in the water.
Q. Did y'all find anything that day?
A. We didn't find anything.
Q. Let me ask you, Lieutenant, did y'all -- did you have any real expectation of finding anything in that water?
A. No, sir.
Q. You mentioned at the Fifth Street bridge it was dark and muddy, but it's all Savannah River?
A. Yes, sir.
Q. Is water ever released in there from the dam?
A. Yes, sir.
Q. Are there other creeks and streams that flow into that river?
A. Yes, sir. Daily.

Q. And is there a nice current at times in there?
A. Yes, sir.
Q. So did it surprise you you couldn't find anything -- these guys couldn't find anything?
A. I didn't expect to find anything at all.
Q. May I ask you this? Why did you look?
A. Because we had had information that there were weapons involved in this murder and there were weapons throwed over a bridge.
Q. Okay. So you were just doing your job?
A. Yes, sir.

MR. HUBBARD: Thank you, sir. Please answer any questions the defense might have.

THE COURT: Cross-examination.

MR. BLOOM: If it please the Court?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. BLOOM:

Q. Lieutenant Doran, let me ask you first, you've testified a little bit about Willie Harris and some of the other witnesses have, and so I have a series of questions I want to ask you in that regard. And, first, just so we're clear, you met with an investigator in Georgia over this case?
A. Yes, sir.

Q. All right. And that was sometime after you discovered the remains on the Dais property sometime on or after November of 2001?
A. Yes, sir.
Q. And you contacted, I guess it was Investigator Roundtree, in Georgia?
A. Yes, sir. He was one of the investigators, yes, sir.
Q. All right. So he was one of them and there were other law enforcement with Georgia investigating events on that side of the state line, correct?
A. That's correct.
Q. And you were primarily investigating events on the South Carolina state line, right?
A. Yes, sir.
Q. And Mike Perry of SLED was assisting you in some of that investigation; is that fair to say?
A. That's correct.
Q. All right. And you and law enforcement in Georgia shared information about the case, I take it?
A. Yes, sir, we did.
Q. All right. And that was -- when you shared information, that would sometimes be face to face meetings with them at their office over in Georgia, correct?
A. Yes, sir.
Q. And sometimes I guess it would just be by phone call

to say hey, we found this out or what else have you found out; would that be fair to say?

A. Yes, sir.

Q. So you were in pretty constant contact with Georgia law enforcement in this case when it first came to your attention?

A. That's correct.

Q. And you learned through the course of your investigation, of course, that Willie Harris was the half-brother of Mr. Barnes, correct?

A. That's correct.

Q. And that Willie Harris was the last person Ms. Sturrup had seen with her son, Samuel, in Georgia, correct?

A. That's correct.

Q. And you learned that from the events at the Cherry Street house or The Green House that Mr. Harris had assaulted Charlene Thatcher, correct? You learned that information?

A. Yes, sir.

Q. And that he had assaulted her with a broom handle?

A. Yes, sir.

Q. All right. And we heard that described in court. We don't need to go into the details, but that was a fairly accurate description she gave of the assault by Mr. Harris against her; is that fair?

A. Yes, sir.
Q. And we also learned -- you also learned that Mr. Harris during the events at The Green House had his own gun; is that correct?
A. Yes, sir.
Q. And he put that gun in the mouth of Samuel Sturrup, correct?
A. Yes, sir.
Q. And that was because at some point you learned in the investigation during the incidents there that Samuel Sturrup tried to shift blame to Mr. Harris saying he had taken the money, correct?
A. Yes, sir.
Q. And so Mr. Harris put a gun in the mouth of Samuel Sturrup and basically told Mr. Sturrup to stop accusing him, Willie Harris; is that fair to say?
A. Yes, sir.
Q. And you learned all that through your investigation and coordinating with Georgia law enforcement, right?
A. Yes, sir.
Q. And at some point in time you and Agent Perry actually travelled to Georgia to interview Willie Harris, correct?
A. We did.
Q. All right. And as I understand it, Mr. Harris -- or, excuse me, Mr. Perry, the SLED agent, conducted most of

the interview and you were present to witness that; is that fair to say?

A. Yes, sir.

Q. All right. And through the course of that interview you learned that Mr. Harris also alleged initially that --

MR. HUBBARD: Your Honor, I'm gonna object to any hearsay.

MR. BLOOM: If we --

MR. HUBBARD: Do we need to approach, Your Honor?

MR. BLOOM: -- may approach?

THE COURT: Sure.

(Proceedings held at the bench; not reported.)

THE COURT: You may continue, Mr. Bloom.

MR. BLOOM: Thank you, Your Honor. If it please the Court?

BY MR. BLOOM:

Q. Lieutenant Doran, you and SLED agent Mike Perry interviewed Willie Harris, correct?

A. We did.

Q. And that interview took place in Georgia, correct?

A. That's correct.

Q. And you gleaned no relevant material information that helped you in your investigation from that interview; is that fair to say?

A. What I can tell you about that interview was the day

we interviewed him, we didn't talk to him any more after that day.

Q. You didn't talk to him any more after that day. And you communicated the nature of that interview to the Georgia authorities, correct?

A. Yes, sir. After that -- after that day, my investigation, Richmond County's investigation, revealed that William Harris never was in Edgefield County.

Q. Yes, sir. And after you communicated the information from what you gleaned from Mr. Harris on that date from your interview, to your knowledge at any time did Georgia law enforcement attempt to obtain a search warrant in Georgia as to Mr. Harris' residence?

A. I don't have knowledge to that.

Q. All right. At any time did Georgia law enforcement attempt to obtain a search warrant to search Mr. Harris' car?

A. Not to my knowledge.

Q. All right. And at some point Georgia law enforcement did obtain a search warrant for a storage shed of Mr. Harris; is that correct?

A. That's correct.

Q. All right. And they found a couple of thousand dollars in that storage shed; is that fair to say?

A. Yes, sir.

Q. All right. Now next you also learned through sharing information and -- from your counterparts in Georgia that Mr. Harris had been an informant for Investigator Roundtree, correct, on activities -- other activities in Georgia?

A. Not to my knowledge.

Q. Not to your knowledge. All right. But you heard Charlene Thatcher testify to that today?

A. Yes, sir.

Q. All right. Now just to verify some dates I heard you say on direct, I want to make sure I have those correctly. Ms. Thatcher was arrested in Georgia on January 17th of 2002 for matters in this case?

A. Yes, sir. That was a search warrant that was done by Richmond County on Mr. Barnes' residence.

Q. Right. And that's -- in fact, we heard Ms. Thatcher testify about the day Georgia law enforcement came to the house on Cairo Court, correct?

A. Yes, sir.

Q. All right. And Ms. Thatcher was arrested on that date of January 17, 2002, correct?

A. That's correct.

Q. And at the same time Mr. Barnes was arrested in Georgia by Georgia law enforcement on that date of January 17, 2002, correct?

A. Yes, sir.
Q. And Mr. Julio Hunsberger was arrested January 22nd of 2002, correct?
A. Yes, sir.
Q. All right. And Alex Hunsberger was arrested January 25th of 2002, correct?
A. Yes, sir, but he -- he turned himself in.
Q. He turned himself in. Thank you for -- for correcting the record in that regard. Richard Cave who we've heard testify was arrested in Georgia on January 22nd of 2002?
A. Yes, sir.
Q. And Antonio Griffin was also arrested in Georgia on or about January 23rd of 2002; is that fair to say?
A. Yes, sir.
Q. So all of those arrests, whether they occurred in South Carolina or one of them turned themselves in or they were arrested in Georgia, all were within about a week of each other, correct, of all these parties?
A. Yes, sir.
Q. All right. Willie Harris was not arrested at that time for anything, correct, in Georgia?
A. No, sir.
Q. All right. So he remained out on the street at that period of time, correct?
A. Yes, sir.

Q. All right. And you're not aware of any further investigation Georgia law enforcement did regarding Willie Harris?
A. No, sir.
Q. All right. And you're not aware of any warrant for anything Georgia law enforcement issued regarding Willie Harris?
A. No, sir.
Q. You are familiar, and I think you've testified to it, of the search warrant and arrest warrant of Mr. Barnes' house on Cairo Court in Georgia on or about January 17, 2002, correct?
A. Yes, sir.
Q. All right. And from that arrest and search warrant you're aware that no 40-caliber ammunition was found in Mr. Barnes' house, correct?
A. I'm not aware.
Q. I mean, if they had found any 40-caliber ammunition --
A. I don't know if they found any or not. I don't know.
Q. All right. If they had -- of course, the cartridge casing in this case is a 40-caliber cartridge casing, correct?
A. Yes, it is.
Q. And that's in State's Exhibit 19; is that correct?
A. Yeah.

Q. And if Georgia had found any 40-caliber ammunition at Mr. Barnes' Cairo Court house where he lived, you would think Investigator Roundtree or someone from Georgia would have communicated that you, correct?

A. Yes, sir.

Q. All right. Because you were sharing information with them about what you had on this side of the state line, right?

A. That's correct.

MR. BLOOM: The Court's indulgence one moment.

THE COURT: All right.

BY MR. BLOOM:

Q. Just a few remaining questions. You're not aware of Georgia law enforcement obtaining any search warrants for the phone records of Mr. Willie Harris in this case, correct?

A. No, sir.

Q. Or for that matter search warrants for the phone records of Mr. Barnes, correct?

A. That's correct.

Q. And your department to your knowledge did not issue any search warrants for any phone records in this case?

A. No, sir. Phones, they were really limited back then in 2000, the records were.

Q. But in 2001, of course, we've heard testimony in this

case that there were perhaps some cell phones, possibly land lines, used. You can obtain phone records, correct, through subpoena or court order, correct?

A. We can. Yes, sir.

MR. BLOOM: All right. Thank you, sir.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. Back in 2001, y'all had very limited cell service out here, didn't you?

A. Yes, sir.

Q. Now you interviewed numerous people in this murder investigation; did you not?

A. Yes, sir.

Q. I've already asked you this. Let me ask you another way. Did anybody ever come forward and say William Harris is involved in this?

A. No one whatsoever.

Q. Based on your investigation, who were the last people with Samuel Sturrup?

A. Steven Barnes --

MR. BLOOM: Judge, I would have to object. That calls for hearsay. Obviously we've had witnesses testify to that, but that would be the only way this witness would know that.

MR. HUBBARD: Your Honor, I'm just -- I think it

dovetails into their investigation about who the last person who was seen with William Harris initially -- I mean, Sam Sturrup initially was William Harris, so I think this just answers that.

Judge, I tell you what. I'll waive the question.

THE COURT: Thank you.

BY MR. HUBBARD:

Q. One final question. The evidence you have for the murder of this Samuel Sturrup, is that evidence directed at Mr. Barnes?

A. Yes, sir.

MR. HUBBARD: Thank you.

THE COURT: Recross?

MR. BLOOM: None, Your Honor.

THE COURT: All right. Thank you. You may come down.

(Witness excused.)

THE COURT: Ladies and gentlemen, it is 1:01. It is time for our lunch break and we will reconvene at 2:15. At 2:15.

Of course, the same admonitions as the other ones. Do not discuss this matter or allow anyone to discuss it with you. And understand that if you happen to see anyone who has anything to do with this case during the lunch break and they do not even say hello, they are not being rude. They should not be interacting with you. In fact, should

anyone try to talk to you about his case, please get their name and, if not, a description and report back to me upon your return to the courthouse.

Leave your notebooks in your seats and we will keep them safe while you're having lunch. Remember about your cell phones. I know everybody will use their cell phone more likely than not during lunch, but please leave it somewhere other than the courthouse. If it follows you back, give it to one of our bailiffs and they will, of course, keep good care of it.

During your lunch don't read anything, don't listen to anything about this matter during the lunch break. That's the radio, television or Internet. Do not do any investigation regarding this matter either yourself or through the use of the Internet. You must receive all of the information from which you will make up your minds here in court while court is in session.

And have a wonderful lunch. I'll see you at 2:15.

(Whereupon, the jury was excused for lunch at 1:03 PM.)

THE COURT: Anything before we take our lunch from the State?

MR. HUBBARD: Not from in the State, Your Honor.

MR. BLOOM: We need to put our bench conference a little bit on the record.

THE COURT: Sure.

MR. BLOOM: We haven't put previous bench conferences on the record, and I think that's mainly because Your Honor didn't rule, we simply scheduled the objection to be taken up when the jury wasn't in the courtroom, but we did have a substantial discussion this one time and I proposed to be allowed to ask Lieutenant Doran did he not learn through his investigation and interview of Willie Harris that Harris also alleged -- the question would have been did not Willie Harris allege during that interview that he had last seen Sam Sturrup with a white girl. I would have propounded a few other questions such as and you learned that to be a lie and then you learned other material and relevant facts from your interview with Samuel {sic} Harris were, in fact, lies, and that would have been the focus of that cross-examination. It would have been a handful of questions. We believe that one statement by Harris from his interview would not have been hearsay, it would not be offered for the truth of the matter asserted because it was, in fact, not true. And our questioning in that regard would have been based on Kyles versus Whitley and the nature of the investigation.

Thank you, Your Honor.

THE COURT: Thank you so much.

MR. HUBBARD: And, Your Honor, just for the record,

we think it would be hearsay and also should it have come in, it's kind of a backdoor way of trying to get third-party guilt in. Under 403 I think it would have been -- it had no probative value at all, but would have been incredibly confusing to the jury, and also what it would have done is actually open the door for more thorough questioning. The initial question is did he lie about buying Mr. Barnes' story that he told Ms. Sturrup that Samuel Sturrup went off with a little white girl, no, they knew that was a lie, but that he eventually said my brother confessed to me, he did kill Samuel Sturrup, and that would have been hanging out there left for me to decide well, do I want to ask that question and tank this case? Maybe win now, but tank it later on, and it would have just been a massive problem, so that was my objection.

THE COURT: Very well. And all of that was raised at the sidebar and I made a determination that -- that it was inadmissible. My concerns were that -- that at the time certainly when the statement was made by Mr. Harris that Mr. Harris it appears would have been making that statement to be believed. It certainly -- while I understand the defense's intention was not to admit it for the truth of the matter asserted, certainly at the time the statement was made it certainly, I think, would qualify as a hearsay statement.

I became concerned with really two issues. Number one, that the question regarding the investigation, while it certainly could have been made in a more general sense rather than going into the specific statements, I did not want that door to be opened, which arguably it would be open for the -- if for no other reason than that of completeness. I was concerned about that. I was also concerned that out of all of the issues involving the Kyles-type evidence have involved Mr. William -- his last name slipped my mind.

MR. HUBBARD: Harris.

THE COURT: Of course, William Harris, and my concern -- while I absolutely understand it's being couched in terms of Kyles and investigative concerns, that it is beginning to, at least as I listened to it, to appear as third-party guilt and, as I understand it, both sides do not maintain that this is an appropriate matter for third-party guilt as I understand it, so that became my concern.

I considered all of that and it just appeared to me that the -- that rather than eliciting specific statements that for the reasons that I've stated -- that was not appropriate for the reasons I have stated, yet the value of interrogation regarding the investigation was done more decisively, and I note the defense's exception.

Very well.

MR. BLOOM: Thank you.

THE COURT: Anything else?

MR. HUBBARD: Not from the State, Your Honor.

MR. BLOOM: Not from the defense, Your Honor.

THE COURT: Very well. Have a good lunch. I'll see you-all back in just a little bit. At 2:15.

(Whereupon, a luncheon recess was taken at 1:10 PM.)

BAILIFF: All rise.

THE COURT: All right. Anything from the State before we bring the jury out?

MR. HUBBARD: No.

THE COURT: Anything from the defense?

MR. BLOOM: Nothing from the defense.

THE COURT: Good.

(Whereupon, the jury returns to the courtroom at 2:31 PM.)

THE COURT: All right. At this time we'll continue with the State's case.

MR. HUBBARD: Your Honor, at this time we call Antonio Griffin.

THE CLERK: Place your left hand on the Bible and raise your right hand.

(Whereupon, Antonio Griffin was duly sworn by the Clerk of Court.)

THE CLERK: Thank you, sir. Please be seated. State your full name and spell your last name for the record.

THE WITNESS: Antonio Griffin, G-R-I-F-F-I-N.

THE COURT: You may proceed.

ANTONIO GRIFFIN,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. I see you're in a jumpsuit, but prior to being in the jumpsuit where are you living?

A. In Augusta.

Q. Can you move your hand from your --

A. In Augusta.

Q. In Augusta?

A. (Nods head.)

Q. All right. Are you married?

A. Yes.

Q. Do you have kids?

A. Two kids.

Q. How old are your kids?

A. 8 and 12.

Q. Prior to getting locked up, had you been working?

A. Yes, sir.

Q. What kind of work had you been doing?

A. Welding.

Q. Welding?
A. (Nods head.)
Q. Now obviously you're in jail now, but do you have a misdemeanor charge out of Georgia?
A. Yes, sir.
Q. And a hold on you from parole?
A. Yes, sir.
Q. Okay. We're gonna talk a little bit more about that later, okay? Right now I want to ask you to go back to September 2001. About how old were you then?
A. 18.
Q. Were you in school then?
A. Yes, sir.
Q. What year were you?
A. Twelfth grade.
Q. Where were you going?
A. Laney. Laney High School.
Q. Lucy Laney?
A. Yes, sir.
Q. Were you involved in any kind of extracurricular activities at that school?
A. I was in the band.
Q. What did you play in the band?
A. Base drum.
Q. Now Lucy Laney has a pretty prominent marching band?

A. Yes, sir.
Q. Did you travel with that band?
A. Yes, sir.
Q. Who were you living with back in 2001?
A. My mom.
Q. Did you have any jobs?
A. Yeah, I was working at Popeye's around that time.
Q. Sometime before that did you work at KFC?
A. Yes.
Q. Do you know a guy by the name of Richard Cave?
A. Yes, sir.
Q. How did you know him?
A. From school, from the band.
Q. At some point did you work with him as well?
A. Yes.
Q. Back at that time, how would you describe your relationship with him?
A. We was close friends all through high school, hung out together.
Q. All right. And y'all were in the band together?
A. Yes, sir.
Q. Both played drums? A different type of drum, but played drums?
A. Yeah.
Q. Do you know Steven Barnes?

A. Yes.
Q. Do you see him in the courtroom today?
A. Yes, sir.
Q. Can you, please, point him out for the Court?
A. (Indicating.) The man with the glasses.
MR. HUBBARD: Your Honor, if the record will reflect he's pointed out Mr. Steven Barnes.
THE COURT: Very well.
BY MR. HUBBARD:
Q. How did you first meet Mr. Barnes?
A. Through my ex. My ex was hanging out with him and me and her got back together, so I was wanting to know who he was, you know, being she was my girl, and I met him.
Q. So you had an ex that y'all got back together --
A. Yes.
Q. -- and she knew him?
A. Yes.
Q. What was her name; do you remember?
A. Areeka.
Q. Areeka?
A. Yes.
Q. When was the first time you recall meeting Mr. Barnes?
A. We went out to a club called County Line.
Q. County Line?
A. (Nods head.)

Q. Who all was with you when you went out to that club that you knew?
A. There was a number of people. Me, Richard, my girl, Reeka.
Q. Did you know anybody else when you went out?
A. No.
Q. Now let's talk about Mr. Barnes or Steven Barnes. What name did you know him by?
A. Big Man.
Q. Did you know him by any other name?
A. No, sir.
Q. When did you learn that his name was Steven Barnes?
A. When I got locked up.
Q. On this case?
A. (Nods head.)
Q. Now just so you know, whenever I ask you something, say yes or no so this lady can type it down, okay?
A. Okay.
Q. Now the County Line club, you say Richard Cave was with you?
A. Yes.
Q. Did you see or meet a fellow by the name of Sam Sturrup?
A. I saw him there, but I never met him. He was there.
Q. Had you ever seen him before?

A. No, sir.
Q. Who paid to get into that club?
A. Big Man.
Q. Was he paying for everybody?
A. Yes.
Q. And what cars were y'all riding in?
A. It was about four cars, three or four cars, and it was a whole lot of people, colored folks.
Q. Were these Big Man's cars and Big Man's people?
A. Him and his brother.
Q. Little Man?
A. Yes.
Q. Had you heard of him?
A. Yeah.
Q. Will Harris?
A. Yes, sir.
Q. Did you know him?
A. No, I never met him before that night.
Q. Not before that night?
A. (Shakes head.)
Q. Whose car did you ride in?
A. I rode with Big Man.
Q. So that night you're out with Richard, a guy named Big Man, Mr. Barnes, you've got cars, you've got all these people, you've got somebody paying for you. How old were

you?
A. 18.
Q. Was that big deal to you then?
A. Uh-huh. Yeah, nice cars and going to the club. A typical teenager.
Q. Okay. Did you have fun?
A. It was all right.
Q. Do you remember at some point one of the cars overheated?
A. Yeah, going back to Augusta. We was racing.
Q. Okay. Did you have any other problems that night?
A. No.
Q. Was there any reason why you wouldn't want to hang out with Mr. Barnes again?
A. No.
Q. I want to ask you about Labor Day weekend. Let's go to Sunday. Whose house were you hanging out at?
A. Richard's.
Q. Richard Cave's?
A. Yes.
Q. Were you there most of the day or just --
A. Yeah, all that day.
Q. What did y'all want to do?
A. Go to the club again.
Q. At some point y'all end up talking to Mr. Barnes

again?
A. Yes.
Q. Is that during the day or was it later in the day?
A. A couple of times that day.
Q. Okay.
A. You know, we called. He was like he wasn't really doing nothing, he was keeping busy, so later on that night, you know, I don't know if he called or we called him, but he said if you get dropped off to where he was at he'd take us back home.
Q. Okay. If you get a ride and get dropped off, he'd get you back home?
A. Yes.
Q. And he knew that would include you and Richard?
A. Yes.
Q. Who dropped you off?
A. Richard's step-dad.
Q. And where did he take you?
A. To Washington Road.
Q. And what was out there?
A. That's where Steve was at.
Q. Is that the house on Cherry Street?
A. Yeah.
Q. I want to show you a picture, State's Exhibit 25. Is that the house?

A. Yes.
Q. Now was it nighttime or daytime when you got dropped off?
A. It was nighttime.
Q. Now I want to show you State's Exhibit 31, a big blowup board. Do you see the road and the house on here?
A. (Nods head.)
Q. You do?
A. Yes, sir.
Q. When you got dropped off, did you get dropped off at the house or where on the road?
A. You can't see it, sir. It's on Washington Road at the top.
Q. Further off this chart?
A. Yes.
Q. So you had to walk down to the house?
A. Yes.
Q. As you and Richard were walking down to the house, what, if anything, did you hear?
A. Halfway down we heard a lot of commotion and stuff. When we get down there, he met us in the road, we shook hands with him, and he was like you stole my money, you stole my money, and so I'm like are you talking about me and Richard and he was like Sam and I'm like who's Sam and he was like, you know, he was sitting down at the club with

us and he told him to come here, you know.
Q. All right. Let me stop you let's walk you through that. So you're walking down that road?
A. (Nods head.)
Q. Who comes up to you?
A. Big Man.
Q. And he says what?
A. He said nigger stole my money.
Q. That what stole my money, someone?
A. Yeah.
Q. And -- and you thought what?
A. I thought he was talking about us.
Q. Okay. And then what did you say?
A. Like I say, I didn't know Sam. I'm like Sam who? And he was like sitting over there in the dark over there and he told him to come here and they got to going back and forth about the money and he's like he didn't have no money.
Q. So Sam was sitting over here at this house?
A. Yes, on the side of it.
Q. Okay. There's a porch. Is that where he was sitting?
A. Yeah, on the back of the house.
Q. Okay. So Barnes calls Sam out?
A. Yes. Yes, sir.
Q. And when he came out, what happened?

A. They got back talking about the money and he kept saying he didn't have the money and he was like jump him, y'all jump him, and I was looking at Richard like what you mean jump him, so I guess he thought we was gonna jump him so he swung at me and me and him got in a fight, Richard never jumped in, and I tried to pick him and slam him and he fell back on me.

Q. All right. Let's stop a minute. Let me just stop a minute. All right. It's you, Richard, you've got Mr. Barnes, you've got Sam. Anybody else?

A. Little Man was there, too. His brother.

Q. Little Man. All right. Anybody else that you could see?

A. No.

Q. And Barnes tells you to do what?

A. Jump him. He told me and Richard to jump him. Jump on him.

Q. All right. And what does Sam do?

A. He -- I guess he wanted to get the first lick so he didn't get jumped.

Q. Who did he come after, you or Richard?

A. He came after me.

Q. So what did you do?

A. I fought him.

Q. Okay.

A. I mean, I tried to pick him up and slam him and he fell back on me.
Q. You tried to pick him up and slam him?
A. Yeah.
Q. And he fell back on you?
A. Yeah.
Q. When that happened, what did Mr. Barnes do?
A. He came and got him off me and they was gonna get in a fight and Sam was walking around the car and Big Man was like chasing him around the car.
Q. Let me ask you this. At any time did you see Richard Cave throw a punch?
A. No, Richard never jumped on him. Richard never touched him.
Q. Let me ask you, that whole night did Richard Cave ever beat on --
A. He did nothing period.
Q. He didn't do anything?
A. (Shakes head.)
Q. All right. Now you say you see Barnes chasing Sam?
A. Yeah.
Q. At any time during the night did you and Richard chase after Sam?
A. No.
Q. Who was chasing him?

A. Big Man.
Q. Was he running after him or just -- who was running?
A. He was just walking around the car and telling him to come here and he was like na, man, na.
Q. Let me ask you this. Was it he's using the car to stand between -- Sam's using the car --
A. Yeah.
Q. -- between he and Barnes?
A. Yeah.
Q. What's Barnes saying this whole time?
A. He said come here, you got my money, you got my money, no need to run, when I hit you, when I connect, you're gonna feel it. All type of stuff like that.
Q. What's Barnes saying this whole -- or what's Sam saying?
A. He kept saying he had no money.
Q. At some point does it die down again a little bit?
A. Yeah, after a while he left him alone and he went back and sat on the side of the house.
Q. And then what would happen?
A. He would go back to him and ask him about the money and then it would die down. He came and asked us one time what we think and we was like I don't know. I mean, we don't know what's going on.
Q. Barnes asked you and Richard what you think?

A. Yeah.
Q. And then what did he do?
A. Sometime after that I remember Sam saying that maybe Little Man got it and they got into it.
Q. They being Sam and --
A. Little Man.
Q. -- Little man. What does Little Man do?
A. Pulled out a gun and put it in his mouth and told him I ain't got to steal from my brother, I got money, and Big Man stopped him from shooting. I guess he was gonna shoot him. I don't know.
Q. So Little Man says I don't have to steal from my brother?
A. Yeah.
Q. I got my own money?
A. Yeah.
Q. And Barnes steps in?
A. Yeah.
Q. What does Sam do at that point?
A. I remember him saying that maybe China had the money.
Q. Who's China?
A. Charlene.
Q. Charlene Etheridge {sic}?
A. Yeah.
Q. Now had you seen her there that night?

A. No.
Q. Had you seen her at the club?
A. Yeah, I seen her at the club.
Q. Was that the first time you had met her?
A. Yes.
Q. Did you know her?
A. No.
Q. What did you perceive Sam doing by saying Little Man has it, China has it?
A. I mean, getting all of the possibilities off him to somebody else because he said he didn't have it, I guess.
Q. Okay. When he says China might have it, what does Barnes do?
A. They call her out of the house. They asking her about the money.
Q. So let me ask you. So she was in this house?
A. Yeah.
Q. And she comes out where?
A. Out the door.
Q. Okay. And what happens then?
A. They asked her about the money and she was like she ain't have it, so, I mean, Little Man started beating her with a broom and she fell back through the screen door of the house. They told her to bring out your purse and she brought her purse out and they went through it on the porch

and she didn't have no money.
Q. So she comes out and you see Little Man actually beating her out there?
A. Yeah.
Q. And she falls through this door?
A. Yeah.
Q. Where that board is on the door? You probably can't see it. Let me hold it up here.
A. Yeah.
Q. The board on the door?
A. Yes, sir.
Q. And when she falls through, what does Barnes tell her to do?
A. Bring her purse back out.
Q. And what does he do with that purse?
A. He empties it out on the porch.
Q. Does she have any money in it?
A. No.
Q. When he sees she doesn't have any money, what does he say to her?
A. Well, since he's lying, one of y'all got my money. Beat his ass, beat his ass, and she was like no, I ain't gonna, and he's like if you don't beat his ass, I'm gonna beat your ass again, so.
Q. Let me stop you. So he's telling Charlene or China to

beat who?
A. Sam.
Q. He tells her if she doesn't what?
A. He'll beat her again.
Q. What is she saying?
A. She didn't want to do it.
Q. What, if anything, do you see Mr. Barnes give China?
A. I think a broom. He gave her something to hit him with, but she --
Q. Okay. What is she doing when she gets that?
A. Crying.
Q. She's crying?
A. Yeah.
Q. Does it appear she wants to do this?
A. No.
Q. She did not want to?
A. (Shakes head.)
Q. What does she do with this object?
A. Started like tapping him with it and they was telling her harder, harder.
Q. Tapping who?
A. Sam.
Q. Sam.
A. They was telling her to hit him harder. She'd just like hit him a little bit harder, but it was not that

heavy.
Q. And what is she doing?
A. She's sitting there crying.
Q. And what's Barnes doing?
A. They're telling her to hit him harder.
Q. Okay. What does he do when she's crying and tapping him?
A. They were sitting there laughing.
Q. He and Little Man?
A. Yeah.
Q. What does he tell her at that point?
A. He tell her go back in the house.
Q. Does she follow -- follow his order?
A. Yeah.
Q. She goes back in that house?
A. Yes, sir.
Q. What, if anything, does Little Man do at that point?
A. He left sometime after that.
Q. At that point when he leaves, do you see him at any other time during the night?
A. No.
Q. Do you see him at any time during the early morning hours?
A. No.
Q. At any time does Little Man, William Harris, go with

y'all to Edgefield County, here in Edgefield County?
A. No.
Q. Was he there when Sam was shot and killed?
A. No, sir.
Q. Once Little Man leaves and Charlene goes back in that house, what does Barnes start doing then?
A. He asked him back about the money. Eventually Sam said okay, I got your money, and he's like where's it at? Yeah, I got your money, and he's like where it's at and he said it's at the house.
Q. Where at the house did he say?
A. He said something like how do you know your momma ain't found it and he said I hid it behind the toilet and ain't nobody gonna find it.
Q. And he said what?
A. He's said nobody gonna find it. He hid it behind the toilet.
Q. So he's saying I'd have to go home to find it?
A. Yeah.
Q. What does Barnes say when Sam says I've got this money hidden behind a toilet at home?
A. He said okay --

MR. BLOOM: Subject to our prior 403 objection. Thank you, Your Honor.

THE COURT: Very well. Thank you. Uh-huh.

BY MR. HUBBARD:

Q. Go ahead.

A. He said that, all right, we'll go to your house and get the money. If you're lying, you know, just to go up there to get away, I'm gonna kill everybody in the house.

Q. Okay. Does that -- does everybody pile in the car at that point and go?

A. No, he left him alone after that, I guess.

Q. What does Barnes say to him?

A. He sat there next to him for a while.

Q. And what's he say?

A. He went back to him later on and was like, all right, so go ahead, I've got your money, and then he had asked to ask him again and he said no, I don't got your money, and he's like why are you lying to me and he said I just want you to stop hitting me, then he punched him in the mouth again like, yeah, you've got my money because you want a gold grill in your mouth.

Q. Okay. Let me stop you and back up. So Barnes says we're going to the house?

A. Yeah.

Q. Finally Sam says I don't have it?

A. Yes.

Q. And then why does Sam -- what is Sam telling him why he's lying about having the money?

A. He wants him to stop hitting him.
Q. He just wanted to stop being hit?
A. (Nods head.)
Q. Now you say -- what does Barnes do when he hears that Sam doesn't have the money again?
A. He hit him in the mouth again.
Q. And what's he say to him?
A. Like you have my money. I know you do because you want a grill, a gold grill in your mouth, and he's like I'm tired of playing games and pulled out the gun and said we're fixing to go for a walk and told China to come back out of the house.
Q. All right. So he hits him in the mouth?
A. Yeah.
Q. And makes this comment about I know you got money because you want a gold grill in your mouth?
A. Yes.
Q. And pulls out a gun?
A. Yes.
Q. And says what?
A. We're gonna go for a walk.
Q. We're gonna go for a walk?
A. Yeah.
Q. And you said something about China, Charlene?
A. He told her to come back out of the house.

Q. Come back out of the house. Does she listen to him and come out?
A. Yeah.
Q. Where do y'all go at that point?
A. We went around the house to some railroad tracks down Cherry.
Q. State's 31, do you see the railroad tracks on this board?
A. Yeah. Yeah.
Q. Is this Cherry Street?
A. Yeah.
Q. Where are the railroad tracks?
A. Right here.
Q. Now which way -- if you walk down Cherry Street, did y'all turn to the right or to the left?
A. To the right.
Q. How far down did you go? Would it be on this board or a little off?
A. A little off the board.
Q. A little off the board. So tell me what happened at the railroad tracks.
A. He made him walk in front of us and --
Q. Made who walk?
A. Sam. And he told him -- after a little bit of time, he told him to keep going. We stopped and he told -- he

told China to shoot him and she started crying like no, I done told you I'm not gonna shoot him, I've got a child, and he's like well, one of y'all is gonna shoot somebody because one of y'all got my money, so he gave -- like he was gonna give the gun to Sam.

Q. Let's back up just a minute. I know I'm taking it slow here. I want to take it in little pieces. Whose idea was it to go to the tracks?

A. Big Man.

Q. Where was China when he said let's go to the tracks?

A. In the house.

Q. Who was walking out front?

A. Sam.

Q. Who told him to walk out front?

A. Big Man.

Q. Who had a gun?

A. Big Man.

Q. And he tells who to shoot Sam?

A. He told China.

Q. And what does she say?

A. She ain't gonna shoot him.

Q. Can you describe her state at that time?

A. Crying again. She didn't want to shoot him. Then he was like -- he asked Sam did he want to shoot her and he was like yeah, I'll shoot her and he reached for the gun,

but she grabbed Big Man and was like please don't let him shoot, I ain't got your money, I ain't got your money, so he starting laughing, I ain't gonna let him shoot you. Then he asked me and Richard do y'all want to shoot and we was like no, man, so he's like all right, do you want to go home, Sam's like yeah, okay, I'll take you home, so we walked back to the house.

Q. All right. Let's go back through that. So when he tells China to shoot, she's crying?

A. Yeah.

Q. And you're saying he said -- gave Sam the opportunity to shoot her?

A. Yeah.

Q. What's he do?

A. Who, Sam?

Q. Yeah. Is he reaching for the gun?

A. Yeah, he reached for it.

Q. What does China do?

A. Grabbed Big Man on his arm, told him don't let him shoot me.

Q. And what does he say?

A. I'm ain't gonna let him shoot you.

Q. Is he talking mean or is he --

A. Like laughing.

Q. What's his demeanor? Like laughing?

A. Yeah.
Q. At that point what does he say to Sam?
A. Asked him if he wanted to go home.
Q. He asked him if he wanted to go home?
A. Yeah.
Q. Did Sam want to go home?
A. Yeah.
Q. And what did Barnes say then?
A. We'll take him home.
Q. Where do y'all head then?
A. Back to the house.
Q. Back to this same house on Cherry Street, right?
A. Yes.
Q. When y'all get to the house, what do you see Barnes going?
A. He walked up the street and got on his cellphone and me and Richard went and just sat on the porch and China went back in the house.
Q. So China goes in the house, you and Richard are on the porch and you see Barnes out on the street?
A. Yeah.
Q. What happens next?
A. When he walked back down the street sometime later another car pulled up and two dudes got out and they started talking and he came to us and was like he's fixing

to take him home, do y'all want to go home, and we're like no, we'll ride, we're good. So at this point we're thinking we're fixing to go the club again, so he was like all right, call China out of the house and y'all are gonna get in my car, so we went and got in his car.

Q. Okay. This car that pulls up, there's two guys?

A. Yeah.

Q. Do they look Hispanic?

A. Yeah.

Q. Is that the Hunsbergers?

A. Yeah.

Q. Had you ever met them before?

A. No.

Q. And what does Barnes tell you? You y'all want a ride?

A. Yeah.

Q. Did y'all have a ride home?

A. No.

Q. Is he your ride home?

A. Yeah.

Q. But you said you wanted to do something else before you go home?

A. Yeah.

Q. What's that?

A. Go to the club.

Q. Now at this point did you think all the fighting and

all's over?
A. Yeah, basically.
Q. Okay. Whose car did you get in?
A. Big Man's.
Q. And who got in with you?
A. Me, China and Richard.
Q. Did you see who got into the Hunsbergers' car?
A. No.
Q. What were you doing when you got in Big Man's car, Barnes' car?
A. Messing with the radio. He had a little PlayStation in there. We were trying to get that to work.
Q. At this point do you realize where you're going?
A. No.
Q. Do you think maybe it's time to go to a club?
A. Yeah.
Q. Who drives the car you're in?
A. Big Man.
Q. Does he follow somebody?
A. Yeah, he followed the other car.
Q. Did you notice when the car went across the river and you were going into South Carolina?
A. No.
Q. Did you have any idea where Sam lived?
A. No, I'd never been to his house.

Q. So it didn't really concern you at that point?
A. No.
Q. Are y'all talking in the car?
A. Not really.
Q. What are y'all doing?
A. Listening to the radio.
Q. At some point do y'all turn off a paved road?
A. Yeah.
Q. What do y'all turn onto?
A. Turned off a little street and turn onto a dirt road and went into a field and we stopped. They got out of the car and talked and get back in the car.
Q. When you say "they", who's they?
A. Steve and the driver of the other car.
Q. Okay. Steven Barnes and one of the Hunsberger brothers?
A. Yes.
Q. So they talked. Now are y'all -- where are y'all? Are y'all off the road now?
A. We're in a field.
Q. In a field?
A. (Nods head.)
Q. You say they got back in their cars?
A. Yeah.
Q. Where do you go then?

A. They turned their headlights off and went through a -- some type of little path to another open field and then we stopped.

Q. What did y'all drive up to?

A. What you mean?

Q. Did you see a -- when you're in the field, do you see -- what do you see in the field? Anything?

A. Just a field. Trees.

Q. Okay. A field and some trees?

A. Yeah.

Q. Do y'all get out of the car?

A. Yeah, he told everybody to get out of the car.

Q. So he told you to?

A. Yeah.

Q. And when you do, what do you see?

A. He had a gun and they got out of the car, they had guns, and they popped the trunk and Sam was in the trunk.

Q. Barnes has a gun and the Hunsbergers have a gun?

A. Yes.

Q. And you saw them pop the trunk?

A. Yes.

Q. Did Sam just get out of the trunk?

A. No, it looked like he was asleep or dead or something. I don't know. He told them to go tell him to come on and he wasn't moving, so I'm like he must be dead. So they

kept poking him with a gun and stuff, telling him to come on, and he finally got up and got out of the car and they told him to go ahead and walk and so he walked to this gate like at the beginning of this wooded area and we jumped that area and walked through the woods and came to this open area within the woods and he told everybody to stop.

Q. Okay. Let me show you State's 33. Does that look like the gate?

A. Yeah.

Q. Did y'all walk down a path to an open area?

A. Yeah.

Q. State's 22 and 45. Does that look familiar?

A. Yeah.

Q. Yes?

A. Yes.

Q. And this path and then you come up to a clearing. Now at this point what are you thinking?

A. Really nothing, like what's going on basically. Then we stopped.

Q. Well, let me ask you. They've turned headlights off?

A. Yeah.

Q. You're walking into the wood line. Who's walking out front?

A. Sam.

Q. Why's he walking out front?

A. He told him to.
Q. Who?
A. Steven.
Q. Steven Barnes?
A. Yeah.
Q. And at some point does he tell him to stop?
A. Yeah.
Q. Where is he when he stops?
A. In the clearing in the woods.
Q. What, if anything, does Barnes say at that point?
A. When everybody stopped, he was like all right, this is what's gonna happen. Everybody's gonna shoot. I'm gonna get China to shoot first. In case she tells, everything will fall back on her and she was like no, I told you I didn't want to shoot him, I don't want to do this and that, and he's well, if you don't shoot him, I'm gonna shoot you and that goes for everybody else.
Q. So he starts off this is what's gonna happen?
A. Yeah.
Q. And he announces everybody's going to shoot?
A. Yeah.
Q. Y'all hadn't talked about this in the car?
A. No.
Q. Had you planned on this?
A. No.

Q. If you had known that, would you be in that car?
A. No.
Q. Would you have been at Barnes' place on Cherry Street?
A. No.
Q. Who does he say is gonna shoot first?
A. China.
Q. What does she say?
A. She didn't want to shoot.
Q. What does he tell her?
A. He tells her if she don't shoot, he's gonna shoot her.
Q. What does he tell the rest of y'all?
A. That goes for everybody else.
Q. If you don't shoot, you're gonna get shot?
A. Yeah.
Q. What does Sam say at this point?
A. Sam's like just before you do this I want to let you know I ain't got your money and that's all he said.
Q. What does Barnes do?
A. Well, she started crying. She was just standing there with the gun.
Q. Who was crying?
A. China. And she's like I don't know how to do it, so he came behind her and aimed like showing her how to do it and told her all you've got to do is pull the trigger and he backed up behind everybody and she was still just

sitting there like crying and after a while she shot him.
Q. So she pulled that trigger?
A. Yeah.
Q. Did it hit Sam?
A. Yeah.
Q. So you saw Sam get shot?
A. Yeah.
Q. Did you see where he got shot?
A. I mean, he was holding his stomach.
Q. At this point, what's going through your head?
A. It didn't seem real. I mean, I ain't never seen nobody get shot, so I'm just sitting there looking and somebody else shot and one of the brothers I think shoved me trying to give me the gun and I walked up and I shot at the ground and --
Q. So somebody gave you a pistol?
A. Yeah.
Q. And what did you do when you got the pistol?
A. Walked up to him and shot behind him on the ground.
Q. After that -- well, let me ask you this. When you shoot at the ground, what's Sam doing?
A. On the ground crying.
Q. He's still alive?
A. Yeah.
Q. And after you shot, is he still alive?

A. Yeah.
Q. What do you do after you shoot the gun?
A. Well, I think somebody else shot, then Steve told everybody to go on back to the car.
Q. Did you walk back or how did you get back to the car?
A. I ran back to the car.
Q. Were you scared?
A. Yeah. I mean, of course.
Q. So you had to go back through those woods?
A. Yeah.
Q. Back over that fence?
A. Yeah.
Q. At some point what did you hear?
A. I heard another shot before I got back to the car.
Q. Who comes out of the woods after that shot?
A. China and Big Man.
Q. China and Big Man?
A. Yeah.
Q. What does Barnes say when he gets back to the car?
A. We got back in the car, we were driving, and I just asked him like how do you know this dude ain't fixing to go try and get some help and he's like he ain't and I said well, how do you know that and he said he ain't -- he ain't gonna get up, I said how do you know that and he said well, I shot him in the head, he ain't getting up.

Q. So you're asking Barnes how do you know Sam's not gonna get up and go get help?
A. Yeah.
Q. You asked him more than once?
A. Yeah.
Q. What was Barnes' response?
A. He said he shot him in the head.
Q. So he tells you that?
A. Yeah.
Q. He shot him in the head, he ain't getting up?
A. Yeah.
Q. Where do y'all go after that?
A. After that, we went to this trailer and he told us to sit in a room and him and the other guys they went to the back.
Q. Do you know whose trailer this was?
A. No.
Q. Did it look like somebody lived there?
A. Yeah. There was like flowers everywhere. It looked like somebody's momma's house or something.
Q. And who does Barnes go -- when you say -- what does he do?
A. He told us to sit in the living room while they went to the back.
Q. All right. So who's sitting in the room with you?

A. Me, China and Richard.
Q. You, China -- Charlene, and Richard?
A. Yeah.
Q. And where does Barnes go?
A. To the back.
Q. Who goes with him?
A. The Hunsbergers.
Q. The Hunsbergers?
A. Yeah.
Q. What's going through your head at this point?
A. I mean, like what's fixing to happen now.
Q. Are you concerned?
A. Yeah.
Q. Do you remember what time of day this was or night?
A. It was late. I mean, I remember MASH was on, so I know it had to be around 12:00 or 1:00.
Q. MASH the TV show?
A. Yeah.
Q. At some point does Barnes come out and talk to y'all?
A. He came out sometime and had asked us was we all right and we said yeah, we're good and he's like --

THE COURT: I need you to stop.

MR. HUBBARD: Excuse me.

THE COURT: We have a juror that needs to have a comfort break.

Ladies and gentlemen, step to your jury room. Do not discuss this matter or allow anyone to discuss it with you. I understand that someone needs a comfort break.

BAILIFF: Thank you.

THE COURT: No problem.

And, ladies and gentlemen, when you-all take your comfort break, just knock on the door and let us know.

(Whereupon, the jury retires to the jury room at 3:09 PM.)

THE COURT: We're just gonna be at ease at this time and if you need to take a comfort break, do that as well, please, and we'll just wait on them.

Just for your informational purposes, I got a note that said one of the jurors must, underlined three times, go to the bathroom. I figured that was urgent, so.

We'll make that a Court's exhibit.

(Court's Exhibit Number 9 was marked for identification.)

THE COURT: All right. Bring them in.

(Whereupon, the jury returns to the courtroom at 3:20 PM.)

THE COURT: All right. Thank you so much.

All right. Continue.

MR. HUBBARD: Thank you, Your Honor.

THE COURT: Yes, sir.

BY MR. HUBBARD:

Q. Antonio, let me back up a little bit. When you were running out of the woods, you say you heard another shot?

A. Yeah.

Q. When you asked Barnes about that, what did he say?

A. He said he shot him in the head.

Q. He said --

A. He said he shot him in the head.

Q. Okay. Was talking about Sam?

A. Yeah.

Q. When y'all were in the woods and Charlene had the gun and was crying, were y'all all standing around saying anything or was everybody was quiet?

A. Everyone was quiet.

Q. Did anybody say do it, do it, do it?

A. No.

Q. Nobody said anything?

A. No.

Q. Who was the only one talking?

A. Steve.

Q. Steven Barnes?

A. Yeah.

Q. When y'all leave and you find out -- when you're in the car when he says I shot him in the head, where do y'all go?

A. Go to the trailer.
Q. And this trailer I think you said looked like somebody lived there?
A. Yeah.
Q. Where does Barnes go in that trailer?
A. To the back.
Q. To the back?
A. Yeah.
Q. Who goes with him?
A. The two Hunsbergers.
Q. Who's with you?
A. Me, China and Richard.
Q. Is there any reason why y'all don't go on in the back to?
A. He told us to sit in the living room.
Q. Huh?
A. He told us to sit in the living room.
Q. Who told you that?
A. Steve.
Q. Steven Barnes?
A. Yeah.
Q. And I think you said it was late because you remember MASH being on?
A. Yeah.
Q. Barnes comes out and asks y'all some questions. What

did he ask you?
A. Asked was we all right and we said we was okay and he asked if it came down to it could we do it again and we all just looked at him and he started laughing and said y'all will be all right and went back into the back.
Q. So he asked you could you do it again?
A. Yeah.
Q. Did anybody say yes, I could do it again?
A. Nobody said nothing.
Q. Huh?
A. Nobody said nothing.
Q. And what did he do?
A. Go back there to the back.
Q. But you mentioned he did something else.
A. Well, he started laughing said we was all right, we're gonna be all right, and he went back to the back room.
Q. At some point do y'all leave the trailer?
A. Yeah.
Q. Where do y'all go?
A. Back to Augusta.
Q. Do y'all make any more stops on the way to Augusta?
A. We stopped on the bridge and me and Charlene was in the back, I think Richard was driving and he told Richard to stop and he threw a bag at me and said throw this in the water, so he told Richard to stop and I threw it in the

water and got back in the car.

Q. So you threw a bag into the water?

A. Yeah.

Q. Do you know what bridge you were on?

A. No.

Q. Could you feel what's in the bag?

A. It felt like metal.

Q. Do you think it was a gun?

A. I think, yeah. Common sense.

Q. Common sense?

A. Yeah.

Q. Where do y'all head after you get back in the car?

A. Back in the house on Washington Road.

Q. Is that Cherry Street?

A. Yeah, Cherry Street.

Q. Back to this same green-ish house?

A. Yeah. Yeah.

Q. What happens when you get there?

A. I remember falling asleep and a guy -- some other guy, I actually never seen him before, he woke me up and said you go in the house and lay down, so I went in the house and laid down and the next thing you know it was morning time, so I walked out of the house and that dude was still there and I was like where's Big Man and he said he told me he'd come and get y'all, so he came and got us and took us

to a hotel off of Bob Jones and when we got there Charlene was there and so me and Richard sat there for a long time, hours.

Q. Let me ask you -- all right. So when you get to this house on Cherry Street, is it still nighttime?

A. Yeah, it's still nighttime.

Q. This guy that says go in and lay in the house, do you know who that is?

A. No.

Q. Older or younger?

A. An older guy.

Q. When you say older, like roughly how old?

A. Like in his forties or something like that.

Q. Okay. Older than Mr. Barnes?

A. Yeah.

Q. So you go in the house. Were there lights on in the house?

A. No, there wasn't no lights on. I don't remember there being any lights on.

Q. Who goes in the house with you?

A. I went in by myself. When I got in there, Richard was already in there asleep.

Q. Okay.

A. Yeah.

Q. And you stayed there all night?

A. Yeah.
Q. So Barnes didn't take you home that night?
A. No.
Q. You say you wake up. Was it still dark or daylight?
A. It's morning.
Q. And this person you see again is the same fellow that told you to go in the house?
A. Yeah.
Q. What did you ask him?
A. Where Big Man was.
Q. Where Big Man was?
A. Yeah.
Q. And what did he say?
A. He said he's coming to get us.
Q. Where do y'all go -- or -- so Big Man, Mr. Barnes, Steven Barnes, comes and gets you?
A. Yeah.
Q. Where does he take you?
A. To a hotel.
Q. Where is that?
A. On Bob Jones.
Q. When you got there, who's there?
A. China. Charlene.
Q. China? Charlene?
A. Yeah.

Q. At some point does he come back and get you?
A. Yeah, sometime later on that day.
Q. And who does he pick up, you and who?
A. Me and Richard.
Q. Where do y'all go from there?
A. He dropped me off and he handed me a bag and was like I want you to burn these. Take y'all's clothes and burn y'all clothes, too, and y'all don't have to worry about nothing, don't say nothing. You know, his mom or his sister or whoever don't know you, so, you know, if y'all say something the same thing can happen to y'all, and so I was like don't worry about that, I ain't gonna say nothing.
Q. Okay. So he actually takes you to your house?
A. Yeah.
Q. Had he ever been to your house before?
A. Yeah, he dropped me off when we went to the County Line that night. He dropped me off that night.
Q. And he had dropped Richard off before he dropped you off?
A. No, he dropped me off first.
Q. Let me show you another photo.
MR. BLOOM: No objection.
THE COURT: All right.
BY MR. HUBBARD:
Q. Do you recognize that?

A. Yeah.

Q. What is that? Speak up.

A. A barrel I burned the clothes in.

Q. A burn barrel?

A. Yeah.

MR. HUBBARD: Your Honor, I move this into evidence.

MR. BLOOM: No objection.

THE COURT: Very well.

(State's Exhibit Number 73, a photograph, was marked and admitted into evidence.)

MR. HUBBARD: It's Number 73, Your Honor.

THE COURT: Okay.

BY MR. HUBBARD:

Q. Number 73, Photo 73, shows a burn barrel?

A. (Nods head.)

Q. Whose house is that at?

A. My house.

Q. Now when you get to your house, what are you told to do?

A. Burn the clothes.

Q. Does he -- let me ask you this. Do you just go and burn your clothes or does he give you anything?

A. He gave me his clothes, too.

Q. So he gave you a bag of stuff?

A. Yeah.

Q. And did you burn it?
A. Yeah, I burned it.
Q. Did you burn your clothes?
A. Yeah.
Q. What about Richard's?
A. I burned Richard's, too.
Q. He tells you to burn clothes. What else does he say to you?
A. He told us don't say nothing and his folks don't know us and if you say something, the same thing can happen to us.
Q. If you say something, the same thing will happen to you?
A. Yeah.
Q. After this, what happened? Did you stay in touch with Barnes?
A. Yeah, I stayed in touch with him.
Q. Why?
A. I mean, if you try to keep your distance in a situation like that they might think you're saying something or you're trying to, you know, so I felt it was best to stay in touch with him to, you know, keep things going on.
Q. Do you know if Richard stayed in touch with him?
A. He kind of shied away.

Q. At some point did Barnes ask you something about Richard?
A. He asked me what was up with him and I think he probably wanted to do something to him and I told him he was all right, he ain't gonna -- he ain't gonna say nothing.
Q. Was he scared Richard was gonna talk?
A. Yeah.
Q. And so you said Richard's all right?
A. Yeah.
Q. A few days after the shooting and you see Sam die and you hear these threats and you burn these clothes, a few days after does Barnes call you?
A. Yeah, he called me and told me that he found the money in the backyard. I seen like a whole lot of shredded paper around and he said the dogs had got to it and said he guess he was telling the truth, he didn't have the money, and I'm like --
Q. What did Barnes say about that?
A. Well, he's like, well, what's done is done, you know. Just keep y'all's mouth closed and I'm like all right.
Q. So he calls you up and tells you he actually found the money that he was accusing Sam of stealing?
A. Yeah.
Q. And what got it?

A. The dogs.
Q. Barnes' dogs?
A. Yeah.
Q. And he said what?
A. What's done is done.
Q. What's done is done. And then what did he tell you?
A. He told me -- he told me don't say nothing.
Q. Did you talk to the police or anybody about this?
A. No.
Q. Did you keep going to school?
A. Yeah, I kept going to school, kept going to work.
Q. Kept staying in the band?
A. Yeah.
Q. Did you and Richard kind of drift apart?
A. No, we were the same old friends. We never said nothing else about it until like one day we watching TV and I just thought I'd ask him. I said did you shoot and he said no, I didn't shoot him, I said I shot at the ground and he said I shoot at the ground, too, and that's the last time we ever said something about it.
Q. You both talked about shooting the ground?
A. Yeah.
Q. Sometime later on when you're at school few months later --
A. Yeah.

Q. -- what do you remember happening?
A. I was in history class and we read a lot of articles and it's like comprehension, see if we can read something and comprehend what we're reading, you know, and you have to tell about it and this girl was reading an article that they found a body and I told her let me see her paper and after she got through reading it, I read it and asked the teacher can I go to the bathroom and just was in the bathroom pacing around like what's gonna happen now, what's gonna go down.
Q. So this newspaper article talks about Samuel Sturrup?
A. Yeah.
Q. How were you feeling when you read that?
A. Like scared like I'm fixing to go to jail or what's fixing to happen. Just all type stuff was going through my mind.
Q. At some point did you call Barnes?
A. Yeah, when I got home that day I called and he said yeah, he know about it, and I think he told me that the police had talked to him and his brother because he was last seen with them and they told them that they dropped him off with some girl or something like that and reminded me again don't say nothing.
Q. So Barnes and the brother said she was seen with some -- he was seen with some girl?

A. Yeah.
Q. He dropped him off with some girl?
A. Yeah.
Q. Who were the last people Samuel Sturrup was with?
A. What you mean?
Q. When he died out in that wood line, who all was there?
A. All of us was there.
Q. Can you name them? It was you and who?
A. Me, Richard, Charlene, Steve and the two brothers.
Q. The Hunsberger brothers?
A. Yeah.
Q. Anybody else?
A. No.
Q. So the last people Samuel Sturrup was with were the people that were out in that clearing?
A. Yeah.
Q. It wasn't Little Man?
A. No.
Q. Sometime after that, maybe a few more months later, what happened?
A. A few months later when?
Q. When you're at school.
A. I remember one day Richard didn't go school that day because I met him outside of school. He was on his bike and he was like man, he said I think the police are looking

for us, I say what you talking about, and he said the neighbors told him --

MR. BLOOM: I'm gonna object to hearsay now from Mr. Cave.

THE COURT: Yes.

MR. HUBBARD: That's fine.

THE COURT: Thank you.

BY MR. HUBBARD:

Q. Let's do this. Do you remember when Richard Cave was arrested?

A. Yeah.

Q. Were you arrested the same day?

A. The next day.

Q. The next day. Did you know he'd been arrested the day before?

A. No.

Q. Where were you when you got arrested?

A. At school.

Q. Were you in class?

A. Yeah.

Q. The police came to get you?

A. Yes.

Q. In Georgia, what charges did you get?

A. They charged me with murder, kidnapping, aggravated assault, but I pleaded out to aggravated assault.

Q. Okay. How much time did you get?
A. 18.
Q. 18 years?
A. Yeah.
Q. Did you parole out?
A. Yeah, I paroled out.
Q. When?
A. I think 2013 or '14. One of those.
Q. After you got out, what did you do?
A. I was already married, I was already working at my job because I was in a transition center and I had a job since then, so just living my life.
Q. Now recently you got a misdemeanor charge?
A. Yes.
Q. Why didn't you bond out?
A. My wife paid the bond and when she paid the bond, the parole office put a hold on me.
Q. So parole has a hold on you?
A. Yeah.
Q. Parole from this charge?
A. Yes, sir.
Q. In talking to me, have I made any promises about what happens to you?
A. No.
Q. Now you know you don't have a murder charge in South

Carolina. You understand that?

A. Okay. Yeah.

Q. So there's no South Carolina charges on you, are there?

A. No.

Q. The only thing you have is your parole in Georgia?

A. Yes.

Q. You understand I don't have any authority over parole in Georgia?

A. Right.

Q. At any time did I promise you I would, you know, fix your parole?

A. No.

Q. That night that y'all went out and went to Cherry Street and that night y'all drove across the bridge to Edgefield County, who was making the threats?

A. Steve.

Q. Steven Barnes?

A. Yeah.

Q. Who was in charge of what was going on?

A. Steve.

Q. Steven Barnes?

A. Yeah.

Q. Who was giving all the orders?

A. Steve.

Q. Steven Barnes?
A. (Nods head.)
Q. At any time did somebody else give a command that y'all need to walk here or go there or pull that trigger?
A. No.
Q. Who gave all the orders that night?
A. Steve.
Q. Who said Sam Sturrup had to die?
A. Steve.
Q. Who was the one person that was really angry at Sam?
A. Steve.
Q. How long had you known Steven Barnes?
A. Before this incident?
Q. And, I mean, from that night. That night when --
A. Probably a couple of days.
Q. So not long?
A. No.
Q. How long had you known China or Charlene Etheridge?
A. I didn't know her period.
Q. How long had you known Sam?
A. I didn't know him.
Q. Did you have any reason to pull the trigger and shoot Sam?
A. No.
Q. Did you even know his last name?

A. No.
Q. When did you find out his last name?
A. When they found his body.
Q. When they found his body?
A. Yeah.
Q. When did you learn Steven Barnes' name?
A. When he got locked up.
Q. Before that it was just Big Man?
A. Yeah.
Q. Who's responsible for the death and murder of Sam Sturrup?
A. Steve.
Q. I gonna ask you this. In your mind, who's responsible for the eleven plus years you served?

MR. BLOOM: Objection. Your Honor. I object to that.

MR. HUBBARD: I said in his mind.

THE COURT: Sustained.

MR. BLOOM: Thank you.

BY MR. HUBBARD:
Q. That night could you have ever -- could you have run away?
A. What do you mean run away?
Q. When you were in the woods out in that spot, could you turn and run?
A. No.

Q. What would have happened to you?
A. I'd get killed, too.
Q. Before all this happened, had you ever been in any kind of trouble?
A. No.
Q. Had you ever been arrested?
A. No.
Q. Had you even had a speeding ticket?
A. No.
Q. Had you ever handled a gun before?
A. No.
Q. Did you ever see anybody get shot before?
A. No.
Q. You were just a kid?
A. Yeah.

MR. HUBBARD: Thank you. Please answer any questions the defense may have.

THE COURT: Cross-examination?

MR. BLOOM: May it please the Court?

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. BLOOM:

Q. Mr. Griffin, the Solicitor asked you something about The Green House when you first got there or shortly after you were there about Willie Harris, and let me ask you

about that. You have said that Mr. Harris at one point got angry at Sam Sturrup; is that correct?

A. Yes.

Q. And Sam had accused or said that Willie Harris had probably taken the money, correct?

A. Yeah. Yes.

Q. And that made Willie really angry, correct?

A. Yes.

Q. And Willie actually produced a gun, right?

A. Yes.

Q. A pistol, right?

A. Yes.

Q. And told Sam open your mouth, correct?

A. Yes.

Q. He said that twice. He said open your mouth, open your mouth, correct?

A. I don't know if it was twice, but he told him to open his mouth.

Q. Okay. But he told -- Willie Harris told Sam Sturrup open your mouth, correct?

A. Yes.

Q. And Willie Harris put the barrel of the gun in Sam Sturrup's mouth, correct?

A. Yes.

Q. And Willie said something to him to the effect, in

your presence, you say that again and I'll kill you now, correct?

A. He told him he didn't have to steal from him, he had his own money and basically he was gonna shoot him himself.

Q. All right. In fact, Willie pulled out of his pocket a wad full of money, correct? You've described it that way before?

A. Yes.

Q. All right. Now you have also stated before that you never saw anyone with a shock absorber; is that correct?

A. Yes.

Q. And you have stated before you never saw anyone use a shock absorber during this incident, correct?

A. Yes.

Q. You have also stated to the Georgia law enforcement that that night you only saw one gun, correct?

A. Yes.

Q. In fact, you said that twice to one of the law enforcement investigators in Georgia, that you only saw one gun, correct?

A. I only saw one gun?

Q. During the same interview, you said twice you'd only seen one gun. You were asked the question twice and both times you said I'd only seen one gun; is that fair to say?

A. I haven't seen my interview.

Q. All right. Let me show you that portion of your interview if that will refresh your recollection.

And in that regard, let me ask you, you remember Investigator Roundtree interviewing you in Georgia, correct?

A. Yes.

Q. All right. And that would have been on January 23rd of 2002, correct?

A. Yes.

Q. And on Page 10 of that interview --

MR. BLOOM: May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. BLOOM:

Q. At the bottom if you'd just read the part I've got highlighted. What is your answer when you're asked how many guns? Investigator Roundtree asked you if you saw one gun, two guns, three guns, what, and your answer is what?

A. One.

Q. Okay. And then Investigator Roundtree asked you, huh or what, and your answer, again, is what?

A. One.

Q. All right, sir. Now let me ask you a few questions about that interview. That's when Investigator Roundtree or some Georgia law enforcement came and took you out of

class at school; is that correct?
A. Yes.
Q. You've told us about that. You were in class and a law enforcement officer actually came and got you out of class, correct?
A. Yes.
Q. And before they turned the tape recorder on, they talked with you a little bit; is that fair to say?
A. Roundtree.
Q. Investigator Roundtree talked to you before he cut the tape recorder on, right?
A. Yes.
Q. And in that period before Investigator Roundtree turned the tape recorder on, he actually told you he was gonna walk out and go talk to a judge to get you life that day right then and there; is that correct? Do you remember that?
A. When he picked me up and went to his office, he was asking me those same questions. I told him, you know, I ain't killed nobody.
Q. Right.
A. I was still trying to keep my mouth closed --
Q. Right.
A. -- until he started threatening I'm gonna tell the judge to give you life and this and that and he walked out

of the office and he came back and he started over and I answered -- only answered questions that he asked me. All the extra stuff I was still, like I say, trying to keep my mouth closed, but what he didn't ask me I didn't tell him.

Q. Right. And so that day Investigator Roundtree, in fact, said if you didn't basically tell him -- answer his questions or tell him what he wanted to hear, he'd go talk to the judge that day then and there and you'd get life, right?

A. He said that before all that happened.

Q. Right. And he told you that before he cut the tape recorder on, correct?

A. No, he had the tape recorder on when I first got there.

Q. Right. But the threat he made about you to get you life, that was before?

A. Well, I don't know when they turned the tape recorder on and off, but --

Q. Fair to say. All right, sir. Thank you.

At the very beginning of your interview Investigator Roundtree, of course, tells you the date for the benefit of the tape recorder and the transcript, correct?

A. Okay.

Q. He says this is January 23, 2002, correct?

A. I guess.

Q. And I'm sorry. Let me hand --

MR. BLOOM: May I approach again?

THE COURT: Yes.

BY MR. BLOOM:

Q. Let me hand you Page 1 of your interview. Investigator Roundtree on the tape and in the transcript says this is January 23, 2002, correct?

A. Okay.

Q. He then states it's 10 AM, right?

A. Okay.

Q. And he identifies himself, Investigator Roundtree of the Richmond County Sheriff's Office, right?

A. Okay.

Q. And he states your name, right?

A. Okay.

Q. And then he says for the purpose of this tape and voice recognition, state your name and date of birth, right?

A. Okay.

Q. He asked you to do that?

A. Yeah.

Q. And then -- then he asks you if you've read and signed your Miranda form, correct?

A. Okay.

Q. All right. And the Miranda form is where you agree to

talk to him at that point, correct?
A. All right.
Q. And the very next question out of him is, Do you know a person by the name of Steven Barnes, correct?
A. I don't know.
Q. And I'm sorry. I walked away with the paper. The very next question he asked you is, Tell me about Steven Barnes, correct?
A. Yeah.
Q. So he told you who he wanted you to talk to him about, correct?
A. Okay.
Q. Correct, sir?
A. So you're saying in that interview where I said I didn't know him, right, you don't have that?
Q. Right. The very next -- first question about this case other than the date and time and your name and date of birth is he gives you Steven Barnes' name, correct?
A. He gave me both times.
Q. Right.
A. The first time I said I didn't know him. The second time I said I know him.
Q. Right.
A. You ain't got that paper there.
Q. All right. So he gave Steven Barnes' name twice,

correct?
A. Yes.
Q. That's the first question about this case he asks you, correct?
A. Yeah, both times.
Q. Both times. And Willie Harris wasn't locked up that day to your knowledge, correct?
A. No.
Q. He was still out and about on the street, correct?
A. Yes.
Q. How many years were you in band, Mr. Griffin?
A. Four years.
Q. At your high school, how many years?
A. Four years.
Q. All four. Was it the same band teacher all four years?
A. Yes.
Q. So what was his or her name; do you remember? It's a hard question going back to high school.
A. It was -- man.
Q. Was it a male teacher or a female teacher?
A. A male teacher. Tanksley. Tanksley.
Q. Say again.
A. Mr. Tanksley.
Q. Can you spell that for the benefit of the court

reporter?
A. T-A-N-K-S-L-E-Y.
Q. Thank you, sir. Tanksley.
So you saw Mr. Tanksley pretty much every day in school for four years. Did you have band five days a week?
A. Yeah, I had band practice often.
Q. Okay. So you pretty much saw him every day while you were in school for about four years, right?
A. Yeah.
Q. Did you ever go to Mr. Tanksley and say let me tell you about this man, Steven Barnes, I barely know and what happened?
A. No.
Q. Did you tell the school resource officer?
A. No.
Q. Did you go to the principal's office and say I need to tell you something about this man Steven Barnes?
A. No.
Q. But as soon as Investigator Roundtree suggested that name to you, you had a story to tell; is that correct, sir?
A. No, I told him I didn't know him at first, then he made the threat and left the office and came back in and I told him I know him.
Q. And when you say "he" made that threat, you mean Investigator Roundtree?

A. Yes.

MR. BLOOM: Thank you, sir. No further questions.

THE COURT: All right. Redirect?

MR. HUBBARD: Yes.

THE COURT: Okay.

REDIRECT EXAMINATION

BY MR. HUBBARD:

Q. Antonio, when you were asked about the number of guns, going back, if you'd just read this. You say at Line 19: I don't remember, but I know he told him to walk off, then I saw him fire the gun. Investigator Roundtree: Who you saw fire the gun? Richard, it was him. I don't know the girl. I can't think of her -- I know they had a gun. I seen it. That's when you're asked, You saw one gun, two guns, three guns, what? One gun?

A. One gun.

Q. How many guns were being passed around --

A. One.

Q. -- with you guys?

A. One. One gun.

Q. But in answering that question, did the Hunsbergers have a gun, too?

A. Yeah, they had a gun.

Q. But was their gun passed around?

A. Yeah.

Q. Which gun was being passed around, the one Barnes gave you or a Hunsberger?

A. When she shot, I thought she gave her gun back to Big Man, but I don't know exactly which gun was being passed around, but it was a gun being passed around.

Q. Okay. Now you were asked about not telling anybody, including your band leader. Why didn't you tell anybody about what you saw and about Steven Barnes?

A. He know where my momma stayed, he know where my auntie stayed. Like I said, I mean, if he shot this man over $200, what do you think he's gonna do if I tell somebody what happened or try to go to the police?

MR. HUBBARD: That's all I've got.

THE COURT: Recross?

RECROSS EXAMINATION

BY MR. BLOOM:

Q. At the hotel you say you and Richard and China were at the day after, did you go down to the clerk's office and say you --

MR. HUBBARD: Your Honor, that's beyond the scope of my redirect. I didn't bring up the hotel on my redirect.

MR. BLOOM: About anybody told and that precedes any alleged threat. That's two or three questions.

THE COURT: I'll allow it. Go ahead.

BY MR. BLOOM:

Q. The hotel you say you, China and Richard were at the next day, did you go down to the clerk's office and say man, call 9-1-1, something bad just happened?

A. No.

Q. And according to your testimony today, Mr. Barnes allegedly did not threaten you until he came back and picked y'all up from the hotel? Isn't that what you just told us today?

A. No, he threatened that night if you didn't shoot, you're gonna get shot, too.

Q. And that's the first time you've said that; isn't that, sir?

A. No, it's not.

Q. In your testimony today to this jury, the first time that -- you said the first time you heard a threat allegedly from Mr. Barnes was after he picked you up from the hotel.

MR. HUBBARD: Your Honor, he's testifying. I object. That's not the testimony.

THE COURT: It's cross-examination. You may answer.

MR. BLOOM: I have nothing further.

MR. HUBBARD: The State has nothing further of this witness.

THE COURT: Very well.

(Witness excused.)

THE COURT: All right. If you'd call your next witness, please.

MS. MAYES: The State calls Investigator James Gordon.

(State's Exhibit Number 74 through 80, photographs, were marked and admitted into evidence.)

THE CLERK: Please raise your right hand.

(Whereupon, James Gordon was duly sworn by the Clerk of Court.)

THE CLERK: Thank you, sir. When you're seated, please state your full name and spell your last name for the record.

THE WITNESS: James Gordon, G-O-R-D-O-N.

THE COURT: Your witness.

JAMES GORDON,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MAYES:

Q. I want to ask you a few questions, Investigator Gordon, going back to your involvement in an investigation in 2001 into 2002 in Richmond County, Georgia.

A. Yes, ma'am.

Q. Tell us a little bit about yourself and your law enforcement career even preceding 2001.

A. Okay. I got into law enforcement in 1986 with the Augusta Police Department and was for the first two years

road patrol. After that I went to the detective division where I stayed and I went into the violent crimes unit there. In 1996, consolidation occurred and so Richmond County and APD joined, so a lateral transfer. I was considered a detective and now I was an investigator, still in the violent crimes unit. From '96 to '01 basically I worked violent crimes and crimes against people. In 2001, I went to the crime scene unit, January 1, 2001, and I stayed there until 2015 when I retired.

Q. All right. How many years combined do you have in the law enforcement field?

A. Approximately twenty-nine.

Q. All right. And specifically I'm gonna ask you about your training and experience in a field known as CSI or crime scene investigation.

A. Yes, ma'am. When I became -- went into crime scene investigation when I became a detective in '88 basically what you did is they gave you -- you had a couple of hours experience with a camera and they show you how to do fingerprints and then you started to take various courses at what's call GPSTC, Georgia Public Safety Training Center. These courses were generally in various types of crime scenes and that would be -- and what you would find at crime scenes; blood spatter evidence, ballistics, fingerprinting, processing crime scenes, developing

evidence from those and how to collect it. During the course of that, I obtained certifications in what is -- what they call identification certification.

MR. McGUIRE: Your Honor, I hate to interrupt, but we have no objection to him being qualified as an expert if that's where we're going.

MS. MAYES: All right. Very well. And that would be in the field of crime scene investigation, Your Honor.

THE COURT: All right. Is that acceptable?

MR. McGUIRE: Very acceptable, Judge.

THE COURT: All right. Very well.

BY MS. MAYES:

Q. Now, Investigator Gordon, that CSI experience, does that include arson certification?

A. Yes. That was a separate certification, yes.

Q. All right. Did that also include knowledge of ballistics and of firearms?

A. A general knowledge of ballistics and firearms, yes, ma'am.

Q. Does that also include processing items for latent prints or for potential recovery of latent prints?

A. Absolutely.

Q. And swabbing items for potential evidence of a forensic nature such as blood?

A. Yes, ma'am.

Q. So I want to move forward now and ask you about a residence located at [redacted] Cherry Street and we're looking at that residence right now on the overhead, but I'm gonna show you State's Exhibit 24.

A. Yes, ma'am.

Q. Can you tell us whether or not you were involved in the execution a search warrant at that location?

A. I was.

Q. Okay. What was the date in which a search warrant was executed at this residence?

A. I believe the date on this was January 25th of 2002.

Q. All right. I'm gonna write that right back here. Cherry Street search warrant, January 25, 2002.

A. I believe so, yes. That's correct.

Q. And during the course of that search warrant, can you tell us whether or not you were looking for any particular items in the area of the yard?

A. Yes.

Q. And what type of item were you searching for?

A. Basically what we were searching for essentially would be something that could have been used as a blunt weapon. We were looking for basically a car strut, what you would call -- we were looking for whatever -- for any car struts we could find, blunt items, anything else that could have been used to hit somebody.

Q. I'm gonna move this forward just a little bit.
A. Thank you.
Q. All right. And specifically can you tell us whether or not you were searching for a shock absorber?
A. Yes.
Q. When you talk about a car strut, you're referring to what?
A. A shock absorber.
Q. All right. You had information already prior to the execution of this search warrant that a shock absorber may be involved?
A. Yes, I had been briefed earlier in the week, two days earlier, in connection with part of this incident that -- about the case --
Q. All right.
A. -- and basically I knew what we were looking for.
Q. I'm gonna show you some photos which are currently labeled as State's 28 and 29, and can you tell us whether or not any items that you have termed car struts or shock absorbers were located in the yard of that residence that we see there on the overhead being Cherry Street?
A. Yes, ma'am. They were located there.
Q. And what was that item?
A. I'm sorry?
Q. What was that item?

A. There were two of the struts, shock absorbers. I'm sorry. One is black and one is red.
Q. All right. State's Exhibit 29. Can you tell us whether or not this is how the items were found as they were photographed here?
A. Yes, they were photographed prior to them being moved.
Q. All right. So they're actually located right here in the yard?
A. Yes.
Q. I'm gonna show you State's Exhibit 30 and ask you whether or not you recognize this item.
A. I do.
Q. Is that the same item that we see right here in this photograph, which is State's Exhibit 29?
A. I think so. I can't see it, but there's a black one and a red one. This would be the black one. I'm sorry. Yes, ma'am. That would be the black one.
Q. Now ultimately, Investigator Gordon, how was this item processed for potential physical or forensic evidence?
A. This item and the red item were both processed away from that location. Once they were collected, I collected them, they were taken back to our lab in Richmond County. Once there they were processed first basically for any fiber evidence, any blood evidence, and the reason for this is that once you start to process something for

fingerprints you would start to damage any of the other fiber or the blood evidence that might or might not have been there. So what I did is basically took it back to the crime lab and then began to process it for whatever evidence I could find.

Q. All right. And ultimately can you tell us whether or not a fiber was recovered from that item?

A. From, I believe, the red one a fiber was recovered.

Q. All right. And ultimately what did that fiber turn out to be?

A. It was an animal hair.

Q. An animal hair. And that was processed by what lab?

A. That was -- once I found the fiber, not knowing what it was, I sent it to what's the Georgia Bureau of Investigation crime lab. They eventually identified it as animal hair.

Q. GBI?

A. GBI. Yes, ma'am.

Q. Okay. Now in addition to processing the items for possible fibers or hair evidence, were they also processed for latent prints?

A. Yes, I processed them for latent prints.

Q. Including that item right there in front of you, the actual shock absorber?

A. That is correct.

Q. And given that these items that were recovered from outdoors in January of 2002 and having been there since September, would you expect to recover latent prints?
A. I would not have expected to recover them. That still doesn't mean we didn't have to try.
Q. All right. And did you try?
A. Yes. We used basically several processes. First you examine -- first you just look at them, then you start looking at them a little bit more deeper and we use a chemical called cyanoacrylate. After -- once you have done that, you put them under ultraviolent light or just an alternate light source looking for any marks, any lines, and there was nothing.
Q. All right. And how would elements outdoors, such as heavy rain or snow or ice, affect the potential ability to uncover latent prints?
A. It makes it very hard. If you have -- if you leave a print just on a surface in here, over time since it's mostly made out of liquid, amino acids, mostly water really, most of it's gonna evaporate over time. If you're outside where you have changing elements, changing conditions, changing temperatures, if water falls on it, within a very short amount of time you're not going to have anything left.
Q. All right. Now in addition to actually processing

that shock absorber for potential latent prints, did you also process it for any other type other of forensic evidence?

A. Yes.

Q. How so?

A. What we also looked for was to try to find some blood, DNA, anything. In order to do that what you do is you take swabs of the item. A swab means you take, if you can, locations where you won't be messing up any fingerprints later, but you have to do the swabs first because if you put the chemicals on the thing before you do the swabs, you're gonna ruin anything that's there. So what we did was we -- when I say "we", what I did was I take swabs of this location, use distilled water, very simple, and you get -- at various locations on this one and the other strut. Once you do that and you seal them, then you send them, again, to the GBI lab to be processed.

Q. All right. And so did you follow protocol and your training and experience in collecting swabs from those shock absorbers?

A. I did.

Q. And were they also submitted to the GBI crime lab?

A. They were.

Q. And ultimately was any blood detected?

A. No.

Q. All right. And DNA would come from blood if it had been detected?
A. That would be correct.
Q. And no blood was detected?
A. That is correct.
Q. And, again, I'm gonna have to ask you when we're talking about an item that's been outdoors for four months exposed to the elements, how, if at all, may that affect your ability or the ability of a crime lab to recover something such as DNA evidence?
A. It would be very hard. Once blood dilutes in water, which is why people if they get blood on their clothes they throw it in a washing machine, that is usually enough dilution to clear it out. If it's outside and water hitting it, the blood is going to just dilute and run away. Run off is a better word.
Q. Now I want to move forward from the search of this residence on Cherry Street and ask you about the search of another residence being a residence on Wrightsboro Road. Are you familiar with that search?
A. I am.
Q. Were you ultimately present for that search?
A. I was.
Q. I'm gonna show you some photographs and ask you whether or not you recognize what's in those photographs?

And take your time to look through them. And also State's 73.

A. Okay.

Q. So 73, 74, 75, 76, 77, 78, 79 and 80. Can you tell us whether or not these photographs relate to the search of the Wrightsboro Road residence?

A. They are.

Q. Can you tell us whether or not this was a residence in which Antonio Griffin was residing?

A. I don't recall.

Q. You do recall it's a residence that was searched in relation to this investigation?

A. Yes, it was. [redacted] Wrightsboro Road was where I went that day. This occurred two days prior to the search at Cherry Street. This is when I was first advised of the incident --

Q. All right.

A. -- and what had occurred.

Q. I'm gonna go ahead then and put this address up and that's gonna be [redacted] Wrightsboro Road. And, again, the date of this search?

A. January 23, 2002.

Q. All right. And specifically what type of items were you looking for in this search?

A. Basically I'd been advised once I arrived essentially

at the scene that they were looking for burnt items. These items would have been supposedly involved or used during an attack on another person and had been burned, so when I got there I was shown there was a large 55-gallon drum and also next to the 55-gallon drum was what would be a fire pit where you -- just someone burned some other items there. During the course of being out there after they told me about it, what I did was, first, I collected the 55-gallon drum essentially in its entirety. I just put it -- I secured it and I was going to bring that back to the lab because that's -- it's kind of hard to search that kind of thing out there. At the fire pit basically looking around that, I was looking for anything that people would have burned after an incident like that and basically there were some burned clothes and they were very well burned. First I couldn't tell they were clothes, but you could kind of see a weave pattern and that was about it. In collecting those --

Q. Let me stop you right there. Right now I'm looking at State's Exhibit 77. What is depicted in here?

A. Can I look?

Q. Yes. You can step down. Please feel free.

A. (Witness complies.)

Q. State's Exhibit 75.

A. Okay. This is -- this is the fire pit and basically

just some rocks where someone had burnt all the burnt stuff and in and about it were some clothes. Just pieces and fragments of clothes were all in there.

Q. All right. I'm gonna show you State's Exhibit 78.

A. These were found on the ground after -- these were found on the ground around the fire pit. What we're looking at here is they were placed on -- after I collected them, that's how I took the pictures of them. You couldn't even tell what was there.

Q. State's Exhibit 80.

A. Okay. This basically right here would just be other items that were found there.

Q. All right. And, again, all of these items are connected to this burn location being a fire pit and a burn barrel?

A. Yeah.

Q. And all of this is at the residence located at [redacted] Wrightsboro Road?

A. Yes, ma'am.

Q. And one more time, just to follow up, you actually collected a six individual items being burn debris?

A. Yes.

Q. Looking here at State's Exhibit 78.

A. The burn debris from the fire pit area was there were six pieces of cloth.

Q. All right. Thank you. Now were those cloth items also submitted to the GBI, Georgia Bureau of Investigation, crime lab for analysis?
A. Yes. I asked them to see if they could find any DNA, any blood.
Q. All right. Was any blood recovered from those items?
A. No.
Q. And I know you said before you have certification in arson. How does a fire or the burning process affect the ability to recover forensic evidence such as DNA or blood?
A. Fire, heat, destroys DNA, makes it unusable. Even if you could find something you thought was there, it just -- you might be able to see drops of blood on a wall that's been in a fire, what may be blood, but you couldn't tell whether it was blood or not, you couldn't use the DNA anymore. In this case a burned piece of clothing would have been beyond the scope of finding anything.
Q. I'll also show you what is State's Exhibit 64 and 65. If you can take a look at those items.
A. Okay.
Q. Your testimony was you're also trained in general firearms examination?
A. Yes, ma'am.
Q. Those two projectiles there, are they of the same caliber?

A. No. No, they are -- one is a small caliber and one is a large caliber.

Q. So with one being a small caliber and one being a large caliber, would they have come from the same gun?

A. They could not have been fired from the same gun.

MS. MAYES: Nothing further of Investigator Gordon at this time, Your Honor.

THE COURT: All right. Cross-examination?

CROSS-EXAMINATION

BY MR. McGUIRE:

Q. Is it Investigator Gordon?

A. I retired about two years ago. It was sergeant at the end. I ran the crime lab.

Q. When were you asked to look at those projectiles for the first time?

A. Several days ago.

Q. Okay. This case originated around 2002 and the first time you ever looked at them was a couple of days ago?

A. Until a couple of days ago I had no knowledge of them. I believe they would have been recovered in South Carolina.

Q. Okay. And nobody ever showed them to you until a couple of days ago?

A. No.

Q. And when did you come to your -- so you eyeballing

the projectiles is you analyzing evidence, right?
A. Yes, ma'am -- yes, sir.
Q. And you're coming to the conclusion that they are fired from a different weapon, that's the result of your examination?
A. Yes, it's -- yes, it is.
Q. Okay.
A. It's that simple.
Q. Why weren't you given those shells -- those projectiles before?
A. It is my guess that because they were recovered in South Carolina --
Q. Well, how many times have you testified in South Carolina?
A. I'll say over ten. I don't know exactly.
Q. And how many times in this case?
A. Twice in South Carolina.
Q. Okay. So you could have seen them back then?
A. Yes, sir. If it had been relevant, yes.
Q. Okay. But you were present in South Carolina in this courthouse, right?
A. Yes.
Q. With regard to events that transpired in South Carolina, right?
A. In South Carolina and Georgia, yes.

Q. And nobody bothered to show these things to you before?
A. No.
Q. All right. When you go out and search, I think you already stated that you're briefed by detectives to let you know what you're looking for, right?
A. Generally, yes, on all cases.
Q. They can't send you to some place and say just see what you find?
A. I have been sent there, but I've refused to actually go until they tell me what they're looking for.
Q. Sure. Because that wouldn't make no sense whatsoever.
A. It would make no sense.
Q. Okay. And you rely on the investigators, the detectives, to tell you this is why we want something, this is what we're looking for, this is what you want to see if you can find?
A. That will generally be correct. They will say we're looking for an item like this or we're looking for objects that were used for something like this.
Q. Sure. And -- and the reason you looked for the shock absorber is because there was some information it was involved in the incident?
A. That would be correct.
Q. Okay. Did anybody ever ask you to look for a gun

belonging to a William Harris?
A. No.
Q. Okay.
A. But I will say this. Had I spotted a gun, it would be in evidence somewhere.
Q. Sure. If you come upon a scene and there's a gun there, you recover that, right?
A. That would be correct.
Q. Okay. And did anybody ever ask you to have you look for 40-caliber ammunition at William Harris' house or his car, anything like that?
A. I went to two locations and that would have been the Cherry Street and the [redacted] Wrightsboro Street location.
Q. Okay. I'll take that as a no, you weren't asked to go look at William Harris' car or his residence as far as you can remember?
A. I know I wasn't.
Q. Okay. As you sit there, have you ever -- does any blood evidence, DNA evidence, fingerprint evidence, fiber evidence, anything at all connect Mr. Barnes to the death of Samuel Sturrup?
A. There was no evidence that I had seen that has been analyzed that as far as I know except in some other way connects to him.
Q. Right. There's none, right?

A. As far as I know in reference to this.

MR. McGUIRE: Okay. Thank you. That's all.

REDIRECT EXAMINATION

BY MS. MAYES:

Q. And just to clarify, you have no blood or DNA or hair evidence connecting any of the defendants to this case, correct?

A. Correct. All the blood, if there was any, had been destroyed. All the fingerprints weren't there. There was nothing to not connect them.

Q. Nothing left to recover?

A. Correct.

MS. MAYES: Nothing further.

THE COURT: Recross?

MR. McGUIRE: No, ma'am.

THE COURT: All right. Thank you.

(Witness excused.)

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

MS. MAYES: The State calls James Tredore.

THE CLERK: Place your left hand on the Bible and raise your right hand.

(Whereupon, James Tredore was duly sworn by the Clerk of Court.)

THE CLERK: Thank you, sir. Please be seated. State

your full name and spell your last for the record.

THE WITNESS: James Tredore, T-R-E-D-O-R-E.

JAMES TREDORE,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MAYES:

Q. All right. And, Investigator Tredore, where are you currently working?

A. The Richmond County Sheriff's Office in Augusta, Georgia.

Q. And what's your job description there at the Richmond County Sheriff's Department?

A. I'm an investigator.

Q. And how long have you been an investigator?

A. Currently about two years, but then prior to that I had about -- from about '99 to 2007 I was also in the investigations division.

Q. All right. I want to take you back to the time period of 2002, specifically the date of January 17, 2002.

A. Yes, ma'am.

Q. Can you tell us whether or not you were involved in the arrest of the Defendant in this case, Steven Barnes?

A. Yes, ma'am, I was.

Q. Where did that arrest take place?

A. At [redacted] Cairo Court in Augusta, Georgia.

Q. [redacted] Cairo Court in Augusta, Georgia?
A. Yes, ma'am.
Q. I'm gonna show you some photographs and ask you whether or not you recognize the residence depicted in these photographs, State's 62 and 63?
A. Yes, ma'am. Yes, ma'am. It appears to be the residence at [redacted] Cairo Court.
Q. All right. And so briefly let me ask you when you arrived there at that residence, was Mr. Barnes located inside the residence?
A. He was located outside the residence.
Q. Outside the residence?
A. Yes, ma'am.
Q. Who was located inside the residence?
A. There were three or four females inside the residence. I don't recall all their names. One was Charlene Thatcher.
Q. So Charlene Thatcher came into law enforcement custody on that same date, the date of January 17, 2002?
A. Yes.
Q. All right. And can you tell us whether or not there was any type of video equipment inside that residence?
A. There was surveillance cameras posted outside, the monitors for which were in the back bedroom. When we into the house the monitors were on because we could see what was happening outside the house and the window in that room

was open.
Q. All right. The window to the back bedroom was open?
A. Yes. All the other windows had bars on them.
Q. All right. So in that residence, there was working video surveillance?
A. Yes.
Q. And were you able to see that yourself?
A. Yes, ma'am.
Q. Did it appear to be set up so that it was being monitored just prior to entry?
A. Yes, ma'am.
Q. And ultimately you say that Mr. Barnes was apprehended outside. Where was he apprehended in relation to that open window?
A. He was in the backyard. I'm not sure exactly how far he got in the yard. What we do is we have people cover the perimeter outside of the residence and it was one of those people that actually took him into custody.
Q. Took him into custody after -- after leaving the inside of the residence?
A. Yes, ma'am.

MS. MAYES: Thank you. Nothing further.

THE COURT: Cross-examination?

CROSS-EXAMINATION

BY MR. BLOOM:

Q. Investigator, you found no 40-caliber ammunition in Mr. Barnes' house at Cairo Court; is that correct?
A. I was just part of the SWAT team that made entry into the house to take him into custody. I don't recall what was seized during the searching of the residence.
Q. All right. You don't have any information about what was recovered, if anything, in the search?
A. I do not.
Q. All right. If there had been any 40-caliber ammunition recovered, that is something the search team would have recorded and reported certainly, correct?
A. Correct.
Q. And that would have been shared with South Carolina law enforcement?
A. Yes, sir.

MR. BLOOM: Thank you, sir.

REDIRECT EXAMINATION

BY MS. MAYES:

Q. And, again, this is gonna be four months after September of 2001?
A. I'm sorry? Oh, yes. Yes, ma'am.
Q. This is January of 2002, correct?
A. Correct. Correct.

MS. MAYES: Thank you. Nothing further.

THE COURT: All right.

(Witness excused.)

THE COURT: Thank you. Call your next witness.

MS. MAYES: The State calls Dr. Janice Ross.

(Whereupon, Janice Edwards Ross was duly sworn by the Clerk of Court.)

THE CLERK: Thank you, ma'am. Please be seated. State your full name and spell your last name for the record, please.

THE WITNESS: Janice Edwards Ross, R-O-S-S.

THE COURT: All right. We'll take just a moment to get the photographs together.

(State's Exhibit Numbers 81 through 87 were marked for identification.)

MR. HUBBARD: Thank you.

JANICE EDWARDS ROSS,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HUBBARD:

Q. Dr. Ross, I'll go ahead. Dr. Ross, where do you work?

A. In Newberry, South Carolina with Newberry Pathology Associates.

Q. And what is your profession?

A. I am a forensic pathologist.

Q. And can you describe for the jury what that is?

A. Yes. Well, first of all, a pathologist is a doctor,

so I had four years of college and four years of medical school. And I received my M.D. from Upstate Medical Center in Syracuse, New York. The field of pathology is like in surgery or pediatrics. You learn in pathology how to --

MR. McGUIRE: Your Honor, I hate to interrupt. Sorry, ma'am. Just in the interest of time, we would agree to stipulate to her qualifications as an expert.

THE WITNESS: Thank you.

BY MR. HUBBARD:

Q. Now -- and in the interest of time, I'll jump ahead, too. As part of your job do you actually perform autopsies?

A. Yes, we do.

Q. And performing autopsies as a forensic pathologist, what are you looking for?

A. A forensic pathologist is trained how to look for patterns of injury, along with natural death, diseases and other reasons why a person dies. A cause of death. We are also further trained in formulating an opinion of manner of death. Manner of death is how the cause of death came about. Like was it a natural death, accident, suicide, homicide, and sometimes we can't determine.

MR. HUBBARD: And, Your Honor, if there's a stipulation, she's an expert in forensic pathology.

THE COURT: She's so qualified by stipulation.

BY MR. HUBBARD:

Q. And, Dr. Ross, just for the jury, too, can you tell us how many autopsies you've performed?

A. Over eleven thousand.

Q. How many do you do a day?

A. Well, recently three or four a day.

Q. Three or four a day?

A. Yes, sir.

Q. How many times have you been qualified in South Carolina courts?

A. Close to two hundred times.

Q. And we've dealt with each other before on a number of occasions?

A. Yes, sir.

Q. Back in 2001, were you working with Dr. Sexton?

A. Yes. I came to work with him in May of 2000 and I've been there ever since.

Q. And has he since retired?

A. Yes, he retired in 2008.

Q. Back on November 21st of 2001, did you and Dr. Sexton have an occasion to perform an autopsy on skeletal remains found here in Lexington -- Edgefield County?

A. Yes.

Q. And is part of your purpose to determine the identification of that person?

A. Yes.

MR. HUBBARD: And I believe the defense is stipulating?

MR. McGUIRE: We'll stipulate that the -- yes. We'll stipulate to the cause of death and the identity of Samuel Sturrup as the victim.

THE COURT: All right.

BY MR. HUBBARD:

Q. But at that time you were asked to find who this individual was?

A. Correct.

Q. And there's now a stipulation that we know it was Samuel Sturrup, Junior.

A. (Nods head.)

Q. When this case was presented to you, what did y'all have?

A. We had a partial skeleton, including the head, the lower jaw, some ribs, some vertebrae, backbone and some leg bones.

Q. And what did you do with those?

A. Well, we looked at each bone individually to look for any kind of injury, like cuts or whatever, and we did x-rays of all the bones and the head and we found a gunshot wound.

Q. Okay. Were you able to determine all of the bones

were from the same body?
A. Well, we don't do DNA on each one, but there was no duplication, so it was consistent with one individual.
Q. Okay. I'll show you State's 83. Is that how you laid the bones out?
A. Yes.
Q. Okay.
THE COURT: Are these in evidence?
MR. HUBBARD: Yes. I offer 83 into evidence. Without objection?
MR. McGUIRE: No objection.
THE COURT: All right.
MR. HUBBARD: I'll go ahead and offer 82, 81, 84, 85 and 86 into evidence.
MR. McGUIRE: We've seen them all. You can put them all in. No objection.
MR. HUBBARD: Thank you, Your Honor.
THE COURT: Very well.
(State's Exhibit Number 81 through 86, photographs, were admitted into evidence.)
BY MR. HUBBARD:
Q. In looking at all those bones, you said you looked for marks and cuts and things like that?
A. Yes, any evidence of a type of injury.
Q. And the only injury you found was on what portion of

the body?
A. The head.
Q. The gunshot wound to the head?
A. Yes.
Q. Now in doing that, did that mean that there were no other injuries to this individual when he died?
A. No. We didn't have a whole body, so we cannot say that there was not anything else, any other injuries or natural disease.
Q. Since you had a gunshot wound, if there had been any other gunshot wounds to the body, say a gunshot wound to the stomach, would that necessarily reveal itself when you're looking at these bones?
A. Not necessarily.
Q. Would a gunshot wound with a large caliber pistol fairly close range to the abdomen, would that be a fatal injury?
A. It could be, yes.
Q. If left untreated?
A. Yes.
Q. Now I know we've had a stipulation as to identity. Did y'all have dental records as well?
A. Yes.
Q. In looking at this, is that how y'all were able to identify Samuel Sturrup?

A. Yes.
Q. Now without dental records, in studying these bones do you look for age and height, race and sex?
A. Yes. There are different features on different parts of a skeleton that will give us an idea if it's a male or female, race, height.
Q. What was the one complicating factor in this besides not having all the bones?
A. Well, we didn't -- unfortunately when a skeleton is out in the woods or out in the open like this, there are animals that chew on the bones and in order to figure out the height of a person we take long bones like the leg bone, the femur, or the arm bones and measure them, but because of the animal eating, they eat the ends of the bones, we couldn't get an exact measurement so we could not get a -- formulate an idea of height.
Q. Okay. Because of the animal activity?
A. Correct.
Q. Okay. I want to show you State's 81 and 82. Is this the gunshot wound to the head?
A. Yes.
Q. Okay.
A. That's the entrance wound.
Q. Were you and Dr. Sexton able to determine the probable caliber of the weapon used?

A. Yes. The hole measures about point four inches and that equals a 40-caliber.

Q. Now when you look into the skull, did you go -- in doing your autopsy and your external examination, did you actually explore the underside of the skull as well?

A. Yes, and we did x-rays to see if there was any lead or any metal left in the brain -- in the skull.

Q. Let me show you State's 84. Is this the x-ray showing what you found?

A. Yes, that was the x-ray from the side of the head.

MR. HUBBARD: I offer this in evidence without objection.

MR. McGUIRE: No objection.

THE COURT: Very well.

(State's Exhibit Number 87, a Model Head with Rod, was marked and admitted into evidence.)

BY MR. HUBBARD:

Q. Doctor, what we see in that x-ray, is that a hole in the skull or what are we looking at?

A. The dark area in the skull are pieces of metal.

Q. I'm gonna show you what's been marked and entered into evidence as State's 86 and 85. Are these pictures of what you found inside the skull?

A. Yes, they are. They were imbedded in the bone.

Q. I'll show you what's been marked as State's

Exhibit 33. Again, without objection. Is this the container where you placed those items?

A. Yes.

Q. Okay. And you turned this over to law enforcement after the autopsy?

A. Correct.

Q. And, again, those were the metal items that are seen in these photos?

A. Correct.

Q. Now, Doctor, we have a diagram.

MR. HUBBARD: And I offer this into evidence as well.

MR. McGUIRE: No objection.

MR. HUBBARD: State's 88.

THE COURT: Yes.

(State's Exhibit Number 88, a Diagram of Head, was marked and admitted into evidence.)

BY MR. HUBBARD:

Q. Is this a diagram that you use for autopsies to show wounds on the head?

A. Correct.

Q. And looking at this diagram, I'm gonna hold it up a little higher, the round hole that we see here, is that --

A. That's the exit wound, which would be on the back top of the head.

Q. The entrance wound?

A. Entrance wound. Yes, sir.
Q. Okay. And the dark matter that we see there would be what?
A. Would be the metal fragments, the bullet.
Q. The dotted lines are showing what?
A. The direction. So it goes back to front and towards the left and downward, so the fragments of bone were found sort of in the skull, which would be just above the left ear.
Q. Okay. I want to show you another item that might be even more helpful. State's 87 without objection. Does this show the rough trajectory and entrance of the wound on the skull?
A. Yes.
Q. And where it would lodge would be where?
A. Right here in the bone on the inside.
Q. On the left side?
A. Yes.
Q. In never exited the skull?
A. Correct.
Q. Doctor, in looking at all of this, and performing this autopsy, what is the manner of death that you determined?
A. Homicide.
Q. The cause of death?
A. Would be a laceration of the brain due to the gunshot

wound to the head.

Q. When this person Samuel Sturrup was shot in the head, what happens at that point?

A. When you get shot in the head, there's an explosive effect and it causes you to go unconscious immediately and then after the brain starts swelling and whatever, you permanently die within a few minutes.

Q. So once he's shot in the head, he's not moving?

A. Correct.

Q. He's not able to cry?

A. Correct.

Q. He's not able to move?

A. Correct.

Q. And he has just -- death's inevitable at that point?

A. Correct.

MR. HUBBARD: Let me make sure I have this object marked properly. Your Honor, I'd move this in, if it's not in. I think we got it mislabeled. It should be 89. Any objection?

MR. McGUIRE: No objection.

THE COURT: No objection. State's 89.

(State's Exhibit Number 89, Bullet Fragments, was marked and admitted into evidence.)

MR. HUBBARD: Thank you. Thank you, Your Honor. That's all I have at this time, Doctor. Thank you so much.

THE COURT: Cross-examination?

MR. McGUIRE: Yes, ma'am. Thank you very much.

CROSS-EXAMINATION

BY MR. McGUIRE:

Q. Good morning, ma'am.

A. Good afternoon.

Q. It's Dr. Ross, correct?

A. Yes.

Q. Doctor, I only have just a couple of questions for you, I think. And my name's Bill, Bill McGuire. I represent Mr. Barnes. You testified, I believe, that the entrance wound was consistent with a 40-caliber projectile?

A. Yes.

Q. And from your review and analysis of the projectile recovered from Samuel Sturrup's body, was that consistent with a 40-caliber projectile?

A. I believe so. I leave that up to the ballistics experts to verify that.

Q. Okay. And I know that you were with Dr. Sexton when this autopsy was performed. Are you aware that he later testified that the projectile was, in fact, a 40-caliber slug or projectile?

A. Yes.

Q. Okay. So that was his conclusion?

A. Correct.
Q. And you agreed with that?
A. Correct. And the way you tell the caliber is to measure the bottom of the bullet and it measured point four.
Q. If I could have just one second. And, Doctor, how many times have you had occasion to measure the bottom of a bullet to determine the caliber of the projectile?
A. We always take a photograph and measure that, but, like I said, Dr. Sexton was more into ammunition. But we measured it and we were together, but to verify it I personally leave it up to ballistics.
MR. McGUIRE: Can I have just two seconds?
(Discussion between counsel.)
BY MR. McGUIRE:
Q. I'm gonna get you, if you would -- and you can have gloves, if you want. I want to tell you what's in here. There's a projectile and a projectile and I'm just gonna ask you if it looks consistent with a 40-caliber projectile to you?
A. Again, we have to measure -- we would have ways of measuring. I couldn't. I'd have to measure it.
Q. Okay. Could you look at the other one and compare them and just see if they're similar?
MR. HUBBARD: Your Honor, if she has to measure it,

I -- you know, I want to make sure she's comfortable with whatever she does.

THE WITNESS: They look different.

BY MR. McGUIRE:

Q. Okay. Different to you?

A. Yes.

Q. Okay. And the way to -- the way to reach that conclusion -- here, I'll help you with that. And the way to reach that conclusion is essentially just a very simple measurement?

A. Yes.

Q. And what kind of instrument is used to do that? Is it a special micrometer or --

A. Well, we had one of those when we were -- at this time. We don't -- I don't use that now, but Dr. Sexton did. We also have a fine metal ruler with markings up to tenths.

Q. Okay. So it's a very simple task of just putting a ruler to the bottom of the bullets to determine if they're the same or different?

A. That's correct.

Q. Okay. Are you aware that that was done the first time in this case two days ago or do you know? Did anybody ask you about that?

A. I don't -- no. I don't know.

MR. McGUIRE: That's all I have for you. Thank you.

MR. HUBBARD: No follow-up, Your Honor.

THE COURT: All right. Very well. Thank you, Doctor.

THE WITNESS: Thank you.

MR. HUBBARD: And I ask that the doctor be excused, Your Honor.

THE COURT: And there's no objection, correct?

MR. McGUIRE: No.

THE COURT: Thank you.

MR. HUBBARD: Thank you, Dr. Ross.

(Witness excuse.)

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

MR. HUBBARD: Your Honor, at this time the State rests.

THE COURT: All right. Very well.

Ladies and gentlemen, you have now heard the witnesses and received the evidence which you will from the State in the State's case in chief. That signifies to me that there are matters that I must take up outside your presence and we're going to conclude for the day.

Ladies and gentlemen, I'm going to ask that you, of course, leave your notebooks and your pads in your seat and we'll secure them over the evening and we will put them back in your seats for the morning. I'm going to remind

you please do not discuss this matter. Do not allow anyone to discuss it with you. Understanding that the curiosity is heightened, put it on the judge, don't let anyone get upset with you, but do tell if anyone asks you about this case that you are not at liberty to talk about it.

Don't read anything, don't listen to anything about this matter. That, of course, is the radio, the television, the newspaper, the Internet. Do not do any sort of investigations or investigation about this particular matter, any research to include looking up the definition of a word on the Internet. You must receive all of the information from which you will make up your minds here in court while court is in session. Please do not use social media for the purpose of discussing this matter with anyone.

With regards to your cell phone, please remember to leave it somewhere other than the courthouse in the morning. If it follows you here, please remember to relinquish possession of it to one of our bailiffs who will take good care of it for you.

We are going to begin in the morning at 9:30. At 9:30. So please be in your jury room and ready to continue this matter at 9:30 and have a very good evening.

And if I could please see Alternate Number 2. If you will stay with me just a second and the rest of you

are dismissed for the day.

(Whereupon, the jury was excused for the day at 4:45 PM.)

THE COURT: All right. Motions?

MR. BLOOM: Your Honor, we'd move for a directed verdict at this time based on --

THE COURT: Hold on one second. I'm sorry. Thank you. Thank you. Let me excuse --

MR. BLOOM: I'll wait. I'm sorry.

THE COURT: I'm gonna be true to my word and I'm gonna dismiss you from your service on this case.

JUROR: Thank you.

THE COURT: And thank you for that service.

JUROR: Thank you.

THE COURT: And as I understand it, you will go back to the postal service and do your work tomorrow. What I am going to ask is that you not communicate with the jurors in this matter, and that includes also, please, anyone at your home until this matter is resolved. If you want our Clerk of Court to call you and tell you when that time's come, I'm sure he will be happy to do that if you will just give him a number where you can be reached. But I'm going to ask that you not discuss this matter until we are finished with the trial and the jury is finished with its deliberation. Is that acceptable to you?

JUROR: Yes, ma'am.

THE COURT: Any questions about that?

JUROR: No, ma'am.

THE COURT: And if you'd just identify yourself on the record for me.

JUROR: Debbie Neal.

THE COURT: Thank you so much.

THE CLERK: If you could just bring me your notepad.

JUROR: (Handing.)

THE CLERK: Thank you, Ms. Neal.

THE COURT: We had discussed that this morning and there's no objection from the State?

MR. HUBBARD: No objection from the State.

THE COURT: From defense?

MR. BLOOM: No objection, Your Honor.

THE COURT: Very well.

All right. Now, Mr. Bloom. I'm sorry!

MR. BLOOM: We would make a motion for directed verdict at this time, Your Honor, based on all the evidence, even when viewed in the light most favorable to the State, it's not sufficient to submit it to a jury. The only evidence against the Defendant is that testimony of the co-defendants, which in this case appears to be not credible and unreliable, and there's no physical evidence standing against him, and we would move for a directed

verdict. Thank you so much.

THE COURT: Thank you so much. I would respectfully deny your motion. I do believe that there is evidence on each and every element of the offense and that's for the jury to weigh and for me to ascertain whether or not there is evidence on each element and so I would respectfully deny your motion and note your exception thereto.

I would at this time examine and talk to Mr. Barnes about his right to testify.

MR. BLOOM: Yes, ma'am. And we've been -- we've informed him of your intent to do this.

THE COURT: That's fine.

Mr. Reel, if you'd place him under oath for me, please.

MR. BLOOM: Do you want him to stand or sit?

THE COURT: It doesn't matter as long as our court reporter can hear.

THE CLERK: If you can just raise your right hand for me.

(Whereupon, Steven Louis Barnes was duly sworn by the Clerk of Court.)

MR. BLOOM: He has a confused look. I'm not sure --

(Discussion between the Defendant and his counsel.)

THE WITNESS: Yes.

THE CLERK: Thank you, sir.

THE COURT: All right. And if you'd state your name for our record, please, sir.

THE DEFENDANT: Steven Barnes.

THE COURT: Mr. Barnes --

THE DEFENDANT: How you doing?

THE COURT: -- at this time I'm going to explain to you certain of your rights. If you do not understand anything I say, I want you to let me know. There are many way to explain any one thing. And, obviously, if you need me to explain anything that I'm going to talk to you about in more detail, all you need to do is let me know. If you need to stop at any point and talk to your lawyers about what I'm -- questions that I'm going to ask you or matters I'm going to explain to you, I want you to feel free to do that as well.

Yes, sir.

THE DEFENDANT: This is like my fifth trial and I'm -- I know knowingly waive my testimony to -- I mean, get on the stand and testify. I already know what's gonna happen. That's just my feeling. If you want to do it for the record, it's on you. I'm just letting --

THE COURT: Thank you. Thank you. If you will -- since this is my first trial with you, Mr. Barnes, if you will be so kind as to just listen very carefully. And, again, if you have any questions, let me know.

THE DEFENDANT: (Nods head.)

THE COURT: Very well.

We have reached the stage of the trial where you may present your defense. You have the right to claim the protections given to you by the Fifth Amendment to the constitution of the United States and this amendment states, in part, no person shall be compelled in any criminal case to be a witness against himself. This means that you cannot be required to testify in this case. You have the right to testify on your own behalf; however, no one can make you testify. This is a personal right and no one can waive this right except you. If you decide to testify, you will be subject to the same rules that govern other witnesses and you may be examined and cross-examined on any relevant issue in the case.

In addition, if you have any convictions involving dishonesty or a false statement or for fines punishable by imprisonment for more than one year and this Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the Solicitor will be able to introduce your record to attack your credibility.

If you decide to testify, this decision on your part must be freely, voluntarily and intelligently made with knowledge of the protections given to you by the Fifth

Amendment and the consequences of your decision to testify.

If you decide not to testify, I will instruct the jurors that they cannot give the fact that you did not testify any consideration whatsoever and that there is to be absolutely no prejudice to you because you did not testify. It is left entirely up to you whether or not you testify. You may talk to your attorneys, family or friends, people you trust, or anyone else that you need to speak with, but the final decision will be left entirely up to you.

Do you understand what I've explained to you?

THE DEFENDANT: Yes, ma'am.

THE COURT: Do you have any questions about what I've explained to you?

THE DEFENDANT: No, ma'am. No, ma'am.

THE COURT: And have you had an opportunity to discuss with your attorneys whether you should or should not testify?

THE DEFENDANT: Yes, ma'am.

THE COURT: And do you need any more time to talk to your attorneys?

THE DEFENDANT: No, ma'am. No, ma'am.

THE COURT: Very well.

Well, obviously we're not going to receive this evening anything further and you can change your mind over

the evening and I would just ask you or would ask your attorneys -- I would ask you to communicate to your attorneys and ask them to let me know if you have changed your mind, which is perfectly fine with me, okay?

THE DEFENDANT: Yes, ma'am.

THE COURT: Very well.

All right. Any additional questions that you want to ask Mr. Barnes in this regard?

MR. BLOOM: Not on behalf the defense. Thank you, Your Honor.

THE COURT: All right. Very well.

All right. Now what I would appreciate -- I have a charge. I would appreciate so much you-all meeting me for a charge conference before you-all leave today. And I will also give you copies of it and if you-all have any questions or comments over the evening, you will have that opportunity to have it and look at it and any changes or additions we need to make. But I would really appreciate just some time to do that now, all right?

Very well. And is there anything further that we need on the record this evening from the State?

MR. HUBBARD: No, ma'am, Your Honor. Nothing further.

THE COURT: From the defense?

MR. BLOOM: Nothing, Your Honor. Thank you.

THE COURT: All right. Very well.

(Whereupon, the proceedings were concluded for October 12, 2017, at 5:04 PM.)

(The following proceedings were held October 13, 2017, beginning at 9:48 AM.)

BAILIFF: All rise.

THE COURT: Thank you so much everyone. Please be seated. Good morning.

All right. Just so I can just tell the jury, who's -- how are you-all going?

MR. HUBBARD: I'll be speaking.

THE COURT: You're going to do both arguments, Solicitor?

MR. HUBBARD: Yes. Thank you, Your Honor.

THE COURT: Okay. Very well. And Mr. --

MR. McGUIRE: (Indicating.)

THE COURT: Perfect. Very well. All right.

MR. BLOOM: And so we're clear, we -- the defense gets to go last because we put in no evidence.

MS. MAYES: You're correct.

THE COURT: That's right.

MR. BLOOM: Yes, ma'am. I just wanted to make sure.

THE COURT: All right. Anything from the State before we bring the jury out?

MR. HUBBARD: No, ma'am, Your Honor.

THE COURT: All right. And from the defense?

MR. BLOOM: No, ma'am.

THE COURT: All right. Very well. That's you. That's your cue.

Counsel, there's been no change in position with regards to testimony; is that correct?

MR. BLOOM: I'm sorry, ma'am?

THE COURT: Mr. Barnes does not wish to testify; is that correct?

MR. BLOOM: That's correct. Mr. Barnes has not changed his mind and does not intend to testify.

THE COURT: All right. Very well.

(Whereupon, the jury enter the courtroom at 9:54 AM.)

THE COURT: All right. Good morning, ladies and gentlemen. I certainly hope that you had a very pleasant evening.

At this time we'll turn to the defense.

MR. BLOOM: Your Honor, the defense rests. At this time we would renew all prior motions and objections. Thank you, Your Honor.

THE COURT: Thank you so much. And the same rulings as before would stand as before.

All right. Ladies and gentlemen, you have now heard the witnesses and received the evidence that you will in this case. What remains for us are the arguments of counsel and then my charge or instruction on the law. I

want to tell you how we're going to be proceeding. You're first going to hear from Solicitor Hubbard and his closing argument on behalf of the State and then you're going to be hearing from Mr. McGuire and his closing argument on behalf of Mr. Barnes.

Once the closing arguments are finished, we're going to take a very short break, which is going to be self-explanatory at that moment, and then I'm going to deliver the charge or the instruction on the law to you. There will then be a very short break, which I will explain to you, and then, ladies and gentlemen, you will receive this case for your deliberations.

At this time I ask that you please draw close as we listen to the closing arguments of the attorneys.

Solicitor Hubbard.

MR. HUBBARD: Thank you, Your Honor.

THE COURT: Yes.

MR. HUBBARD: Here's what's gonna happen. Here's how it's gonna go down. Everybody's gonna shoot. China first, then everybody's gonna shoot or I'll shoot you. The words of Steven Barnes. Big Man Barnes. A threat, a directive, an order. That's how he lived.

But what made him a big man? Kids. He didn't have adults around him. He had young, impressionable kids. He looked for the young, the gullible, the naive. He looked

for the broken, the needy, the hurt.

Look who he had around him. Richard Cave. Richard Cave just wanted a car. Follow me. You like that box Chevy? Maybe some day it could be yours if you just follow me. I'll take you for a ride.

Antonio Griffin. I just wanted to have fun. You like the cars and the cash, you like the clothes? Follow me. We'll have fun.

And Charlene Thatcher. Gosh. Poor broken Charlene Thatcher. Charlene, you ran away at fourteen, you don't have a home, you don't have a family, you've got some mental health issues, come with me. I'll give you a place to live, I'll put food on the table, I'll give you security. I'll give you what you never had.

Samuel Sturrup. 16-year-old Samuel Sturrup trying to be a man. Samuel, you want to be a man? Samuel, if you want to be a man, you need to follow Big Man. I'll tell you what you need to do. I'll tell you how you need to be. You follow me and I'll make you a big man. Follow me.

What a hollow, hollow promise. Samuel followed him all right. I'll show you the path to being a man. You know that was a lie, but he did take him down a path, didn't he, folks? It wasn't a path to manhood. No, not at all. Not at all. Poor crying Samuel walked down that path to his death.

That's Barnes. That's Big Man Barnes. Folks, he lured these kids, these young people, in to be part of his entourage and controlled them with fear. They did what he said, they acted when he told them to act out of fear for their own lives.

Now we've charged Mr. Barnes with murder and you've heard an abundance of evidence. At some point the judge, as she said, is gonna give you the law on what murder is. Murder is the intentional killing of any person with malice aforethought. There was a killing and, folks, when you hear what malice is, you're gonna see there's an abundance of it. There's a sea of malice. This case is swimming in it. And as you heard earlier, aforethought, that just means it had to be present sometime during the murder. That's it. Malice. Malice aforethought. A very simple concept.

You're gonna hear some other concepts as well. One is very important. It's reasonable doubt. The State, and I represent the State, must prove its case beyond a reasonable doubt, folks. I welcome that. We welcomed it at the very beginning of this case. What is a reasonable doubt? Basically, folks, if I present enough evidence to you that you're just firmly convinced that the Defendant is guilty, then I've met my burden. Firmly convinced. It's not some fanciful doubt. It's not -- you can have

doubts about anything. It's got to be reasonable based on the facts. The facts make you firmly convinced. At some point y'all will be able to talk to one another and resolve any issues you have. But, folks, at the end of the day I'm convinced you will be firmly convinced we've proven our case.

There's something else you're gonna hear about. Under our law we have something called the hand of one is the hand of all, and that law's gonna go something kind of like this. If a crime's committed by two or more people acting in concert, everyone's guilty. Everyone. When two or more people are together, acting together, assisting each other in committing the offense, the act of one is the act of all. Sometimes it's said the hand of one is the hand of all. If five people get together with Mr. Barnes and each one of them pull a trigger, each one of them, the Hunsberger brothers, Charlene, Antonio, Richard, all of them, they act with one hand. And Mr. Barnes is there. If he's directing, if he's part of it, if his hand's present, whether -- even if you don't believe he pulled the trigger, he's guilty. And I'll tell you something else. He doesn't even have to be in charge. He could just be part of a group saying I'm agreeing with this and not even pull the trigger and he's guilty. And he's not just a spectator, being merely present, just happened to

be there to see a horrible event, that's not what you heard in this case, is it? You didn't hear that at all. The hand of one is the hand of all. Folks, that's the law.

Now y'all have heard the facts in this case, y'all heard the testimony. Y'all heard when Antonio Griffin and Richard Cave were heading to that house, this little house on Cherry Street down at the dead end road, that dark, dark area down at the dead end road, they're walking down there, and they see the guy they knew as Big Man. They see his little brother, Little Man, Will Harris. You're gonna hear more about him. I'll talk to you a little bit more about him. And they see Samuel. At that point they had heard a commotion and Sam was sitting down. Big Man's just riding him. Where's my money? Where is my money? I want my money. Where is it? I don't have your money. I don't have your money. They walk into that. Big Man comes over to Richard Cave, y'all heard him come up here and take the stand. Antonio Griffin, y'all heard him. They're walking down and Big Man comes up, So what do y'all think? Jump him. Now Samuel's no fool. He's 16, so he takes the first strike and he's going after Antonio, Antonio fights back, tries to lift him up, falls down, and that's pretty much the end of the fight. Even Antonio Griffin said Richard Cave never even hit Samuel. Even yesterday after sixteen years he said Richard's always

been right, he never hit him. I don't know, but, folks, he never hit him. And how are they acting? They're acting at the direction of Big Man Barnes. Big Man Barnes. Jump him. Barnes breaks them up and Barnes starts beating him up. Do you remember Barnes chases him around a car? He said there's no need to run. When I connect, you're gonna feel it. 16-year-old Samuel is scared to death. He's out here. He doesn't have a ride home. He's stuck there. A man he thought was gonna teach him how to be a big man. And it's up and down, up and down. Barnes lets it kind of die down and then he goes right back. This goes on for several hours.

He confronts Samuel again. Starts punching him around. Samuel says all right, no, no, it wasn't me, I don't have your money. Maybe Little Man has it. Will Harris. And that's when will Harris goes whoa, whoa, whoa and pulls a gun out and sticks it in Samuel's mouth. Open your mouth. I didn't steal from my brother, I've got my own money. I don't need to steal from my brother. I ought to kill you right here. Who breaks that up? Barnes. He's in charge of this show, not Little Man. Back away, brother. This one's mine.

Samuel, where's my money? Charlene, maybe she has it. China. Maybe she has it. China, get out of the house, come on out here. He calls her out of the house

and she obeys. That's the first time the other guys realize China's there. She's in this dark house with no electricity. I've got a place for you to live. I'll take care of you. Get out here. Little Man, take care of this, and Little Man gets a broom.

Now when Charlene was telling you that story you probably thought, listen, you know, she's got some issues, maybe she's not telling us the truth about being beaten. Antonio Griffin, who'd never seen her before except maybe at that party the other night, what does he say? He beat the fool out of her, knocked her through a door. Y'all see it's boarded up. Charlene was telling you the truth. So much for protection. I didn't take it. I didn't take it. Give me your purse, dump that purse out. Who's giving those orders? Is it Little Man? It's that fellow over there sitting back behind his lawyers, Big Man Barnes. And when nothings falls out, there's no money, well, he just lied on you, so you're gonna have to take Samuel down, beat him. I don't wanna, I don't wanna, she starts crying, but she says he gives me some object. I don't know what it is. It looks like a metal tool. Hit Samuel. He lied on your ass, beat him. She taps him. She's crying. I don't wanna do this. Antonio tells you that. I don't want to do this. Hit him, hit him harder. Get back in the house.

That's about the time Little Man leaves. At that point Will Harris is out of the picture. He's gone. You may hear more about him, but the story of Little Man ends right there. Big Man's running this show and he's not done. You heard Big Man takes this. It's a shock absorber. He shows Charlene how to use this. He's a big adult and he takes it out and he pops Samuel, pops him hard. Hard enough to make his arm bleed. Samuel felt that. What does Charlene say? He started crying. He's a kid. He is a 16-year-old kid who just got popped with a shock absorber. He's crying. I just want to go home. I just want to go home. So what's he say? Listen, I've got your money. It's at my house. It's at my house. Where at your house? Behind the toilet. Hidden behind the toilet. Well, let's go. Let's go to your house. Are we going? Are we going to your house? Are we going? Come on, let's go. What's he say next? If we get there and that money's not there or you're just trying to get home to get away, I'm gonna kill you. I'm gonna kill everybody in that house. A 16-year-old, do you think he believes that? His arm's bleeding, he's been beat up for several hours now. Do you think he believes that? I don't have your money. I don't have your money. I just -- I just want you to stop hitting me. Just stop.

What does Barnes do at that point? I'm tired of

playing. Tired of playing. Let's go to the railroad tracks. We're going for a walk. Everybody, come one. Samuel, out front. Out front. What's he do there? Charlene, China, here's a gun. You're gonna kill him. What? You're gonna kill him. Remember what Antonio said? He confirms it. And what is this now? Remember this. She got up there in her fogginess and said this was my idea. Where was she? She was in the house. Barnes said we're going to the tracks. Get her out of the house. Come on. It's his idea. It's his idea to go to the tracks and he says you're gonna kill -- you're gonna kill Sam. He's lied on you, you're gonna kill him. You're gonna kill him. She starts crying. I don't wanna do this. I've got a 10-year-old child. She's hanging onto him. She's hanging onto the man who beats her. That tells you what kind of woman she is, what she's been through. She's broken, but she's still a human being. But she doesn't want to kill another man. Now if she thinks she's gonna die, she might. Her life's been nothing but about self-preservation. That's how she's lived. She can't rely on anyone.

He starts to hand her that gun and she doesn't want it. He goes all right, Sam, do you want to shoot her? He says yeah. And I'm gonna tell you something. That 16-year-old boy is not wanting to kill anybody. He wants

to get ahold of that gun. He wants that gun. Anybody, if you had an opportunity to take a gun that's been pointed at you, you're gonna take it get rid of the threat. That's all that's about. She cried no, don't let him shoot me, and he laughs. Barnes said I ain't gonna let him hurt you. He ain't gonna shoot you. He looks at Sam, do you want to go home? Do you want to go home? Come on, I'll take you home. What a horrible, horrible lie. You want out of this situation? A horrible, horrible lie.

As they're walking back, gets everybody back, walking on that street he's on the phone. He's the only with a phone. He's calling the Hunsberger brothers. Those mysterious guys who don't speak, they just do what they're told, and they come packing. They're just there to do his bidding. They're part of the enforcement. Y'all know the story, how they get in the cars. Y'all heard it. For all the variations of the story, folks, it's always gonna vary. Sixteen years have gone by. People who've been scared, they're gonna remember certain aspects and things and may be foggy on others. That's how it goes. That's how people are. When y'all get back there in that jury room, y'all are gonna remember things you've heard this week and you're gonna remember some things differently and that's why we put you all together. Y'all are gonna talk. That's all it is.

They drive into that field. Folks, let me ask you something. You don't see there's malice? A malignant heart. That's what malice is. It's an evil intent. Are you seeing it? Are you hearing it? Evil. It's a malignant heart, a heart bent on doing wrong. Evil, mischief. It's not just I mean to do what I'm doing, but it's with a wicked heart.

Go through this case. Malice, as you heard in this case, right out at the get-go we put Ms. Sturrup up. God bless her. Sixteen years she hasn't seen that son of hers. Sixteen years she's been grieving. She goes looking for her son. He leaves. She thinks it's Labor Day. It might have been the day before, folks, and I don't hold that to her, but she knows her boy left one night. Momma, I'm going out. I'm going to a cookout. I'm gonna be at Mr. Barnes'. He leaves with Little Man. Will Harris. When he doesn't come back, she doesn't go looking for Little Man, she's looking for Barnes. What does he tell her after he has murdered her son? I don't know where Sam is. He knows he's out literally rotting in the woods subjected to the wild animals. He left him there in South Carolina. I ain't seen him. He's probably with that little white girl. That's evil, folks. That's malice. That malice just -- it doesn't ever leave.

Richard Cave. He remembers hearing Barnes tell Sam

if we go there and the money isn't there, I will kill you and your family. He remembers hearing get out of the car, take your jewelry off, walk towards the gate. Y'all remember him talking about that when they drive up in that field and get out. That scared the heck out of Richard. My God. I see they're pulling Sam out of the trunk. They tell me to take my jewelry off. Am I next? What the heck have I gotten into? I can't run. Everyone's gonna shoot or you're gonna die with him. Richard's head was swimming. Oh, my God. Dear Lord. When it's all over I think Richard even said, I felt like a zombie. They get in that car and he hears when he's asking don't you think he might get up and walk away or run away, what does Barnes say? Don't worry. I shot him in the head. Don't say nothing to the police. Keep everything to yourself. Burn your clothes. Hide evidence. Destroy evidence. That's malice, folks. That's malice. We're talking murder and this is malice. I know where you live. If you talk, I'll kill you and your family. We know he knows where Richard lives. He took him home. He took him home. Richard unwittingly showed Barnes where he lived. He let him take him home.

Charlene Thatcher. When he tells her you're gonna kill Sam for me, when he says someone's going to die tonight, and then this is the most heinous thing.

Remember she's the one that clings to Barnes. That's her security. She doesn't know real security, folks. Everyone else is dazed standing in the background, but she sticks with the man with the gun. Why? She told you. If you leave, he might shoot you. You stay close to him. So she's hearing everything, getting Sammy out of the car. He asked him what do you want to eat for your last meal. A 16-year-old kid who's crying. And when Sammy gets out of that trunk, do you remember he's slow to get out? He's scared to death. He knows what's coming. He gets out of that car and he's crying and he says this isn't home. What does Barnes say? It's your home now. It's your home now. He put that fear, he tortured the mind of this child. Not just beat him, he tortured him. Let him know where he's gonna die. Pick a place to die. He said that to a 16-year-old boy. Pick a place to die. He made him walk out front down this path, made him pick a spot in this clearing to stand knowing he's gonna die. That is malice, folks. That is malice.

Antonio Griffin. Here's how it's gonna go down. Everybody's gonna shoot. China first. Everybody's going to shoot or I will shoot you. And when he asked that question, How do you know Sam is not gonna get up and run away? He was alive when I left. He was alive. Because he knows he shot the ground. Charlene shot him in the

stomach, but he's alive. He ain't gonna run. I shot him in the head. And the worst thing probably of all other than mentally torturing this poor child before he kills him, sometime later Barnes calls Antonio Griffin. Guess what? I found my money. It was only a couple hundred bucks. I found my money. I think my dogs had it. It's kind of chewed up. Sammy didn't have my money after all, he was telling the truth, but what's done is done. Folks, this is textbook malice. If this isn't malice, then there is no such word. You just need to take it out of the dictionary, erase it from our law. This is malice. This is malice.

And I tell you, I know the defense is gonna bring up some issues. They've been talking about Will Harris, Will Harris, Will Harris. Little Man. Let them talk. Here's what's going on. We're setting here in South Carolina. They don't want you to leave Georgia. They don't want you to take that ride across the river and come over here into Edgefield County and walk through that field and walk down that path and walk to the body where Samuel is found. No. Stay in China -- with China at Cherry Street. Stay with Little Man at Cherry Street. Well, Little Man, he ain't a good fellow. I think we can all agree on that. He didn't break any laws in South Carolina. We couldn't touch him if we wanted and if Georgia doesn't charge him,

South Carolina has no say in that. None. Just like they don't come over here and tell us who to arrest, who to prosecute.

But Will Harris, you're gonna hear about him. They didn't search his home, they didn't look for a 40-caliber pistol. What testimony was it that Will Harris used a 40-caliber in a field in Edgefield? None. Because Will Harris wasn't here. Not just that there wasn't any evidence, he was not here. He wasn't arrested. That's on Georgia.

Folks, you heard Randy Doran. If he had done those things here, boy, I would have arrested him like that. And maybe there's some -- some thought that, you know, Sheriff Roundtree, who was Investigator Roundtree at the time, he was his snitch, that Will Harris was his snitch, maybe we're doing him a favor. How can you do a favor when you have no authority to make an arrest? We couldn't do anything to that man.

Little Man. He even -- everything you heard about him in this courtroom, everything he did was because big brother, Big Man, told him to. And he left. He left Cherry Street before they took that ride with the Hunsberger brothers to come to South Carolina. Why do you think he left? I tell you this. He knows his big brother better than anyone. Maybe he knew where this was

going and he just wanted to stay out of that part.

They search Barnes' home. Hey, there's no 40-caliber, there's no 40-caliber ammunition. It couldn't have been him. Forget that testimony that the weapons were dumped in the river. Just forget that part. Y'all stay back in Georgia. Stay in Georgia. He had an arsenal of other guns. Now do you think Barnes is gonna keep the murder weapon? Mr. Paranoid who's got cameras everywhere, who's got guns all in his house, you think he's gonna keep the murder weapon? He's telling everybody to burn their clothes, keep their mouth shut, throw this in the river.

Oh, they might hit on witnesses' inconsistencies. You don't think kids, scared kids, might tell a little bit different story? And you know what, if they came in here and said the exact same thing after sixteen years, y'all need to look at me with a crooked eye and say what the heck are you doing? Have you coached them? We brought them in here raw. Y'all have heard them, warts and all. We didn't hide Charlene's mental health issues. Y'all heard how she talked. It's like she tells you the truth and there's some other stuff there. Antonio and Richard, they come in and they tell their story and weaves the same story. Regardless of how they differ, they all say Barnes was in charge. They all say Barnes had the beef with Sam. No one else did. No one. They all point to Barnes. It

was Barnes and Barnes alone. I'll let you folks use your common sense on that. Only Barnes had a motive. Only Barnes.

And they might come in and say, you know, they didn't look at these projectiles until trial time. There's two different sizes and that was just sloppy. Folks, you can open these up. You don't need an expert. One bullet is bigger than the other. That means one bullet's a different caliber from the other and that means that the guns only shoot one caliber. If you've got a 40-caliber, it doesn't shoot a 22, a 45, a 38. It only shoots a 40. Antonio, when they're grilling him, two guns. He's right. And they question him about the one gun and he was saying that was the gun being passed around.

And they're gonna get up here and say there's no forensic evidence, no DNA, no fingerprints. Folks, I'm gonna tell you it's hard to get fingerprints out in the woods. And DNA, after several months, what DNA are you gonna find? Blood? There ain't any blood in the woods. Hair fiber in the woods? Good luck finding that. Who chose that spot? Mr. Barnes. Who left that body out there to decay so no one would see it? Mr. Barnes. Barnes did that. Months pass. The body's exposed to the weather. And, folks, when they find Samuel Sturrup, this is all that's left of him. Right here. Just bones.

Barnes thought time was his friend. Well, you heard in our opening time reveals the truth. Yes, it does. He left that poor boy out to the elements. Y'all heard wild animals, dogs. That's a horrible thought, but that's -- that's how things are when something's left out in the woods. But I'm gonna tell you something. Something incredible. Even though the bones are scattered around, what just what happened -- of all the body parts, what just happened to be left in Grover Dais' front yard? The skull.

Y'all heard Dr. Ross. The only part of the body she could say something had happened to was the skull. A 40-caliber weapon was used to shoot Samuel Sturrup. She was even able to find parts of the bullet that killed Samuel Sturrup still imbedded in the skull months after he died. Time. He thought time would help him. Time betrayed him.

They say we don't -- look, they don't have a weapon. They don't have a weapon because Barnes threw them in the river. That's kind of disingenuous. We can't find the gun because he threw it away. Officers looked for it knowing they probably won't find it. Barnes got rid of the evidence. He got rid of the pistols. He did his best to put this child in a place where he wouldn't be found again. Barnes' mistake was being a Big Man and taking

that final shot to the head. Barnes. Barnes had to get the final shot. Folks, look at this. Do you think he was standing over this poor child and then watched him die? It fed him.

Then they talked about cell phone data. You heard it. We don't even have back then a cell tower. It wouldn't have been any good. What would it have shown? Usually what it's for is so that we can show where people might be headed. We all know who was there. Everybody puts Barnes out in that field. Everybody puts him walking into the wood line. Everybody has him standing in this clearing right here. Everybody has him in charge.

Folks, y'all have heard all of the facts. And there may be other issues they bring up that I leave out, but here's something that's important to remember. Y'all aren't part of anybody's entourage. Y'all aren't some young, naive bunch of kids sitting in a jury box. Y'all are all mature adults. Y'all have lived life. You have different lives. You bring all your experiences into this courtroom. You're not gullible. You're adults. Right now there's twelve of you all with your ideas and your thoughts. In a minute you're gonna walk back into that jury room, twelve of you. You're gonna walk into that room, but when you come out, you're gonna come out as one. You're gonna speak with one voice.

That night Barnes didn't think anybody would figure this out. He didn't think anybody would find out who killed this crying child. Well, you know the truth, you know the facts, and the truth is Barnes is a murderer. The truth is he brutally, brutally, killed Samuel Sturrup. The truth is Steven Barnes is guilty of murder. Speak that truth. Thank you.

THE COURT: Mr. McGuire.

MR. McGUIRE: Thank you, Your Honor.

Good morning. What I want to focus on is evidence and this case starts with recovering two projectiles that are in those tin cans right there and those are essentially bullets. So let's talk about bullets. I was raised by a Federal law enforcement officer. My dad was a Federal agent and I would travel with him when I was a child. He was a single dad. My bother and I, we lost our mother at an early age and I was raised by a single dad in the seventies and early eighties and that was sort of uncommon. As a result, I grew up in sheriff's offices. In fact, they kind of babysat me.

MR. HUBBARD: Your Honor, I hate to interject, I really do, but I think it's becoming a personalization. We're crossing that line.

THE COURT: Mr. McGuire, just be mindful.

MR. McGUIRE: Oh, sure. Sure. Sure.

THE COURT: You may proceed.

MR. McGUIRE: Thank you.

I tell you that to tell you how I know about some things about bullets. And when my dad and I would walk into a sheriff's office, the officers would say hey, the bullet man's here, the Bullet Man's here. My dad. Because the Federal government would give you just boxes and boxes of ammunition and my dad didn't really need it because he qualified expert pretty easily, so he gave it out to the sheriff's offices' officers and they were very grateful and called him the Bullet Man and was always happy to see my dad. I tell you that because people don't get rid of ammunition. It's expensive. People don't throw it away.

Now those two bullets in those tins we know could have been analyzed. That's what Agent Curtis told you. They could have sent it to SLED and had an expert say this is a 40-caliber, this is a 380. He said they could do that. That was his expert testimony. They didn't do it and I don't know why. I just don't know why. But that doesn't need to be your burden. It's their burden. It's law enforcement's burden to give you a case that you have complete faith in, where it has integrity, and you can rely on it and never be haunted by making a wrong decision. You don't need to be thinking about why they didn't test

the bullets; why can't they tell us is that a 38, a 380 or a 40? That is not your burden, it's theirs. I can't tell you why they didn't do that. When I look at those I see a 40, I see a 380. That's what I think they are, but I'm not an expert. That's what they look like to me from doing this. They should be able to tell you that.

Why is that important? Even if you want to believe these guns got pitched in the river, maybe they did. Sure, let's go ahead and assume that. They could have searched William Harris' house and that ammunition that's expensive, that people don't throw away, what if somebody would have come in here and said we searched his house, found a box of Smith & Wesson 40-caliber and found a box of 380. You know what those are? And we tested those, we analyzed them, and it's a 380, it's a 40, and it's consistent with the ammunition found in William Harris' house. Now wouldn't that be something? That would be something to think about. We'll never know. We'll never know. Nobody cared. It wasn't a big deal. I don't know why it wasn't a big deal. I don't know why that was not done. It's done in almost every case. But it's not your burden to think about it and worry about that for the rest of your life. It's theirs. It's not your job to come up with excuses and give them a free pass for not doing their job. That's their problem, it's not yours. It's not fair

to put that on you.

Where's William Harris? Does that bother you? The last person that Shirley Sturrup saw walking away with her is William Harris. The whole case, this whole thing, starts with him. Where's he? Richard Cave came from Georgia. There's not a wall between us and Georgia. They got Richard Cave, but they didn't bring William Harris. We all know why. Does he come off as what he is, a liar that trades information to benefit himself? And he's manipulative and he -- and I'm not faulting South Carolina, but he shucked and jived and he pulled one over on law enforcement. He did. I don't think there's any doubt in your mind that he had a gun and he put it in the mouth of Samuel Sturrup and he was angry as well and threatened to blow his head off. Where's he right now today? In McDonald's with a gun in his waistband? Maybe. Running around? Even by the State's own witnesses he did way worse than anybody in that house on Cherry Street. Viciously attacked Charlene Thatcher with a broom handle, essentially a sexual assault. He beat her, put the gun in Sturrup's mouth, and he gets what -- what they call in law enforcement, he gets a walk. He gets a walk. How did that happen? Now I'm not faulting Edgefield law enforcement for not arresting him because they can't, but when that is the source of your information, when that is

the beginning of the case, you need to take a look at that.

I was looking at this last night and I was thinking I've never seen an investigation like this. I've never seen such little work. What did South Carolina law enforcement do in this case? They collected the items on Grover Dais' property, looked for a gun in a river and drove across the river and interviewed William Harris one time, and that's it. That's it. I've never seen a case where such little has been done.

Phone records. Phones work today like they did in 2002. That's a fact. William Harris' phone records, I'd like to get a look at those. Who did he call? Is there a record of him calling the Hunsbergers? Well, how many times did they call Will Harris? Were they fast friends, tight friends? Did he call people after -- after this incident? Did he stay in touch with Charlene, Antonio, Richard, Julio Hunsberger? I don't know. What if we had his billing records, his phone records, and there's a phone call from William Harris to the Hunsbergers saying come to the scene with guns? Wouldn't that be something? I'd like to have seen that.

But it's not your burden to worry about that for the rest of your life. It's their burden. It's their burden. It's not your job to come up with excuses. I mean, I

think somebody even said something ridiculous like cell phones were different back then or service wasn't good back then. That's just putting out smoke in your face. That is smoke in your face. Sometimes the Government shines up things that don't look too good, but sometimes they just blow smoke, and that was smoke. Cell phone records at the scene back in 2002. It's 2017.

How about Richard Cave's landline? Who was he calling? How long does it take to get a story cooked up so you look a little bit better than you really are? Was he talking to Antonio on a regular basis, with Charlene? Does he know the Hunsbergers? We don't know that. His phone records should have been gathered, the Hunsbergers' phone records. Richard, Antonio. Jeez, get Steven Barnes' phone records. I can't get them in 2017. What if there was no phone call to the Hunsbergers on his cell phone? What about that? These guys want to say he called the Hunsbergers. Prove it. Prove it. You can do it. Bell South is a national company. T-Mobile. Verizon. They don't operate just in Georgia. They could have gotten all of that. They didn't get any of it. I don't know why. I don't know why it wasn't a big deal. But it's not your burden, it's theirs.

Now I think it came out a combination between Charlene Thatcher and Antonio that William Harris was

talking to the police. I think Thatcher admitted she understood that Harris was going and saying he didn't know nothing about nothing. He gave himself an alibi. Well, that would be a lie. So the font of all this information, the genesis of all this information, the source, is William Harris who comes out of the gate a liar. A liar.

Now that's a problem. Antonio, then I think he said -- he understood that William Harris was now talking to police and he's saying that well, now Sam ran off with a little white girl, and they want to make it like Barnes is saying it, but Antonio admitted he understood that Harris was going to the police saying Samuel Sturrup ran off with a little white girl. Why would William Harris say that? Why would he say that when he's now lying about that day, that night? Who lies and says yeah, I was with him that night, but he met a little white girl and went off with her? Why would William Harris do that? Well, guilty people lie a lot. Guilty people lie a lot. Did you ever hear anything about William Harris admitted doing anything bad? No. No. Unh-unh. He got ahead of this thing. He knew he couldn't get out of the fact that he was the last person that Sam's momma saw him with. He couldn't get out of that, so he had to get in front of it. He couldn't get out of the situation, but he could get in front of it and

he comes up with a story. Maybe he even conspires with everybody else and says look, this is the story, stick to it. Somebody made you do this. You're not really that guilty.

Remember Charlene Thatcher? It was a tactic. I learned it was a tactic that law enforcement used on me to get me to talk. They told me this story. They told me this story and then it became her story. Both Antonio and Richard admitted when Mr. Bloom or Mr. Goranson questioned them on those taped statements, those audio-taped statements, the first question out of the box, let's talk about Steven Barnes. Now where did that come from? William Harris. And they knew William Harris was talking to the police. Antonio knew what he was saying to the police. Is it so hard to imagine they knew the story now? They knew the story. Charlene said they told me my story, they told me the story, and that's how they got her to talk.

Cave, he was honest with you about one thing. They yelled at him, spit in his face, called him a little piece of it, scared the crap out of him. We know what happened and we know Steven Barnes was there. He was with you. That's how it went with him. That's how he complied with the story.

Now you see the story's out there. It's been told

to them by law enforcement. Harris supplies it and they stick to it. All they need to do is switch out one person's name. Put Steven. When Julio did something, just say Steve did it. How does that happen? How about re-interview these guys? How about re-interview these guys? Man, y'all's stories don't add up. There's inconsistencies, people are saying this happened, some people are saying this, some people say I'm a choirboy, I didn't do anything. How about just go down there and talk to them one more time? How many law enforcement officers interviewed Cave? Zero. Antonio? Zero. Thatcher? Zero. How about that star witness? Never. Never. Not a single interview. I don't know. I can't explain it. I've never seen anything like this in my life. So I guess they're just gonna let it ride on Thatcher, Cave, Antonio. Let's just let it ride. Let's not tie up all the loose ends, not actually prove anything. Let's just let it ride. We're not even gonna go talk to him. Georgia took some statements. Let's just throw them up here and let it ride. Do you feel comfortable doing that?

When William Harris sat in the chair and he started telling his story, naming people, put yourself in that situation. You're sitting there. You're William Harris and you want a free pass, you want to walk, you start

selling your story.

MR. HUBBARD: Your Honor, I'm gonna have to object. This has been going on. There's no record -- there's no testimony in the evidence of this. I understand you can take what's in and make an argument, but there's nothing in the record on this. Nothing.

MR. McGUIRE: There is from Thatcher and Antonio.

MR. HUBBARD: Not about naming names and why he's doing it. There's none of that. None of that.

MR. McGUIRE: That's just an argument, an inference from the evidence.

THE COURT: Ladies and gentlemen, you have heard the evidence and it's up to you to determine what was in the evidence. This is the arguments of counsel. What the attorneys say, while it's important, it's not evidence. The evidence comes from the sworn witnesses and the other items admitted into evidence.

You may proceed.

MR. McGUIRE: Sure. Thank you, Judge.

What we do know is that William Harris was talking to the police, we know he was selling some story and we know he got a walk, a free pass. There's no evidence. No one did any work. Phone records, bullets, projectiles. Nothing. Re-interview witnesses. Nothing. Not a darn thing. It really is just throw them up and let it ride.

That's the bedrock, the foundation, of the State's case.

Now Mr. Hubbard told you a very good narrative. It's a very powerful story. But it's only -- it only really matters if it's true and you have to look at the foundation. What's the foundation of this story? It's Cave, Antonio, Thatcher. That's it. The story is good, but let's look at the foundation of the story. The only way if you can imagine putting yourself in the position to convict Steven Barnes, imagine yourself getting out of that jury box, walking out here and shaking Antonio's hand, sir, I believe you, I trust you.

MR. HUBBARD: Your Honor, again, I'm gonna object. You're gonna tell the jurors they can believe some or all of the witnesses and still discard some and believe others. This is just -- I object. As a matter of law, I object.

THE COURT: I understand. I understand.

Ladies and gentlemen, I will charge you with regards to the law applicable to this case and I'm going to talk about the believability of witnesses as a part of that.

All right. Proceed.

MR. McGUIRE: Thank you.

Can you see yourself doing that? Embracing him, his credibility, to such a point that you would strip another human being from their liberty and their freedom, and have

that behind your shoulders for the rest of your life.

MR. HUBBARD: Your Honor, I object to that. Now we're talking punishment and that is clearly solely your -- your prerogative.

THE COURT: That is correct.

MR. McGUIRE: I'm not saying Steven Barnes would get life. I'm saying you would have to worry about that for the rest of your life if you made a mistake.

MR. HUBBARD: Your Honor, that is absolutely your prerogative. It deals with punishment and that is solely your prerogative, not theirs.

THE COURT: Very well. Punishment is for the Court as you well know. You may proceed.

MR. McGUIRE: That would be an unfair burden to put on you. Remember the burden is theirs. What wasn't done, the lack of effort, that's their problem. That's their burden. They can't put it on you. It's unfair. It's wrong. The concrete, such as it is, that holds up this case is Cave, Antonio, Thatcher. That's what you have to decide to put your faith and confidence in and to believe them to such a point that you would be comfortable stripping a human being from their Liberty. I don't think you're gonna do that. Thank you.

THE COURT: Thank you.

All right. Ladies and gentlemen -- and I need to

get somebody to move that board because I can't see all of my jurors.

MR. HUBBARD: I'll get that. I'm sorry.

THE COURT: Ladies and gentlemen, now before I deliver the charge to you, it's gonna take me about thirty minutes, anybody need a comfort break? I need you to listen to me and not be worried about oh, I need a comfort break. Anybody need to run to the ladies room or the mens room? Everybody good? You do? Yeah, yeah.

Here's what we're gonna do. I'm gonna ask you in a moment to step to your jury room. Of course, leave your notebooks in your seat. And here's how we're going to proceed. You-all will take your comfort break and when you're ready to proceed, then you-all just knock on the door and you'll come on back in like you did yesterday afternoon.

Of course, you have not received my instruction on the law; therefore, the same admonitions about talking about this case or letting anyone talk to you about it still exists. You're not yet free to deliberate, but if you will keep that in mind and do take your comfort break and when you're ready, we'll proceed.

If you'll step to your jury room with your bailiffs.

(Whereupon, the jury retires to the jury room at 10:57 AM.)

THE COURT: All right. We'll just be at ease.

(Recess taken.)

BAILIFF: All rise.

THE COURT: Thank you. Be seated.

All right. There are a couple of issues that I understand have arisen with the charge. One is from the defense a request to charge you can consider the evidence or the lack thereof.

MR. BLOOM: The existence or nonexistence of evidence. It's one sentence.

THE COURT: I understand.

MR. BLOOM: Thank you.

THE COURT: I think it's incumbent within the charge as it exists.

MR. BLOOM: Thank you, Your Honor.

THE COURT: With regards to flight, I would cite State versus Grant, 275 S.C. 404 and 272 S.E.2d 169, that says while an instruction on flight has been acceptable law for some time in most jurisdictions, we are inclined to think that henceforth it is more appropriate for the judge to decline any charge whatsoever on this issue. The charge on flight oftentimes has the potential for creating more problems than solutions. While we no longer sanction this charge by the judge, we recognize that evidence of flight remains proper. We also recognize that it is

oftentimes appropriate for counsel to argue to the jury the inferences regarding flight; however, we believe that the law of flight in a judge's charges places undue emphasis upon that part of circumstantial evidence and it should not be charged hereafter, and this is good law still.

MS. MAYES: Very well. Thank you, Your Honor.

THE COURT: You're very welcome.

All right. How are they doing?

BAILIFF: They're ready.

THE COURT: I'm ready. Have them come on in.

(Whereupon, the jury returns to the courtroom at 11:10 AM.)

THE COURT: All right, ladies and gentlemen. It is now my duty to deliver the charge or the instruction on the law to you. Ladies and gentlemen, the indictment in this case charges the Defendant, Mr. Steven Barnes, with murder. I remind you that the fact that the Defendant was arrested, charged and indicted in this case is not evidence in this case and cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. This document is simply the formal written instrument which contains the charge made against the Defendant. It is the formal document by which this case is brought into this court.

Ladies and gentlemen, the indictment in this matter, Indictment 2017-GS-19-01788, alleges as follows. That Steven Louis Barnes did in Edgefield County on or about September 3, 2001, feloniously, willfully and with malice aforethought, whether acting alone or in concert with others, killed one Samuel J. Sturrup by means of shooting him, and that the said victim, Samuel J. Sturrup, died in Edgefield County as a proximate result thereof in violation of the common law and as defined in Section 16-3-10 of the Code of Laws of South Carolina as amended.

The Defendant, Mr. Barnes, has pled not guilty to this indictment and that plea puts the burden on the State to prove the Defendant, Mr. Barnes, guilty. A person charged with committing a criminal offense in South Carolina is never, never, required to prove himself innocent. I charge you that it is an important rule of law that the defendant in a criminal trial no matter the seriousness of the charge will always be presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the Defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a

reasonable doubt. The presumption of innocence is not merely a legal theory or legal phrase. It is a substantial right to which every defendant is entitled unless you, the jury, are satisfied from the evidence of the Defendant's guilt beyond a reasonable doubt.

The State has the burden of proving the Defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or the preponderance of the evidence. In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt.

A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the Defendant's guilt. There are very few things in this world that we know with absolute certainly and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the Defendant is guilty of the crime charged, you must find the Defendant guilty. If, on the other hand, you think there's a real possibility that the Defendant is not guilty, you must give the Defendant the benefit of

the doubt and find him not guilty.

I remind you that during the course of this trial you and I have certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case and I also have the duty to rule on the admissibility of the evidence offered during the trial. You are to consider only the testimony which has been presented from this witness stand, any exhibits which have been made a part of the record in this case, any stipulations of counsel, and any inferences which may reasonably be drawn from the evidence.

I have the additional duty to charge you regarding the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case and it is your duty as jurors to accept and to apply the law as I now state it to you. If you already have any idea of what the law is or what it should be in your mind and it does not agree with what I now tell you the law is, you must abandon your idea because you are sworn to accept and to apply the law exactly as I state it to you.

In every case tried in this court before a jury, the jury becomes the sole, the exclusive, and the only judge of the facts. Since you, the jury, are the sole judge of the facts in this case, you are not to infer from what I have said during the progress of this trial in ruling upon

the admissibility of evidence or otherwise or anything that I say now during the course of this instruction to you that I have any opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you, the jury, to determine. As jurors, it is your duty to determine the effect, the value, the weight and the believability of the evidence presented during this trial.

Now there are two types of evidence which are generally presented during a trial. Direct evidence and circumstantial evidence. Direct evidence proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence; however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the Defendant's behavior as suspicious, the proof has failed.

The State has the burden of proving the Defendant guilty beyond a reasonable doubt. This burden rests with

the State regardless of whether the State relies on direct evidence, circumstantial evidence or some combination of the two. You should weigh all of the evidence in the case. After weighing all of the evidence in the case, if you are not convinced of the guilt of the Defendant beyond a reasonable doubt, you must find the Defendant not guilty.

I'm going to give you an example of direct and circumstantial evidence. Direct evidence. It's February, cold outside, snow is forecast. You walk outside and you look up and you get struck in the eye with snow. You go back inside and say it's snowing outside. You're an eyewitness to the snowing outside. You saw it. And so when you tell someone, when you relay that information that it's snowing outside and you saw it, you felt it, that's direct evidence of the fact that it is snowing outside.

Circumstantial evidence. It's February, it's cold outside and snow is forecast. When you go to bed, you look outside, you don't see it snowing. All you see is your poor old brown country grass. When you awake in the morning, you look outside and the sun is shining, but snow is covering everything. Now here's what you know. You know it's February, it's cold, snow is forecast. When you looked outside before you went to bed, no snow. When you woke up in the morning, snow covered everything.

You didn't see it snow, but you know by inference, because of the surrounding facts that you do know, you know by inference that it showed last night. It snowed overnight. That's how you know that. You know it through what is called inference and the facts are consistent and they point conclusively to the fact that it snowed overnight.

Now, ladies and gentlemen, necessarily you must determine the credibility of the witnesses who have testified in this case. Credibility simply means believability. Believability. It becomes your duty as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth, of it's believability, if you will.

In determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses or several witnesses over one witness, you may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice or other motive in this case. You may consider the opportunity for the witness to have observed those things about which the witness may testify and, of course, you

may consider the appearance and the manner of a witness while on the witness stand.

Ladies and gentlemen, these are examples of things that you may consider as you evaluate the believability of a witness. Ladies and gentlemen, you did not drop off your common sense at the courthouse steps. It came right in here with you. You evaluate the believability of what folks tell you every day. These are just suggestions of things which you may choose to consider. Now -- but they're clearly not an exhaustive list, they're examples.

Now, ladies and gentlemen, in this case there has been witnesses -- or there have been witnesses who have testified who were qualified as expert witnesses and I want to talk to you about expert witness testimony. Our rules of evidence ordinarily do not permit witnesses to testify regarding their opinions or conclusions. There is an exception to this rule and that is when by virtue of someone's education and experience they have become an expert in some art, science, profession or calling, and these witnesses who are deemed then to be expert witnesses in those fields may state an opinion as to relevant and material matters in which they claims to be an expert. They may also state the reasons for their opinions. You should consider any expert opinion received in evidence in this case and like any other evidence give it the

weight you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education and experience or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion even though it is not contradicted.

Ladies and gentlemen, I instruct you and I emphasize that the fact that the Defendant, Mr. Barnes, did not testify is not a factor to be considered by you in any way in your deliberations or in your consideration on the question of whether Mr. Barnes is guilty or not guilty. It must not be considered by you in any manner whatsoever. A defendant has the constitutional right to remain silent and the assertion of this right must not be considered by you in your deliberations. I repeat. Under your oath you are to draw no conclusion whatsoever from the fact that the Defendant, Mr. Barnes, in this case did not testify. The fact that this Defendant did not testify should not even be discussed in your jury room. The burden of proof, as I have stated to you, is on the State. The burden of proof remains on the State to prove guilt beyond a

reasonable doubt.

Now, ladies and gentlemen, if a crime is committed by two or more people who are acting together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out the common plan or purpose. For example, if two people go to a house to steal from the residence and one goes inside while the other acts as a lookout, then both are guilty of burglary even though the lookout never entered the home. When two or more people are together, acting together, assisting each other in committing the offense, the act of one is the act of all, or as it is sometimes said, the hand of one is the hand of all.

Prior knowledge that a crime is going to be committed without more is not sufficient to make a person guilty of that crime. Mere knowledge that another person is going to commit a crime, even if the Defendant is present when the crime is committed, is not sufficient to convict the Defendant as a principal. Guilt as a principal is shown by actual or constructive presence at the scene as a result of prior arrangement. Therefore, a finding of a prior arranged plan or common scheme is necessary for a

finding of guilt as a principal. The State must prove beyond a reasonable doubt by competent evidence the theory of the hand of one is the hand of all.

A principal in a crime is one who either actually commits the crime or who is present abating or abetting, aiding or assisting, in committing the crime. Let me say it again. A principal in a crime is one who either actually commits the crime or who is present aiding, abetting or assisting in committing the crime. When a person does an act in the presence of or with the assistance of another, the act is done by both. Where two or more acting with a common plan or intent are present at the commission of a crime, it does not matter who actually commits the crime. All are guilty. The hand of one is the hand of all.

Present at the commission of the crime means to be sufficiently near to aid and abet and assist in the commission of the crime. However, mere presence at the scene of the crime is not sufficient to convict one as a principal on the theory of aiding and abetting. Intent is also a necessary element for there must have been a common design or intent to commit the crime and the crime must have been committed pursuant thereto with the person aiding and abetting by some overt act.

Intent means intending the result which actually

occurs, not accidentally or involuntarily. Intent may be shown by acts and conduct of the Defendant and other circumstances from which you may naturally and reasonably infer intent. The State must prove these elements beyond a reasonable doubt. In order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime may be purpose, intent, knowledge. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation.

There is no way to prove intent to a mathematical certainty. There is no way medical science can dissect a person's brain and determine what the person had in mind, so the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination of whether or not the element requiring intent was present. It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other act by taking into consideration the acts, the parties and all the facts and circumstances of the case.

Criminal intent is a mental state, a conscious wrongdoing. It is up to you to determine what the

Defendant intended to do based on the circumstances shown to have existed. Criminal intent can arise from action or failure to act. It may arise from an indifference to duty or consequences that is considered by the law to be the equivalent of criminal intent. Sometimes it's recklessness and the like.

I charge you that mere presence at the scene is not sufficient to prove someone guilty of a crime. A defendant's presence where a crime is being committed or mere association with the person who commits the crime does not make the defendant an accomplice or an aider or abetter of the person committing the crime. The burden is on the State to prove every element of the crime charged. If you find after reviewing all of the evidence that the State has only proven that the Defendant was present at the crime -- at the scene of the crime -- and that they have not proven beyond a reasonable doubt any other participation in the crime, then you must find the Defendant not guilty. The law is that proof of presence at the scene of the crime is not sufficient to find someone guilty.

Now, ladies and gentlemen, there has been evidence presented that witnesses have made prior statements which are not consistent with the witnesses present testimony. You may use this evidence to decide whether to believe

the witness. You may also use evidence of the earlier contradictory statements to determine the believability of those statements. It is up to you to decide whether to believe the earlier statements or testimony given at trial or neither. If a witness is shown to have knowingly testified incorrectly concerning any material matter, you may consider this in determining whether to trust the witness's testimony as to other matters. You may reject all testimony of that witness or give all or part of the testimony the weight that you think it deserves.

Ladies and gentlemen, a person with a past criminal record is competent to testify during a trial. A past record does not affect the ability of that witness to testify. The past record may only be considered by you, if at all, in determining the witness's believability. Remember, you are the sole judges of the facts in the case and of the believability of any and all witnesses.

Now I'm now going to charge you with regards to the charge of the offense of murder. Ladies and gentlemen, the Defendant, Mr. Barnes, is charged with murder. The State must prove beyond a reasonable doubt that the Defendant, Mr. Barnes, killed another person with malice aforethought. Malice is hatred, ill will, or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an

intent to inflict an injury or under circumstances from which the law will infer an evil intent.

Malice aforethought does not require that malice exists for any particular amount of time before the act is committed, but malice must exist in the mind of the Defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought may be expressed or implied -- or inferred I should say -- or inferred -- may be express or inferred. These terms "express" and "inferred" do not mean different kinds of malice, but merely the manner in which malice may be shown to exist. That is, either by direct evidence or by inference from the facts and circumstances which are proved.

Express malice is shown when a person speaks words which express hatred or ill will for another or when the person prepared beforehand to do the act which was later accomplished. For example, lying in weight for a person or any other act of preparation going to show that the deed was within the Defendant's mind, would be express malice. Malice may be inferred from conduct showing a total disregard for human life. Inferred malice may also arise when the deed is done with a deadly weapon.

A deadly weapon is any article, instrument or

substance which is likely to cause death or great bodily injury. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case. I'm going to give you some examples, and these are just examples, of what I'm talking about of a deadly weapon.

The following are examples and only examples of instruments which may be deadly weapons. A dagger, a knife, a slingshot, metal knuckles, a razor, gasoline, a firebomb or a Molotov cocktail.

Now, ladies and gentlemen, I'm now going to go over you with the verdict form. I'm gonna tell you two things though before I go over the verdict form with you. First of all, your verdict must be unanimous. This means this verdict must be the verdict of each and every one of the twelve of you. I need to signal to my alternates, I need you-all to stay with me when my jury leaves this next time.

This jury -- I mean, this verdict must be the verdict of each and every one of you. This is not the verdict of the majority of you or any one of you. It must be the verdict of each and every one of you.

Now the second thing that I want to share with you, there are two possible verdicts. I have put them on the verdict form. Ladies and gentlemen, I put one of these first and one of them second. There's no hidden meaning

in the order in which these possible verdicts are placed on this paper and you are to take none. I am not expressing to you an opinion with regards to this case. It's just reality. If I'm gonna put two things on a piece of paper, one's got to be first and then one's got to be second. I could have just as easily put the second listed one first and the first listed one second. So please do not take any hidden meaning from the order in which these possible verdicts have been placed on the paper.

Ladies and gentlemen, the first thing that you will see is that there's a caption or a title to the case, and that's what the top part is. It's the title or the caption of the case. And then there's instructions for you that say as follows. Please circle the appropriate verdict below and follow the accompanying instructions carefully. In other words, whatever your verdict is, whatever the unanimous verdict is of the jury, just circle it.

Number one says as to the charge of murder, we, the jury, unanimously, as a reminder, unanimously find the Defendant, and then the two possible verdicts are listed. They are guilty and not guilty. Irrespective of what the unanimous verdict of this jury is, as the presiding juror when the jury has completed its deliberations you will circle the unanimous verdict of the jury so that it's

clear which of these two possible verdicts is the verdict of the jury.

The next instruction says stop and end your deliberations. Well, obviously once you've deliberated and determined your verdict, then you stop. And then it asks you to sign as the presiding juror and date the verdict form. And for your informational purposes, today is October the 13th. I'm going to ask you to sign and date as the presiding juror once the jury deliberations are completed and you have filled out the verdict form.

Now, ladies and gentlemen, in just a moment I'm going to ask you to step back to your jury room with the exception of my two alternates, and I'm gonna tell you this. Do not discuss this matter or allow anyone to discuss it with you. And you ought to be going huh? This is the time you said we would begin deliberations, this isn't what you told us before, so I'm going to tell you exactly what's gonna happen. When you step back to your jury room on this next occasion, I'm gonna turn to these parties and I'm going to ask two questions. Have I given this jury all of the law they may need for their deliberations and have I stated it for them correctly, and these lawyers help me. If I've said something incorrectly, if something just popped out wrong, they help me know that. So I'm gonna ask you in advance that if I

have stated something incorrectly and I need to invite you back out because I have stated something incorrectly, I'm going to ask you to please allow me to correct my error in your minds. In the event that I need to bring you back out because I have failed to give you an instruction that you may need for your deliberations, I'm going to ask you in advance please do not consider that instruction with any emphasis. Just know this is my one opportunity to give you all of the law that you may need for you deliberations and to state it for you correctly.

In the event that I do not need to bring you back out, you will be brought the verdict form and the exhibits and an instruction to begin your deliberations. You will not have the verdict form and these exhibits unless it is time for you to deliberate.

Now I need you to keep in mind that all twelve of you must be present for you to deliberate. So if you need to take a comfort break, take your comfort break, but you must stop your deliberations before you take your comfort break and just reconvene your deliberations when all twelve of you are together again. Your wonderful clerk has arranged for you to have your lunch brought in. It is perfectly fine and appropriate for you to deliberate over lunch so long as all of you are present. So during

lunch if somebody needs to take a comfort break, stop your deliberations, take your comfort break and then reconvene your deliberations when all twelve of you are together. And I repeat. All twelve must be present in order to deliberate.

When you have reached your verdict, you will knock on your door, you will return to the courtroom and you will pass the verdict form to one of our bailiffs who will pass it to me. You do not publish the verdict, you just pass it to one of our bailiffs who will pass to me.

Now, ladies and gentlemen, at this time I'm going to ask you to please step to your jury room, except for my alternates, remembering do not discuss this matter or allow anyone to discuss it with you. We'll bring your notepads to you as well. Thank you. Just leave them there in your seats.

JUROR: Are we allow to take the --

THE COURT: No, just leave them right there. We'll bring them to you. We will bring them to you. Just leave them in your seat right now and that will be one of -- one of the items that we will bring to you.

(Whereupon, the jury retires to the jury room at 11:53 AM.)

THE COURT: I'm going to ask you to confirm your identity so that I can be absolutely certain that you are

an alternate.

Yes, ma'am.

JUROR: Khadejahe Weaver.

THE COURT: Yes, ma'am.

JUROR: Jimmy H. Mims, Junior.

THE COURT: All right. Very well.

Here's what I'm gonna ask you to do for me. I'm going to ask your wonderful clerk to take you into a space separate from the jury, and let me tell you why. Sometimes something will happen to a juror just as the deliberations are beginning and I believe that for about fifteen minutes should that happen once the deliberations have begun that I can stop the deliberations, seat one of you and save the trial.

So you have given me so much of your time, I'm going to ask you for fifteen minutes more once the jury has begun its deliberations. And if you want to, you can stay and have some lunch since it's coming in as well. But in any event, I am gonna ask that of you after addressing some things with the lawyers. If I need to bring the jury back out, I'm gonna ask you to join the jury for that, but if not, I'm -- the clerk will let you know that the jury has begun its deliberations and if you want to you can start your timekeeping along with me. Because I don't want to keep you longer than fifteen minutes.

Does that make sense? Yes? Thank you so much. So if you'd go with our clerk, he's gonna find another place for you. He will not let you be with the jury at this point, but in a space separate from the jury.

(Whereupon, the alternates retire to a private room at 11:55 PM.)

THE COURT: All right. Any exceptions or additions from the State?

MR. HUBBARD: No, Your Honor.

THE COURT: From the defense?

MR. BLOOM: We would just renew our request for the Court to charge that a jury may consider the existence or nonexistence of evidence. Other than that, we have no objections or exceptions. Thank you.

THE COURT: All right. And I think it's there solely by inference because what I've told them is they can only consider the evidence presented and any inference which reasonably can be drawn from the evidence, so I think it certainly is there, just stated in a different way.

All right. Now here's what I'm gonna ask you-all to do for me. I need you to please take a look at the evidence, look at the exhibits that are -- that will be going back to the jury. Put your eyes on them and be sure what's going to this jury and what isn't supposed to be going, please, both of you. And please look at the

verdict form one more time for me. And then, Sonny, you will -- you can take everything back to the jury?

THE CLERK: Yeah, I'll be taking them back.

THE COURT: All right. And don't forget to take them their pads, but if you want to, bring me the alternate's pads right now so they don't get mixed up. And the reason -- I don't mind telling you that the reason that I ask lawyers for both sides to take a look at the evidence is I was the judge that had the confession in the back pocket of the jeans, so I've always since then have asked my lawyers to please take a look.

(Pause in proceedings.)

(Whereupon, the evidence and the verdict form was submitted to the jury and deliberations begin at 12:00 PM.)

THE COURT: All right. We'll be in recess until we hear from our jury. And if you will let your office and the public defender know, we'll be ready to go at 1:00.

(Recess taken.)

BAILIFF: All rise.

THE COURT: Thank you so much. Y'all be seated.

All right. It is my understanding that the jury has reached its verdict. Anything before -- from the State before we bring the jury out?

MR. HUBBARD: Nothing from the State.

THE COURT: From the defense?

MR. BLOOM: No, ma'am.

THE COURT: Very well.

(Whereupon, the jury returns to the courtroom at 1:10 PM to report its verdict.)

THE COURT: All right. Mr. Presiding Jurist, it's my understanding that the jury has reached its verdict; is that correct?

FOREPERSON: Yes, ma'am.

BAILIFF: (Handing.)

THE COURT: I find that the verdict is in good form.

THE CLERK: The State of South Carolina versus Steven Louis Barnes, Indictment Number 2017-GS-19-1788. As to the charge of murder, we, the jury, unanimously find the Defendant guilty.

THE COURT: Ladies and gentlemen, if this was your verdict in your jury room and it continues to be your verdict here in the courtroom, please indicate by raising your right hand.

And let me observe for the record that each of our jurors have their hands raised in response to the statement.

Anything before we dismiss the jury from the State?

MR. HUBBARD: Not from the State, Your Honor.

THE COURT: From the defense?

MR. BLOOM: No, ma'am.

THE COURT: Ladies and gentlemen, I want to thank you for your service on this jury and on this jury panel this week. I do need to give you some information mainly because of the instructions that I have given you throughout the week. You are now at liberty to talk about this matter if you choose to talk about it.

I will share with you that the practice of law is an art, it is not a science, and sometimes lawyers will contact jurors solely for the purpose of trying to learn what was helpful, what wasn't helpful, to get that feedback from you. If you're comfortable talking to them about that and they contact you, that's perfectly fine. If you do not want to talk about it, you just tell them and they certainly will not persist.

Now I need to share with you that you are now not at liberty to serve on a jury in a court of record for the balance of 2017. So if you happen to receive a summons, I would just call Sonny and let him know that you served and he'll probably remember. And I want to remind you also of the exemption. Remember there was an exemption for your jury service which is applicable to 2018 and 2019.

You know, sometimes jurors want to know about their jury check. I will tell you that the check will be in the mail very soon. It won't get you to Tahiti, it might get

you to Wagener. It is a small token for all that you have given to us and that is your dear and precious time. We are all very, very grateful.

Your notes. Up to you, completely up to you, whether you wish to take them with you. If you want to take your notes with you, please feel free to do that. If you will not, what would happen is Sonny will bring the notes to my chambers and I will tear them up and I will dispose of them and that will preserve your privacy in your notes. So, I guess, if your notepads are back there and you want to step back and grab your notes, that's perfectly fine. If not, again, Sonny will bring them to my office and I will liberate them from you.

Now I will tell you that in a moment we will proceed to sentencing in this particular matter. Sometimes jurors wish to remain and sometimes they do not. It is completely up to you. Should you wish to remain, you're fine where you are. If you wish to leave, that is also perfectly fine. It's completely left up to you.

I would just end by telling you on behalf of all the court personnel how much -- you know, we spend our days, day in and day out with lives committed to our way of life, to our system of justice, and so when we have jury trials we have people who come in from our community and serve as jurors we are ever mindful and ever grateful

that you participated in this community service and we know it's no small thing and so when we tell you how grateful we all are for your time, your sacrifice to be with us this week, it's genuine and we all feel it.

We're are -- as I started, I will end this way. We are a citizen-based judicial system in this country and you have been and you are the heart of it, and so you take with you our forever gratitude. And so at this time, I'm finished.

For those of you who need something for your work, obviously there's a certification when you get your check for jury service, but I'm gonna turn it over to Sonny now to tell you if you-all need something for work right now.

THE CLERK: If you need a work excuse or anything, Ms. Mary has copies of those that she can hand out to you.

THE COURT: Okay. So at this time I'm going to leave it completely up to you. If you wish to stay, that's perfectly fine or if you wish to leave, we are in a pause right now.

(Whereupon, the jury was dismissed at 1:16 PM.)

(Pause in proceedings.)

THE COURT: All right. Do you have your sheet ready?

MR. HUBBARD: Your Honor, we have it right here. We just printed it out, so it's blank for you.

THE COURT: All right.

MR. BLOOM: Your Honor, if it please the Court, for the record I would make a motion in arrest of judgment, and in the alternative, a motion notwithstanding the verdict based on all prior motions and objections.

THE COURT: Thank you so much, Mr. Bloom. And, you know, at this point there's a -- as I consider that motion, be mindful of the standard. I would respectfully deny the motion.

MR. BLOOM: Thank you, Your Honor.

THE COURT: Very well.

All right. Would you like to bring Mr. Barnes forward?

MR. BLOOM: Would you like us to remain here at the table or somewhere else?

THE COURT: It doesn't really matter.

MR. BLOOM: We'll remain here if that's appropriate for Your Honor.

THE COURT: That will be perfectly fine.

And I will begin by asking do we have a victim's statement or is the victim's family present?

MR. HUBBARD: Ms. Shirley Sturrup, the mother who testified, Your Honor, she's not here. She's been through too much. She just cannot bear to listen to the testimony and ask that we just convey the verdict to her. And, Your Honor, all I can say is she loves her son dearly.

That hasn't stopped since he died, was murdered, and I'm just conveying that on her behalf.

THE COURT: Thank you.

MR. HUBBARD: But we will convey both the verdict and the sentence to her immediately after we get it.

Thank you so much, Your Honor.

THE COURT: All right. Thank you, Solicitor.

All right. I'm happy to hear from you on behalf of Mr. Barnes.

MR. BLOOM: Your Honor, as you know, this case had started out initially as a potential death penalty case.

THE COURT: Yes, sir.

MR. BLOOM: So we exhaustively interviewed a lot of people and persons and records in Mr. Barnes' background. Given the nature of it at this juncture and that the State filed a formal notice of life without parole sentence, I won't go into all the other matters material since it wouldn't be relevant at this stage. Thank you very much.

THE COURT: Thank you.

What I need -- two things that I need to establish on the record at this time. Two things. Number one, I need the notice and I need you to -- I was present in July when that notice was served. I need to reiterate and make sure that it is a part of the record. And, secondly, I need to hear his record and have confirmation that, in fact, he

has a prior most serious conviction.

MS. MAYES: May it please the Court, Your Honor?

His record begins in 1998, a conviction for battery out of the state of Georgia. Also, 1999, a conviction for manufacturing, selling, dispensing or distributing a controlled substance. That is also out of the state of Georgia. The sentence was ten years probation. Then in 2003, the conviction which triggers the life without parole statute, which the State did serve formal notice of. I believe Mr. Reel is obtaining that notice document. That conviction, Your Honor, was a conviction on armed robbery, possession of a weapon, a firearm or knife, during the commission of a felony, burglary, two counts of kidnapping and two counts of terroristic threats. It's the armed robbery that triggered the life without parole statute. And that's a 2003 conviction out of the state of Georgia. Your Honor, in addition to that, he also has a conviction for pandering, 2003, out of the state of Georgia. Those sentences appear to be multiple consecutive sentences of 20 years, 20 years and 5 years.

Then, Your Honor, while incarcerated he's had numerous infractions. Most significantly, in 2008 a conviction for throwing bodily fluids or exposing Department of Corrections personnel to bodily fluids, and that's a 15-year sentence here in Edgefield.

MR. BLOOM: That was actually reversed, if I can correct the record.

THE COURT: I'm aware of that.

And I need to -- the conviction for armed robbery, is that a certified copy out of Georgia?

MS. MAYES: Is there a certified copy attached, Sonny?

MR. HUBBARD: It should be in the packet, Your Honor.

THE COURT: Okay. All right. I just need to see that, please.

MR. BLOOM: Judge, while Mr. Reel is searching for the certified copy in the clerk's record, I just want to state that I've exhaustively researched that prior most serious offense of armed robbery in Georgia and the defense -- we must concede there is no basis to challenge that.

THE COURT: Very well.

MR. BLOOM: And it has, for the record, been affirmed by the Georgia appellate courts. I do have a copy of that opinion. I don't have it with me, but I just wanted to state on the record we have researched that and we find no basis with which to legally challenge the two strike notice.

THE COURT: Very well. Based --

MR. BLOOM: If I can, I'm sorry. One more thing. There are two relevant dates I would ask Your Honor to note somewhere in the sentencing order. I don't know if they would be relevant to the Department of Corrections or not, but the first is when the detainer was placed from South Carolina against Mr. Barnes in the Georgia Department of Corrections, and that date is February 12th of 2002. The second date is when he was actually extradited from Georgia to South Carolina, and that would be May 25, 2005. While we understand under the two strike law that Your Honor will impose a life without parole sentence, I don't know if South Carolina's Department of Corrections will consider those two dates of any relevance at all, but it could be in terms of where he is ultimately classified and detained in terms of the credit for that amount of time. He doesn't get credit to get released. I mean, that's obvious.

THE COURT: I understand.

MR. BLOOM: But it may be credit in terms of where he's housed within the maximum security unit. It may be relevant to their determination.

THE COURT: Well, the problem with that, too, is if those dates are not preserved as of this moment, it can be -- who knows, it may be relevant in terms of the future and there would be no way for any of us to know

that, so what information we can preserve makes all sense in the world.

MR. BLOOM: Yes, ma'am.

THE COURT: So here's what I'm going to do. I'm going to put -- and I think I'll put it under the other. I'm going to put Mr. Barnes' detainer was on 2-12-2002 and Mr. Barnes extradited from Georgia to South Carolina on 5-25-2005.

MR. BLOOM: Thank you.

THE COURT: All right. Very well.

Anything from anyone before I pass sentence on Mr. Barnes?

MS. MAYES: One more matter, Your Honor. If I could place on the record that those convictions out of Georgia that I mentioned, the armed robbery conviction, the kidnapping, the burglary, those are all unrelated to this offense. A completely separate offense date. A completely separate victim or victims.

MR. BLOOM: And I acknowledge that.

THE COURT: Yes.

All right. I am going to make reference to the July 7, 2017, notice by Solicitor S.R. Hubbard, III, Eleventh Judicial Circuit. The Solicitor noticed to Mr. Barnes, as well as his attorneys, that pursuant to 17-25-45 of the South Carolina Code of Laws that written

notice was being provided of the State's intention to seek a sentence of life without the possibility of parole for the indictment which was the indictment for murder that proceeded this indictment. When the case began, the Solicitor substituted a new indictment containing -- saying substantially the same allegation. The reason that a fresh indictment was done was because it was the Solicitor's intention that there not be an indictment for which the jury could see the prior entry of guilt. That new indictment was done for that purpose, but it was for the same events conceded by counsel that it was -- that they were not surprised that it was an indictment for the same offense.

So I would make a confirmatory finding that the notice of intention to seek a sentence of life without the possibility of parole, although it refers to a different indictment number, is, in fact, the same offense although there was a new indictment done for trial purposes. But it is the same crime, the same events, and this notice obviously applies to this indictment number.

I also made reference to Mr. Barnes' record from Georgia that includes an armed robbery conviction, which is a most serious strike. It is a conviction which occurred prior to the conviction today, it is a separate

offense, a separate victim, unrelated conviction in Georgia, unrelated to the conviction here in South Carolina for murder. The armed robbery is the first most serious strike. The murder conviction is the second most serious strike.

Notice has been given pursuant to 17-25-45. I am satisfied that the State has met its burden of showing to the Court under 17-25-45 that a notice for life without the possibility of parole has been given, that the grounds for that sentence now exists, and, Mr. Barnes, pursuant to 17-25-45 I hereby sentence you to life without the possibility of being on parole for the murder of Mr. Sturrup.

MR. HUBBARD: Thank you, Your Honor.

MR. BLOOM: Thank you.

(Whereupon, the proceedings were concluded at 1:30 PM.)

C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned case in Circuit Court on the 9th - 13th days of October, 2017.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel, nor have an interest to any party hereto.

February 16, 2018

/S/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD	)	Ind.Nos. 2005-GS-19-00457 and 00273
	)	
STATE OF SOUTH CAROLINA	)	MOTION TO DISMISS
	)	THE INDICTMENTS
VS.	)	BASED UPON VIOLATION
	)	OF THE DEFENDANT'S
STEVEN L. BARNES	)	SPEEDY TRIAL RIGHTS
Defendant.	)	

EDGEFIELD COUNTY
CLERK OF COURT
CHARLES L. PAT
2017 AUG 14 PM 1:03

The defendant moves, by and through undersigned counsel, to dismiss the Indictments for Murder and Kidnapping based upon a violation of the defendant's right to a speedy trial in this case. The defendant makes this Motion pursuant to the U.S. Constitution Amend. 6; S.C. Const. Art. I §14; *State v. Alexander Humsberger*, 418 S.C. 335, 794 S.E.2d 368 (2016), *cert.den., South Carolina v. Humsberger, Alexander*, Op.No. 16-1142 (June 26, 2017 U.S.); *State v. Julio Humsberger*, Mem.Op.No. 2016-MO-029 (Oct. 12, 2016 S.C.)(unpub.opin.), *cert.den., South Carolina v. Humsberger, Julio*, Op.No. 16-1126 (June 26, 2017 U.S.); and other applicable law.

Incident, Extradition, Arrest and Initial Appearance.[1]

The incident occurred, according to the State's allegations, on or about September 3, 2001, alleging that the victim, Samuel Sturrup (age 16), was taken from Augusta, Richmond County, Georgia, and killed in Edgefield County, South Carolina. On November 19, 2001, the decedent's body was found in Edgefield County. On January 25, 2002, an arrest warrant from Edgefield County, South Carolina, was issued against the defendant

[1] The defendant incorporates herein the Defendant's Memorandum of Defendant's Procedural History and Relevant Background, filed on or about March 10, 2016, for a full recordation of the procedural background of this case, with certain corrections as to names and dates as noted herein.

Barnes (age 22) for the offense of murder.[2] At that time, the defendant was in the custody of a Georgia county detention center for charges pending against the defendant within Georgia.

On February 12, 2002, the State of South Carolina submitted a request to the S.C. Governor's Office for extradition of the defendant from Georgia to South Carolina. On March 7, 2002, the State of South Carolina issued an extradition Order for the defendant; and subsequently submitted this to the State of Georgia. On April 17, 2002, the defendant appeared at a hearing in Georgia and waived his rights under extradition, thereby agreeing to be extradited to South Carolina on the pending murder charge; and on April 22, 2002, a Court for the State of Georgia issued an Order authorizing the defendant's extradition to South Carolina.

In 2003 in Georgia, the defendant was tried, convicted, and sentenced on December 15, 2003, for offenses in Georgia – which were unrelated to the South Carolina charges – and was remanded in early 2004 to the custody of the Georgia Department of Corrections ("GDOC").

Sometime between December 2004 and January 2005, the defendant made an application under the IAD Act regarding the charge pending against him in South Carolina.[3] On May 18, 2005, the defendant was extradited to South Carolina and the arrest

[2] A separate arrest warrant for the offense of Kidnapping in this case was issued on June 7, 2005.

[3] It is established that the defendant filed a claim around December 2004 – January 2005, pursuant to the IAD Act while he was incarcerated in Georgia – because the Solicitor's Office responded accordingly in early 2005. The State's written response is a part of the record in this case. Defense counsel do not currently have a copy of the defendant's IAD claim form as filed, but have renewed a request for a copy from the identifiable Georgia agencies. It does not appear that a copy is a part of the Edgefield Clerk of Court's Office. Defense counsel intend to supplement the record once a copy is obtained.

warrants were served upon him. The IAD form issued by the State indicated that the defendant would be tried on the South Carolina charges on June 13, 2005. On May 19, 2005, the defendant made an initial appearance, without counsel, before Edgefield County Magistrate Davis Parkman, and due to the charge of murder, bond was not set and instead referred to the General Sessions Circuit Court.

On May 25, 2005, a hearing was held at the Lexington Courthouse, the Hon. William Keesley presiding. At the hearing, the State was represented by Assistant Solicitor Joseph Mizell; the defendant was present but unrepresented by counsel. It appears there is no longer a transcript of this May 25, 2005 hearing. At this hearing, the defendant made an objection on the record under the IAD and orally moved before the Court for a speedy trial. On May 27, 2005, Judge Keesley issued a written Order denying the defendant's IAD request. On June 7, 2005, a separate arrest warrant for the offense of Kidnapping in this case was issued. On September 8, 2005, the defendant renewed his IAD objection in a written pro se motion filed with the Edgefield County Clerk of Court and served on the State. On November 18, 2005, in a pro se document filed with the Clerk of Court, the defendant again renewed his IAD objection and speedy trial request.[4]

In 2005-08, two court hearings were held and four court orders issued.[5] Hearings were held on December 13, 2005, and May 16, 2006 (and Court Orders issued on same

[4] The following is noted as to the appointment of counsel for the defendant in 2005-06: On June 5, 2005, the defendant was screened by the Clerk of Court for indigency, and the Clerk appointed the contract Public Defender O. Lee Sturkey. It appears that Mr. Sturkey never met with the defendant apparently due to a conflict of interest at the time. On September 1, 2005, the Court appointed as lead counsel attorney Robert Harte. On February 8, 2006, the Court appointed as co-counsel David Tarr.

[5] The Hon. Cordell Maddox was initially assigned jurisdiction of this case, and issued the relevant court orders. Due to a conflict, Judge Maddox was later relieved and the Hon. Knox McMahon was appointed with jurisdiction over the original trial as held in 2010.

dates), with the defendant and counsel present. It appears there are no longer any transcripts of these two hearings. A jury trial was initially scheduled for January-February 2007. The defendant never waived his IAD claim nor his speedy trial claim at these hearings. On April 17, 2008, an Order issued setting the trial date for June 16, 2008, though it does not appear a hearing was held with the defendant present. On May 13, 2008, an Order was issued continuing the June 2008 trial, based "upon motion of counsel for the Defendant" but without the defendant present nor with his consent or waiver.

The original trial was held on November 8-17, 2010. Upon conviction and sentence (death), the defendant filed a direct appeal to the S.C. Supreme Court. The Court reversed the defendant's convictions and sentence; although the Court denied the defendant's IAD claim. *State v. Barnes*, 407 S.C. 27, 753 S.E.2d 545 (2014)(*Barnes I*). (The defendant submits his IAD claim in a separate motion in this case).

Speedy Trial Claim, Analysis, and Remedy.

"A speedy trial means a trial without unreasonable and unnecessary delay." *Hunsberger*, 418 S.C. at 342, 794 S.E.2d at 371, *citing State v. Langford*, 400 S.C. 421, 441, 735 S.E.2d 471, 482 (2012)(*quoting Wheeler v. State*, 247 S.C. 393, 400, 147 S.E.2d 627, 630 (1966)). "The remedy for a speedy trial violation is dismissal of the charges." *Hunsberger*, 418 S.C. at 342, 794 S.E.2d at 371.

As demonstrated by the timeline and actions attributable to the State, as set forth below and herein, the defense respectfully submits that the State is responsible for an 8 year and 7 month delay in this case.

In 2002, the defendant was formally notified of the charges of murder and kidnapping pending against him in South Carolina. Trial is now scheduled for this year of 2017. Thus, on its face, this is a delay of 15 years (2017 – 2002 = 15), as to the re-trial; and an initial 8 year delay for the first trial (2010 – 2002 = 8). This triggers a speedy trial analysis. *State v. Alexander Hunsberger*, 418 S.C. at 342, 342-43, 794 S.E.2d 368, 372 (hereinafter, "*Hunsberger*"), *citing Doggett v. U.S.*, 505 U.S. 647, 652, 112 S.Ct. 2686, 120 L.Ed.2d 520 (1992)(speedy trial is triggered when a threshold is crossed from ordinary delay into a "presumptively prejudicial" delay).

Therefore, defendant Barnes has met the initial burden of establishing a "presumptively prejudicial" delay. *Hunsberger*, 418 S.C. at 343, 794 S.E.2d at 372, *citing Doggett, supra*, (internal citations omitted).[6]

Next, the Court must examine four (4) specific factors – none of which are controlling, or even necessarily required – but which the Court reviews under the totality of the circumstances of each individual case. *Hunsberger*, 418 S.C. at 343, 794 S.E.2d at 372, *citing Barker v. Wingo*, 407 U.S. 514, 530–31, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972); and, *Langford*, 400 S.C. at 441, 735 S.E.2d at 482. The Court must also balance the conduct of the prosecution and the defense. *Hunsberger*, 418 S.C. at 343, 794 S.E.2d at 372, *citing State v. Pittman*, 373 S.C. 527, 549, 647 S.E.2d 144, 155 (2008) (citing *Barker*, 407 U.S. at 530, 92 S.Ct. 2182).

[6] "...[W]hether three years or ten years, the delay between Alex's arrest and trial meets the threshold requirement for a speedy trial claim..." *Hunsberger*, 418 S.C. at 345, 794 S.E.2d at 373. *See also, Langford*, 400 S.C. at 442–443, 735 S.E.2d at 482 (23-month delay was presumptively prejudicial); *State v. Cooper*, 386 S.C. 210, 687 S.E.2d 62 (Ct.App. 2009) (44-month delay triggered speedy trial review); *State v. Waites*, 270 S.C. 104, 240 S.E.2d 651 (1978) (28-month delay triggered speedy trial analysis).

The four factors are:

(1) length of delay;

(2) the reason for the delay;

(3) the accused's assertion of his right to a speedy trial; and

(4) whether the delay prejudiced the accused.

In reviewing a speedy trial claim, the *Hunsberger* Court found that a timeline is essential in determining what delay is attributable to the State, what delay is attributable to the defendant, and what delay is neutral. *Hunsberger*, 418 S.C. at 343, 794 S.E.2d at 371-72. Therefore, the defendant submits that the following timeline applies to Barnes' case and this trial Court's speedy trial analysis.

Timeline in Barnes' Case.

January 25, 2002. Arrest Warrant for murder.

March 7, 2002. S.C. Extradition Order issues and is lodged against the defendant where he is incarcerated awaiting trial in Georgia.

April 17, 2002. While in pretrial custody for charges pending in Georgia, the defendant formally waives extradition to South Carolina.

April 22, 2002. A Georgia Court issues an Order authorizing the defendant's extradition to South Carolina.

December 15, 2003. The defendant is convicted and sentenced for offenses in Georgia, unrelated to the S.C. charges.

January 2004. The defendant is transferred to the custody of the Georgia Department of Corrections.

December 2004 – January 2005. The defendant files a claim under the IAD Act to

be tried on the S.C. charges.[7]

May 18, 2005. Defendant is extradited to South Carolina and arrest warrant served.

May 25, 2005. First hearing held in S.C. after the defendant's extradition and with the defendant present, but without any counsel appointed. The Assistant Solicitor informs the Court and the defendant that this will be a capital case. The defendant submits his IAD claim.

May 27, 2005. Circuit Court issues an Order denying IAD claim.

June 5, 2005. The defendant is screened for indigency, and the Clerk appoints the Public Defender; but the P.D. never meets with the defendant due to a conflict of interest.

June 7, 2005. Arrest Warrant for Kidnapping.

August 10, 2005. Grand Jury issues Indictments for Murder and Kidnapping.

September 8, 2005. Defendant renewed his IAD objection in a written pro se motion filed with the Edgefield County Clerk of Court and served on the State.

September 1, 2005. The trial court appoints as lead counsel attorney Robert Harte.

October 31, 2005. The S.C. Supreme Court issues an Order designating the Hon. Cordell Maddox with jurisdiction of this case.

November 18, 2005. Defendant files a pro se document with the Edgefield Clerk of Court, renews his IAD objection and makes a speedy trial request.

December 6, 2005. Superseding Indictment issued for the offense of Murder.

December 13, 2005. Court hearing. Defense counsel and defendant present.

[7] *See* Fn. 3, herein, as to the exact date of filing of the IAD claim.

Defendant served with written notice of the State's Notice of Intent to Seek the Death Penalty.

February 8, 2006. The Court appointed as co-counsel attorney David Tarr.

May 16, 2006. Court hearing. Defense counsel and defendant present. Trial scheduled for January-February 2007.

March 12-13, 2008. The State tries the defendant on an unrelated charge which arose while the defendant was detained in the Edgefield County jail. The defendant is convicted and sentenced to 15 years, and transferred to the custody of the S.C. Dept. of Corrections.[8]

April 17, 2008. Trial Court issues an Order setting the trial for the June 2008 term

May 13, 2008. Trial Court issues an Order continuing the case from the June 2008 term, based upon a request from defense counsel for a continuance.

January 25, 2010. The S.C. Supreme Court issues an Order designating the Hon. Knox McMahon with jurisdiction of the case, and rescinds the prior Order as to the Hon. Cordell Maddox.

November 8-17, 2010. The defendant is tried and convicted for capital murder, and sentenced to death. The defendant is returned to the custody of S.C. Dept. of Corrections ("SCDC"). An automatic appeal to the S.C. Supreme Court follows.

January 15, 2014. The S.C. Supreme Court issues its decision in *Barnes I*, reversing the defendant's murder and kidnapping convictions, and vacating the death sentence.

[8] The conviction and sentence were later overturned on appeal. *State v. Barnes*, 402 S.C. 135, 739 S.E.2d 629 (2013).

January 31, 2014. The Clerk of the S.C. Supreme Court issues a Remittitur, remanding the case back to Edgefield General Sessions Court.[9]

April 23, 2014. The Edgefield Court of General Sessions, the Hon. William Keesley presiding, holds an appointment of counsel hearing for the defendant. The State objects to any appointment based upon the appeal issue of self-representation in *Barnes I*.

June 9, 2014. The S.C. Supreme Court issues an Order designating jurisdiction of this case with the Hon. Diane Goodstein, Circuit Court Judge, and rescinds the appointment of the Hon. Knox McMahon.

September 11, 2014. Trial Court holds a hearing as to the appointment of counsel. The State submits the same objections based upon the appeal issue in *Barnes I*. The Court appoints attorneys William McGuire and Jeffrey Bloom.

September 17, 2014. The State appeals the appointment of counsel.

November 20, 2014. The S.C. Supreme Court grants the State's petition for appeal.

April 28, 2015. Barnes is moved out of a county jail, and transferred to SCDC under the "Safekeeper" statute. *See* S.C. Code §24-3-80 (1976). The Edgefield County Sheriff filed a petition for Safekeeper status on Barnes on April 20, 2015, which was approved by the Governor by Executive Order on April 28, 2015.

July 1, 2015. The S.C. Supreme Court denies the State's appeal and affirms the trial

[9] From February 7, 2014 through April 28, 2015, Barnes is transferred out of SCDC and is housed as a pre-trial detainee at the following county jails, at the request of the Edgefield Sheriff's Office: Aiken; Laurens; and Greenwood.

court's appointment of counsel for the re-trial.

July 14, 2015. The State files a petition for rehearing in the S.C. Supreme Court.

August 6, 2015. The S.C. Supreme Court denies the State's petition for rehearing.

August 10, 2015. The Clerk of the S.C. Supreme Court issues the Remittitur, returning jurisdiction to the trial court in Edgefield County.

December 9, 2016 – May 8, 2017. The trial court holds a number of status conferences with attorneys for the State and defendant, via telephone-conference call, and issues Orders from each.

July 7, 2017. Trial court holds a status conference hearing in court, and the State withdraws its Notice of Intent to Seek the Death Penalty; and instead, filed a Notice of Intent to Seek a Sentence of Life Without Parole, per the "two-strikes" statute. Trial is set for October 9, 2017.

Next, the *Hunsberger* opinion states that the calculation for a speedy trial right – and thus delay which might be attributable to the State – begins when the defendant is formally accused. *Id.* 418 S.C. at 342, 794 S.E.2d at 372. Here, the defendant submits that he was formally accused when the State filed an Extradition Order against him in Georgia in March 2002.

Thus, the following time periods, as set forth below and herein, should be held as delay attributable to the State according to the timeline in this case.

Time Periods Where Delay is Attributable to the State in This Case.

- March 7, 2002 – April 22, 2002. 2 months, attributable to the State.

In March 2002, the State filed a detainer and Extradition Order against the defendant naming the specific charges. The defendant appeared in front of a Georgia State Judge and, based on the Extradition Order and the charges named therein, formally waived extradition. A Georgia State Judge issued an Order granting extradition to South Carolina. However, the *Hunsberger* opinion excuses the State's delay during the time period in which Hunsberger was awaiting trial in Georgia.

> The State should not bear responsibility for the time that Alex was awaiting trial in Georgia, for when a defendant violates the laws of multiple sovereigns, one jurisdiction must necessarily wait at the "prosecutorial turnstile." Therefore, we hold the time from the January 28, 2005 order requiring Alex's extradition to Georgia or his release on bail, until his Georgia conviction on September 12, 2006, should not be counted against the State.

Hunsberger, 418 S.C. at 345-46, 794 S.E.2d at 373. (citation omitted).

Thus, the defense is forced to concede that the State is excused for the time period in which Barnes was awaiting trial in Georgia from May 2003 to December 2004, a period of 19 months. The defense also acknowledges that this time period of 19 months in Barnes' case is similar to the time period in *Hunsberger* of 20 months from January 2005 to September 2006. *Id.* But, the State should be accountable for the 2 months in which it filed and officially sought extradition of Barnes, just as in *Hunsberger* where the time period was "suspended" *after* the issuance of the extradition order until trial. *Id.*

- January 2004 – November 2010. 6 years and 10 months, attributable to the State.

The defendant is incarcerated within the Georgia Dept. of Corrections ("GDOC"), and the South Carolina detainer and Extradition Order is on file with the GDOC. But the State does not actually extradite the defendant until he files an IAD claim. Once extradited to South Carolina in May 2005, the defendant is not provided appointed counsel for 3 ½ months. Between September and November 2005 – in written pro se documents filed with the Clerk of Court and provided to the State – the defendant makes two written requests to be tried under the IAD Act, and one specific written request for a speedy trial in November 2005. At a hearing in December 2005, the State files its death penalty notice. From January 2006 until November 2010, there appears to be no waiver by the defendant of his previously pro se speedy trial motions. There are four court orders setting the case for trial then continuing the case, without any apparent waiver or consent by the defendant.

- November 2010 – January 2014. No delay attributable to either party.

This time period covers the defendant's initial direct appeal to the S.C. Supreme Court concerning his convictions and death sentence.

- January 31, 2014 – August 10, 2015. 1 year and 7 months, attributable to the State.

The defendant's case was remanded for trial by remittitur of the S.C. Supreme Court in January 2014. The State repeatedly objected to appointment of counsel for the defendant, necessitating another appeal to the S.C. Supreme

Court on the defendant's Sixth Amendment right to counsel. U.S. Const. Amend. VI. This period of delay in the case is attributable to the State because it was the State's objection and appeal which resulted in the delay.[10]

- August 10, 2015 – July 7, 2017, and also including up to currently scheduled trial date of October 9, 2017. No delay attributable to either party.

During this time – and after an interlocutory appeal by the State to the S.C. Supreme Court resulting in *Barnes II* – defense counsel used this time to investigate and prepare this case as a death penalty trial. The two-year "silence" by the defendant's counsel regarding no further assertion of his speedy trial right should be held by this trial court as understandable, given the enormity of the task of defense counsel to adequately prepare his case as a capital case. *See generally, Lockett v. Ohio*, 438 U.S. 586, 604 (1978)(importance of mitigating evidence at capital sentencing proceeding); *Woodson v. North Carolina*, 428 U.S. 325, 49 L.Ed.2d 974, 96 S.Ct. 3001 (1976) ("death is different"); *Weik v. State*, 761 S.E.2d 757 (S.C. 2014)(duty of defense counsel to adequately investigate mitigating circumstances); *Von Dohlen v. State*, 360 S.C. 598, 602 S.E.2d 738 (2004)(same).

Moreover, the *Hunsberger* case supports this neutral stance for this time period, without blame to the defendant as "understandable":

> It is undisputed that Alex moved for a speedy trial in November 2004 and twice during January 2012. While the State argues that it is significant that Alex did not move for a speedy trial between January 2005 and January 2012, we hold that under the

[10] The State's position was ultimately rejected by the Court in *State v. Barnes*, 413 S.C. 1, 774 S.E.2d 454 (2015)(*Barnes II*), so that the delay is therefore attributable to the State.

> circumstances of this case, including the fact that Alex's appeal from his 2006 Georgia conviction was still unresolved when the State sought extradition in 2011, his failure to press his right during this period is understandable. While Alex's assertion of his right to a speedy trial three times was sufficient to demonstrate Alex's desire for a speedy resolution of his charges, we find his seven-year silence renders this factor largely neutral in our overall evaluation.

Hunsberger, 418 S.C. at 350, 794 S.E.2d at 375.

Likewise, and in fairness, defense counsel does not seek to hold this time period attributable to the State. In 2016, the Solicitor decided to retire and not seek re-election; and in January 2017, the new Solicitor was entering the Office after a duly held elections in June 2016 (primary) and November 2016 (general).[11]

Therefore, the total time period to be held accountable against the State (2 months, + 6 years and 10 months, + 1 year and 7 months), is: 8 years and 7 months.

The burden is now on the State to explain and justify the delay in this case. *Hunsberger*, 418 S.C. at 346, 794 S.E.2d at 374, *citing Langford*, 400 S.C. at 443, 735 S.E.2d at 483. The State's given reasons for any delay may be weighted differently by the Court conducting its speedy trial analysis: "(1) a deliberate attempt to delay trial as a means to hamper the defense weighs heavily against the State; (2) negligence or overcrowded dockets weigh less heavily against the State, but are ultimately its responsibility; (3) a valid reason, such as a missing witness, justifies an appropriate delay; and (4) delays occasioned by the accused weigh against him." *Hunsberger*, 418 S.C. at 346, 794 S.E.2d at 374.

[11] In candor to this trial Court, the State indicated sometime after August 2015, that it was ready to proceed to trial.

Of course, it must be noted that a change in Solicitors – as explained above – is not an excuse for the State, since state conduct continues from one elected prosecutor to the next. For this same reason, the newly elected Solicitor cannot avoid a speedy trial analysis by attributing prior delays to his predecessor – it is the *State's conduct*, and not that of any individual prosecutor, which is held to be accountable for any delay. In other words, the State is bound by "state action." *See State v. Quattlebaum*, 338 S.C. 441, 527 S.E.2d 105 (2000); *See also, Snyder v. Louisiana*, 128 S. Ct. 1203, 1212, 170 L. Ed. 2d 175, 186 (2008)(state misconduct in racially discriminatory exercise of jury strikes is attributable to successor prosecutors), *citing Hunter v. Underwood*, 471 U.S. 222, 228 (1985); *United States v. Santobello*, 404 U.S. 247, 263 (Douglas, J., concurring)(prosecutor's office bound by plea agreement made by another prosecutor).

In the *Hunsberger* case, the Court did not accept the reasons offered by the State. It is noted that Alex Hunsberger, along with his brother Julio, are codefendants of Barnes, so that the facts and reasoning applicable to their case by the Court are also applicable to defendant Barnes' case in the speedy trial analysis. The *Hunsberger* Court addressed four reasons the State gave for the delay in that case.

First, there is nothing in the record to indicate that the murder case was "complex." *Hunsberger*, 418 S.C. at 347, 794 S.E.2d at 374. This case involves little if any forensic evidence. The State's case is based primarily on the expert witness testimony of the autopsy; and the lay testimony of three unindicted codefendants.

Second, there was no evidence in the record to support the contention that there were unique "problems involved in cross-border prosecutions." *Id.* It is noted that Columbia County, Georgia – where Barnes was incarcerated under pre-trial detention

awaiting trial there – is less than 60 miles by any road, and less than a 1 hour drive, from the Edgefield County Courthouse. Furthermore, Barnes – unlike Alex Hunsberger – waived extradition in April 2002 before a Georgia State Court Judge. Then, by early 2003 in Georgia. Barnes was prosecuted, convicted, and sentenced. By January 2004, he was within the custody of the Georgia Dept. of Corrections, where he was readily accessible for the State of South Carolina.

Third, the Court did not accept the State's reasoning that it spent the years in "collecting" witnesses. *Id.* 418 S.C. at 348, 794 S.E.2d at 374-75. Since 2002, the three main lay witnesses – the unindicted codefendants of Barnes – have been in the custody of the State of Georgia – either in the county jails just across the State line into Georgia, or within the Georgia Dept. of Corrections.[12]

Fourth, the Court did not accept the State's position that it was considering the death penalty as to Hunsberger. *Id.* 418 S.C. at 349, 794 S.E.2d at 375. The Court also found that the delay was more intentional then negligent due to an apparent desire by the State to obtain leverage over Hunsberger in order to get him to testify against Barnes. *Id.* 418 S.C. at 352, 794 S.E.2d at 376. However, the defense acknowledges that these are different factors than those in Barnes' case, and admittedly more favorable to Hunsberger. The State filed notice of the death penalty against the defendant, and this fact continued from December 2005 through July 2017, so that death was no mere threat – especially where the defendant was initially sentenced to death in this case. Also, it does not appear

[12] It is a fact that the 3 unindicted codefendants of Barnes – Charlene Thatcher; Antonio Griffin; and Richard Cave – were indicted in Georgia for the underlying offenses which occurred in this case in Augusta, Georgia, or for other offenses in Georgia. On information and belief, Griffin and Cave were paroled or otherwise released from GDOC sometime within the last two years; Thatcher is still incarcerated.

that the State ever sought leverage against Barnes to testify against others. Nonetheless, it does appear that the State's actions against Barnes from 2002 through 2010 may be viewed as more punitive in nature than an independent judicious exercise of prosecutorial discretion: The State made no attempt even after Barnes' conviction in December 2003 to extradite Barnes to South Carolina; and once prodded by Barnes' IAD claim, returned him to South Carolina, and after repeated IAD and speedy trial claims by Barnes, the State filed a death penalty notice.

After reviewing the State's reasons and explanations for the delay in *Hunsberger*, the Court then turned its attention to whether the defendant had asserted his right to a speedy trial. But the assertion of the right is not pivotal. "Whether a defendant previously asserted the right to a speedy trial is not alone dispositive of whether he is entitled to relief." *Id. citing Barker*, 407 U.S. at 533, 92 S.Ct. 2182 (holding none of the four factors are either necessary or sufficient to find a denial of the right to a speedy trial). The Court found that Hunsberger had asserted his right to a speedy trial on at least three occasions.[13] *Hunsberger*, 418 S.C. at 350, 794 S.E.2d at 375.

The defense submits that Barnes has asserted his right to a speedy trial on *four* occasions.

First, in December 2004 – January 2005, Barnes filed his IAD claim requesting to be extradited and tried within 180-days in South Carolina. The defense maintains that the

[13] Hunsberger was arrested in South Carolina and in its custody from 2002 through 2005. He asserted his right to a speedy trial once in November 2004. It appears from a reading of the record that this was done under the Speedy Trial Act. S.C. Code §17-23-90 (1976). Sometime in late 2005 or early 2006, he was returned to Georgia to stand trial on charges there arising from these same incidents. In early 2011, he was extradited over his objection to South Carolina. He renewed his speedy trial motions just prior to and during his 2012 trial. *Id.* 418 S.C. at 341, 350, 794 S.E.2d at 371, 375.

defendant's repeated IAD claims are the equivalent of an assertion of his speedy trial right. This is because the IAD Act imposes precise time limits upon the State to bring a defendant to trial. Thus, Barnes was asserting the time limits as set forth in the IAD Act to bring him to trial or to dismiss the charges – certainly a speedy trial request if there ever was one.[14] Second, on May 25, 2005, the defendant appeared without counsel in open court in Edgefield County, and renewed his IAD claim. Third, on September 8, 2005, the defendant renewed his IAC claim along with a speedy trial motion, in writing, filed it with the Edgefield Clerk of Court, and provided it to the Solicitor's Office a copy. Fourth, on November 18, 2005, the defendant asked for a speedy trial in writing, filed it with the Edgefield Clerk of Court, and provided a copy to the Solicitor's Office. Thus, the defendant asserted his right to a speedy trial four times.

In its final analysis, the *Hunsberger* Court assessed what prejudice had accrued to the defendant due to the delay. *Id.* 418 S.C. at 350-52, 794 S.E.2d at 376-77. The Court considered both "actual prejudice" and "presumptive prejudice." *Id.* 418 S.C. at 351, 794 S.E.2d at 376.

> Actual prejudice occurs when the trial delay has weakened the accused's ability to raise specific defenses, elicit specific testimony, or produce specific items of evidence.
>
> . . .
>
> The United States Supreme Court also recognized that excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove or even identify. This is so because "time's erosion of exculpatory evidence and testimony 'can rarely be shown.' "

Id. (citations omitted).

[14] The IAD Act requires the State to bring an out-of-state prisoner to trial within 180-days of the prisoner submitting and serving on the State a request to be extradited and tried. S.C. Code Ann. §17-11-10, Art. III(a). The IAD Act then imposes on the State a 120-day time limit to try the prisoner once the prisoner arrives in the State via extradition. S.C. Code Ann. §17-11-10, Art. IV(c).

In Barnes' case, he has suffered enormous prejudice. As to actual prejudice, the *Hunsberger* Court found that "...[T]there was some evidence of actual prejudice in the discrepancies in the eyewitnesses' testimony." The *same* witnesses who testified in Hunsberger's trial have, and will again most assuredly, testify in Barnes' trial (i.e. – Thatcher, Griffin, and Cave). The discrepancies in Hunsberger's trial in 2012 also infect Barnes' trial. More importantly, since the remedy for a violation of a speedy trial is dismissal, the Court does not engage in a "let's-wait-and-see-what-happens-at-trial" analysis. The remedy is dismissal *before* trial. *Id.*

The prejudice to Barnes and his case does not stop there. His first trial was delayed by 8 years. From 2005-08, he was detained at the Edgefield County jail. In 2008, he was charged, convicted, sentenced to 15 years, and sent to the S.C. Dept. of Corrections for an offense unrelated to the murder charge (and that arose in the Edgefield jail), which was later overturned. For 5 years (Dec. 2005 – Nov. 2010), he faced with the death penalty as a possible punishment. After the first murder trial, he went to death row for over 3 years (Nov. 2010 – Jan. 2014). Death row is solitary confinement, 24 hours a day, 7 days a week, where inmates are subject to severe conditions of confinement.[15]

Additionally, since the end of April 2015, Barnes has been housed within SCDC as a "Safekeeper."[16] He does not even have the few privileges of a regular SCDC inmate in

[15] The extremely restrictive and punitive conditions are well-known to this Court, so that counsel will not engage in a lengthy list here.

[16] Safekeepers are pre-trial detainee defendants who are transferred from the county jail, based on misconduct, to SCDC while awaiting trial, and are housed with SCDC inmates who are in a maximum security segregation-wing due to a finding of disciplinary measures. It should be noted that all of the alleged "misconduct" which supported the Safekeeper petition to transfer Barnes to SCDC and out of a county jail, all occurred prior to 2010. There is no new misconduct from after 2010 which is attributable to Barnes' current segregation as a Safekeeper. While housed as a Safekeeper, Barnes has remained disciplinary-free.

general population. Safekeepers such as Barnes are subject to the same severe restrictions as the disciplinary inmates on the segregation-wing, even though Barnes has never had a disciplinary infraction or hearing within SCDC since his transfer there in 2015. He is not allowed "canteen" privileges so he cannot buy toothpaste, soap, or other nominal food items as other inmates are allowed. He is not allowed magazine subscriptions or books from the prison library. He gets recreation time intermittently during the week. He is subject to extreme noise and disturbances since he is housed on the wing with disciplinary inmates. Even with positive or "good behavior" he has no hope of moving off of the segregation wing – as even the disciplinary inmates do – because he is a Safekeeper

Now, the impending trial is 15 years later, and 16 years after the underlying incident. The prejudice to Barnes is the same as, and actually greater than, that suffered by Hunsberger. For these reasons, the defendant moves this Court to dismiss the charges of murder and kidnapping, with prejudice.

CONCLUSION.

The defendant respectfully submits that after an initial 8 year delay, and now a 15 year delay, a speedy trial analysis is triggered, and prejudice is presumed. The defense submits that the State is responsible for a delay of 8 years and 7 months. In assessing the totality of the circumstances, and considering the four variable factors and assigning them different weight accordingly, the defense submits that the defendant timely asserted his right to a speedy trial. The defendant submits that the State cannot provide sufficient reason to overcome the delay. The defendant submits that he has suffered both actual and

presumptive prejudice. Thus, this Court should dismiss the charges of murder and kidnapping, with prejudice.

This motion is made pursuant to the U.S. Constitution Amend. 6; S.C. Const. Art. I §14; *Doggett v. U.S.*, 505 U.S. 647, 112 S.Ct. 2686, 120 L.Ed.2d 520 (1992); *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972); *State v. Alexander Humsberger*, 418 S.C. 335, 794 S.E.2d 368 (2016), *cert.den., South Carolina v. Humsberger, Alexander*, Op.No. 16-1142 (June 26, 2017 U.S.); *State v. Langford*, 400 S.C. 421, 441, 735 S.E.2d 471, 482 (2012); S.C. Code §17-9-10 et.seq. (Extradition); S.C. Code Ann. §17-11-10 et.seq. (IAD Act); S.C. Code §17-23-90 (Speedy Trial Act); and other applicable law.

Respectfully submitted,

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Dated: August ___, 2017

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD	)	Ind.Nos. 2005-GS-19-00457 and 00273
	)	
STATE OF SOUTH CAROLINA	)	MOTION TO OBJECT AND PRESERVE
	)	DEFENDANT'S OBJECTION
VS.	)	UNDER THE INTERSTATE
	)	AGREEMENT ON DETAINERS ACT
STEVEN L. BARNES	)	
Defendant.	)	

EDGEFIELD COUNTY
CLERK OF COURT
CHARLES L. RICE
2017 AUG 14 PM 1:02

The defendant moves, by and through undersigned counsel, to renew his objection pursuant to, and to preserve any and all rights therefrom, the Interstate Agreement on Detainers Act. *See* S.C. Code Ann. §§ 17-11-10 *et seq.* (hereinafter referred to as "IAD" or "IAD claim").

Incident, Extradition, Arrest and Initial Appearance.[1]

The incident occurred, according to the State's allegations, on or about September 3, 2001, alleging that the victim, Samuel Sturrup (age 16), was taken from Augusta, Richmond County, Georgia, and killed in Edgefield County, South Carolina. On November 19, 2001, the decedent's body was found in Edgefield County. On January 25, 2002, an arrest warrant from Edgefield County, South Carolina, was issued against the defendant Barnes (age 22) for the offense of murder.[2] At that time, the defendant was in the custody of a Georgia county detention center for charges pending against the defendant within Georgia.

[1] The defendant incorporates herein the Defendant's Memorandum of Defendant's Procedural History and Relevant Background, filed on or about March 10, 2016, for a full recordation of the procedural background of this case, with certain corrections as to names and dates as noted herein.

[2] A separate arrest warrant for the offense of Kidnapping in this case was issued on June 7, 2005.

On February 12, 2002, the State of South Carolina submitted a request to the S.C. Governor's Office for extradition of the defendant from Georgia to South Carolina. On March 7, 2002, the State of South Carolina issued an extradition Order for the defendant; and subsequently submitted this to the State of Georgia. On April 17, 2002, the defendant appeared at a hearing in Georgia and waived his rights under extradition, thereby agreeing to be extradited to South Carolina on the pending murder charge; and on April 22, 2002, a Court for the State of Georgia issued an Order authorizing the defendant's extradition to South Carolina.

In 2003 in Georgia, the defendant was tried, convicted, and sentenced on December 15, 2003, for offenses in Georgia – which were unrelated to the South Carolina charges – and was remanded in early 2004 to the custody of the Georgia Department of Corrections ("GDOC").

Sometime between December 2004 and January 2005, the defendant made an application under the IAD Act regarding the charge pending against him in South Carolina.[3] On May 18, 2005, the defendant was extradited to South Carolina and the arrest warrants were served upon him. The IAD form issued by the State indicated that the defendant would be tried on the South Carolina charges on June 13, 2005. On May 19, 2005, the defendant made an initial appearance, without counsel, before Edgefield County

[3] It is established that the defendant filed a claim around December 2004 – January 2005, pursuant to the IAD Act while he was incarcerated in Georgia – because the Solicitor's Office responded accordingly in early 2005. The State's written response is a part of the record in this case. Defense counsel do not currently have a copy of the defendant's IAD claim form as filed, but have renewed a request for a copy from the identifiable Georgia agencies. It does not appear that a copy is a part of the Edgefield Clerk of Court's Office. Defense counsel intend to supplement the record once a copy is obtained.

Magistrate Davis Parkman, and due to the charge of murder, bond was not set and instead referred to the General Sessions Circuit Court.

On May 25, 2005, a hearing was held at the Lexington Courthouse, the Hon. William Keesley presiding. At the hearing, the State was represented by Assistant Solicitor Joseph Mizell; the defendant was present but unrepresented by counsel. It appears there is no longer a transcript of this May 25, 2005 hearing. At this hearing, the defendant made an objection on the record under the IAD and orally moved before the Court for a speedy trial. On May 27, 2005, Judge Keesley issued a written Order denying the defendant's IAD request. On June 7, 2005, a separate arrest warrant for the offense of Kidnapping in this case was issued. On September 8, 2005, the defendant renewed his IAD objection in a written pro se motion filed with the Edgefield County Clerk of Court and served on the State. On November 18, 2005, in a pro se document filed with the Clerk of Court, the defendant again renewed his IAD objection and speedy trial request.[4]

In 2005-08, two court hearings were held and four court orders issued.[5] Hearings were held on December 13, 2005, and May 16, 2006 (and Court Orders issued on same dates), with the defendant and counsel present. It appears there are no longer any transcripts of these two hearings. A jury trial was initially scheduled for January-February 2007. The defendant never waived his IAD claim nor his speedy trial claim at these hearings. On April

[4] The following is noted as to the appointment of counsel for the defendant in 2005-06: On June 5, 2005, the defendant was screened by the Clerk of Court for indigency, and the Clerk appointed the contract Public Defender O. Lee Sturkey. It appears that Mr. Sturkey never met with the defendant apparently due to a conflict of interest at the time. On September 1, 2005, the Court appointed as lead counsel attorney Robert Harte. On February 8, 2006, the Court appointed as co-counsel David Tarr.

[5] The Hon. Cordell Maddox was initially assigned jurisdiction of this case, and issued the relevant court orders. Due to a conflict, Judge Maddox was later relieved and the Hon. Knox McMahon was appointed with jurisdiction over the original trial as held in 2010.

17, 2008, an Order issued setting the trial date for June 16, 2008, though it does not appear a hearing was held with the defendant present. On May 13, 2008, an Order was issued continuing the June 2008 trial, based "upon motion of counsel for the Defendant" but without the defendant present nor with his consent or waiver.

The original trial was held on November 8-17, 2010. Upon conviction and sentence (death), the defendant filed a direct appeal to the S.C. Supreme Court. The Court reversed the defendant's convictions and sentence; although the Court denied the defendant's IAD claim. *State v. Barnes*, 407 S.C. 27, 753 S.E.2d 545 (2014)(*Barnes I*). However, the defendant submits this objection again, having never waived it, and further seeks to preserve this claim as set forth herein.

IAD Claim.

The defendant seeks to have the charges against him dismissed pursuant to the IAD Act. The most relevant parts of the Act state as follows:

> Whenever a prisoner has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment ... of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment ...

S.C. Code Ann. §17-11-10, Art. III(a).

> In respect of any proceedings made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

S.C. Code Ann. §17-11-10, Art. IV(c).

The IAD Act clearly states that a defendant is to be tried within a specific time period, once extradited to this State. While continuances are permitted, such must be based on "good cause shown in open court, the prisoner or his counsel being present." S.C. Code Ann. §17-11-10, Art. III(a). Continuances are not to be used for indefinite detention of a defendant. *See generally*, S.C. Code Ann. §17-11-10, Art. I ("...[I]t is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments..." *Id.*).

Here, while four (4) separate court orders granted general continuances, such orders were issued with irregularity, were issued without the defendant's consent or waiver; and two (2) of the orders appear to have issued without any hearing in "open court" whatsoever. Nor do the four court orders adequately cover the lapse of time from the defendant's initial arrival in May 2005, in the Edgefield County Court, until the initial trial in November 2010 --- a span of more than five (5) years.

The defendant acknowledges that the S.C. Supreme Court denied this claim in the original direct appeal in *Barnes I*. However, it appears the record-on-appeal did not include all of the relevant documents and dates as set forth above and herein, such that the Court in *Barnes I* summarily dismissed this claim without apparently reviewing the underlying merits.

> Since the *Faretta* error mandates reversal, we need not reach any of appellant's other issues save that alleging he was entitled to dismissal of all charges under the IAD Act. On the face of this record, it appears appellant waived his speedy trial rights under this Act, and we therefore decline to reverse on this ground.

Barnes I, 753 S.E.2d at 550-51.[6]

[6] It is acknowledged that in *Barnes I*, the dissent did address, and deny, the IAD claim on the merits. *Id.* at 564-66.

All relevant documents are now attached as exhibits in this matter and this motion, and are incorporated herein by reference. Based upon a full review of the record, the defendant respectfully renews this claim and asserts that the State failed to properly comply with the IAD Act such that the charges against the defendant should be dismissed.

Respectfully submitted,

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Dated: August 18, 2017

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STATE OF SOUTH CAROLINA) COUNTY OF EDGEFIELD)	IN THE COURT OF GENERAL SESSIONS Indictment Nos. 2005-GS-19-457 & 273
STATE OF SOUTH CAROLINA,) vs.) STEVEN LOUIS BARNES,) Defendant.)	**State's Memorandum in Opposition to Defendant's Motion to Object and Preserve Defendant's Objection under the Interstate Agreement on Detainers Act**

NOW COMES the State of South Carolina, through its undersigned counsel, opposing "Defendant's Motion to Object and Preserve Defendant's Objection under the Interstate Agreement on Detainers Act." Respectfully, the State hereby requests the Court enter an Order denying Defendant's Motion. In support of that request, the State would respectfully show unto the Court as follows:

Procedural History Relevant to Interstate Agreement on Detainers Act Claim

As unanimously determined beyond a reasonable doubt by a jury of his peers during the first trial in the case sub judice, the defendant, Steven Louis Barnes, shot and killed the sixteen-year-old victim, Samuel Sturrup, in a remote area of Edgefield County with the assistance of multiple accomplices. Several months later, Sturrup's body was found, and Barnes was eventually identified as Sturrup's killer through a criminal investigation into the death. Thereafter, the State of South Carolina obtained arrest warrants for Barnes, who, at the time, was being held in custody in Georgia in connection to several Georgia criminal charges. Ultimately, the State sought Barnes's extradition from Georgia, and Barnes waived his rights to challenge that extradition.

Subsequently, while Barnes was still in custody in Georgia, the State received a request for the disposition of Barnes's charges pending in Edgefield County pursuant to the Interstate

COURT'S EXHIBIT NO. 1 IDENTIFICATION/EVIDENCE DKT.# DATE: 10/9/12
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Agreement on Detainers Act ("the IAD Act") through a document postmarked February 12, 2005. In response, the solicitor arranged for Barnes to be brought to South Carolina, and Barnes was extradited to the state on May 18, 2005. Thereafter, on May 25, 2005, the Honorable William P. Keesley, circuit court judge, conducted a hearing with Barnes present in response to Barnes's IAD claim. Following the hearing, Judge Keesley issued an order on May 27, 2005, acknowledging the solicitor orally indicated an intention to seek the death penalty for Barnes upon conviction and finding good cause existed to continue Barnes's trial beyond the deadlines established by the IAD Act under the specific circumstances of Barnes's case.

On June 5, 2005, O. Lee Sturkey, Esquire, was appointed as counsel to represent Barnes's during his trial. However, on September 1, 2005, Robert J. Harte, Esquire, was appointed to replace Sturkey as Barnes's lead counsel. Following Harte's appointment as counsel, Barnes—while represented by counsel—filed an improper pro se "Motion to Dismiss Pursuant to the Agreement of Detainers § 17-11-10, Article V,(c)" on September 8, 2005, with the Edgefield County Clerk of Court. That pro se motion, which constituted an improper filing in light of the fact it was filed by a defendant who was represented by counsel, was correctly never acted upon by the court. Shortly after that, Barnes personally submitted a number of documents to the Edgefield County Clerk of Court along with a letter dated September 14, 2005. One of those documents was a copy of a letter Barnes allegedly sent to Harte requesting him to move for the dismissal of the charges pursuant to the IAD Act. Again, no action was taken on Barnes's pro se submission.

On August 10, 2005, the Edgefield County Grand Jury formally indicted Barnes for kidnapping. Thereafter, on November 1, 2005, the Honorable J. Cordell Maddox, Jr., circuit court judge, was vested with exclusion jurisdiction over Barnes's case. A few weeks after that,

Barnes sent the Edgefield County Clerk of Court copies of two letters he allegedly sent to Harte along with a letter dated November 16, 2005. In the letters allegedly sent to Harte, Barnes urged his counsel to object to any continuances filed by the solicitor, including any continuance sought under the mandates of the IAD Act. Once again, no action was taken on Barnes's pro se submission.

On December 6, 2005, the Edgefield County Grand Jury formally indicted Barnes for murder. Shortly after that, the solicitor provided written notice to Barnes through his counsel on December 13, 2005, the State would be seeking the death penalty in his case. On that same date, Judge Maddox conducted a hearing in the Edgefield County Court of General Sessions with all parties present, including Barnes and his counsel. Following the hearing, Judge Maddox issued an order confirming Barnes was properly arraigned during the hearing and had no objections or additional requests at that time.

On February 16, 2006, Judge Maddox issued an ordering appointing David B. Tarr, Esquire, as additional counsel for Barnes as required by South Carolina law for a death penalty case. Subsequently, a few months after Barnes had been appointed the counsel necessary to bring his case to trial, Judge Maddox conducted a hearing on May 16, 2006, in regard to the scheduling of the case for trial in the McCormick County Court of General Sessions with all parties present, including Barnes and both of his attorneys. On that same date, Judge Maddox issued an order confirming he discussed potential trial dates with the parties and determined Barnes's case could not be brought to trial in 2006 "[b]ased upon the court schedule as well as that of the attorneys[.]" As a result, Judge Maddox indicated Barnes's trial would be scheduled for January or February of 2007.

Subsequent to that, a trial date was not scheduled until Judge Maddox issued an order dated April 17, 2008, setting Barnes's trial for the weeks of June 16, 2008, and June 23, 2008, and directing a jury to be drawn on the morning of May 19, 2008. Thereafter, just days before the jury was to be drawn, Barnes's counsel moved for a continuance in light of the fact the defense was still not yet ready to proceed forward with the death penalty trial. In response, Judge Maddox issued an order finding good cause had been shown for a continuance, and Barnes's case was continued beyond the scheduled trial dates and until such a time as it could be set for trial. A few weeks after that, Judge Maddox issued an order at Barnes's counsel's request directing the Georgia Department of Corrections to permit Barnes's investigator to interview witnesses pertinent to the case who were incarcerated at that time.

On January 25, 2010, the South Carolina Supreme Court rescinded the order appointing Judge Maddox to Barnes's case and appointed the Honorable R. Knox McMahon, circuit court judge, to preside over the proceedings going forward. Subsequently, on November 8, 2010, a jury trial was commenced—and, thus, Barnes was brought to trial—in the Edgefield County of General Sessions with Judge McMahon presiding. Thereafter, on November 13, 2010, the jury convicted Barnes of the indicted offenses of murder and kidnapping. Following the verdict, a full sentencing hearing was conducted in Barnes's case. At the conclusion of the sentencing hearing, the jury determined two aggravating circumstances—kidnapping and physical torture—existed and, as a result, recommended a sentence of death. Following that recommendation, Judge McMahon imposed a sentence of death upon Barnes, and Barnes timely filed and perfected an appeal of his convictions and sentence.

On appeal, the South Carolina Supreme Court issued a published opinion on October 16, 2013, reversing Barnes's convictions and sentence. The State then timely filed a petition for

rehearing, Barnes filed a return in which he did not challenge any of the Supreme Court's conclusions, the State filed a reply to the return, and Barnes filed a response to the reply to the return. Ultimately, the Supreme Court denied the State's petition. However, on January 15, 2014, the Supreme Court withdrew its opinion and issued a substituted opinion that again reversed Barnes's convictions and sentence. State v. Barnes, 407 S.C. 27, 753 S.E.2d 545 (2014). In that opinion, the Supreme Court solely reversed after finding Barnes was improperly denied the right to self-representation. Id. at 29, 753 S.E.2d at 547. Furthermore, the Supreme Court expressly and unanimously rejected Barnes's claim of an IAD violation in his case. Id. at 37, 753 S.E.2d at 550-551; see id. at 62, 753 S.E.2d at 564 (Toal, J., dissenting) (finding no error in the trial judge's refusal to dismiss Barnes's charges pursuant to the IAD Act). Thereafter, on January 31, 2014, the Supreme Court issued remittitur, which returned Barnes's case to the circuit court for retrial.

Upon return to the circuit court, the Honorable Diane Schafer Goodstein, circuit court judge, was vested with jurisdiction over Barnes's case through an order dated June 9, 2014, and Barnes sought the appointment of new counsel despite the fact he had prevailed on appeal on the theory he had been denied the right to represent himself at his earlier trial. In response, the State lodged an objection and moved to reinstate Barnes's previously-obtained convictions with leave to continue the direct appeal on the remaining issues that had been raised by Barnes but not yet addressed by an appellate court. On September 11, 2014, Judge Goodstein denied the State's motion and appointed counsel to Barnes. A few days later, the State filed in the South Carolina Supreme Court a Petition for Writ of Certiorari Due to Exceptional Circumstances. Thereafter, on November 20, 2014, the Supreme Court granted the State's petition. However, on July 1, 2015, the Supreme Court issued a published opinion affirming Judge Goodstein's denial of the

State's request to reinstate the convictions. Subsequently, the State unsuccessfully petitioned for rehearing, and, on August 10, 2015, the Supreme Court issued remittitur, which again returned Barnes's case to the circuit court. At present, Barnes's case is currently pending before this Court for retrial.

Barnes's Inability to Relitigate the IAD Claim in Light of our Supreme Court's Appellate Decision on that Precise Issue

The law-of-the-case doctrine is a doctrine based on the idea a court's decision upon a rule of law reached in a case "should continue to govern the same issues in subsequent stages in the same case." Arizona v. California, 460 U.S. 605, 618 (1983). Pursuant to the law-of-the-case doctrine, "a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court." Judy v. Martin, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009). In other words, that doctrine "prohibits issues which have been decided in a prior appeal from being relitigated in the trial court in the same case." Ross v. Med. Univ. of South Carolina, 328 S.C. 51, 62, 492 S.E.2d 62, 68 (1997). "While the [law-of-the-case] doctrine has been referenced as discretionary, it is recognized that principles 'of authority . . . do inhere in the 'mandate rule' that binds a lower court on remand to the law of the case established on appeal.' " Atkins v. Wilson, 417 S.C. 3, 17, 788 S.E.2d 228, 235 (Ct. App. 2016) (footnote and citation omitted).

In the case at bar, Barnes, through the "Defendant's Motion to Object and Preserve Defendant's Objection under the Interstate Agreement on Detainers Act," is attempting to have his charges dismissed after his IAD claim is relitigated. However, as Barnes's readily concedes in his motion, he already raised his IAD claim during his direct appeal from his earlier convictions and the South Carolina Supreme Court **expressly** addressed and rejected that particular claim in deciding that appeal. See Barnes, 407 S.C. at 37, 753 S.E.2d at 550-551

("[W]e need not reach any of [Barnes]'s other issues save that alleged he was entitled to dismissal of all charges under the IAD Act. On the face of this record, it appears [Barnes] waived his speedy trial rights under this Act, and we therefore decline to reverse on this ground."); cf. Ross, 328 S.C. at 62-63, 492 S.E.2d at 68 ("In Ross I, the Court specifically determined the lower court had discretion under provisions of the APA to order discovery concerning alleged irregularities in the grievance proceedings at MUSC and, during the grievance process, MUSC's General Counsel and Vice-President had violated provisions of the APA prohibiting *ex parte* communication. In arriving at these conclusions, the Court necessarily decided the APA was applicable to MUSC's grievance proceedings. **The lower court was bound by this decision as the law of the case.** Accordingly, the lower court erred by concluding the APA did not apply to the grievance proceedings before MUSC." (emphasis added)). Beyond that fact, following the issuance of the Supreme Court's decision, Barnes did **not** seek rehearing or raise any other challenges to the ruling on the IAD claim even though appellate success on that issue would have entitled him to a complete dismissal on his charges as opposed to the new trial he was able to obtain. See State v. Sampson, 317 S.C. 423, 427, 454 S.E.2d 721, 723 (Ct. App. 1995) (explaining unchallenged and unappealed rulings are the law of the case). Furthermore, nothing prevented Barnes from presenting all the information he is now seeking to present in support of his IAD claim when he originally raised that issue to both the trial judge from the first trial and the Supreme Court on appeal. See Judy, 381 S.C. at 458, 674 S.E.2d at 153 ("Under the law-of-the-case doctrine, a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court."). Accordingly, because Barnes has already had a full and fair opportunity to raise his IAD claim and that claim was rejected by both the

original trial judge and our Supreme Court, the Supreme Court's ruling on Barnes's IAD claim is binding and Barnes is precluded from having that issue relitigated again prior to his retrial. See State v. Gilbert, 277 S.C. 53, 58, 283 S.E.2d 179, 181 (1981) ("Appellants' allegations that their confessions should have been suppressed have been considered by this Court and resolved adversely to the appellants. These matters are therefore res judicata." (citation omitted)); see also Taylor v. United States, 59 F. App'x 58, 60 (6th Cir. 2003) ("In general, findings made at one point in litigation become the law of the case for subsequent stages of that same litigation. The law of the case doctrine holds that once an appellate court has ruled on a particular issue, absent exceptional circumstances, the ruling is final and must be followed by the district court on remand. Thus, the district court properly held that it was not free to revisit the Sixth Circuit's prior refusal to invoke the IAD in response to Taylor's temporary, pre-trial residence at the Shelby County Jail." (citations omitted)); cf. Judy, 381 S.C. at 459, 674 S.E.2d at 153 ("Appellant seeks to reopen the question of whether the magistrate had subject matter jurisdiction to hear the merits of the underlying dispute. However, Appellant raised this issue and argued it before the circuit court on appeal from the magistrate's judgment. The circuit court denied Appellant's appeal and affirmed the magistrate's judgment. Appellant did not file a motion for reconsideration, an appeal with the court of appeals, or a motion to set aside the judgment. The circuit court's unchallenged disposition on the magistrate's subject matter jurisdiction therefore became the law of the case, and this Court declines to reopen that issue in this subsequent action."). For those reasons, Barnes's renewed IAD claim must be rejected.

Absence of an IAD Violation in Barnes's Case

The IAD Act is a "compact entered into by 48 States, the United States, and the District of Columbia to establish procedures for resolution of one State's outstanding charges against a

prisoner of another State." New York v. Hill, 528 U.S. 110, 111 (2000) (citations omitted). Critically, the IAD Act was designed to create "cooperative procedures" between the states and the federal government in order to "encourage the expeditious and orderly disposition of" outstanding charges and detainers against prisoners incarcerated in other jurisdiction based on the "uncertainties" caused by such charges and detainers. S.C. Code Ann. § 17-11-10, art. I; see State v. Finley, 277 S.C. 548, 550, 290 S.E.2d 808, 809 (1982) ("The purpose of I.A.D. is to foster the expeditious disposition of charges outstanding against prisoners so as to eliminate uncertainties which accompany the filing of detainers.").

Based on the IAD Act, two distinct deadlines are imposed upon the State after a detainer against a defendant held in another jurisdiction is filed—a 180-day deadline and a 120-day deadline. See S.C. Code Ann. § 17-11-10, art. III(a) (setting out a 180-day deadline for the commencement of trial); S.C. Code Ann. § 17-11-10, art. IV(c) (setting out a 120-day deadline for the commencement of trial). Specifically, when a defendant files a request complying with the IAD Act's requirements[1] for final disposition in connection to a filed detainer, the defendant "shall be brought to trial within one hundred and eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint." S.C. Code Ann. § 17-11-10, art. III(a).

[1] Regarding the IAD Act's requirements, the defendant must have written notice of the place of his imprisonment and his request for a final disposition delivered to both the prosecuting officer **and** "the appropriate court of the prosecuting officer's jurisdiction." S.C. Code Ann. § 17-11-10, art. III(a). Significantly, if the defendant fails to comply with those express requirements, the IAD Act's 180-day deadline will **not** be triggered and will **not** begin to run. See State v. Johnson, 278 S.C. 668, 671, 301 S.E.2d 138, 140 (1983) ("We hold appellant's letter did not comply with the IAD requirements and thus did not trigger the running of one hundred eighty day period during which a prisoner must be brought to trial under Article III of the IAD.").

Likewise, "trial shall be commenced within one hundred and twenty days of the arrival of the prisoner in the receiving state" when a defendant is transferred pursuant to a detainer regardless of whether the defendant ever requested final disposition. S.C. Code Ann. § 17-11-10, art. IV(c). Ordinarily, if a defendant is not brought to trial within the applicable statutory period, the IAD Act requires the trial judge to dismiss the pending indictment, information, or complaint with prejudice. S.C. Code Ann. § 17-11-10, art. V(c).

Critically though, notwithstanding the deadlines established by the IAD Act, a trial judge with jurisdiction over the case is vested with statutory authority to expand the deadlines by "grant[ing] any necessary or reasonable continuance" for "good cause shown in open court" when "the prisoner or his counsel" is present. S.C. Code Ann. § 17-11-10, art. III(a); see S.C. Code Ann. § 17-11-10, art. IV(c) (providing "for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance"). Moreover, beyond the trial judge's authority to expand the deadlines for good cause, a defendant—or counsel acting on the defendant's behalf—can waive the deadlines established by the IAD Act in multiple ways, including by requesting continuances or agreeing to a trial date outside of the Act's deadlines. See Hill, 528 U.S. at 115 (recognizing defense counsel can waive an IAD claim by agreeing to a trial date outside of the deadlines established by the IAD Act); see also Finley, 277 S.C. at 551, 290 S.E.2d at 809 ("In the instant case, appellant's motion was the cause of the delay; the prosecution indicated it was ready to proceed to trial. . . . We believe a defendant cannot cause the delay in the trial and then expect dismissal of the charges because the case was not tried within the one hundred twenty day period."); State v. Allen, 269 S.C. 233, 238, 237 S.E.2d 64, 67 (1977) ("The provision in Section IV(e), for dismissal of an indictment where a prisoner is returned to the original place of

imprisonment without a trial, has no application when, as here, the State is ready for trial and the prisoner requests and obtains a continuance.").

In the matter currently before this Court, neither the State nor any of the circuit court judges involved in the case—just as the South Carolina Supreme Court has previously concluded—violated the requirements of the IAD Act before Barnes was brought to trial on the indicted offenses. See Barnes, 407 S.C. at 37, 753 S.E.2d at 550-551 ("[W]e need not reach any of [Barnes]'s other issues save that alleged he was entitled to dismissal of all charges under the IAD Act. On the face of this record, it appears [Barnes] waived his speedy trial rights under this Act, and we therefore decline to reverse on this ground."). Accordingly, Barnes's motion attempting to re-raise his previously-rejected claim of an IAD violation should be rejected and denied.

Looking to the relevant timelines involved in Barnes's case, it is unclear whether Barnes ever validly triggered the 180-day deadline of the IAD Act. That is true because, while the available records establish a response was filed by the solicitor indicating the State received a request for disposition from Barnes that was postmarked for February 12, 2005, the Edgefield County Clerk of Court has no records indicating Barnes "caused to be delivered to . . . the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made" as expressly required by the IAD Act. S.C. Code Ann. § 17-11-10, art. III(a). Absent evidence establishing such required written notice was delivered to the Edgefield County Court of General Sessions or, at a minimum, Barnes took the appropriate steps to cause such notice to be delivered to the Edgefield County Court of General Sessions, Barnes's request for disposition of his charges pursuant to the IAD Act was not valid, and, as a result, the 180-day deadline was not actually triggered on

February 12, 2005. Cf. Johnson, 278 S.C. at 671, 301 S.E.2d at 140 (holding the IAD Act's 180-day deadline did **not** start running because the letter sent by Johnson to trigger the deadline did not comply with the express requirements of the IAD Act).

However, regardless of whether Barnes actually triggered the 180-day deadline through the request postmarked for February 12, 2005, or the 120-day deadline was the applicable deadline that began running when Barnes was extradited to South Carolina from Georgia on May 18, 2005, the circuit court took proper statutorily-authorized actions within the deadlines established by the IAD Act. Demonstrating that fact, on May 25, 2005 (which was 102 days after the initial purported triggering event and seven days after Barnes was brought to South Carolina), Barnes appeared pro se before Judge Keesley, and a hearing was conducted on Barnes's IAD claim in open court. Then, two days after that (which was 104 days after the initial purported triggering act and nine days after Barnes was brought to South Carolina), Judge Keesley issued a written order finding good cause existed to continue Barnes's trial beyond the 180-day deadline mandated by the IAD Act. Specifically, in finding good cause existed, Judge Keesley determined Barnes's case was to be a capital murder trial, specific procedures applied to such trials in South Carolina, a presiding judge would have to be appointed, terms of court would have to be modified, the discovery associated with a death penalty case would have to be conducted, and there was no reasonable way the case could be brought to trial under the timeframe established by the IAC Act, which were all legitimate and weighty reasons for continuing Barnes's death penalty trial. See S.C. Code Ann. § 17-11-10, art. III(a) (authorizing the presiding judge to grant "any necessary or reasonable continuance" for "good cause shown in open court" when an IAD claim is before him or her); cf. State v. Hill, 409 S.C. 50, 59-60, 760 S.E.2d 802, 807 (2014) (considering the magnitude of the charged crime in determining whether

the trial judge abused his discretion by granting a "good cause" continuance under the IAD Act). Therefore, in Barnes's case, a circuit court judge with proper jurisdiction over the matter granted a reasonable and necessary continuance upon a showing of good cause before either the 180-day deadline or the 120-day deadline of the IAD Act had expired, and there is nothing to suggest Judge Keesley abused his discretion by granting that continuance. See Hill, 409 S.C. at 59, 760 S.E.2d at 807 ("[W]e will reverse a circuit court's decision to grant a continuance under the IAD only when it amounts to an abuse of discretion."); see also State v. Lytchfield, 230 S.C. 405, 409, 95 S.E.2d 857, 859 (1957) ("The granting or refusal of a motion for continuance is within the discretion of the trial judge and his disposition of such a motion will not be reversed on appeal unless it is shown that there was an abuse of discretion to the prejudice of appellant. . . . [R]eversals of refusal of continuance **are about as rare as the proverbial hens' teeth**." (emphasis added)). As a result, no IAD violation occurred when Barnes's case was continued past the deadlines established by the IAD Act.

Beyond the fact no IAD violation occurred as a result of Judge Keesley's grant of a good cause continuance, no subsequent violation of the IAD Act occurred before Barnes was brought to trial. Critically, until February 16, 2006, it was not possible for Barnes to be brought to trial in his death penalty case as he did not have—and had not waived the right to have—the requisite two specially-qualified attorneys needed for a capital murder trial to proceed forward. See S.C. Code Ann. § 16-3-26(B)(1) ("Whenever any person is charged with murder and the death penalty is sought, the court, upon determining that such person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend such person in the trial of the action. One of the attorneys so appointed shall have at least five years' experience as a licensed attorney and at least three years' experience in the actual trial of felony cases, and only one of

the attorneys so appointed shall be the Public Defender or a member of his staff."). Then, shortly after Barnes's second attorney was appointed, Judge Maddox, who by then was presiding over Barnes's case, conducted a hearing in an effort to schedule Barnes's trial and was forced to continue the case again because neither the court's schedule nor the schedules of the attorneys—including Barnes's attorneys—was such that a trial could be scheduled for the remainder of 2006. After that, Barnes did not make any formal or legitimate requests for his case to be promptly tried and did not raise any additional arguments pursuant to the IAD Act prior to Judge Maddox scheduling his case for trial in June of 2008.[2] Instead, once the case was scheduled for

[2] Critically, although no legitimate objections pursuant to the IAD Act were raised after Judge Keesley granted the initial good cause continuance, Barnes—through an improper pro se motion dated September 5, 2005, and filed on September 8, 2005—personally sought for his case to be dismissed pursuant to the IAD Act. Likewise, in November of 2005, Barnes personally submitted to the Edgefield County Clerk of Court several letters he had allegedly sent to his counsel indicating he did not wish counsel to seek any continuances on his behalf. Notwithstanding the fact it was for counsel—and not Barnes—to make the necessary scheduling decisions for the defense, none of Barnes's pro se filings, which were legal nullities in light of the fact he was represented by counsel at the time he submitted them, constituted legitimate objections under the IAD Act, and the circuit court judges involved in Barnes's case correctly took no action on any of those filings. See Jones v. State, 348 S.C. 13, 14, 558 S.E.2d 517, 517 (2002) ("There is no constitutional right to hybrid representation either at trial or on appeal."); Foster v. State, 298 S.C. 306, 307, 379 S.E.2d 907, 907 (1989) (ordering the Clerk of Court to return a substantive pro se document filed while the petitioner was represented by counsel); see also Hill, 528 U.S. at 115 ("Scheduling matters are plainly among those for which agreement by counsel generally controls. This case does not involve a purported prospective waiver of all protection of the IAD's time limits or of the IAD generally, but merely agreement to a specified delay in trial. When that subject is under consideration, only counsel is in a position to assess the benefit or detriment of the delay to the defendant's case. Likewise, only counsel is in a position to assess whether the defense would even be prepared to proceed any earlier. Requiring express assent from the defendant himself for such routine and often repetitive scheduling determinations would consume time to no apparent purpose. The text of the IAD, moreover, confirms what the reason of the matter suggests: In allowing the court to grant 'good-cause continuances' when either 'prisoner *or his counsel*' is present, it contemplates that scheduling questions may be left to counsel." (citation omitted)); cf. Miller v. State, 388 S.C. 347, 347, 697 S.E.2d 527, 527 (2010) ("[T]he circuit court entertained the pending pro se motion and issued an order denying and dismissing it. Petitioner has filed a pro se notice of appeal from that order. Since there is no right to 'hybrid representation' that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by a person represented

that time period, Barnes's counsel moved for a continuance to give them time to complete their preparations for the capital trial just before a jury pool was drawn, and Judge Maddox granted the defense's request and continued the case until such time it could be set for trial. As Barnes's defense was not yet ready for trial long after Judge Keesley granted the initial good cause continuance, it is abundantly clear neither Judge Keesley nor Judge Maddox abused their broad discretion in continuing Barnes's case beyond the deadlines set out in the IAD Act. See State v. Colden, 372 S.C. 428, 437, 641 S.E.2d 912, 917 (Ct. App. 2007) (recognizing trial judges have broad discretion and are shown great deference on the grant or denial of continuance requests). Moreover, by actually seeking additional continuances beyond the initial continuance granted by Judge Keesley, Barnes's defense waived any right to complain of an IAD violation when his case was finally brought to trial at a time when all sides were ready to proceed.[3] See Hill, 528 U.S. at

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by counsel are not to be accepted unless submitted by counsel. Because petitioner was represented by counsel, the pro se motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. We therefore vacate the order ruling on the motion and dismiss petitioner's notice of appeal as moot. We also take this opportunity to remind judges and clerks of court of our directive in Foster not to accept substantive documents, with the exception of motions to relieve counsel, filed pro se by a party who is represented by counsel." (citations omitted)).

[3] Regarding Judge Maddox's May 2008 order granting defense counsel's motion for a good cause continuance, there is no indication in the order the continuance was granted following a hearing conducted in open court with either defense counsel or Barnes present as required by the IAD Act. See S.C. Code Ann. § 17-11-10, art. III(a) (permitting a trial judge to grant "any necessary or reasonable continuance" upon "good cause shown in open court" when "the prisoner or his counsel"); S.C. Code Ann. § 17-11-10, art. IV(c) (permitting a trial judge to grant "any necessary or reasonable continuance" upon "good cause shown in open court" when "the prisoner or his counsel"). Importantly though, no objection was raised to the sufficiency of the order after it was issued, and, thus, Barnes cannot properly challenge its sufficiency now. See Hill, 528 U.S. at 118 ("[Making dismissal of an indictment turn on a hypertechnical distinction] would enable defendants to escape justice by willingly accepting treatment inconsistent with the IAD's time limits, and then recanting later on. Nothing in the IAD requires or even suggests a distinction between waiver proposed and waiver agreed to."); see generally State v. Burnett, 226 S.C. 421, 424, 85 S.E.2d 744, 746 (1954) ("A defendant may not reserve vices in his trial, of which he has notice as here, taking his chances of a favorable verdict, and in case of

115 (recognizing defense counsel—even without express consent from the client being represented—could effectively waive a defendant's right to be brought to trial within the 180-day period specified under IAD Act by agreeing to a trial date outside that time period); see also Brown v. Wolff, 706 F.2d 902, 907 (9th Cir. 1983) (explaining "[a] prisoner may waive his IAD rights . . . if he affirmatively requests to be treated in a manner contrary to the procedures prescribed by the IAD" while also finding the petitioner, by expressly agreeing to continuances up to the date of his trial, "acted contrary to the speedy trial provisions of the IAD"); United States v. McIntosh, 514 F. App'x 783, 795 (10th Cir. 2013) ("A defendant may waive his IAD rights by agreeing to a trial date that is later than the Agreement requires. Here, the Government moved to designate the case a complex case and to exclude all time prior to trial for purposes of the Speedy Trial Act. The Government's motion requested a trial date of October 24, 2010, well beyond the IAD's 120-day deadline. At a hearing on that motion, Defendant was present with his counsel and did not object to the later trial date. Because he did not do so, he waived his right to go to trial within 120 days of his arrival in the District of Kansas."); cf. Allen, 269 S.C. at 237, 237 S.E.2d at 66 (holding the defendants' request for a continuance "amounts to a waiver of their right to now contend that they were deprived of the right to a speedy trial of the charges against them"). Accordingly, just as our Supreme Court previously concluded, no IAD violation occurred in Barnes's case, and, therefore, Barnes's motion alleging an IAD violation should be rejected and denied even

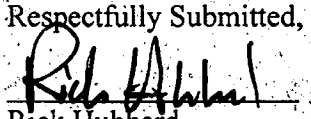
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disappointment, use the error to obtain another trial."); State v. Ballew, 83 S.C. 82, 87, 63 S.E. 688, 690 (1909) ("The general principle that a party can not take his chances of a successful issue, reserving vices in the trial, of which he has notice, for use in case of disappointment, is universally recognized and obviously just.").

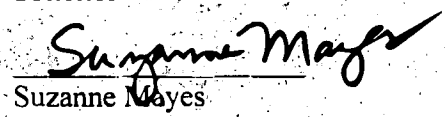
assuming the motion has not already been finally resolved by the Supreme Court's earlier decision rejecting the IAD claim.

Respectfully submitted,

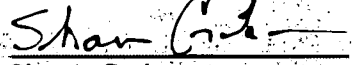
Respectfully Submitted,



Rick Hubbard
Solicitor



Suzanne Mayes
Deputy Solicitor



Shawn Graham
Deputy Solicitor

Edgefield County, South Carolina
October 6, 2017

STATE OF SOUTH CAROLINA COUNTY OF EDGEFIELD	)	IN THE COURT OF GENERAL SESSIONS INDICTMENT NOS. 2005-GS-19-457 & 273
STATE OF SOUTH CAROLINA vs. STEVEN LOUIS BARNES, Barnes.	)	**STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS THE INDICTMENTS BASED UPON VIOLATION OF THE DEFENDANT'S SPEEDY TRIAL RIGHTS**

NOW COMES the State of South Carolina, by and through the undersigned counsel, opposing Barnes' Motion to Dismiss the Indictments Based upon Violation of the Defendant's Speedy Trial Rights. For the following reasons, the State hereby respectfully requests the Court enter an Order denying Barnes' Motion to Dismiss.

PROCEDURAL HISTORY

As unanimously determined by the jury from the first trial in the case sub judice, the defendant, Steven Louis Barnes, shot and killed the sixteen-year-old victim, Samuel Sturrup, in a remote area of Edgefield County with the assistance of multiple accomplices. Several months later, Sturrup's body was found, and Barnes was eventually identified as Sturrup's killer through a criminal investigation into the death. Thereafter, the State of South Carolina obtained arrest warrants for Barnes, who, at the time, was being held in custody in Georgia in connection to several Georgia criminal charges. Ultimately, the State sought Barnes' extradition from Georgia, and Barnes waived his rights to challenge the extradition.

On January 25, 2002, an Arrest Warrant from Edgefield County for the offense of murder was issued against the Barnes. The Governor of South Carolina requested extradition of defendant on February 27, 2002. A Governor's Warrant issued on March 7, 2002, and Barnes formally

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waived extradition on April 17, 2002. On April 22, 2002, the Civil Court of Richmond County, Georgia, issued an Order authorizing the extradition to South Carolina. Barnes remained in Georgia and was convicted of multiple crimes, including armed robbery, kidnapping, and burglary of a residence, in December 2003 and received a life sentence.

Subsequently, while Barnes was still in custody in Georgia, the State received a request for the disposition of Barnes' charges pending in Edgefield County pursuant to the Interstate Agreement on Detainers Act ("the IAD Act") through a document postmarked February 12, 2005. In response, the solicitor arranged for Barnes to be brought to South Carolina, and Barnes was extradited to the state on May 18, 2005. (Agreement on Detainers Form VII). Thereafter, on May 25, 2005, the Honorable William P. Keesley, circuit court judge, conducted a hearing with Barnes present in response to Barnes' IAD claim. Following the hearing, Judge Keesley issued an order on May 27, 2005, acknowledging the solicitor orally indicated an intention to seek the death penalty for Barnes upon conviction and finding good cause existed to continue Barnes' trial beyond the deadlines established by the IAD Act under the specific circumstances of Barnes' case. The Order additionally addressed issues Barnes had with the lack of a law library and the food in Edgefield County Jail, but makes no mention of any motion or request for a speedy trial. (Order dated May 27, 2005).

On June 6, 2005, O. Lee Sturkey, Esquire, was appointed as counsel to represent Barnes' during his trial. (Defense of Indigent Act Form No. 4). On August 10, 2005, the Edgefield County Grand Jury issued a true-billed indictment against Barnes for the offense of Kidnapping. (True-billed Kidnapping Indictment). On September 1, 2005, Judge Keesley appointed Robert J. Harte, Esquire, to replace Sturkey as Barnes' lead counsel. (Order of Judge Keesley dated September 1, 2005). Following Harte's appointment as counsel, Barnes—while represented by counsel—filed

an improper pro se "Motion to Dismiss Pursuant to the Agreement of Detainers § 17-11-10, Article V,(c)" on September 8, 2005, with the Edgefield County Clerk of Court. The court correctly never acted upon that motion because it was an improper pro se filing. Shortly thereafter, Barnes personally submitted a number of documents to the Edgefield County Clerk of Court along with a letter dated September 14, 2005. One of the documents was a copy of letter Barnes allegedly sent to Harte requesting him to move for the dismissal of the charges pursuant to the IAD Act.

On November 1, 2005, the Honorable J. Cordell Maddox, Jr. was vested with exclusive jurisdiction over Barnes' case. (Order of Chief Justice Toal filed November 1, 2005). A few weeks later, Barnes sent the Edgefield County Clerk of Court copies of two letters he allegedly sent to Harte along with a letter dated November 16, 2005. In the letters allegedly sent to Harte, Barnes urged his counsel to object to any continuances filed by the solicitor, including any continuance sought under the mandates of the IAD Act. No mention was made in the letters of a request for a speedy trial. (Pro Se filings and letters filed November 18, 2005).

On December 6, 2005, the Edgefield County Grand Jury formally indicted Barnes for murder. (True-billed Murder Indictment). The solicitor provided written notice to Barnes through his counsel on December 13, 2005, the State would be seeking the death penalty in his case. On that same date, Judge Maddox conducted a hearing in the Edgefield County Court of General Sessions with all parties present, including Barnes and his counsel. Following the hearing, Judge Maddox issued an order confirming Barnes was properly arraigned during the hearing. The Order indicates: "There were no objections by the Barnes or his attorney to the arraignment, and there were no additional requests by the Defense." (Order of Judge Maddox dated December 13, 2005).

By Order dated February 8 and filed February 16, 2006, Judge Maddox appointed David B. Tarr, Esquire, as second counsel for Barnes as required by South Carolina law in death penalty

cases. (Order of Judge Maddox filed February 16, 2006). A few months after Barnes received the second counsel required to bring his case to trial, Judge Maddox conducted a hearing on May 16, 2006, in regard to the case in the McCormick County Court of General Sessions with all parties present, including Barnes and both of his attorneys. On that same date, Judge Maddox issued an order confirming he discussed a trial date with the parties and determined Barnes' case could not be brought to trial in 2006 "[b]ased upon the court schedule as well as that of the attorneys[.]" As a result, Judge Maddox indicated Barnes' trial would be scheduled for January or February of 2007. (Order of Judge Maddox dated May 16, 2006).

Subsequently, Judge Maddox issued an order dated April 17, 2008 and filed April 21, 2008, setting Barnes' trial for the weeks of June 16, 2008, and June 23, 2008, and directing a jury to be drawn on the morning of May 19, 2008. (Order of Judge Maddox dated April 17, 2008). Thereafter, just days before the jury was to be drawn, Barnes' counsel moved for a continuance. In response, Judge Maddox issued an order finding good cause had been shown and continuing Barnes' case beyond the scheduled trial dates. (Order of Judge Maddox dated May 13, 2008). A few weeks after that, Judge Maddox issued an order at Barnes' counsel's request directing the Georgia Department of Corrections to permit Barnes' investigator to interview witnesses pertinent to the case who were incarcerated at that time. (Order filed May 30, 2008). This was the first such request seeking the court's assistance with access to known witnesses.

On January 25, 2010, the South Carolina Supreme Court rescinded the order appointing Judge Maddox to Barnes' case and appointed the Honorable R. Knox McMahon, circuit court judge, to preside over the proceedings going forward. (Order of Chief Justice Toal dated January 25, 2010). Subsequently, on November 8, 2010, a jury trial was commenced and Barnes was brought to trial in the Edgefield County of General Sessions with Judge McMahon presiding.

Thereafter, on November 13, 2010, the jury convicted Barnes of the indicted offenses of murder and kidnapping. Following the verdict, a full sentencing hearing was conducted in Barnes' case. At the conclusion of the sentencing hearing, jury determined two aggravating circumstances—kidnapping and physical torture—existed and, as a result, recommended a sentence of death. Following that recommendation, Judge McMahon imposed a sentence of death, and Barnes timely filed and perfected an appeal in the South Carolina Supreme Court.

On appeal, the Supreme Court issued a published opinion on October 16, 2013, reversing Barnes' convictions and sentence. The State then timely filed a petition for rehearing, Barnes filed a return in which he did not challenge any of the Supreme Court's conclusions, the State filed a reply to the return, and Barnes filed a response to the reply to the return. Ultimately, the Supreme Court denied the State's petition. However, on January 15, 2014, the Supreme Court withdrew its opinion and issued a substituted opinion that again reversed Barnes' convictions and sentence. State v. Barnes, 407 S.C. 27, 753 S.E.2d 545 (2014). In that opinion, the Supreme Court solely reversed after finding Barnes was improperly denied the right to self-representation. Id. at 29, 753 S.E.2d at 547. Furthermore, the Supreme Court expressly and unanimously rejected Barnes' claim of an IAD violation. Id. at 37, 753 S.E.2d at 550-551; see id. at 62, 753 S.E.2d at 564 (Toal, J., dissenting) (finding no error in the trial judge's refusal to dismiss Barnes' charges pursuant to the IAD Act). Thereafter, on January 31, 2014, the Supreme Court issued remittitur, which returned Barnes' case to the circuit court to effect the grant of relief.

Upon return to the circuit court, the Honorable Diane Schafer Goodstein, circuit court judge, was vested with jurisdiction over Barnes' case through an order dated June 9, 2014, and Barnes sought the appointment of different trial counsel despite the fact he had prevailed on appeal on the theory he had been denied the right to represent himself at trial. In response, the State

lodged an objection and moved to reinstate Barnes' earlier convictions with leave to continue the direct appeal on the remaining issues previously raised and not addressed. On September 11, 2014, Judge Goodstein denied the State's motion and appointed counsel to Barnes. A few days later, the State filed in the South Carolina Supreme Court a Petition for Writ of Certiorari Due to Exceptional Circumstances. Thereafter, on November 20, 2014, the Supreme Court granted the State's petition. However, on July 1, 2015, the Supreme Court issued a published opinion affirming Judge Goodstein's denial of the State's request to reinstate the convictions. Subsequently, the State unsuccessfully petitioned for rehearing, and the Supreme Court issued remittitur, which returned Barnes' case to the circuit court, on August 10, 2015.

After several status conferences with the attorneys and Barnes, the State withdrew its Notice of Intent to Seek the Death Penalty and instead decided to pursue life without parole. On July 7, 2017, this Court set trial for October 9, 2017. Over a month later, and with trial already set, Barnes makes his first proper motion for a speedy trial through counsel. Barnes' case is currently pending before this Court for trial.

WAIVER

Barnes, by his failure to assert his right to a speedy trial at his first trial or on appeal from his first trial, waived his right to argue any delay prior to his first trial is a violation of his speedy trial right. Barnes failed to properly preserve any issue related to a speedy trial violation prior to his first trial because he never raised the issue or obtained a ruling on the issue from the first trial court. See State v. Langford, 400 S.C. 421, 446, 735 S.E.2d 471, 484 (2012) ("Constitutional issues are not exempt from issue preservation requirements."); State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) (providing that in order for an issue to be preserved for appellate

review, it must have been raised to and ruled upon by the trial court). As a result, he cannot now litigate the issue he could have timely raised in his first trial.

Further, by proceeding to trial on the charges without challenging the timeliness as a speedy trial violation, Barnes acquiesced in the timing of the first trial and cannot now complain of error in allowing the trial to proceed. Assuming Barnes ever asked for a speedy trial, he received the relief he requested.[1] He was given a trial in 2010, and because he never contested the timeliness of that trial, it is presumed to have been a speedy trial satisfying any request he made. An appellant cannot complain on appeal of an error he acquiesced to at trial, and Barnes should not be allowed to acquiesce to the first trial and then assert it was error at his re-trial. Cf., State v. Rios, 388 S.C. 335, 342, 696 S.E.2d 608, 612 (Ct. App. 2010) ("[A] party cannot acquiesce to an issue at trial and then complain on appeal."); State v. Parris, 387 S.C. 460, 466, 692 S.E.2d 207, 210 (Ct. App. 2010) (holding where a defendant receives the relief requested from the trial court, there is no issue for the appellate court to decide); State v. Brown, 389 S.C. 84, 95, 697 S.E.2d 622, 628 (Ct. App. 2010) (finding, where defense counsel received the relief asked for, the defendant could not complain).

LAW AND ANALYSIS

The Sixth Amendment guarantees: "In all criminal prosecutions, the accused shall enjoy the right to a speedy ... trial." U.S. Const. amend VI. The United States Supreme Court (USSC) explained: "The right of a speedy trial is necessarily relative. It is consistent with delays and depends upon circumstances. It secures rights to a defendant. It does not preclude the rights of public justice." Beavers v. Haubert, 198 U.S. 77, 87 (1905); see also, Barker v. Wingo, 407 U.S.

[1] The State certainly does not concede Barnes ever made a proper speedy trial motion prior to his 2010 trial or at his 2010 trial. This will be discussed in further detail below.

514 (1972) (finding "any inquiry into a speedy trial claim necessitates a functional analysis of the right in the particular context of the case"). As the USSC stated:

> In Barker, the Court refused to "quantif[y]" the right "into a specified number of days or months" or to hinge the right on a defendant's explicit request for a speedy trial. Id., at 522–525, 92 S.Ct. 2182. Rejecting such "inflexible approaches," Barker established a "balancing test, in which the conduct of both the prosecution and the defendant are weighed." Id., at 529, 530, 92 S.Ct. 2182.

Vermont v. Brillon, 129 S.Ct. 1283, 1290 (2009).

In Barker, the USSC identified several factors to be used in determining whether a defendant has been denied the right to a speedy trial including: (1) the length of delay, (2) the reason the government uses to explain the delay, (3) when and how the defendant asserted his speedy trial right, and (4) the prejudice to the defendant. Barker, 407 U.S. at 530; see also, State v. Waites, 270 S.C. 104, 107, 240 S.E.2d 651, 653 (1978) (applying Barker factors in South Carolina). "The length of the delay is to some extent a triggering mechanism. Until there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance." Barker, 407 U.S. at 530.

The State submits the delay to be considered in this case is the delay between the end of all appellate proceedings on August 10, 2015, and the date re-trial is scheduled on October 9, 2017. The State submits based on Barnes' acquiescence in the first trial, none of the time prior to or associated with that trial should be considered in his speedy trial motion. Additionally, the appellate proceedings resulting from Barnes' first trial should not be considered as a length in the delay as the need for retrial was not final until August 10, 2015. As a result, the State submits the

appropriate delay to consider is only 26 months.[2] If this Court finds the entire period from arrest warrant to re-trial should be considered as Barnes alleges, the delay is a total span of approximately 15 years and eight months.

Assuming the delay in this case is presumptively prejudicial, this Court should consider the remaining Barker factors.[3] See Doggett v. U.S., 505 U.S. 647, 652 (1992) ("Depending on the nature of the charges, the lower courts have generally found postaccusation delay 'presumptively prejudicial' at least as it approaches one year.").

The second factor is the reason for the delay. In Brillon, the USSC explained:

> Barker instructs that "different weights should be assigned to different reasons," id., at 531, 92 S.Ct. 2182, and in applying Barker, we have asked "whether the government or the criminal defendant is more to blame for th[e] delay." Doggett v. United States, 505 U.S. 647, 651, 112 S.Ct. 2686, 120 L.Ed.2d 520 (1992). Deliberate delay "to hamper the defense" weighs heavily against the prosecution. Barker, 407 U.S., at 531, 92 S.Ct. 2182. "[M]ore neutral reason[s] such as negligence or overcrowded courts" weigh less heavily "but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant." Ibid.

Brillon, 129 S.Ct. at 1290. "Neutral reasons, such as overcrowded dockets or negligence, should be weighted less heavily." State v. Reaves, 414 S.C. 118, 130, 777 S.E.2d 213, 219 (2015). "A valid reason presented by the State may justify an appropriate delay." State v. Pittman, 373 S.C. 527, 549, 647 S.E.2d 144, 155 (2007). Further, the USSC made it clear delays caused by the

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[2] Even if the Court considers the delay from the end of the appellate process related to Barnes's trial and does not exclude the State's appeal, the total delay is from January 31, 2014 to October 9, 2017, or a total of approximately three years and eight months.

[3] The State again submits the appropriate consideration is the delay from the time all appellate challenges ended on August 10, 2015 until trial, which is scheduled on October 9, 2017. This is a delay of 26 months and probably still sufficient to trigger the remaining factors. See State v. Langford, 400 S.C. 421, 443, 735 S.E.2d 471, 482 (2012) (finding a 23-month delay triggers the remaining Barker inquiry); State v. Waites, 270 S.C. 104, 240 S.E.2d 651 (1978) (finding a twenty-eight month delay sufficient to trigger the remaining factors).

defendant should be weighed against him. See Barker, 407 U.S. at 529. "The constitutional guarantee of a speedy trial affords protection only against unnecessary or unreasonable delay." State v. Chapman, 289 S.C. 42, 45, 344 S.E.2d 611, 613 (1986).

Because the only period of time which should be considered for purpose of this speedy trial motion is the period from August 10, 2015 to October 9, 2017, the State submits, and agrees with Barnes, none of this delay should be attributable to either party as both sides have been preparing for trial—a trial that began as a capital murder trial. As a result, this factor clearly does not weigh against the State.[4]

Even if this Court considers the entire time period between arrest warrant on January 25, 2002, and the re-trial on October 9, 2017, this factor does not weigh against the State. On January 25, 2002, the State issued its arrest warrant for Barnes on the charge of murder. The Governor of South Carolina requested extradition of defendant on February 27, 2002. A Governor's Warrant issued on March 7, 2002, and Barnes formally waived extradition on April 17, 2002. On April 22, 2002, the Civil Court of Richmond County, Georgia, issued an Order authorizing the extradition to South Carolina. None of this time should be held against the State of South Carolina as it was properly pursuing extradition and had no ability to proceed against Barnes until he was properly extradited from Georgia.

As Barnes concedes, the time period he awaited trial and was tried in Georgia should not count as delay caused by the State. As a result, the delay until December 2003 when he was

[4] Even if this Court considered the time period from remittitur on Barnes's appeal in January 2014 through the end of the State's appeal, this entire delay should not count against anyone because the State should not be penalized for exercising its right to an appeal. The appeal was not frivolous, as demonstrated by the fact the South Carolina Supreme Court considered the appeal in its original jurisdiction. As a result, the entire delay from January 2014 until October 2017 should not weigh against the State and this factor should not weigh against the State.

convicted in Georgia should certainly not be held against the State of South Carolina. See State v. Hunsberger, 418 S.C. 335, 345–46, 794 S.E.2d 368, 373 (2016) (citing U.S. v. Grimmond, 137 F.3d 823, 828 (4th Cir. 1998)) (finding "for when a defendant violates the laws of multiple sovereigns, one jurisdiction must necessarily wait at the 'prosecutorial turnstile.'").

The next time period of delay occurred from January 2004, after Barnes' conviction in Georgia is complete but he remains incarcerated in Georgia, until November 1, 2005, when the Honorable J. Cordell Maddox, Jr., is vested with exclusive jurisdiction to hear and dispose of the case. The State had Barnes transported from Georgia in May 2005. On June 5, 2005, Barnes was first appointed O. Lee Sturkey as counsel. On September 1, 2005, the trial court appointed Robert Harte as counsel for Barnes. Everything progressed as normal, especially given the nature of this trial as a capital murder trial, during this time and there is absolutely no evidence the State is intentionally delaying trial or seeing to deliberately delay in order to hamper the defense. To the extent this time can be held against either party, this time is a "more neutral reason such as negligence" as discussed by Brillon, 129 S.Ct. at 1290. This period, much like any period in which everyone is preparing for trial should not count against either party. At most, this period of one year and nine months would weigh slightly against the State but it would **not** weigh heavily against the State.

The period of delay between November 1, 2005, when Judge Maddox is vested with exclusive jurisdiction and May 13, 2008, when Barnes sought and obtained a continuance should be considered a neutral period and not weighed against either party. During this time, pursuant to the Order of Chief Justice Toal, Judge Maddox was vested with the jurisdiction to "decide all matters pertaining to the referenced case," which would include scheduling of trial. During this time period, everything progressed as necessary. On December 13, 2005, when Barnes was

formally served with notice the State will seek the death penalty, he was properly arraigned by the Edgefield County Clerk of Court without any objection by Barnes and without Barnes raising any claims for a speedy trial. On February 8, 2006, Barnes was appointed his second counsel pursuant to section 16-3-26(B)(1) of the South Carolina Code. All of these actions had to occur prior to a capital murder trial commencing. On May 16, 2006, Judge Maddox issued an Order after a hearing in which Barnes along with both counsel were present, stating: "A discussion was held to set a trial date. Based upon the court schedule as well as that of the attorneys, it was determined that this case could not be tried in 2006. Therefore, a trial date will be set for January or February, 2007." This Order reflects that both the State and Barnes had difficulty in scheduling the trial and demonstrates the period of time should not weigh against the State. As demonstrated by the above referenced Orders, the trial was proceeding naturally for a capital murder case without any undue or unnecessary delays.

On April 17, 2008, pursuant to the scheduling authority and exclusive jurisdiction vested in Judge Maddox, he issued an Order setting trial in Edgefield County during the weeks of June 16, 2008 and June 23, 2008. He scheduled the jurors to be drawn on May 19, 2008. Shortly before the jurors were scheduled to be drawn, and a month after trial was scheduled, Barnes moved for a continuance. By Order dated May 13 and filed May 19, 2008, Judge Maddox found:

> **Upon the motion of counsel for the Defendant**, and for good cause shown, it is hereby ordered, adjudged and decreed that the motion for continuance is granted and this case shall be continued past the June 16, 2008 and June 23, 2008 terms of Court and **until such time as the Court Orders this matter be set for trial.**

(Order Granting Motion for Continuance) (emphasis added). Because trial was postponed at the request of Barnes' counsel, the time from May 2008 until trial on November 8, 2010, should weigh against the Barnes as it was delay he caused. See Barker, 407 U.S. at 529; see also, Hunsberger,

418 S.C. at 346, 794 S.E.2d at 374 (explaining "delays occasioned by the accused weigh against him" (citing Langford, 400 S.C. at 443, 735 S.E.2d at 483).

Additionally, any argument the continuance was obtained by his counsel without approval by Barnes and, therefore, should not count against him is unavailing. See Taylor v. Illinois, 484 U.S. 400, 418, 108 S. Ct. 646, 657 (1988) ("[T]he lawyer has—and must have—full authority to manage the conduct of the trial. The adversary process could not function effectively if every tactical decision required client approval."). Barnes is bound to the decisions of his counsel regarding proceeding to trial and any decision to allow a defendant to assert one stance and his counsel to assert another places both the State and this Court in a serious predicament. This time period of delay, two years and six months, should weigh against the Barnes because trial was scheduled and the State was ready to proceed but for his continuance.

As Barnes acknowledges, the time period from trial in November 2010 until January 31, 2014, incorporates the trial and Barnes' initial appeal concerning his original conviction and death sentence. Additionally, the time period from January 31, 2014 until August 10, 2015 includes the Supreme Court conveying exclusive jurisdiction of this case to this Court on June 9, 2014, and then the appointment of current counsel on September 11, 2014, which occurred at the request of Barnes. The State then exercised its right to seek review of that appointment in the original jurisdiction of the South Carolina Supreme Court on September 17, 2014. The appeal was clearly not a frivolous appeal as the Supreme Court agreed to consider it in its original jurisdiction and held oral arguments in April 2015. The remittitur returning jurisdiction to this Court after conclusion of the proceedings in the Supreme Court's original jurisdiction was issued on August 10, 2015. This time period should not weigh against either party, as both parties sought to protect their rights and interests.

The final time period is from August 10, 2015 until the re-trial scheduled on October 9, 2017. The State agrees with Barnes that this time period should not be attributable to either party because both sides are preparing in due course for the trial. None of the delay in this case has been shown by Barnes to be deliberate or intentional delay. Unlike in Hunsberger, a case not involving the death penalty[5], where the trial court initially expressed concern for the delay and offered a special term of court to hold trial, no such offer has been made or requested in this case. In Hunsberger, the Solicitor expressly rejected the offer of the special term of court and then did chose to not proceed to trial for many more years. In this case, nothing presented by Barnes indicates the State was not proceeding properly for a death penalty case. Certainly nothing established the cause of the delay was intentional actions by the State seeking to undermine the defense as is required to have the delay weigh heavily against the State. See State v. Smith, 307 S.C. 376, 380, 415 S.E.2d 409, 411 (Ct. App. 1992) (finding the defendant bears the burden of showing a speedy trial delay was due to the neglect and willfulness of the State's prosecution); see also State v. Brazell, 325 S.C. 65, 75, 480 S.E.2d 64, 70 (1997) (recognizing "**delay alone is not dispositive**" (emphasis added)). As a result, the second factor regarding the causes of delay and the explanations for the delay should not weigh against the State because much of the delay was out of its control, was specifically due to a continuance by Barnes, or was the result of the parties pursuing their legal rights through the courts of this State and none of the delay was the result of intentional deliberate delay on the part of the State.

The third factor for consideration is Petitioner's assertion of the right. As this Court instructed in Barker:

[5] This is a significant factor because in Hunsberger, the Solicitor controlled the docket and there are not the statutory restrictions on proceeding to trial as exist in a capital murder trial. In this case, appointment of counsel, scheduling and other matters are within the exclusive jurisdiction of the trial judge appointed by the Chief Justice.

> Whether and how a defendant asserts his right is closely related to the other factors we have mentioned. The strength of his efforts will be affected by the length of the delay; to some extent by the reason for the delay, and most particularly by the personal prejudice, which is not always readily identifiable, that he experiences. **The more serious the deprivation, the more likely a defendant is to complain. . . . We emphasize that failure to assert the right will make it difficult for a defendant to prove that he was denied a speedy trial.**

Barker, 407 U.S. at 531-532 (emphasis added).

A significant factor in determination of whether a case should be dismissed is whether the defendant properly asserted his claim and how vigorously he pursued his claim. In this instant case, this factor weighs very heavily against Barnes and his claim that his case should be dismissed.

In his Motion, Barnes claims he asserted his speedy trial right on four separate occasions. He relies on two instances where he asserted his rights under the IAD Act. Neither time did he reference his constitutional speedy trial right, and instead sought to rely on the statutory 180 day time limit.[6] As the Supreme Court of Montana succinctly stated: "The constitutional right to a speedy trial is distinct from the right to a speedy trial under the IAD." State v. Nickerson, 322 P.3d 421, 423 (2014). In addition to his original request, which may or may not have even been effective as discussed in the Memorandum in Opposition to his IAD motion, he clearly did not make a speedy trial request at the May 2005 hearing. The Honorable William P. Keesley ruled on his IAD claim granting an extension beyond the 180 day limit for good cause, considered his requests regarding the law library in the Edgefield County Jail, and addressed the quality of food in the jail. Had Barnes raised an issue pursuant to his constitutional right to a speedy trial, it is clear Judge Keesley would have addressed the claim. The fact there is no mention of a speedy trial motion or

[6] Barnes's IAD Act requests and analysis of his right to a dismissal pursuant to those requests are considered in a separate Memorandum in Opposition to his IAD motion.

Barnes' rights under the Constitution to a speedy trial indicates it was never raised to Judge Keesley.

Barnes next claims he asserted his claim in a September 5, 2005 filing with the Court. Barnes was appointed counsel on September 1, 2005. This filing was a *pro se* filing while he was clearly represented by counsel. As a result, it cannot be considered, and properly never was considered by the trial court because its filing was a nullity. See Miller v. State, 388 S.C. 347, 347, 697 S.E.2d 527 (2010) (finding a motion filed by a represented *pro se* litigant "a nullity" and explaining "[s]ince there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel."); State v. Stuckey, 333 S.C. 56, 58, 508 S.E.2d 564, 564 (1998) ("Since there is no right to hybrid representation, substantive documents filed *pro se* by a person represented by counsel are not accepted unless submitted by counsel."); Foster v. State, 298 S.C. 306, 307, 379 S.E.2d 907, 907 (1989) (finding no right to "hybrid representation", which the Court defined as "representation which is partially *pro se* and partially by counsel.").

Even if the September 2005 *pro se* filing could be considered, it is a "Motion to Dismiss Pursuant to the Agreement of Detainers § 17-11-10, Article V, (C)" and not a motion for a speedy trial pursuant to the Sixth Amendment of the United States Constitution. While he alleges the case should have been tried before September 2005, he never alleges prejudice, never asks for a trial to occur, and never asserts his speedy trial rights. As a result, this Court should not torture the filing to construe it as a motion for a speedy trial.

Finally, Barnes alleges he again requested a speedy trial in a filing on November 18, 2005. The only filing is again a pro se filing which is a nullity and could not be considered. Further, it

appears the document he is referencing is merely a letter to his own counsel referencing the good faith provisions of the IAD Act and not his speedy trial right. He indicates his counsel needs to be prepared to go forward without a continuance and that they must object to any State continuances under the IAD Act. Similar to the September 2005 filing, this document should not be considered because of the hybrid representation, and even if considered as a valid filing, it fails to assert any speedy trial rights.

As a result, the only properly filed document referencing Barnes' speedy trial rights is the current Motion to Dismiss the Indictments Based Upon Violation of the Defendant's Speedy Trial Rights filed by current counsel on August 14, 2017. This should be considered the first and only assertion of the right by Barnes, and it came roughly a month after trial had already been scheduled for October 9, 2017.

Notably absent in the recitation of facts by Barnes or from the documents provided to this Court was a motion at Barnes' first trial regarding speedy trial. Barnes, who now asserts this Court should consider the timeframe from January 2002 until October 2017 for purposes of determining the speedy trial motion, never asked the trial court to consider the motion when he had a trial in 2010. He did not raise the speedy trial issue on appeal to the South Carolina Supreme Court. At the time of his first trial and subsequent appeal, Barnes never asserted any alleged violation of his right to a speedy trial, and, instead, acquiesced in going forward with the trial.[7] No filing should speak louder regarding Barnes' assertion of the right than the lack of an assertion when he had opportunity at his first trial. As a result, this factor should weigh very heavily against Barnes in

[7] The State again submits that because he failed to raise the issue at his first trial, and instead proceeded to trial, he received the relief he requested—a trial that he did not consider in violation of his speedy trial right. As a result, the State again asserts the only time period which should be considered by this Court in determining whether the case should be dismissed for violation of Barnes's speedy trial right is the period from remittitur on his appeal in January 2014 until trial in October 2017.

determining whether the case should be dismissed. See State v. Waites, 270 S.C. 104, 108, 240 S.E.2d 651, 653 (1978) (acknowledging that "the manner in which the defendant asserts his right [to a speedy trial] is an important factor to be considered" when analyzing whether a defendant speedy trial motion should be granted); Barker, 407 U.S. at 532 ("emphasiz[ing] that failure to assert the right will make it difficult for a defendant to prove that he was denied a speedy trial."); see also, Rashad v. Walsh, 300 F.3d 27, 40 (1st Cir. 2002) ("...the record is clear that the petitioner failed to seek a speedy trial with anything remotely approaching diligence. This counts significantly in the speedy trial calculus."); United States v. Tranakos, 911 F.2d 1422, 1429 (10th Cir. 1990) ("We are unimpressed by a defendant who moves for dismissal on speedy trial grounds when his other conduct indicates a contrary desire").

In considering the fourth prong of the test, whether Appellant suffered prejudice, Barker is again instructive:

> Prejudice, of course, should be assessed in the light of the interests of defendants which the speedy trial right was designed to protect. This Court has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. If witnesses die or disappear during a delay, the prejudice is obvious. There is also prejudice if defense witnesses are unable to recall accurately events of the distant past.

Barker, 407 U.S. at 532. Prior to his current motion, Barnes has never asserted any prejudice suffered as a result of the delay in his trial and re-trial.

Barnes alleges several examples of prejudice he has suffered as a result of the delay in his trial. He alleges the possible change in the memories of witnesses, his continued incarceration, and his being placed in Safekeeper status as examples of the prejudice he has suffered. Much of

the prejudice he alleges occurred prior to his first trial, and as the State has argued and continues to assert, this Court should not consider the ramifications of any delay prior to his first trial because he failed to assert a speedy trial violation before or at his first trial and therefore acquiesced in the fact the trial was proper.

While the South Carolina Supreme Court in Hunsberger acknowledges some level of actual prejudice from the change in eyewitnesses' testimony, this was because the change in testimony was directly relevant to Hunsberger's case. There is no indication any change in testimony will directly impact Barnes' case, and any argument regarding the possibility of altered testimony is rank speculation. Further, the South Carolina Court of Appeals has explained an argument that a defendant is prejudiced simply because of the possibility of faded memories lacked merit, finding: "the same disadvantage hampered the State." State v. Smith, 307 S.C. 376, 381, 415 S.E.2d 409, 412 (Ct. App. 1992). In State v. Waites, 270 S.C. 104, 109, 240 S.E.2d 651, 654 (1978), the South Carolina Supreme Court held that "respondent's bare assertion of prejudice because his principal witness moved to another state is insufficient to warrant the lower court's conclusion that respondent suffered actual prejudice thereby." The South Carolina Supreme Court also found both the State and the defendant would be prejudiced by the destruction of a crime scene and the fading memories of witnesses in State v. Chapman, 289 S.C. 42, 45, 344 S.E.2d 611, 613 (1986). Additionally, unlike the Hunsbergers, Barnes has testimony at a prior trial, as well as the Hunsbergers' trials, to use for impeachment purposes against any witnesses who change their testimony from either the prior trials or from their original statements. It is unlikely he would be prejudiced by any faded or altered memories more so than the State.

He also asserts prejudice from being incarcerated from 2005-2008 in Edgefield County Jail, being in the South Carolina Department of Corrections based on conviction for an unrelated

crime, and being on death row for three years. None of this is the type of prejudice a speedy trial seeks to remedy. First, he was already convicted in December 2003 of armed robbery, kidnapping, and burglary of a residence among other charges in Georgia. As a result, he received a life sentence on armed robbery and twenty years on the other two charges. Had he not be incarcerated in South Carolina from 2005-2008, he certainly would have been incarcerated in Georgia. Barnes would not have been a free man during this period. There is also no indication his term of incarceration was increased as a result of any delay in the trial of the current charges. Further, the time he spent in SCDC and on death row was the direct result of juries convicting Barnes after he had trials, one on unrelated charges and one in the first trial of the matter at hand. He cannot complain about the prejudice suffered when it was suffered because he obtained the speedy trial he sought.

Finally, Barnes asserts he is being prejudiced currently by the delay because he is being held in SCDC instead of the Edgefield County Jail as a Safekeeper inmate pursuant to a commitment duly authorized by the Governor of South Carolina under section 24-3-80 of the South Carolina Code. Pursuant to Executive Order No. 2000-11, a person can only be held as a Safekeeper if the individual (1) is a high escape risk; (2) exhibits extremely violent and uncontrollable behavior; and/or (3) must be removed from the county facility to protect the individual from the general population or from other detainees. None of the reasons for securing Barnes as a Safekeeper are within the control of the State. It appears the basis for Barnes Safekeeper status was his behavior in the Edgefield County Jail, including throwing bodily fluids for which he was tried and convicted.[8] As a result, he cannot complain of prejudice resulting from his own behaviors.

[8] His conviction was ultimately reversed based not on the facts of the case, but based on a violation of section 14-7-1330.

The fourth and final factor does not weigh against the State. Barnes has failed to demonstrate any legitimate prejudice resulting from the delay, especially any resulting from the delay after his first trial. See e.g., Brazell, 325 S.C. at 76, 480 S.E.2d at 70-71 ("Although the delay was lengthy and the justification was unsatisfactory, Brazell's right to a speedy trial was not denied when one balances the Barker factors. The long delay was negated by the lack of prejudice to the defense. There is no evidence that the delay was willful or intentional.").

The State again submits the appropriate time to consider is at most the period from remittitur being issued on his appeal in January 2014 until trial on October 2017 because Barnes acquiesced in the prior trial. If this Court found the period of delay is from 2002 until 2017 as suggested by Barnes, the State acknowledges it is a significant period of time. Simply because the period of time is significant, it does not establish a speedy trial violation. This Court must look to the other factors. Barnes has failed to demonstrate any of the delay was the result of the State intentionally or deliberately attempting to delay trial to gain an advantage over him. The overall delay is as much attributable to Barnes due to his continuances and inability to schedule trial as it is attributable to the State. Much of the delay was the result of the normal progression of a capital murder case given its complexities and statutorily mandated provisions. Additionally, Barnes failed to pursue his speedy trial right with any diligence. He only submitted one formal motion, and that is the one before the Court at this time. His *pro se* motions were not effective and are a nullity under the law. Further, and most significantly, he failed to even raise the issue at his first trial and, therefore, he should be prevented from arguing any issue related to the time period from 2002 until trial in 2010. Finally, he has failed to demonstrate the requisite prejudice necessary to justify dismissing this case as a violation of his speedy trial rights. As a result the four factors do

not weigh in favor of dismissing this case, and the State asks this Court to deny his Motion to Dismiss and allow trial to proceed.

Respectfully Submitted,

Rick Hubbard
Solicitor

Suzanne Mayes
Deputy Solicitor

Shawn Graham
Deputy Solicitor

Edgefield County, South Carolina
October 6, 2017

STATE OF SOUTH CAROLINA
IN THE COURT OF GENERAL SESSIONS

Edgefield County
Indictment Nos. 2005-GS-19-457 & 273

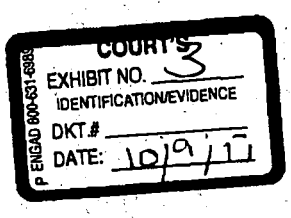
THE STATE OF SOUTH CAROLINA,

vs.

STEVEN LOUIS BARNES,

Defendant.

**STATE'S APPENDIX
TO RESPONSIVE MEMORANDA
RELATED TO THE DEFENDANT'S
INTERSTATE AGREEMENT ON DETAINERS
AND SPEEDY TRIAL MOTIONS**



ST'S APPi

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STS APP 1

G-679755

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

EDGEFIELD COUNTY

THE STATE

COPY

against

BARNES, STEVEN LOUIS

Address: 07 [illegible] 3RD COURT

[illegible], SC 29862

Phone: _____ SSN: [redacted]

Sex: [illegible] Race: [illegible] Height: [illegible] Weight: [illegible]

DL State: _____ DL#: _____

DOB: [redacted] 1978 Agency ORI#: SC0150000

Prosecuting Agency: EDGEFIELD COUNTY SO

Prosecuting Officer: _____

Offense: MURDER

Offense Code: 0116

Code/Ordinance Sec.: 16-03-0010

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant: BARNES, STEVEN LOUIS

on 01/18/05.

James Smith

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

BRENDA B. CARPENTER

P.O. BOX 564

EDGEFIELD, SC 29824

☒ County/ ☐ Municipality of

EDGEFIELD COUNTY

AFFIDAVIT

July 26, 1990
SCCA 518

Personally appeared before me the affiant INV. RANDY DORAN who being duly sworn deposes and says that defendant BARNES, STEVEN LOUIS did within this county and state on 09/03/01 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of EDGEFIELD) in the following particulars:

DESCRIPTION OF OFFENSE: MURDER

16-03-0010

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED SWORN AFFIDAVIT

Sworn to and subscribed before me on JANUARY 25, 2002

Brenda B. Carpenter (L.S.)

Signature of Issuing Judge

Inv. Randy B. Doran

Signature of Affiant

Affiant's Address: 200 RAILROAD AVE

EDGEFIELD, SC 29824

Affiant's Telephone: 803 637-4000

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

EDGEFIELD

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 09/03/01 defendant BARNES, STEVEN LOUIS did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of EDGEFIELD) as set forth below:

DESCRIPTION OF OFFENSE: MURDER

16-03-0010

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Brenda B. Carpenter (L.S.)

Signature of Issuing Judge

Judge Code: 928

BRENDA B. CARPENTER

Judge's Address: P. O. BOX 564

EDGEFIELD, SC 29824

Judge's Telephone: 803 637-4090

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ST'S APP. 2

EXECUTIVE DEPARTMENT

State of South Carolina

The Governor of the State of South Carolina

To All Men Whom These Presents May Come-Greetings:

from All Men, That I, ***Jim Hodges***, Governor of the State of South Carolina, by virtue of the authority in me vested by the Constitution and Laws of the United States, and the Constitution and Laws of South Carolina passed in pursuance thereof do hereby authorize and appoint Sheriff Adell Dobey and/or any law enforcement officer Agent of the State of South Carolina to convey Steven Louis Barnes fugitive from justice from the said State of South Carolina, to the County of Edgefield therein to be dealt with according to law.

In Witness Whereof I have here unto signed my name and affixed the Seal of the Executive Department of South Carolina, at the Capitol in the City of Columbia, this 27th day of February in the year of our Lord two thousand two and in the two hundred twenty-fifth year of our American Independence.

Jim Hodges

Governor of South Carolina

By the Governor's Chief Legal Counsel

EXECUTIVE DEPARTMENT

State of South Carolina

OFFICE OF THE GOVERNOR

To His Excellency the Governor of GEORGIA

It appears from the attached documents, which are hereby certified to be authentic, and in accord with the laws of this State, that Steven Louis Barnes stands charged with the crime of Murder in South Carolina, and it has been represented to me that such Fugitive was present in this State at the time of the commission of such crime, and that such Fugitive has fled from the justice of this State and has taken refuge in the state of Georgia.

Therefore, pursuant to the Constitution and Laws of the United States in such cases, I request that you cause Steven Louis Barnes to be apprehended and delivered to Sheriff Adell Dobey of the Edgefield County Sheriff's Department or his designee who is hereby authorized to receive and convey him to the State of South Carolina, there to be dealt with according to law.

Witness my hand and the seal of the Executive Department of South Carolina, affixed at Columbia, this 27th day of February in the year of our Lord, two thousand two, and in the Independence of the United States of America the two hundred twenty-fifth year.

Jim Hodges

Governor of South Carolina

Stephen D. Bates

By the Governor's Chief Legal Counsel

ST'S APP. 4

IN THE CIVIL COURT OF
RICHMOND COUNTY, GEORGIA

STATE OF GEORGIA	: GOVERNOR'S WARRANT
	: DEMANDING AUTHORITY:
VS.	: SOUTH CAROLINA
	: CHARGE: MURDER
STEVEN LOUIS BARNES	:

ORDER

The above-captioned Governor's Warrant having been executed by the arrest or continued detention of the person of STEVEN LOUIS BARNES, and the said STEVEN LOUIS BARNES, having come before the Civil Court of Richmond County, Georgia, on April 17, 2002, for hearing pursuant to O.C.G.A. 17-13-30;

Said Defendant's counsel, Jack Boone, having represented Defendant at the within hearing.

Said Defendant hereinabove having been advised of his rights pursuant to O.C.G.A. 17-13-30, and having waived his right to file application for a Writ of Habeas Corpus;

IT IS ORDERED that the Defendant, STEVEN LOUIS BARNES, shall be delivered to Sheriff Adell Dobey and/or any other agent of the state of SOUTH CAROLINA, and convey him to the demanding state there to be dealt with according to law.

SO ORDERED this 22 day of April, 2002.

WILLIAM O. JENNINGS, III
~~CHIEF JUDGE OF CIVIL AND~~
MAGISTRATE COURT, RICHMOND
COUNTY, GEORGIA

CC: JAIL ADMINISTRATION
MS. JUANITA DANZTLER, RCSD

802.0427680

EXECUTIVE DEPARTMENT

THE STATE OF GEORGIA

TO ALL THE SHERIFFS AND CONSTABLES THEREOF--GREETINGS:

WHEREAS, His Excellency THE HONORABLE JIM HODGES, GOVERNOR OF THE STATE OF SOUTH CAROLINA and as the Executive authority thereof, has demanded of me STEVEN LOUIS BARNES, fugitive from justice from the said State, and has produced to me a Requisition, accompanied by supporting documents, charging that the said fugitive from justice stands charged or convicted with the crime(s) of MURDER, which Documents are duly certified as authentic by His Excellency, the Governor of the said State, and has also appointed and commissioned SHERIFF ADELL DOBEY and/or a designated agent on the part of the said State, to receive the said Fugitive from Justice from the Civil Authorities of this State to the end that he/she may be carried to the said State, there to be dealt with according to law.

AND, WHEREAS, It is suspected that the said Fugitive from Justice is now within jurisdictional limits of this State:

YOU ARE HEREBY COMMANDED, To arrest and deliver the said Fugitive from Justice to the said Agent, for the purpose of being carried to the said State within whose jurisdiction said offense is alleged to have been committed. And I moreover charge and require all Officers, both Civil and Military, in this State, to be vigilant in endeavoring to apprehend the said Fugitive from Justice.

Given under my hand and the seal of the Executive Department, at the Capitol, in the City of Atlanta, the 7TH day of MARCH A.D. 2002.

GOVERNOR

By the Governor:

EXECUTIVE SECRETARY

Governor's Warrant

ST'S APP. 6

Agreement on Detainers: Form VII

: IMPORTANT: This form should only be used when an offer of temporary custody has
: been received as the result of a prisoner's request for disposition of a detainer. If the
: offer has been received because another prosecutor in your state has initiated the request,
: use Form VIII. Copies of Form VII should be sent to the warden, the prisoner, the other
: jurisdictions in your state listed in the offer of temporary custody, and the Agreement
: Administrator of the state which has the prisoner incarcerated. Copies should be retained
: by the person filing the acceptance and the judge who signs it.

PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY OFFERED IN CONNECTION WITH A PRISONER'S REQUEST FOR DISPOSITION OF A DETAINER

TO: Carl Humphrey, Warden Ware State Prison
3620 Harris Road, Waycross, GA 31501

In response to your letter postmarked February 12, 2005 and offer of temporary custody regarding Steven L. Barnes, 909420/540936, who is presently under indictment, information, complaint in Edgefield County, South Carolina of which I, Joseph P. Mizzell, Jr., am the Assistant Solicitor, please be advised that I accept temporary custody and that I propose to bring this person to trial on the indictment, information or complaint named in the offer within the time specified in Article III (a) of the Agreement on Detainers.

I hereby agree that immediately after trial is completed in this jurisdiction, I will return the prisoner directly to you or allow any jurisdiction you have designated to take temporary custody. I agree also to complete Form IX, the Notice of Disposition of a Detainer, immediately after trial.

COMMENTS: (If your jurisdiction is the only one named in the offer to temporary custody use the space below to indicate when you would like to send your agents to conduct the prisoner to your jurisdiction. If the offer of temporary custody has been sent to other jurisdictions in your state, use the space below to make inquiry as to the order in which you will receive custody, or to indicate any arrangements you have already made with other jurisdictions in your state in this regard.)

I would like to send our Agents to conduct the prisoner, Steven L. Barnes, 909420/540936, to Edgefield County, South Carolina on May 18, 2005.

Signed: Joseph P. Mizzell
Joseph P. Mizzell, Jr.
Title: Assistant Solicitor, 11th Judicial Circuit

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainers.

DATED: APRIL 28, 2005 Signed: William P. Keesley
William P. Keesley, Chief Administrative Judge

Title: Eleventh Judicial Circuit

STATE OF SOUTH CAROLINA COUNTY OF EDGEFIELD	)	IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA, -vs- STEVEN LEWIS BARNES, Defendant.	)	ORDER Case Number G-979755

The defendant was brought before the court based on his application under the Interstate Agreement on Detainers. He is charged with Murder and apparently was being held in Georgia following convictions in that State for Kidnapping and other offenses resulting in a sentence of life imprisonment. At the hearing, the Solicitor indicated that this case would be pursued as a death penalty case, though no formal notice was given. The following directives are established, in response to the hearing:

WPR #1

1) The defendant is to be held without bail. He did not seek bail, because he is under the life sentence in Georgia.

2) The court has notified the Clerk of the Supreme Court of South Carolina that this case will require appointment of two attorneys who qualify under the provisions related to appointment of counsel in death penalty cases.

3) After considering the requirements of the interstate compact regarding trial within 180 days, the court finds that good cause has been shown as to why this case cannot be handled within 180 days. In death penalty cases, the undersigned judge, as Chief Judge for

Administrative Purposes, is required to notify South Carolina Court Administration and the Chief Justice of the Supreme Court of South Carolina to request that a judge be designated to this case. An oral request has been made to the Chief Justice, and she has requested a list of all pending death penalty cases in the circuit so that judges can be designated. A Deputy Solicitor of the Eleventh Judicial Circuit has been notified, and the list will be sent to the Chief Justice upon receipt. Terms of court will have to be modified by the Chief Justice to accommodate a death penalty case, and discovery will have to be pursued. There is no reasonable way that this case can be called for trial within 180 days.

Wpw #2

4) The defendant complained that there is no law library in the Edgefield County jail. The normal way to assist a person accused of a crime is to appoint counsel. In this State, counsel must be qualified to handle death penalty cases, and attorneys typically provide their clients with information about the applicable law. No specific problems were noted at the hearing, and the court finds that sufficient time should be allocated for counsel to be appointed and be given an opportunity to discuss these issues with Mr. Barnes.

5) The defendant also asked if the court could deal with the allegedly low quality of food served at the Edgefield County jail. There was

no showing that the quality of food being served is so insufficient that it violates the rights of the accused, and the court does not know if the defendant will continue to be housed at that facility or transported to another facility. Under the present circumstances, the court has no authority to issue any orders regarding the food provided to the defendant.

AND IT IS SO ORDERED.

May 27, 2005

William P. Keesley
Judge

#3

ST'S APP. 10

DEFENSE OF INDIGENT ACT
FORM NO. 4

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
)
County of Edgefield)
)
Docket No. _____) ORDER OF APPOINTMENT OF LEGAL
)
STATE OF SOUTH CAROLINA) COUNSEL OF INDIGENT DEFENDANT
)
vs.)
Steven Louis Barnes)
Defendant)

The defendant contends that he is indigent and in need of services of an attorney as contemplated by law.

THEREFORE, D. Lee Shirley, Attorney-at-Law, is appointed as counsel for the defendant.

This 6th day of June, 2025
at 2:20 (a.m. - p.m.).

Sheila F Newby

WITNESSES

Doran

ECSO

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 11/15/10

VERDICT

Guilty

Foreperson of Petit Jury

Date: 11-13-10

DOCKET NO. 2005-GS-19- 273

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

AUGUST TERM 2005

THE STATE

vs.

STEVEN LOUIS BARNES

CDR# 0095

Indictment for

KIDNAPPING 11-13-10

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

INDICTMENT FOR

KIDNAPPING

At a Court of General Sessions, convened on August 10, 2005 the Grand Jurors of Edgefield County present upon their oath:

That STEVEN LOUIS BARNES did in Edgefield County on or between September 3, 2001 and September 4, 2001, unlawfully seize, and confine, inveigle, decoy, kidnap, abduct, or carry away one Samuel J. Sturrup without authority of law and without consent, by the following means, to wit: Steven Louis Barnes, with the use of physical force, did hold Samuel J. Sturrup against his will, in violation of Section 16-3-910 Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

J. P. Strozzo
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF EDGEFIELD	)	
STATE OF SOUTH CAROLINA,	)	
	)	
-vs-	)	ORDER
	)	
STEVEN LEWIS BARNES,	)	Case Numbers G-979755
	)	
Defendant.	)	

EDGEFIELD COUNTY
CLERK OF COURT
SHIRLEY F. NEWBY
2005 SEP -1 AM 10:25

Mr. Steven L. Barnes is charged with Murder, and the Solicitor has indicated that he intends to seek the death penalty. There are numerous co-defendants, at least one of whom is represented by the Public Defender. Mr. Barnes was transferred to the custody of Edgefield County by authorities in Georgia after he received a sentence of life imprisonment in that State. At a hearing to set bail, Mr. Barnes indicated that he did not seek bail because he is facing the life sentence in Georgia. South Carolina requires appointment of an attorney who is certified to handle death penalty cases. The court has located a qualified attorney who is willing to serve as lead counsel on the case.

Mr. Barnes also raised an issue at his hearing related to his confinement in the Edgefield County Jail. He objected to the type of food that is served to inmates. The court has no control over that issue, absent some full litigation as to whether the inmates are subjected to cruel and unusual punishment. In any event, it is the court's understanding that Mr. Barnes was transferred from the facility during the interim and that the issue is moot.

THEREFORE, IT IS ORDERED that Robert Harte, Esquire is appointed to represent the defendant as lead counsel. Mr. Harte is directed to suggest to the court the

names of local attorneys who may be competent and willing to assist him as second chair. If no local attorney can be located, the court has had discussions with an attorney in Beaufort who is willing to undertake the role.

IT IS FURTHER ORDERED that the State must immediately notify Mr. Harte of the location of his client so that contact can be made and that a copy of this Order be mailed to Mr. Barnes, the Solicitor's office, and the defense attorney by the Clerk of Court's office.

AND IT IS SO ORDERED.

William P. Keesley
Judge

#2

Edgefield, South Carolina

September 1, 2005

ST'S APP. 15

FILED 8:30 AM
Sept 8 2005
Wesley S. Nunn C.C.C.P.
EDGEFIELD COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD) IN THE COURT OF GENERAL
STATE OF SOUTH CAROLINA) SESSION
)
— VS —) CASE NO# 05-979755
)
STEVEN LOUIS BARNES)
DEFENDANT)

FARETTA -VS- CALIFORNIA
MOTION

COMES NOW, THE DEFENDANT STEVEN LOUIS BARNES IN THE ABOVED CAPTIONED CASE FILES THIS MOTION TO THIS COURT TO DEMAND THE RIGHT TO REPRESENT HIMSELF IN THE PREPARATION OF HIS CASE AND DEFENSE IN HIS TRIAL. HE CITES THE RELEVANT SUPREME COURT AUTHORITY, FARETTA -VS- CALIFORNIA, 422 U.S. 805, 95 S.CT 2525, 45 L.ED. 2D 562 (1975) AND MORE SUCH RIGHT TO WAIVE HIS RIGHT TO COUNSEL. HE'D LIKE TO SHOW THIS COURT AS TO THE REASONS HE CHOOSE TO REPRESENT HIMSELF; TO WIT;

1 THE DEFENDANT FEELS IT'S IN HIS BEST INTERESTS TO CONDUCT HIS OWN DEFENSE IN HIS CASE AND TRIAL BECAUSE HE HAS REASON TO BELIEVE THAT THE EDGEFIELD COUNTY INDIGENT ATTORNEY'S HAVE NOT ADEQUATE AND

ST'S APP. 16

effective nor show their client their undivided loyalty.

2. The Defendant See the same M.O. from which he have had experience in Richmond and Columbia County GA; that has the same M.O. from the public defender delayful tactics and poor representations of their clients here in South Carolina.

3. Ever Since the Defendant ARRIVAL under the provision of the agreement of detainers, and the duty of being appointed O-Lee-Sterkey for which he Refused to See him here at the detention Center 8-9-05, because of an conflict of interest, he has not been an court appointed Attorney.

4. The Defendant under the Six amendment Selective incorporated through the 14-amendments has a Right to adequate and effective Counsel and the public defender O-Lee-Sterkey knows that he's under an hundred and eighty day dead-line that has already Expired pursuant to the agreement of detainers and Refuse to See him in the preparation of his case or withdraw of his case because an conflict of interest, therefore,

delaying the proceeding.

5. the Defendant is letting the Court know at a early practicable moment that he'll be relinquish his right to Counsel and will be representing himself in any and all trial Court proceedings.

6. the Defendant knowly and intelligently relinquish his right to Counsel.

7. the Defendant understands the consequences of representing himself in a jury trial or any and all other trial proceedings.

Wherefore, the Defendant Steven Louis Bynes, pro-se prays that this Honorable Court will grant his motion to waive his Constitutional right to Counsel and Conduct his own defense.

Date: 9/5/05

Steven Louis Bynes pro se
Defendant pro se

790

ST'S APP. 18

FILED 8:30 AM
Sept 8 20 05
Shirley J. Nealy C.C.C.P.
EDGEFIELD COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSION
COUNTY OF EDGEFIELD)
STATE OF SOUTH CAROLINA)
) CASE NO# 2005-GS-19-00755
- VS -)
)
STEVEN LOUIS JAMES)
DEFENDANT)

MOTION TO DISMISS PURSUANT TO THE AGREEMENT OF DETAINERS § 17-11-10, ARTICLE V, (C)

COMES NOW, the Defendant Steven Louis James, PRO-SE, in the Above Caption Case and moves under the provisions of § 17-11-10 Article V, (C) and asks this Honorable Court to dismiss his indictment, information OR Complaint With Prejudice because the Solictors of Edgefield South Carolina has failed to have him in Court within a hundred and Eighty days as prescribed by Article III (A). The Defendant would like to show this Honorable Court as to why his Case Should be dismiss pursuant to the (IAD) Supra provisions with prejudice.

1. The Defendant Contends that the County of Edgefield State of South Carolina has had sufficient time to

trial him in the above caption case, and the governors of both South Carolina and the State of Georgia signed the extradition warrent back in 02 that year.

2. The Defendant contends that this case should have went to trial a long time ago and upon information and belief the reason why South Carolina did not try him in the above caption case is because South Carolina Solicitors' were waiting on Columbia County and Richmond County to trial him first.

3. The Defendant contends that the Solicitor for South Carolina has been negligent, for a period of three years, that this case set idly, in not procuring him for trial.

4. On February 12, 05, the warden Carl Humphrey, who'd signed the written notice and his officials, Counselor Mrs. Cheatam, who filled out the written notice as prescribed by IC, Article III (A).

5. The clerk warden pursuant to IC, Article III (B) that states in part "who shall promptly forward it together with the certificate to the appropriate prosecuting officials, who sent it by Registered OR

Certified mail, Return Receipt Requested.

6. On or about the 14th OR the 15th of February, the defendant Received the Return Receipt Requested from the Clerk of Court and the Solicitor of Edgefield County. (names unknown at this present time)

7. Pursuant to Id, Article III(A) that states in part "he shall be brought to trial within one hundred and Eighty day after he shall caused to be delivered to the prosecuting officer's jurisdiction written notice of the place of his imprisonment." that's when the defendant time initiated when he Received the Return Receipt Requested from the Clerk of Court and Solictor of Edgefield County.

8. On may 6, 05, A period of approximately, 95 days had Lapse before the Enmeit officials of South Carolina as prescribed by Id, Article IV A, Sent notice to the Serving State for temporary Custody of the defendant at were State prison. (Please See Exhibit 2)

9. On May 15 05, Approximately Around 12:00 pm OR 1:30 pm, the Defendant WAS transfered from Ware State Prison to Edgefield South Carolina pursuant to the (IAD) And book on Charges of murder (PLEASE SEE Exhibit 2)

10. On 5/24/05, the Defendant waived his bond hearing in front of the Honorable William P. Keesley because he Stand Convicted in the State of Georgia to an Sentence of life and Fifty years.

11. The Defendant at his bond hearing Reflected the Record that there'll be a Continues on his part and upon information and belief at the hearing now the Solicitor or the Judge pursuant to Article III (A) in open Court moved for a good faith Continues that day.

12. During the proceeding the Solicitor Joseph P. Mizzell, Jr informed the Honorable William P. Keesley that their office are intending on moving for the death penality in Warrent not 5-679755 and that two Court Appointed Attorney's will have to be Appointed to the Defendant (PLEASE SEE Exhibit 3)

ST'S APP. 22

13. On 5-27-05, the Defendant was handed a written Order at his cell by a Staff who works here at the Edgefield Detention Center Signed by the Honorable William P. Keesley.

14. The written Order Stated on Line THREE that States in part " After Considering the Requirements of the Inter-State Compact Regarding trial within 180 days, the Court Finds that good Cause has been Shown as to why this Case Cannot be handled within 180 days"...
(Please Exhibit 3)

15. On 6-5-05, the Defendant spoke to the Clerk Shirley F. Newby at her office inside the County Jail in which she Appointed him O-Lee-Starkey upon finding out he was indigent. (The same day the Defendant sent out his pro-se motion objecting to the Courts Order in not having the Defendant Ready for trial pursuant to the mandate provision of O.C.G.A. § 42-6-20... and notice to the Clerk that I was sent Unanswered.)
(Please See Exhibit 4)

ST'S APP. 23

16. Ever Since the defendant arrival 5-18-05, he has been through 2-Court terms E.T, June — and August is General Session Court in Edgefield County

17. Ever Since the defendant arrival here in Edgefield County under the provisions of the (IAD) and the day 6-5-05 of being appointed 0-lee-Stukey Esq which Counsel Refused to See him here at the detention Center 8-9-05 because of an conflict of interest he hasn't Seen an Court appointed attorney.

19. The Defendant has not Seen an Counsel as Stipulated by both South Carolina and United States Constitution Selective incorporated in the 14th amendments here in Edgefield South Carolina in the prosecution of his Case.

WHEREFORE, the Defendant Steven Louis Barnes pro-se, prays that this Honorable Court will dismiss his indictment, information or complaint with prejudice pursuant to the IAI, Article V(C). He also would like to inform this Honorable Court due to utilizing an inadequate Law-Library here at the detention Center, he can not adequately Submit an argument/memorandum to this Court citing Relevant Case Law. He additionally prays to this Court to be able to Submit an Oral argument in open Court or Re-grant his motion Esq.

(Exhibit 4) For Law books or such other and further relief as to the Court may seem just and proper.

Date: 9-5-05

Respectfully submitted,

/s/

Steven Louis Spence, #40-SC

Edgefield Detention Center

200 Jail Rd St.

Edgefield SC.

ST'S APP 25
FILED
Sept 8 20 65
D.C.C.P.

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)
STATE OF SOUTH CAROLINA)
)
- VS -)
)
Steven Lewis Jones)
Defendant)

IN THE COURT OF GENERAL
SESSION

CASE NO# G-979755

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the below listed parties a copy of the foregoing motion to dismiss pursuant to the Agreement of Detainers & LT-II-10, ARTICLE IV(C) and Faretta VS. California motion and exhibits by depositing said copy in the United States mail in a properly addressed envelope with adequate postage.

CC: Joseph P. Mizzell, Jr.
Assistant Solicitor
Eleventh Judicial Circuit
1st Saluda Airport Rd.
Saluda, SC. 29138

C/C:

Date:

ST'S APP. 26

EDGEFIELD COUNTY
CLERK OF COURT
SHIRLEY F. NEWBY

2005 SEP 12 AM 9:34

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

STATE OF SOUTH CAROLINA)
)
VS.) DEMAND FOR PRELIMINARY HEARING
)
STEVEN LEWIS BARNES)

TO: THE CENTRALIZED PRELIMINARY HEARING COURT FOR EDGEFIELD COUNTY, and

TO: THE HONORABLE DONALD V. MYERS, SOLICITOR - ELEVENTH JUDICIAL CIRCUIT:

PLEASE TAKE NOTICE that the Defendant, Steven Lewis Barnes, does hereby demand a preliminary hearing upon the charges against him contained in Warrant Number G-679755 dated January 25, 2002, issued by Magistrate Brenda B. Carpenter, upon which the affiant is Inv. Randy Doran.

Dated: September 8, 2005.

By: _____
Robert A. Harte
Attorney for the Defendant
P.O. Box 1959
Aiken, SC 29802-1959
(803) 648-0853

cc: Clerk of Court

ST'S APP. 27

CLERK
SUPERIOR COURT
SALEM, NEW JERSEY
2008 SEP 19 A 9:08

To: Shirley F. Newby
From: Helen Louis Jones

Please place this letter that I wrote to my Attorney Robert Harte, Esquire in my files at your office.

Thank you for your time and efforts of respecting my rights to petition the government.

Respectfully submitted
Helen Louis Jones
Helen Louis Jones

Dated. 9/14/08

C/C:

TO: Robert C. Hale
Attorney At Law

FROM: Helen Louise Bone
Client

RE: Warrants No # H-870-420 and L-679755 and DEC Letter for Further Details...

Date: 9/14/(0)—

Please see enclosed is a copy of the agreement on Chemical Materials Act. This was sent from the Tooele City Recorder.

As of this date since my ARRIVAL 5-18-05, I have been in jail in this county on the above listed matter. There are six requests that I need from you as my attorney of:

1. File a speedy trial act for Court in Tooele County for Cause No. # - 870420 and F-870255; and,

2. Move for dismissal with prejudice pursuant to the agreement of Sec. 17-11-10, Article IV, (c) of the act. Term of Court, and,

3. A written statement that you as my attorney did not receive your fees on the above charges as stated in the agreement.

4. [illegible]

6. Certified Copy of my case records that I filed at the Circuit Office 5th Judicial County Ga.,
6. Grants V. Smith Atkins for Lack Jurs...

Upon speaking to you 9/9/05, you seem to be very intelligent in the Law and your information and Knowledge, it seems you meet the Criteria as Stipulated by the 6th Amendment (Electric Incorporated in the 14th Amendment to A Effective Assistance of Counsel, only time will tell...

Thank you for your Undivided attention in this important matter & Kindly Instruction for Reading my letter.

Respectfully Submitted.

(Redacted)

(Redacted)

ST'S APP. 31

EDGEFIELD COUNTY
CLERK OF COURT
WESLEY F. NEWSY
2005 NOV -1 PM 3:47

The Supreme Court of South Carolina

The State of South Carolina, Prosecutor,

v.

Steven Louis Barnes, Defendant.

Edgefield County

2005-GS-19-0182, 0263, 0723,0744

ORDER

The Honorable J. Cordell Maddox, Jr. is vested with exclusive jurisdiction to hear and dispose of the above case. Judge Maddox shall decide all matters pertaining to the referenced case, including motions to appoint or relieve counsel and, pursuant to this assignment, shall exercise all powers and duties of a presiding circuit court judge of the Eleventh Judicial Circuit.

IT IS SO ORDERED.

S/Jean Hoefer Toal

Jean Hoefer Toal
Chief Justice

October 31, 2005
Columbia, South Carolina

804

ST'S APP. 32

TO: Shirley F. Newby
Clerk of Court

FROM: Glen Lewis Bowie

CLERK OF COURT
SHIRLEY F. NEWBY
2005 NOV 16 AM 10:14

Ma'am,

Can you please place in my case files a copy of both letters I sent to my attorney dated 10/31/05 and 11/14/05.

Thank you so much for your assistance.

Glen Lewis Bowie

DATE: 11/16/05

THE ABOVE IS A TRUE COPY OF THE ORIGINAL WHICH IS ON FILE IN THE OFFICE OF THE CLERK OF COURT OF EDGEFIELD COUNTY, SC

S. Newby

SHIRLEY F. NEWBY, CLERK OF COURT
OF GENERAL SESSIONS AND
COMMON PLEAS, E.C.S.C.

DATED

ST'S APP. 33

To: Robert Hartle

From: Steven Lopez

Re: Important matters

Date: 11/14/05

RECEIVED
CLERK'S OFFICE
2005 NOV 18 A 10:15

STR,

My req'l concerns is to be adequately assisted in my Criminal case and to have my case that has been pending for four years now to be disposed of without undelay delay. Any and all continues that the prosecution makes must be objected to.

On the other hand, on 10/13/05, I called your office two times. One time by phone card. one time collect. Sir, you had informed me if your Secretary do not accept my call, that means you're not in the office. Your client understood that. The second time I called by phone card so I can leave your Secretary an important message. First was her answering, I stated my name and requested to speak to you. There was a brief second pause and she hung up on me.

CLERK, EDGEFIELD
SHERIFF, EDGEFIELD
2005 NOV 18 P 1:10:15

To make a long story short, I was expecting to be called up to the Court House for, Local Session in Edgefield County.

I depend on your Representation and to assist me on merit issues that I bring to your attention. Please keep me informed with any and all legal paper work that you file on my behalf. I am really depending on you filing the paper work I requested of, terms

Also, I'd like for you to know that in 30 days, I'm be filing another § 1983 Civil action suit on the indigent clothes in Edgefield County.

Please find enclosed is a copy of my § 1983 Civil action suit.

Respectfully Submitted
Herbert L. Stevenson

808

ST'S APP. 36

[illegible]
2005 OCT 19 A 10:15

TO: Robert Harte.

FROM: Steven L Jones

RE: Court term in Edgefield County starts Oct. 10, 05. I'll like to be there this court term by your side and it's a few things that I'll like to bring to the Judge attention.

We needs to talk about the case whenever your time permits it. It's important that we be required to move foward in this case without no Continues.

If the D.A. decides to move for a good faith continues under the provisions of the agreement of detainers, we must object to any and all continues that the Solicter or Court makes.

Thank you for you time Reading my letter.

Respectfully Submitted
Steven L Jones

Dte: 10/13/05.

ST'S APP. 37 809

WITNESSES

Doran

ECSO

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: DEC 0 6 2005

VERDICT

Guilty

Foreperson of Petit Jury

Date: 11-13-10

DOCKET NO. 2005-GS-19-457

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

DECEMBER TERM 2005

THE STATE

vs.

STEVEN LOUIS BARNES

CDR# 0116

Indictment for

MURDER 11-13-10

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

INDICTMENT FOR

MURDER

At a Court of General Sessions, convened on December 6, 2005 the Grand Jurors of Edgefield County present upon their oath:

That STEVEN LOUIS BARNES did in Edgefield County on or between September 3, 2001 and September 4, 2001, feloniously, wilfully and with malice aforethought, kill one Samuel J. Sturrup by means of shooting him and that the said victim, Samuel J. Sturrup, died in Edgefield County as a proximate result thereof, in violation of the Common Law and as defined in Section 16-3-10 of the Code of Laws of South Carolina, as amended, with punishment provided for in Section 16-3-20 of the Code of Laws of South Carolina, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

ASSISTANT SOLICITOR

ELEVENTH CIRCUIT SOLICITOR'S OFFICE
SOLICITOR DONALD V. MYERS
EDGEFIELD / SALUDA/ McCORMICK OFFICE
187 SALUDA AIRPORT ROAD
SALUDA, SOUTH CAROLINA 29138
803-275-5609 FAX 803-275-6494

December 13, 2005

Robert J. Harte
Attorney at Law
P.O. Box 1959
Aiken, SC 29802

EDGEFIELD COUNTY CLERK OF COURT
SHIRLEY T. HEWBY
2005 DEC 13 P 12:03

Re: State vs Steven Louis Barnes
2005-GS-19-457

Dear Mr. Harte:

Pursuant to §16-3-20, et. seq. of the South Carolina Code of Laws, as amended, this is to notify and inform you and Mr. Barnes 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. A copy of the Edgefield County Indictment charging Mr. Barnes with the murder of Samuel J. Stirrup is enclosed.

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 when Judge Maddox sets a date for the calendar year of 2006.

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

Yours Truly,

Donald V. Myers
Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
)
VS.)
)
STEVEN LOUIS BARNES,)
)
Defendant.)

ORDER

FILED 4:20 PM
12-13 2005
Shirley J. Newby C.C.C.P.
EDGEFIELD COUNTY

2005-GS-19-273, 457

On December 13, 2005, the Defendant and his court appointed attorney, Robert J. Harte, appeared before the Court. The state was represented by Solicitor Donald V. Myers and Assistant Solicitor Ervin J. Maye. The State served the Defendant and his attorney with a true certified copy of the whole Indictments listed above.

The Defendant was properly arraigned by the Edgefield County Clerk of Court. There were no objections by the Defendant or his attorney to the arraignment, and there were no additional requests by the Defense.

The State also served the Defendant orally and in writing that the state will seek the death penalty in the above entitled case.

THE COURT THEREFORE FINDS that the defendant and his attorney have been properly served with a certified true copy of the whole Indictments pursuant to Section 17-19-80 of the 1976 South Carolina Code of Laws, as amended.

THE COURT FURTHER FINDS that the defendant has been formally and properly arraigned, and the defendant waives any objections thereto, and made no additional requests relating to the arraignment.

THE COURT FURTHER FINDS that the defendant and his attorney were formerly given notice, pursuant to Section 16-3-20, et.seq., that the State will seek the death penalty in this case.

AND IT IS SO ORDERED.

J. Cordell Maddox, Jr.
PRESIDING JUDGE

December 13, 2005

Edgefield, South Carolina

2008 FEB 16 11:12

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF EDGEFIELD)

STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,)
)
VS.) ORDER
)
STEVEN LEWIS BARNES,) Case Number G-979755
)
DEFENDANT.)

Mr. Steven L. Barnes is charged with Murder, and the Solicitor has indicated that he intends to seek the death penalty. There are numerous co-defendants, at least one of whom is represented by the Public Defender. Mr. Barnes was transferred to the custody of Edgefield County by authorities in Georgia after he received a sentence of life imprisonment in that State. Robert J. Harte, Esquire, has been appointed to represent the defendant. South Carolina law requires appointment of a second attorney. The Court has located a qualified attorney who is willing to serve as counsel on the case.

THEREFORE, IT IS ORDERED That David Tarr, Esquire, is appointed to represent the defendant as second chair.

AND IT IS SO ORDERED.

J. Cordell Maddox, Jr.
Judge

Anderson, SC

February 8, 2006

ST'S APP. 43

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF EDGEFIELD)
) ELEVENTH JUDICIAL CIRCUIT

CLERK OF COURT
SHIRLEY KENNEDY
2006 MAY 17 A 8:53

STATE OF SOUTH CAROLINA)
)
VS.)
) ORDER
)
STEVEN LOUIS BARNES,) Indictment No. 2005-GS-19-273, 457
)
Defendant.)

A hearing was held in the above case on May 16, 2006 in the McCormick County Court of General Sessions. The Defendant was present with his attorneys Robert J. Harte and David Tarr. The State was represented by Solicitor Donald V. Myers.

A discussion was held to set a trial date. Based upon the court schedule as well as that of the attorneys, it was determined that this case could not be tried in 2006. Therefore, a trial date will be set for January or February, 2007.

Further, the state served upon the defendant and his attorneys the Notice of Evidence in Aggravation of the Punishment pursuant to Section 16-3-20 (B). Therefore, the defendant has been properly notified of such evidence in aggravation.

AND IT IS SO ORDERED

The Honorable Cordell J. Maddox, Jr.
Presiding Judge

May 16, 2006

McCormick, SC

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD)	
)	INDICTMENT NO.: 2005-GS-19-457
)	2005-GS-19-273
STATE OF SOUTH CAROLINA,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
STEVEN LOUIS BARNES,)	
)	
Defendant.)	

FILED 5:06 PM
April 21 2008
Hubert J. Bentz C.C.C.P.
EDGEFIELD COUNTY

IT IS ORDERED that the above captioned case will be heard during the General Sessions Terms of Court for Edgefield County during the weeks of June 16, 2008 and June 23, 2008 with the Honorable J. Cordell Maddox, Jr. presiding.

The Edgefield County Clerk of Court is to draw a jury for the above captioned case and to take any additional administrative actions necessary to accommodate this matter.

IT IS SO ORDERED.

The Honorable J. Cordell Maddox, Jr.
South Carolina Tenth Judicial Circuit Court Judge

Anderson, South Carolina

April 17, 2008

300 PETIT JURORS WILL BE DRAWN ON MAY 19, 2008 AT 9:00AM.

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

INDICTMENT NO: 2005-GS-19-457
2005-GS-19-273

STATE OF SOUTH CAROLINA,

Plaintiff,

v.

STEVEN LOUIS BARNES,

Defendant.

ORDER GRANTING MOTION FOR CONTINUANCE

2008 MAY 19 AM 8:31

Upon the motion of counsel for the Defendant, and for good cause shown, it is hereby ordered, adjudged and decreed that the motion for continuance is granted and this case shall be continued past the June 16, 2008 and June 23, 2008 terms of Court and until such time as the Court Orders this matter be set for trial.

IT IS SO ORDERED.

The Honorable J. Cordell Maddox, Jr.
South Carolina Tenth Judicial Circuit Court

Anderson, South Carolina

May 13, 2008

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF EDGEFIELD	)	Case No.: 2005-GS-19-273,457

STATE OF SOUTH CAROLINA,	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	ORDER
	)	
STEVEN LEWIS BARNES,	)	
	)	
DEFENDANT.	)	

2005 DEC 30 P 1:46

This matter comes before the Court on motion of Robert J. Harte and David Tarr, attorneys for Steven Barnes. It appears that certain witnesses in this capital murder case are incarcerated in the State of Georgia. Additionally, counsel for the Defendant have requested to have the investigator appointed in this case attempt to interview said witnesses.

I find that Carlisle McNair, the investigator for Steven Barnes, should be given the opportunity to interview the incarcerated witnesses.

Accordingly, it is

ORDERED That the Georgia Department of Corrections shall permit Carlisle McNair the opportunity to interview Julio Hunsberger Delgato, Alexander Hunsberger, Kenya Canady, Marsha Rogers, Charlene Thatcher, Keisha Burton, Richard Cave, and Antonio Griffin.

Done this 17 day of March, 2008, at Aiken, South Carolina.

J. Cordell Maddox, Jr.
Judge

I SO MOVE:

Robert J. Harte, Esq.
Attorney for Defendant

ST'S APP. 48

The Supreme Court of South Carolina

The State of South Carolina, Prosecutor,

v.

Steven Louis Barnes, Defendant,

Edgefield County
2005-GS-19-0182, 0263, 0723, & 0744

ORDER

The Honorable R. Knox McMahon is vested with exclusive jurisdiction to hear and dispose of the above case. Judge McMahon shall decide all matters pertaining to this case, including motions to appoint or relieve counsel. The order dated October 31, 2005 assigning this case to the Honorable J. Cordell Maddox, Jr. is hereby rescinded.

IT IS SO ORDERED.

s/Jean Hoefer Toal
Jean Hoefer Toal
Chief Justice

January 25, 2010
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF EDGEFIELD)
2005-GS-19-273
2005-GS-19-457

STATE OF SOUTH CAROLINA)
)
vs.) TRANSCRIPT OF RECORD
) VOLUME 1
STEVEN LOUIS BARNES,)
DEFENDANT)

November 8, 2010
Edgefield, South Carolina

B E F O R E:

THE HONORABLE R. KNOX MCMAHON, JUDGE.

A P P E A R A N C E S:

DONALD V. MYERS, SOLICITOR
ERVIN J. MAYE, ASSISTANT SOLICITOR
H. FRANKLIN YOUNG, III, ASSISTANT SOLICITOR
Attorneys for the State

ROBERT J. HARTE, ESQ.
DAVID B. TARR, ESQ.
Attorneys for the Defendant

CAROL M. THUEME, RPR
Official Court Reporter

Harte?

MR. HARTE: Yes, Your Honor. I made a motion this morning under the interstate agreement on detainers, which is Section 17-11-10, et seq. By way of factual background in making my motion, Your Honor, I point out that it appears that an offer for custody under the IAD was dated February 12th, 2005. On May 27th, 2005, the Honorable William Keesley ordered an extension of time exceeding the statutory 180 days to try the case under the IAD. Under the statute, Your Honor, a delay can be granted if it is necessary or reasonable. This case from that time forward was not scheduled for trial until some three years later, and at no time was there an additional request for an extension, at no time was there an additional showing made to the Court. In Judge Keesley's order he did not specify how long the extension or the continuance was to be granted.

In March of '08, we learned that our mitigation specialist was not certified and we therefore requested a continuance at that time. It's our position that under the statute, Your Honor, that by that time, March of '08, some not quite three years after Mr. Barnes had been brought over to be tried by the State of South Carolina, the reasonable extension had been far exceeded by almost 36 months, 34 months. In addition, Your Honor, even after

that, the case was never rescheduled for trial until it was scheduled for this trial here today. And this is now more than 26 months, 30 months, two years four months, 28 months from the last scheduled trial. We believe, Your Honor, that that violates the interstate agreement on detainers. The State did not seek additional delays in terms of reasonableness and just made the delay on their own. And based upon that and the violation of the IAD, we would move that the case be dismissed.

THE COURT: All right. Solicitor.

MR. MAYE: May it please the Court, Your Honor. We were actually forwarded the interstate agreement on detainers demand February the 12th of 2005. I don't think our office actually received it until sometime the following week. The first time that we were able to schedule it within 90 days was when we went before Judge Keesley over in Lexington. Some days later on May the 27th of 2005, Judge Keesley issued the following order, which I have here and I'll hand up to the Court in this case. Judge Keesley's order specifically addressed the interstate agreement on detainers issue, and he pointed out in the order that it just would not be practical to be able to dispose of this case within 180 days and continued the matter beyond that which effectively tolled this interstate agreement on detainers

180-day clock. Since that time, the State has done everything -- the Solicitor's office, Solicitor Myers has made a repeated request for this case to be tried. Judge Toal appointed Judge Cordell Maddox on October 31st of 2005. Solicitor Myers continually pressed to have a trial date set. It was not done and finally Your Honor was appointed on this case, Your Honor, and we're here this week for trial of this case.

The defense would have to make some sort of showing of prejudice. The mere passage of time doesn't do anything in this regard. There would have to be some sort of showing of prejudice. The only cases that I can find in South Carolina where any case has ever been dismissed for this interstate agreement on detainers issue was where the State took absolutely no action within 180 days.

In this case we sought his return as quickly as we could. He was back here after we received, sometime in late February, the demand. He was back here May 18th of 2005.

He was down before Judge Carpenter addressing his bail on 5-19 of 2005. The notice was served on him that this was to be a capital case well within that 180-day time period.

The State has complied certainly with the interstate agreement on detainer. Pursuant to State

versus Finley, which is 277 SC 548, the Court clearly has the authority to toll the running of this time period. It was done in that case. And in order to seek any sort of dismissal, there would have to be some showing on the part of the defense that there was somehow prejudice by this.

Also, I'd note in the interim on 3-13 of 2008, the defendant was convicted of throwing body fluids here in Edgefield County and he was sentenced to 15 years and all during this time period, he was sentenced December 15th of 2003 and given a life sentence over in Georgia for armed robbery and kidnapping in '03 and did not serve this interstate agreement on detainers paperwork on us until February of 2005.

THE COURT: Thank you.

Do you care to respond, Mr. Harte?

MR. HARTE: Your Honor, I disagree that the defense is required to show prejudice. I agree that the Court can certainly toll the 180 days, but I disagree that that can be an indefinite tolling for an unreasonable amount of time, which is clearly what we have here.

THE COURT: All right. Your position is that the State could -- the Court could toll the 180, and they did, and that's valid, but the time is still unreasonable?

MR. HARTE: That's correct, Your Honor.

THE COURT: The passage of time.

MR. HARTE: That's correct, Your Honor.

Also, Your Honor, while case law states that the rights under the interstate agreement on retainers do not raise to the level of constitutional rights, I would raise the issue that Mr. Barnes did not have an attorney present at the hearing in May of 2005 and that had there been an attorney present, perhaps there would have been the argument made, Judge, we need to have some limit put on this tolling. But the fact that -- and I don't doubt the solicitor tried to get it scheduled. The fact is, it went three years without being heard.

THE COURT: When was Judge Maddox appointed?

MR. MAYE: Judge Maddox was appointed by Judge Toal October the 31st of 2005, and I know that Solicitor Myers repeatedly pressed to have a trial date set after he was appointed.

THE COURT: October would have been within 180 days of the May hearing before Judge Keesley.

MR. HARTE: Yes, sir.

MR. MAYE: Yes, sir, absolutely. Everything that we had at our disposal to do we did within the 180-day time period.

THE COURT: And then it really becomes, or experientially it's been my experience it then becomes a matter of the Court conferring with the attorneys to set a

trial date.

MR. HARTE: Yes, sir.

THE COURT: Basically in these type of cases.

MR. HARTE: Yes, sir. And there were various times when there was a discussion about a trial date, but only one time was a trial date set.

THE COURT: That was '08.

MR. HARTE: That was in June of '08. I believe it's June. It might have been May.

THE COURT: That's when the mitigation expert issue came up?

MR. HARTE: Yes, Your Honor.

THE COURT: All right. Thank you, Mr. Harte.

I'm going to deny the motion on the interstate agreements on retainers. I certainly understand the position on the passage of time from February of '05 and here we are in November of 2010; is that right, 2010? You're certainly protected on the record in that regard, Mr. Harte.

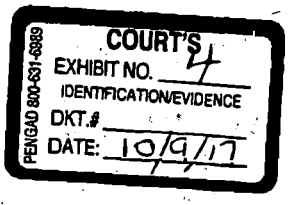
Anything further?

MR. HARTE: Yes, Your Honor. One motion that I did not file, and I meant to do it. The defense would move for sequestration of the witnesses and that they be sequestered from each other, and that those law enforcement authorities responsible for those people be

SHERIFF

ADELL DOBEY





EDGEFIELD COUNTY SHERIFF'S OFFICE
200 RAILROAD ST. EDGEFIELD, SC 29824 (803) 637-5337 OR (803) 278-1625, FAX # (803) 637-4016

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)
)
)
THE STATE)
)
vs.)
)
STEVEN LOUIS BARNES)
)
Defendant)

AFFADAVIT FOR SAFEKEEPING

ADELL DOBEY-SHERIFF
EDGEFIELD COUNTY

April 20, 2015

Steven Louis Barnes was charged with murder and kidnapping on November 13, 2010 and housed at the Edgefield County Detention Center pre-trial. Barnes was convicted of those charges, and sentence to death which was overturned. During that time, Barnes was written up for 20 jail infractions including throwing bodily fluids at correctional officers and other inmates, possession of contraband materials and refusing to follow instructions to name a few. Barnes was housed alone in the most secure cell that the Edgefield County Detention Center has and still managed to cause disruptions. Food service to inmates was severely delayed on several occasions due to Barnes throwing bodily fluids on food trays and carts. On three occasions, Barnes was charged and convicted (once) of throwing bodily fluids on correctional officers.

Once convicted of throwing bodily fluids, Barnes was sent to Lieber Correctional Institution. While there, Barnes was written up for assault and possession of a weapon.

Prior to coming to Edgefield County Detention Center, Barnes was incarcerated at Ware State Prison in Georgia convicted of armed robbery, kidnapping, burglary, terroristic threats and pandering prostitution, and was sentenced to life plus 45 years in Georgia. While there, Barnes was cited nine times for failing to follow instructions. While being held pre-trial on these charges, Barnes was held at the Richmond County Detention Center where he was cited for refusing to cooperate with correctional officers as well as assault and possession of a weapon.

Barnes has also been housed at the county detention center in both Aiken and Laurens. Representatives from both of these agencies have written expressing their concern of housing Barnes for the same reasons listed above. Aiken logged in one hundred plus grievances, and reports in approximately one year. Laurens County after several

complaints in three months, asked us to come get him, because of his actions. Greenwood Detention Center has agreed to house him at this time for one week.

In summary, I believe that it is in the best interest of not only the correctional officers of the Edgefield County Detention Center, but the other inmates housed in the facility, and Barnes safety as well, that Steven Louis Barnes be held for safekeeping at the South Carolina Department of Corrections until his pending matters before the court are resolved.

D. Dobey 4-20-15

Adell Dobey-Sheriff ~~Date~~
~~Edg~~efield County

Sworn before me this 20th day of 2015.

Billy Hall

My commission expires 4/2/2018.

PENALTY PHASE
CONVICTIONS AND INFRACTIONS
STEVEN LOUIS BARNES

PRIOR CONVICTIONS

I. Richmond County

A.	Violation of Motor Vehicle	12/13/96
B.	Simple Assault	09/12/98
C.	PWID Cocaine	10/14/98
D.	PROBATION VIOLATIONS	

II. Columbia County

E.	Armed Robbery	01/24/02
	PWDVC	01/24/02
	Burglary 1st	01/24/02
	Kidnapping (2)	01/24/02
	Terroristic Threats	01/24/02
	Pandering Prostitution	01/24/02

III. Edgefield County

F.	Throwing Bodily Fluids	11/03/07

DISCIPLINE INFRACTIONS

IV. Richmond County Detention Center

G.	Refusal to Cooperate/No Bracelet	08/25/02
H.	Assault/Possession of Weapon	11/27/03

V. Ware State Prison (Ga.)

I.	FFI./Insubordination	09/16/04
J.	FFI./Insubordination	04/04/05
K.	FFI	04/04/05
L.	FFI	04/07/05
M.	FFI/Un-kept Cell	04/15/05
N.	FFI/Beard	04/15/05
O.	FFI/Beard	04/18/05
P.	FFI	04/23/05
Q.	FFI	05/04/05

VI. Edgefield County Detention Center

R.	Disruption	06/16/05
S.	Rocks from Rec. Yard	07/06/05
T.	Throwing Food Trays/Threats	08/05/05
U.	Throwing Fluids	08/06/05
V.	Disturbance	08/07/05
W.	Threats	08/09/05
X.	Flooded Toilets	08/10/05

PENALTY PHASE
CONVICTIONS AND INFRACTIONS
STEVEN LOUIS BARNES

	Y/Z. Disturbance	08/11/05
	1. Throwing Food Trays	10/11/05
	2. Contraband	02/09/06
	3. Throwing Food Tray and Urine	06/30/06
	4. Throwing Food Tray and Urine	07/03/06
	5. FFI/Refusing to Cuff Up	02/03/07
	6. Destroyed Lunch Trays	07/09/07
	7. Attempt to Destroy Food Trays	07/09/07
	8. Throwing Bodily Fluids	08/24/07
	9. Throwing Fluids	09/07/07
	10. Throwing Fluids	09/10/07
	11. Inmate Confrontation	10/30/07
	12. Throwing Fluids	11/01/07
VII.	Lieber Correctional Institution	
	13. Possession of a Weapon	01/22/09
	14. Assault	02/05/09

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RECEIVED

JUL 10 2015

GENERAL COUNSEL

State of South Carolina
Office of the Solicitor
Eleventh Judicial Circuit

COUNTIES
EDGEFIELD / LEXINGTON
McCORMICK / SALUDA
FAXES: (803) 785-8431 or (803) 785-8255

LEXINGTON COUNTY JUDICIAL CENTER
205 E. MAIN ST. ROOM 309
LEXINGTON, SOUTH CAROLINA 29072
TELEPHONE: (803) 785-8352

DONALD V. MYERS
Solicitor

July 2, 2015

Office of General Counsel
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, S.C. 29210
Attn: Dayne Haile

Re: Certificate of Concurrence with Proposed Safekeeping Transfer of Steven Barnes

Dear Ms. Haile,

As the Solicitor assigned to prosecute the case of State vs Steven Barnes, I concur with the safekeeping request of Sheriff Adell Dobey that the defendant be housed at the South Carolina Department of Corrections during the pendency of his charges. I concur with the sheriff's assessment that it would be in both Mr. Barnes and Edgefield County's best interest to have this done.

Please do not hesitate to contact me at 803-785-8285 if you need any additional information.

Very truly yours,

Donald V. Myers
11th Circuit Solicitor

Date: April 16, 2015

To: Lt. Hall
Edgefield Detention Center

Fr: Captain Kathy Tucker
Laurens County Detention Center

Re: Housing of Inmate Steven Barnes

Lt. Hall:

We are currently housing the above-mentioned inmate for your county. I am sorry to have to convey to you that we can no longer house him at our facility. Due to his current violent charges and past history of violent charges both here in South Carolina and Georgia; he has been housed in our C-Max unit and is housed alone. We cannot house anyone with this inmate and therefore he is taking up much needed space. Our C-Max Unit is overcrowded as it is and he is occupying space that we could utilize. Also, since he has been here he has conveyed complaints about everything from his housing unit, not being able to practice his religion by being able to spray oil on the unit walls and now to the cleanliness of the unit. He constantly "suggests lawsuits" and gets the other inmates that are housed in this unit agitated as well. He "flies" just below the radar as not to receive any disciplinarians and constantly request to file grievances that is tying up my grievance committee. So, with this being stated, we would like for him to be removed at soon as possible.

Please understand that this does not affect any future housing arrangements that we can offer.

Sincerely yours,

Captain Kathy Tucker
Chief of Security
Laurens County Detention Center

FORM II
AGREEMENT ON DETAINERS

pies, if only one jurisdiction within the state involved has an indictment, information or complaint pending. Additiona will be necessary for prosecuting officials and clerks of courts if detainers have been lodged by other jurisdiction the state involved. One copy should be retained by the prisoner, one signed copy should be retained by the warden. Signe must be sent to the Interstate Detainer Coordinator of Georgia and to the Agreement Administrator of the receiving state, secuting official of the jurisdiction which placed the detainer, and the clerk of the court which has jurisdiction over ter. The copies for the prosecuting officials and the court must be transmitted by certified or registered mail, return requested.

NMATE'S NOTICE OF PLACE OF IMPRISONMENT AND REQUEST FOR DISPOSITION OF INDICTMENTS, INFORMATIONS OR COMPLAINTS

oseph P. Mizell, Jr. Assistant Solicitor
t. Randy Doran Prosecuting Officer, Eleventh Judicial Circuit (Jurisdictions)
of ~~SS~~ Court Edgefield County South Carolina (Jurisdiction)

other prosecuting officers and courts of jurisdictions listed below from which indictments, informations or complaints g.

I are hereby notified that the undersigned is now imprisoned in
STATE PRISON (Institution) at WAYCROSS GA. (Town and State)

I request that a final disposition be made of the following indictments, informations or complaints now pending

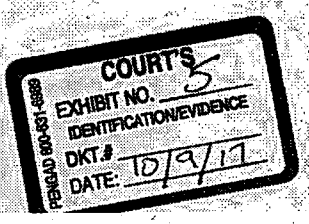
ure to take action in accordance with the Agreement on Detainers, to which your state is committed by law, will invalidation of the indictments, informations or complaints.

eby agree that this request will operate as a request for final disposition of all untried indictments, informations on the basis of which detainers have been lodged against me from your state. I also agree that this request shall e my waiver of extradition with respect to any charge or proceeding contemplated hereby or included herein, and tradition to your state to serve any sentence there imposed upon me, after completion of my term of imprisonment also agree that this request shall constitute a consent by me to the production of my body in any court where my required in order to effectuate the purposes of the Agreement on Detainers and a further consent voluntarily to the institution in which I now am confined.

sdiction over this matter is properly in another agency, court or officer, please designate the proper agency, r and return this form to the sender.

uired Certificate of Inmate Status and Offer of Temporary Custody are attached.

5-04 X. Steven L Barnes
Inmate's Signature
Type: Steven L. Barnes 909420
Inmate's Name and Number



AGREEMENT ON DETAINERS: FORM II (Continued)

The inmate must indicate below whether he/she has counsel or wishes the court in the receiving state to appoint counse purposes of any proceedings preliminary to trial in the receiving state which may take place before his/her delivery to th isdiction in which the indictment, information or complaint is pending. Failure to list the name and address of counsel wil construed to indicate the inmate's consent to the appointment of counsel by the appropriate court in the receiving state.

A. My counsel is N/A
(Name of Counsel)

whose address is N/A
(Street, City and State)

B. I request the court to appoint counsel.

ve read the above or have had the above read and explained to me, and I understand its meaning and agree thereto.

: 10/25/04 X Steven Loren Barnes
Inmate's Signature

Type: Steven L. Barnes 90412
Inmate's Name and Number

As: Karen H. Cheatham
Signature

Date: 10/25/04

Karen H. Cheatham / Counselor
Name and Title

FORM I
AGREEMENT ON DETAINERS

licate. One copy of this form, signed by the prisoner and the warden should be re tainedby the warden. One copy, signed warden should be retained by the prisoner.

NOTICE OF UNTRIED INDICTMENT, INFORMATION OR COMPLAINT AND OF RIGHT TO REQUEST DISPOSITION

STEVEN LOUIS BARNES No. 909420 Inst. WARE STATE PRISON

Pursuant to the Agreement on Detainers, you are hereby informed that the following are the untried indictments, ions, or complaints against you c oncerningwhich the undersigned has knowledge, and the sourc eand contents of each.

'ou are hereby further advised that by the provisions of said Agreement you have the right to request the appropriate ng officer of the jurisdiction in which any such indictment, information or complaint is pending and the appropriate t a final disposition be made thereof. You shall then be brought to trial within 180 days, unless extended pursuant to s of the Agreement, after you have caused to be delivered to said prosecuting officer and said court written notice of of your imprisonment and your said request, together with a certificate of the custodial authority as more fully set said Agreement. However, the court having jurisdiction of the matter may grant any necessary or reasonable se.

~~Your request for final disposition will operate as a request for final disposition of all untried indictments,~~ ns or complaints on the basis of which detainers have been lodged against you from the state to whose prosecuting Your request for final disposition is specifically directed. Your request will also be deemed to be a waiver of n with respect to any charge or proceeding contemplated thereby or forming the grounds of any detainer and a waiver of extradition to the rial to serve any sentence there imposed upon you, after completion of your term of imprisonment in Georgia. Your ll also constitute a consent by you to the production of your body in any court where your presence may be required o effectuate the purposes of the Agreement on Detainers and a further consent voluntarily to be returned to the n in which you are now confined.

ould you desire such a request for final disposition of any untried indictment, information or complaint, you are to Carl Humphrey / Warden of the institution in which you are confined.

u are also advised that under provisions of said Agreement the prosecuting officer of a jurisdiction in which any such information or complaint is pending may institute proceedings to obtain a final disposition thereof. In such event, ose the request that you be delivered to such prosecuting officer or court. You may request the Governor of Georgia ve any such request for your temporary custody but you cannot oppose delivery on the grounds that the Governor has tively consented to or ordered such delivery. You are also statutorily entitled to the procedural protections provided tradition laws.

AGREEMENT ON DETAINERS: FORM I (Continued)

11/3/07

Warden

CUSTODIAL AUTHORITY

Name: Carl Humphrey / Warden
Institution: Ware State Prison
Address: 3620 Harris Rd.
City/State: Waycross, GA
Telephone No.: 912-285-6400

EIVED

NO.

Signature

DATE:

Name and Title

Summary Description of FORM II

Function:

1) Notifies the prosecuting officer and jurisdiction of the inmate's place of imprisonment.

2) Requests final disposition of pending actions.

3) Serves as waiver of extradition, both for charges pending in the requesting state and for serving any sentences which may result.

4) Serves as consent to appear in court under the purposes of the Agreement and to return voluntarily to the current institution of confinement.

5) Indicates whether the inmate has counsel or wishes the appropriate court to appoint counsel.

Requirements:

1) The inmate must complete this form to request final disposition of all indictments, informations, or complaints held against him in the state which has filed a detainer.

2) If only one jurisdiction has a pending action within the state involved, the institution must produce and distribute five copies of the complete Form II:

(a) One for the Inmate.

(b) One signed copy for the Warden.

(c) One signed copy for the Central Office Interstate Detainer Coordinator.

(d) One signed copy for the prosecuting official of the jurisdiction which placed the detainer. Send by certified or registered mail, return receipt requested.

(e) One signed copy for the Clerk of Court which has jurisdiction over the matter. Send by certified or registered mail, return receipt requested.

(f) One signed copy for the Agreement Administrator of the receiving state.

3) If more than one jurisdiction claims pending action in the requesting state, send a complete, signed Form II to each prosecuting official and each Clerk of Court in the affected jurisdictions.

Attachment 3
IIC06-0001

States Participating in the Interstate Agreement on Detainers

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
D.C.
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Maine
Maryland
Massachusetts
Michigan
Minnesota
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
U.S.
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

*Louisiana and Mississippi do not participate in the interstate Agreement on Detainers.

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Attachment
SOP IIC06-00
Page 1 of

FORM III
AGREEMENT ON DETAINERS

e case of an inmate's request for disposition under Article III, copies of this Form should be attached to all copies
II. In the case of a request initiated by a prosecutor under Article IV, a copy of this Form should be sent to t
cutor upon receipt by the warden of Form V. Copies of this Form should be sent to all other prosecutors in the same sta
ave lodged detainers against the inmate. A copy may be given to the inmate.

CERTIFICATE OF INMATE STATUS

Steven Louis Bacnes 909420/640936 Ware State Prison Waycross,G
(Inmate) (Number) (Institution) (Location)

custodial authority) hereby certifies:

ie term of commitment under which the prisoner above named is being held: life Convicted 12-15-03

ie time already served: 10 months

me remaining to be served on the sentence: life

ie amount of good time earned:

ie date of parole eligibility of the prisoner: no TPM yet

e decisions of the Board of Pardons and Paroles relating to the prisoner: (If additional space is needed, use reverse side)

ximum expiration date under present sentence: life

tainers currently on file against this inmate from your state are as follows:

11/2/04 Carl Humphrey
Warden

CUSTODIAL AUTHORITY

Name: Carl Humphrey
Institution: Ware State Prison
Address: 3620 Harris Rd.
City/State: Waycross, GA 31501
Telephone No.: 912-285-6400

Summary Description of FORM III

Function:

1) States the length of time the inmate is expected to remain in custody in Georgia.

2) States the maximum length of time the inmate will remain incarcerated, under his or her currently active sentences.

3) Lists all detainers against the inmate from the requesting state.

Requirements:

If the inmate requests disposition using FORM II, complete FORM III and attach it to all copies of FORM II.

If a prosecutor requests temporary custody of an inmate using FORM V, complete FORM III and send it to the requesting prosecutor. Send copies of the completed FORM III to all other prosecutors in the same state who have lodged detainers against the inmate.

Summary Description of FORM IV

Function:

1) Notify the receiving jurisdiction(s) that the inmate will be made available for disposition of pending actions.

2) Informs the receiving prosecutor of other jurisdictions in his state to which he may transfer the inmate for disposition of other pending actions.

Requirements:

1) If the inmate requests disposition of pending actions using FORM II, attach a completed copy of FORM IV to each copy of FORM II.

2) If the prosecutor has requested temporary custody using FORM V, complete FORM IV and send it to all recipients of FORM III. Mail copies to the prosecutor(s) using certified or registered mail, return receipt requested.

3) Give one copy to the inmate.

4) Keep one copy in the inmate's institution file.

FORM IV
AGREEMENT ON DETAINERS

he case of an inmate's request for disposition under Article III, copies of this Form should be attached to all copies c
.II. In the case of a request initiated by a prosecutor this Form should be completed after the warden has indicated hi
ovel of the request for temporary custody, expiration of the 30 day period, and/or successful completion of a (Cuyler
ing. Copies of this form should then be sent to all officials who previously received copies of Form III. One copy als
d be given to the prisoner and one copy should be retained by the warden. Copies mailed to the prosecutor should be sen
fied or registered mail, return receipt requested.

OFFER TO DELIVER TEMPORARY CUSTODY

Joseph P. Mizell, Jr. Assistant Solicitor
(Prosecuting Officer)

Eleventh Judicial Circuit of South Carolina
(Jurisdiction)

all other prosecuting officers and courts of jurisdiction(s) listed below from which indictments, informatio or
ints are pending.

Steven Louis Barnes Number: EF-5-10436/June 90-45K

Pursuant to the provisions of Article V of the Agreement on Detainers between Georgia and your state, the undersi ed
offers to deliver temporary custody of the above-named prisoner to the appropriate authority in your state in order that
and efficient prosecution may be had of the indictment, information or complaint which is (described in the attached
s request) (described in your request for custody of _____ (Date)).

uired Certificate of Inmate Status is enclosed.) (The required Certificate of Inmate Status was sent to you with our
M _____ (Date)).

ings under Article IV(d) of the Agreement are indicated, an explanation is attached.

ments, information or complaints charging the following offenses also are pending against the inmate in your state
hereby authorized to transfer the inmate to custody of appropriate authorities in these jurisdictions for purposes
ng of these indictments, information or complaints.

Offenses	County or Other Jurisdiction
murder	Edgefield County SC

REEMENT ON DETAINERS: FORM IV (Continued)

If you do not intend to bring the inmate to trial, will you please inform us as soon as possible?

dly acknowledge.

: 11/2/04 Carl Humphrey Warden

CUSTODIAL AUTHORITY

Name: Carl Humphrey / Warden
Institution: Ware State Prison
Address: 3620 Harris Rd.
City/State: Waycross, GA 31501
Telephone: 912-285-6400

Provides:

ipt

ifier for your mailpiece

h delivery

ivery kept by the Postal Service for two years

ders:

y ONLY be combined with First-Class Mail or Priority Mail.

not available for any class of international mail.

CE COVERAGE IS PROVIDED with Certified Mail. For
se consider Insured or Registered Mail.

al fee, a Return Receipt may be requested to provide proof of
ain Return Receipt service, please complete and attach a Return
m 8811 to the article and add applicable postage to cover the
ailpiece "Return Receipt Requested". To receive a fee waiver for
n receipt, a USPS postmark on your Certified Mail receipt is

onal fee, delivery may be restricted to the addressee or
thorized agent. Please inquire the clerk or mark the mailpiece with the
Restricted Delivery" endorsement.

on the article is desired, please present the arti-
cle at the post office for postmarking. If not presented
with postage and mail.

We also recommend that you present it when making an inquiry.

102595-02-M-1132

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Joseph P. Mizzoni Esq
Asst Municipal Clerk
Municipal Courthouse
Lexington Ave & Lake Dr
Paterson, NJ 07505

COMPLETE THIS SECTION ON DELIVERY

X Signature: X ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

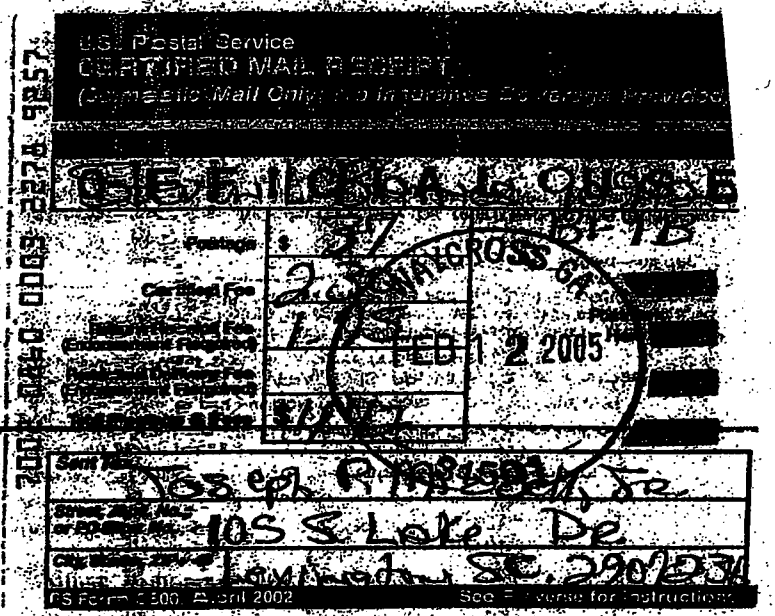
3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7002 0860 0003 2278 9257

PS Form 3811, July 1999 Domestic Return Receipt

102595-00-M-1540


U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
7000 0460 0003 2278 9857
FEB 12 2005
Norcross GA
1055 Lake Dr
SE 29223

Summary Description of FORM I

Function:

1) Notifies the Warden and the affected inmate of actions pending in other states' jurisdictions.

2) Notifies the inmate of his or her right to request final disposition of the pending action.

3) Defines a time limit for the prosecuting court to act, after receipt of the inmate's request for final disposition.

~~4) Informs the inmate of the legal implications of his requesting final disposition.~~

5) Informs the inmate the prosecuting officer may initiate proceedings to obtain final disposition.

6) Informs the inmate of his right to request that the Governor of Georgia disapprove any request for temporary custody.

~~7) Informs the inmate of his right to procedural protections under state extradition laws.~~

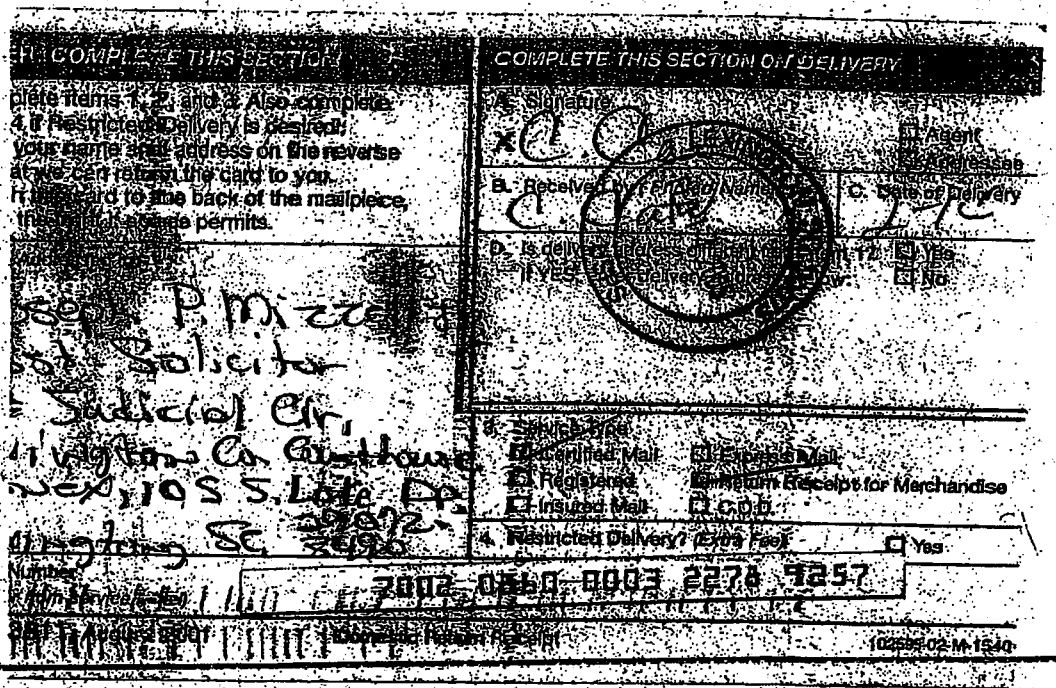
Requirements:

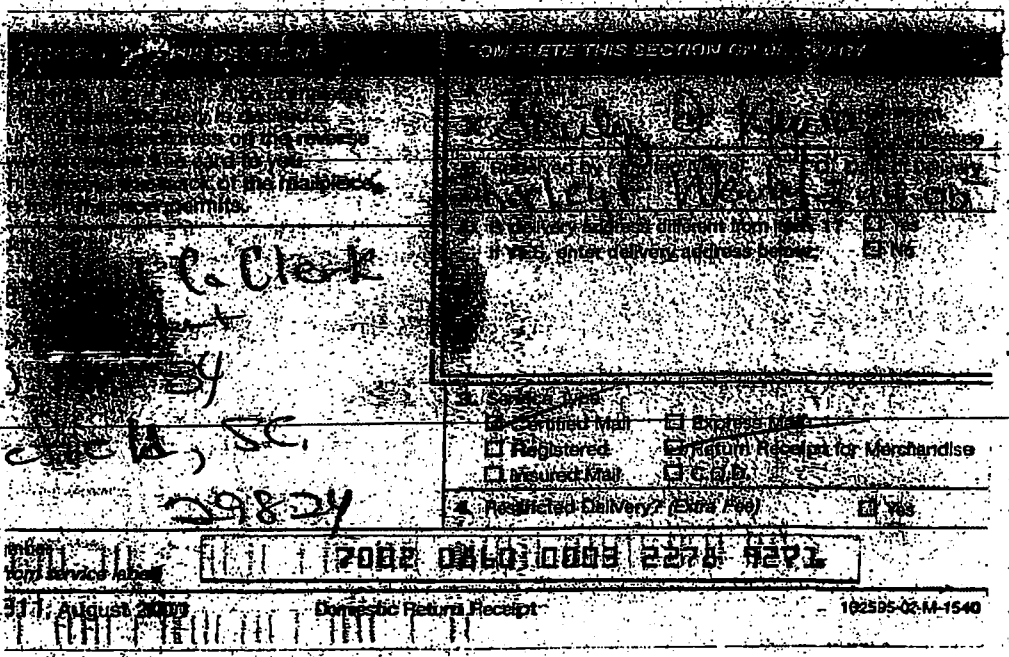
1) Upon receipt of a detainer from the Interstate Detainer Coordinator, the Warden should produce and sign two copies of Form I.

~~2) The inmate shall receive~~ one copy of Form I. The Warden or designee shall explain to the inmate the implications of Form I.

3) The inmate shall sign the other copy, to be maintained in his/her institutional file.

848





* - forbearance



7002 0460 0002 2278 9227

Postage $ .37
Certified Fee 2.30
Return Receipt Fee (Endorsement Required) 1.25
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees $ 4.42

Postmark Here

B1-9B

Sent To Edgefield Co. Clerk of Court
Street, Apt. No.; or PO Box No. P.O Box 34
City, State, ZIP+4 Edgefield, SC 29824

PS Form 3800, April 2002 See Reverse for Instructions

Barnes Steven

Edgefield County Clerk of Court
P.O. Box 34
Edgefield, SC 29824

850

STATE OF SOUTH CAROLINA COUNTY OF EDGEFIELD	)	IN THE COURT OF GENERAL SESSIONS Indictment No. 2017-GS-19-01788
STATE OF SOUTH CAROLINA, vs. STEVEN LOUIS BARNES, Defendant.	)	ORDER DENYING DEFENDANT'S MOTIONS TO DISMISS

2017 NOV 17 PM 1:40

EDGEFIELD COUNTY
CLERK OF COURT
CHARLES L. [illegible]

THIS MATTER comes before the Court upon motion of the Defendant by and through his attorneys requesting dismissal of the above indictment for violation of the Interstate Agreement on Detainers Act (IAD) and violation of the Defendant's Constitutional right to a speedy trial.

PROCEDURAL HISTORY

On January 25, 2002, an arrest warrant for murder was issued against Barnes charging him with the killing of sixteen-year-old Samuel Sturrup. Barnes, at the time, was being held in custody in Georgia on criminal charges stemming from conduct that occurred in Georgia. The Governor of South Carolina requested extradition of Barnes on February 27, 2002. A Governor's Warrant issued on March 7, 2002, and Barnes formally waived extradition on April 17, 2002. On April 22, 2002, the Civil Court of Richmond County, Georgia, issued an Order authorizing the extradition to South Carolina. Barnes remained in Georgia and was convicted of multiple crimes, including armed robbery, kidnapping, and burglary of a residence, in December 2003 and received a life sentence.

While Barnes was still in custody in Georgia, the State received a request for the disposition of Barnes' charges pending in Edgefield County pursuant to the Interstate Agreement on Detainers Act ("the IAD Act") through a document postmarked February

12, 2005. In response, the Solicitor arranged for Barnes to be brought to South Carolina, and Barnes was extradited to the state on May 18, 2005. On May 25, 2005, the Honorable William P. Keesley, circuit court judge, conducted a hearing with Barnes present in response to Barnes' IAD claim. Following the hearing, Judge Keesley issued an order on May 27, 2005, acknowledging that the Solicitor orally indicated an intention to seek the death penalty for Barnes upon conviction and finding good cause existed to continue Barnes' trial beyond the deadlines established by the IAD Act under the specific circumstances of Barnes' case. Judge Keesley's Order also addressed other issues, but makes no mention of any motion or request for a speedy trial under the United States Constitution.

On June 6, 2005, O. Lee Sturkey, Esquire, was appointed as counsel to represent Barnes during his trial. On August 10, 2005, the Edgefield County Grand Jury issued a true-billed indictment against Barnes for the offense of Kidnapping. On September 1, 2005, Judge Keesley appointed Robert J. Harte, Esquire, to replace Sturkey as Barnes' lead counsel. Following Harte's appointment as counsel, Barnes, while represented by counsel, filed an improper pro se "Motion to Dismiss Pursuant to the Agreement of Detainers § 17-11-10, Article V,(c)" on September 8, 2005, with the Edgefield County Clerk of Court. Subsequently, Barnes personally submitted a number of additional documents to the Edgefield County Clerk of Court including a letter dated September 14, 2005 purporting to be a copy of a letter Barnes sent to Harte requesting Harte to move for the dismissal of the charges pursuant to the IAD Act.

On November 1, 2005, the Honorable J. Cordell Maddox, Jr. was vested with exclusive jurisdiction over Barnes' case. A few weeks later, Barnes sent the Edgefield

County Clerk of Court copies of two letters he allegedly sent to Harte along with a letter dated November 16, 2005. In the letters purportedly sent to Harte, Barnes urged his counsel to object to any continuances filed by the Solicitor, including any continuance sought under the mandates of the IAD Act. No mention was made in the letters of a request for a speedy trial under the United States Constitution.

On December 6, 2005, the Edgefield County Grand Jury formally indicted Barnes for murder. The Solicitor provided written notice to Barnes through his counsel on December 13, 2005, that the State would be seeking the death penalty. On that same date, Judge Maddox conducted a hearing in the Edgefield County Court of General Sessions with all parties present, including Barnes and his counsel. On December 13, 2005, Judge Maddox issued an order indicating that Barnes was properly arraigned; that there were no objections by Barnes or his attorney to the arraignment; and that there were no additional requests by the Defense.

By Order dated February 8 and filed February 16, 2006, Judge Maddox then appointed David B. Tarr, Esquire, as second counsel for Barnes as required by South Carolina law in death penalty cases. Judge Maddox conducted a hearing on May 16, 2006 with all parties present, including Barnes and both of his attorneys. On that date, Judge Maddox issued an order confirming that he discussed a trial date with the parties and had determined that Barnes' case could not be brought to trial in 2006 "[b]ased upon the court schedule as well as that of the attorneys[.]" Judge Maddox indicated that Barnes' trial would be scheduled for January or February of 2007.

Subsequently, Judge Maddox issued an order dated April 17, 2008 and filed April 21, 2008, setting Barnes' trial for the weeks of June 16, 2008, and June 23, 2008.

Thereafter, just days before the jury was to be drawn, Barnes' counsel moved for a continuance. In response, Judge Maddox issued an order finding good cause had been shown and continued Barnes' case beyond the scheduled trial dates. A few weeks after that, Judge Maddox issued an order at Barnes' counsel's request directing the Georgia Department of Corrections to permit Barnes' investigator to interview witnesses pertinent to the case who were incarcerated at that time. This was the first such request seeking the court's assistance with access to known witnesses.

On January 25, 2010, the South Carolina Supreme Court rescinded the order appointing Judge Maddox to Barnes' case and appointed the Honorable R. Knox McMahon, circuit court judge, to preside over the proceedings. Subsequently, on November 8, 2010, a jury trial was commenced and Barnes was brought to trial in the Edgefield County of General Sessions with Judge McMahon presiding. On November 13, 2010, the jury convicted Barnes of the indicted offenses of murder and kidnapping. Following the verdict, a sentencing hearing was conducted. The jury determined that aggravating circumstances existed and recommended a sentence of death. Following that recommendation, Judge McMahon imposed a sentence of death. Barnes timely filed and perfected an appeal in the South Carolina Supreme Court.

The Supreme Court issued a published opinion on October 16, 2013, reversing Barnes' convictions and sentence. The State then timely filed a petition for rehearing. Barnes then filed a return not challenging any of the Supreme Court's conclusions. Next, the State filed a reply to the return, and Barnes filed a response to the reply to the return. The Supreme Court denied the State's petition. However, on January 15, 2014, the Supreme Court withdrew its opinion and issued a substituted opinion again reversing

Barnes' convictions and sentence. State v. Barnes, 407 S.C. 27, 753 S.E.2d 545 (2014). In that opinion, the Supreme Court solely reversed after finding Barnes was improperly denied the right to self-representation. Id. at 29, 753 S.E.2d at 547. The Supreme Court expressly and unanimously rejected Barnes' claim of an IAD violation. Id. at 37, 753 S.E.2d at 550-551; see id. at 62, 753 S.E.2d at 564 (Toal, J., dissenting). Thereafter, on January 31, 2014, the Supreme Court issued remittitur, returning Barnes' case to the circuit court.

Upon return to the circuit court, the Honorable Diane Schafer Goodstein, circuit court judge, was vested with jurisdiction over Barnes' case through an order dated June 9, 2014. Barnes then sought appointment of new trial counsel despite the fact that he had prevailed on appeal on the theory that he had been denied the right to represent himself at the first trial. In response, the State lodged an objection and moved to reinstate Barnes' earlier convictions with leave to continue the direct appeal on the remaining issues previously raised and not addressed. On September 11, 2014, Judge Goodstein denied the State's motion and appointed counsel to Barnes. The State filed in the South Carolina Supreme Court a Petition for Writ of Certiorari Due to Exceptional Circumstances. Thereafter, on November 20, 2014, the Supreme Court granted the State's petition. However, on July 1, 2015, the Supreme Court issued a published opinion affirming Judge Goodstein's denial of the State's request to reinstate the convictions. Subsequently, the State unsuccessfully petitioned for rehearing, and the Supreme Court issued remittitur returning Barnes' case to the circuit court, on August 10, 2015.

After several status conferences with the attorneys and Barnes, the State withdrew its Notice of Intent to Seek the Death Penalty and instead provided Barnes and his attorneys

Notice of Intent to Seek Life without Parole based on Barnes criminal record. On July 7, 2017, this Court set trial for October 9, 2017. Over a month later, and with trial date set, Barnes, through counsel, made a motion for a speedy trial under the United States Constitution. On October 9, 2017, oral arguments were presented regarding Barnes' motions.

INTERSTATE AGREEMENT ON DETAINERS

The Supreme Court decision in Barnes's initial trial reversing the Defendant's conviction and sentence of death (hereafter called *Barnes I*) fully disposed of the IAD claim. Barnes has failed to present any new evidence to justify questioning that decision. Additionally, there has been no new IAD action commenced subsequent to that decision. Accordingly, Barnes' motion to dismiss for violation of the IAD is hereby denied.

SPEEDY TRIAL

It is important to note that there is an obvious connection between this case and *State v. Hunsberger*, 418 S.C. 335, 794 S.E.2d 368 (2015). Therefore, I look to the *Hunsberger* decision for guidance on a constitutional speedy trial analysis.

On January 31, 2014 the remittitur from the Supreme Court remanded the case back to Edgefield County. At this point Barnes was clearly aware of the formal charges remaining against him and the pending likelihood of facing trial again. Barnes was under arrest and faced official accusations of murder and kidnapping. *Barnes I* reversed the Defendant's murder and kidnapping convictions, vacated the death sentence, but declined to reverse the trial court's determination that Defendant had waived his speedy trial rights under the IAD statute.

On April 23, 2014, Judge Keesley held a hearing regarding appointment of counsel for Barnes. The State objected to the appointment of counsel. On June 9, 2014, an Order designating exclusive jurisdiction with this Court was issued. On September 11, 2014, this Court appointed two lawyers as required in capital cases: Mr. McGuire at the request of Mr. Barnes as well as Mr. Bloom.

On September 17, 2014, the State objected to the appointment of counsel based upon the *Feretta* issue presented in *Barnes I* and ultimately decided by our Supreme Court. On November 14, 2014, the Supreme Court granted the State's petition for appeal, acquiring jurisdiction of this case.

On April 28, 2015, Barnes is transferred to the South Carolina Department of Corrections under Safekeeper status. On July 1, 2015, the Supreme Court denied the State's appeal and affirmed this Court's appointment of counsel. On July 14, 2015, the State filed a petition for rehearing with the Supreme Court. Around July 27, 2015, the Supreme Court issued an Order of Protection for Barnes' requested counsel, Mr. McGuire, allowing him to represent Dylan Roof in the matter of the State v. Dylan Roof.

On August 6, 2015, the Supreme Court denied the State's petition for rehearing. On August 10, 2015, the Clerk of the Supreme Court issued a remittitur, returning jurisdiction to Edgefield County. From December of 2016 until July of 2017, this trial court held a number of status conferences with attorneys for the State and Defendant. On December 16, 2016, the Supreme Court issued an order lifting Mr. McGuire's protection as to the representation of Mr. Barnes.

On July 7, 2017, the trial court held a status conference with all parties present. The State withdrew its Notice of Intent to Seek the Death Penalty and served notice that it

instead is seeking Life without Parole under the 2-strikes statute. At that status conference a trial date was set for October 9, 2017.

On August 14, 2017, Barnes, through his attorneys, filed motions to dismiss alleging violations of Defendant's speedy trial rights under the IAD Act and the constitutions of South Carolina and the United States. On October 9, 2017, the motions were heard.

This Court finds that the appropriate starting point for a constitutional speedy trial analysis is based upon the remittitur issued by the Supreme Court representing the final disposition of the issues presented in *Barnes I*. It is the opinion of this Court that Barnes' IAD claim does not amount to an assertion of a violation of his constitutional rights to a speedy trial. Any other attempts to raise the constitutional speedy trial rights would have been raised by letters written by the Defendant when he was represented by counsel and this court does not recognize hybrid representation. Barnes' letter of September 2005 would have been written just after counsel was appointed. It is unclear to this Court whether Barnes was aware he had counsel at that time. The letter appears to be a request under the IAD. In the event it could be considered a constitutional speedy trial request, it was never heard or ruled upon as a constitutional speedy trial request prior to trial. Additionally, it was never raised at the original trial or subsequently for the court to rule upon. Accordingly, I find the Defendant did not properly assert his right and that the issue was not preserved for appeal.

Thus, this Court finds the timeline for analysis begins on January 31, 2014 when the remitter was issued. At this time, both the State and the Defendant were on notice that preparations for a new trial had commenced.

TRIGGERING FACTOR, LENGTH OF DELAY, and REASONS FOR DELAY

On its face, January 31, 2014 through October 9, 2017 is slightly more than 3 years and 7 months. This Court finds that 2 years and 3 months are attributable to the State with 1 year and 4 months attributable to the Defendant.

Precedent shows that 3 years and 7 months represents a presumptively prejudicial delay sufficient to trigger a speedy trial analysis. See *State v. Langford*, 400 S.C. 421, 735 S.E.2d 471 (2012) (finding a 23 month delay) and *State v. Waites*, 270 S.C. 104, 240 S.E.2d 651 (1978) (finding a 28 month delay). While the length of this delay is significantly less than the "extraordinary delay" analyzed by the Supreme Court in in *Hunsberger*, here Barnes was continuously in custody and available for trial in South Carolina, so this factor weighs slightly against the State. Thus the period of January 31, 2014 through November 14, 2014 representing the time from the remittitur to Edgefield County until the Supreme Court acquired jurisdiction regarding this court's appointment of counsel, or 9 ½ months, is attributable to the State.

While death penalty cases are inherently complex, the State had already prepared and tried this case so the complexity argument is not as strong here, as most, if not all of the witnesses and evidence were known at the time of the remittitur. It is true that a new judge had to be appointed and that defense counsel had to be appointed and given time to prepare for a capital trial. Accordingly, if there is any weight against the State it would only be weighed slightly for this period of time.

With regards to November 14, 2014 through July 1, 2015, a period of 7 ½ months, I find that the time is not attributable to either party. At this time the Supreme Court had jurisdiction deciding the issues of appointment of counsel under what I call *Barnes II*. The

granting of the appeal indicated that the action had merit and seeking the determination of the issue that controlled the decision in *Barnes I* was a valid reason which justified this appropriate delay. Accordingly, this time period is neutral.

Next, the period of July 1, 2015 through July 27, 2015 is 1 month that is attributable to the State. This is the period of time from the denial of appeal to Mr. McGuire's order of protection. The Supreme Court had issued the denial of State's appeal, so that period of waiting for the denial of petition for rehearing falls on the State. However, this does not rise to the level of a deliberate attempt to delay trial as a means to hamper the defense, so it is weighed less heavily against the State.

July 27, 2015 through August 10, 2015 is a two week period that I find are not attributable to either party. During this time, Mr. McGuire is under protection at the same time the Supreme Court retained jurisdiction. Both parties, are in part, responsible for the delay during this period. Accordingly, I find that this time period is neutral.

August 10, 2015 through December 16, 2016, a period of 1 year and 4 months is attributable to the Defendant. The Defendant's requested attorney, Mr. McGuire, was under an Order of Protection issued by the Supreme Court. The Defendant chose to retain Mr. McGuire while knowing that he had protection. The court is mindful of the importance of a defendant having counsel with whom there is confidence, but that the delay is attributable to the accused must be weighed against him.

From December 16, 2016 through October 9, 2017, is a time of 9 months and 3 weeks. This period is attributable to the State and encompasses the time from the Order lifting protection until trial. Setting the case for trial is ultimately the responsibility of the State, but there is absolutely no evidence indicating that there was any deliberate attempt

to delay the trial, so this period of delay, if it weighs at all, weighs only slightly against the State. On the record both sides have been very clear that this was a very productive period of time. Ultimately, Barnes benefited from this period of time in that the notice of the death penalty was withdrawn on July 7, 2017. This provides clear evidence that the State was genuinely considering the decision of whether to seek the death penalty during a period in which the new solicitor was starting his term in office. It was a legitimate reason for delay and Barnes benefitted from this delay. Further, it allowed a period of time for Mr. McGuire to begin to have time to focus on the case. Defense counsel has acknowledged that they were using this time to adequately and thoughtfully prepare for what was then scheduled to be a capital case. The justifications for this delay that have been asserted by the State are supported by evidence, and there is nothing on the record to suggest that there was an intentional attempt to delay the trial in order to hamper the defense. Therefore, under the *Hunsberger* analysis, if this factor has to be attributed to one side or the other, it weighs only slightly against the State.

Addressing the other factors, the Defendant first asserted his right to a speedy trial under the United States and South Carolina constitutions on August 14, 2017 with the filing currently before this Court. Earlier, I addressed the filing in 2015 after Barnes was appointed counsel. Given a broad reading, it might be argued that the issue was raised in that letter to the Clerk's office. Barnes was represented by counsel at that time and may or may not have been was aware of that fact. In any event, that issue was never ruled on by the Court as a constitutional speedy trial motion, nor was it addressed as such at trial. Barnes alleges that he asserted this right four times, but that proposition that the constitutional claim made under the IAD was an assertion of a constitutional right is

flawed. Without a contemporaneous constitutional claim, the assertion under the IAD is just that, an assertion of a statutory right. When both the IAD and the constitutional speedy trial right was asserted by the defendant in *State v. Allen*, 269 S.C. 233237 S.E.2d 64 (1977), the Supreme Court analyzed each claim independently under their respective tests. On the contrary, in *Barnes I* the court only analyzed the IAD claims asserted by Barnes indicating that there was no constitutional speedy trial claim before them. Therefore, the Defendant's initial assertion and renewal of his IAD claim do not constitute an assertion of his constitutional right to a speedy trial.

Next, South Carolina does not allow hybrid representation. Barnes had counsel appointed to him on September 1, 2005, so pro se motions filed after this date were done so improperly. I have previously addressed the September 2005 letter. Therefore, none of the instances noted by the Defendant constitute a valid assertion of the right to a speedy trial under the constitution. Even if any of those instances were interpreted to constitute the required assertion, all occurred before the original trial and subsequent trials. The issue was never raised before the court, but was available to be raised in those proceedings and should and could have been raised at those times. Barnes failed to so and thus preserve the issue. Because of this failure, the only motion for a speedy trial that can be considered today is the one filed on August 14, 2017.

Like the other *Barker* factors, assertion of the right is neither necessary nor sufficient to determine whether a defendant is entitled to relief; however, it is entitled strong weight in determining whether the accused is being deprived of the right. See *Barker v. Wingo*, 407 U.S. 514, 519, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972). Barnes' failure to assert the right until shortly before a trial date that had already been set makes it more

difficult for him to carry the burden of proving that he was denied a speedy trial. That is because his desire for a speedy resolution was not expressed until less than 2 months before a resolution was to be reached. This silence of more than 3 years goes to the weight of this factor. Because the Defendant only asserted his right to a speedy trial once, after a trial date had been set, and shortly before that trial was to commence, this factor weighs neutrally in the Court's analysis.

Both actual and implied prejudice will be considered, as both can support a speedy trial claim under *Hunsberger*. Barnes ask this court to consider the prejudices discussed in *Hunsberger*. That is not appropriate. This is a retrial. *Barnes I* was tried in 2010, some two years before the *Hunsberger* trial was had and the reality is that for this trial Barnes has the benefit of the testimony from the *Hunsberger* trial. Any statements that would have been given and in the event there is a divergence of prior testimony, the ability to cross examine those witnesses with no less than three opportunities for individuals to testify under oath is a benefit. As I understand it, the witnesses are the same or nearly the same for this case as in the *Hunsberger* trial. As for actual prejudice, this court finds that while the issue of discrepancies in testimony found in *Hunsberger* could possibly present itself in the present case, the defense is aware of such possibilities and has the benefit of record from past statements and trials. These can be used to anticipate responses and, if necessary, impeach a witness whose testimony contains a discrepancy harmful to the defense. Defendant's reliance on the actual prejudice shown in the *Hunsberger* case does not account for the circumstance here.

Additionally, there has been no presentation to me that there are witnesses who could not be reached, or who are not available that were available, and are needed for this

trial by the defense. Obviously, if witnesses are unavailable there is the testimony from the previous trial.

The Defendant also contends that the time spent in SCDC as a Safekeeper represents actual prejudice due to the restrictions imposed upon inmates with this classification. While this court recognizes the inherently prejudicial effect on any incarcerated individual, including Mr. Barnes, of public accusation of a crime and the time spent in jail awaiting a trial, as these are among the serious negative impacts sought to be minimized by the right to a speedy trial; the fact that Mr. Barnes is incarcerated on another offense is immaterial to the fact that these prejudices attach to him as he awaits trial. However, as for the specific allegation that his Safekeeper status results in increased prejudice, it should be noted that Barnes attained such status at the request of the Edgefield County Sheriff due to a laundry list of infractions accrued during Barnes incarceration, including but not limited to, assault, possession of a weapon, and throwing bodily fluids.

ALTERNATIVE ANALYSIS

While the court maintains that all issues involving speedy trial and IAD Act claims were either disposed of in the original *Barnes* trial and subsequent appeal or not preserved by the Defendant, the Court recognizes that the assertion of speedy trial rights after a conviction has been entered and then overturned on appeal is a novel legal issue in South Carolina. Therefore, this Court will consider speedy trial analysis with the assumption, arguendo, that failure to raise a constitutional speedy trial claim did not result in a failure to preserve the claim. If that is the case, an analysis should begin with the date when Barnes was "indicted, arrested or otherwise officially accused," then the analysis of the *Barker*

factors would change in some ways. Unless otherwise indicated, the analysis for the period beginning January 31, 2014 remains unaffected.

ALERNATIVE TIMELINE

On January 25, 2002, the Defendant was arrested for murder. On March 7, 2002, extradition was sought by the State of South Carolina and the Defendant waived his right to fight extradition. In December 2003, the Defendant was convicted and sentenced for his offenses in Georgia. In January 2004, the Defendant was transferred to the Georgia Department of Corrections. December 2004 through January 2005 was when Barnes' first claim under the IAD Act was filed. May 18, 2005, the Defendant was extradited to South Carolina and the arrest warrant served. On May 25, 2005, Barnes had his first hearing in South Carolina, notice of intent to seek the death penalty was discussed and the IAD claim was submitted to the court. On May 27, 2005, the circuit court issued Order denying the IAD claim. September 1, 2005, the trial court appointed Robert Harte as lead counsel for Defendant. On September 8, 2005, the Defendant renewed his IAD objection in a written pro se motion filed with Edgefield Clerk of Court and served on the State. October 31, 2005, the South Carolina Supreme Court issues an order designating Judge Maddox with jurisdiction. On November 18, 2005, the Defendant filed a pro se document with the Edgefield Clerk of Court renewing his IAD claim and making speedy trial request and to do that was hybrid representation. December 13, 2005, Barnes was served with written Notice of Intent to Seek Death Penalty. On February 8, 2006, the Court appointed David Tarr as co-counsel. May 16, 2006, the trial was scheduled for January – February 2007 at a court hearing. On March 12 through the 13, 2008, the Defendant was tried on an unrelated charge. April 17, 2008, a court order setting the capital trial for the June 2008

term was filed. On May 13, 2008, there was a court order continuing the case from the June 2008 term upon request from defense counsel for a continuance. The subsequent order issued by the court in that May time period concerned the court assisting the defense in requesting cooperation from the Georgia Department of Corrections in allowing a defense investigator access to incarcerated witnesses. This indicates to this Court that very clearly that defense counsel's request for a continuance was borne out in the need for further investigation.

January 25, 2010, the Supreme Court issuesd an order designating Judge McMahon with jurisdiction and rescinding the prior order as to Judge Maddox because of a conflict created by the defense in retaining an expert. I do not believe that the retaining of the expert was in any way planned by the defense as a way to recuse Judge Maddox.

November 8 through 17, 2010, was the trial and conviction of Barnes for capital murder and the sentence of death. This was followed by an automatic appeal to the Supreme Court. On January 15, 2014, the Supreme Court issued its decision in *Barnes I* that reversed Defendant's murder and kidnapping convictions, vacated the death sentence, and declined to reverse the trial court's determination that the Defendant had waived his speedy trial rights under the IAD statute.

The alternate timeline would continue as outlined above previously.

TRIGGERING FACTOR, LENGTH OF DELAY, and REASONS FOR DELAY ALTERNATIVE ANALYSIS

Under this analysis, the period from March 2002 until a trial date in October 2017 represents a 15 and one-half year delay of which the state is responsible for 3 years and 9

months. This is clearly presumptively prejudicial thus triggering the analysis of the *Barker* factors among the totality of the circumstances.

January 25, 2002 through May 13, 2008, a period of 6 years and 4 months is attributable to the Defendant. By requesting a continuance, the Defendant waived his right to dismissal of the charges under a speedy trial claim. The Supreme Court in *Barnes I* ruled that this was the effect on Defendant's IAD claim. Although the two types of speedy trial claims are not analyzed the same, the fact that a continuance was sought necessarily reflects that the defense was not ready for trial. I find that the defense was not ready for trial, but under case law it is clear that when there is a request for continuance that there is a waiver of the dismissal request under speedy trial for the period up to the present or continuously. This doesn't mean that the constitutional right is gone, but that at that time the right to have the charges dismissed is waived. The Defendant's waiver results in a delay attributable to the Defendant and must be weighed against him.

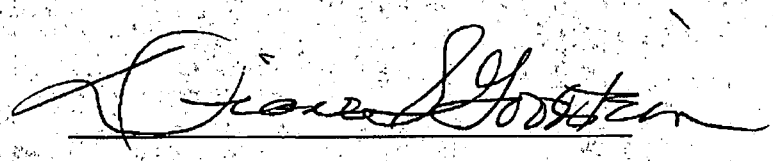
From May 14, 2008 through November 2010 is eighteen (18) months attributable to the State. This is the time between Defendant's continuance and the trial. There is absolutely no evidence that the State intentionally delayed the trial during this period, but ensuring that the trial proceeds is ultimately the State's responsibility. Both sides were using this time to prepare for trial, so this period of delay weighs slightly against the State. However, clearly at this point in light of Judge Maddox's order, there are many witnesses that the defense had yet to interview.

November 2010 through January 31, 2014, there is no delay attributable to either party. This is the time period covering the Defendant's trial and the direct appeal to the

Supreme Court. The underlying trial and the automatic appeal which follows all capital convictions constitute a valid reason for this delay.

Having been through this alternate analysis, even assuming that this is the way the Court should proceed, which I do not believe as discussed above, and mindful of the *Hunsberger* decision, I do not believe that based on the totality of the circumstances that the speedy trial right of the Defendant was violated.

IT IS THEREFORE ORDERED that the Defendant's motions to dismiss are hereby denied.



The Honorable Diane Schafer Goodstein

Circuit Judge

November 13, 2017

St. George, South Carolina

WITNESSES

Edgefield County Sheriff's Department

Chief Inv./Lt Randy Doran

Law Enforcement Case #:

SRH

ARREST WARRANT NUMBER

E17-STR-0016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: OCT 4 2017

VERDICT

Guilty

Foreperson of Petit Jury
Date: 10-13-17

868

DOCKET NO. 2017GS1901788

The State of South Carolina

County of Edgefield

COURT OF GENERAL SESSIONS

OCTOBER TERM 2017

THE STATE
vs.

Steven Louis Barnes

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010

S.R. Hubbard III, SOLICITOR

868

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR MURDER
	)	
COUNTY OF EDGEFIELD	)	
	)	§ 16-03-0010

At a Court of General Sessions, convened on OCTOBER 2017, the Grand Jurors of Edgefield County present upon their oath:

That **Steven Louis Barnes** did in Edgefield County on or about September 3, 2001, feloniously, willfully and with malice aforethought, whether acting alone or in concert with others, kill one Samuel J. Sturrup by means of shooting him and that the said victim, Samuel J. Sturrup, died in Edgefield County as a proximate result thereof, in violation of the Common Law and as defined, in Section 16-3-10 of the Code of Laws of South Carolina, as amended, with punishment provided for in Section 16-3-20 of the Code of Laws of South Carolina, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR

870

STATE OF SOUTH CAROLINA)
COUNTY OF Edgefield)
STATE VS.)
Steven Louis Barnes)
AKA:)
Race: Black Sex: M Age: 38)
DOB: [redacted]1978 SS#:)
Address: [redacted] Cairo Court)
City,State,Zip: Augusta, GA 30906)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS1901788
A/W#: E17-STR-0016
Date of Offense: 12/6/2005
S.C. Code §: 16-03 0010
CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐PLEADS
TO: Murder / Murder

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ 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:
Sol. Kirkland — Solicitor — SC Bar# — Jeff Olson / Bob McGuire — Defendant — Attorney for Defendant — SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of Life Without The Possibility of 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: _____
☐ 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐**RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **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	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 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		$ 128.75

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
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: Mr. Barnes's detainer in Ga occurred on 2-12-2002; He was extradited to SC on 5-25-2005

☐ Appointed PD or appointed other counsel,
§Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: Charles L Reel
Court Reporter: Stacy S. Johnson
Presiding Judge: Grace A. Gosnell
Judge Code: 2112
Sentence Date: Oct 13, 2017

SCCA/217 (07/2016)

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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of March, 2019.

RECEIVED
MAR 05 2019
SC Court of Appeals