

**ORIGINAL
VOLUME SIX OF SIX**

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY

Edward W. Miller, Circuit Court Judge

RECEIVED

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

FREDRICK ANTONIO EVINS,

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1 A Yes. But he later told me, yes, that's correct.

2 Q That's kind of my point. How do you know?

3 A Yeah. It's very difficult to know. That's what
4 created concern and questions for me.

5 Q You have some experience in the criminal justice
6 system; correct?

7 A Yes, sir.

8 Q Some post-conviction relief experience?

9 A A little bit.

10 Q Have you ever watched a guilty plea?

11 A Like this one here?

12 Q No. This is a trial. Have you ever seen the
13 Defendant go before a Judge --

14 A Oh, for a plea bargain, yes.

15 Q Not necessarily a plea bargain, but for a guilty
16 plea?

17 A Oh, yes, sir.

18 Q It is like if I were to walk in front of Judge Miller
19 and plead guilty to a crime. Have you ever observed a
20 defendant plead guilty?

21 A Yes, sir, I have.

22 Q Would you agree that there are a series of questions
23 that are asked?

24 A Yes, by the Judge.

25 Q Do you think it shows some level of reasoning to be

1 able to answer those questions?

2 A There should be, and that's part of the reason for
3 doing that.

4 Q Have you ever seen Miranda warnings being given to a
5 suspect?

6 A Yes, sir.

7 Q Would you agree with me that it shows some level of
8 reasoning to understand Miranda warnings?

9 A They must.

10 Q Did you talk to any of the defense attorneys that
11 have represented Fredrick Evins in the past?

12 A No, sir, I have not.

13 Q There is -- as you testified, there is nothing about
14 borderline intellectual dysfunction that causes people to
15 commit crimes?

16 A No, sir.

17 Q There is nothing about fetal alcohol syndrome --
18 which I don't believe you have diagnosed him with?

19 A No, sir, I have not.

20 Q But it came up Wednesday during the testimony.
21 There's nothing about fetal alcohol syndrome that causes
22 people to commit murder, rape, and kidnapping?

23 A That's correct.

24 Q There's nothing about attention deficit disorder that
25 causes people to commit murder, rape, and kidnapping?

1 A That's correct.

2 Q Dr. Martin, I believe you mentioned to the jury that
3 he had a Weschler Intelligence quotient score of 67?

4 A That's correct.

5 Q When was that test administered?

6 A September 28th of this year.

7 Q A couple of months ago?

8 A Yes, sir.

9 Q Did you tell the jury that he had taken previous
10 intelligence quotient tests?

11 A Of different varieties, yes.

12 Q Did you give them the scores?

13 A Yes, I did.

14 Q You're sure?

15 A Well, I repeated them in here.

16 Q Okay. Would you agree with me that he was an 83 in
17 1986?

18 A He had an 84.

19 Q That was another one. This was an 83 that was
20 administered in prison in 1986.

21 A No. I did not mention that.

22 Q He had an 83, an 84 and two in the mid '70's; right?

23 A I believe so.

24 MR. GOWDY: Thank you, Dr. Martin.

25 THE COURT: Anything on redirect?

1 MS. QUIMBY: Briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. QUIMBY:

4 Q Hi, Dr. Martin.

5 A Hi.

6 Q Lying can be explained -- or can lying be explained
7 by anything else, such as low intellectual functioning or
8 drug abuse?

9 A Well, if there's a change in mental status, what
10 someone tells and what they believe at the time could be
11 distorted. Drug abuse could influence that. The
12 important thing about lying is it's a result of deliberate
13 expression of something that's false. It's conscious.

14 Q Okay. Impulsivity, can that be explained by
15 something or -- can something other than antisocial
16 personality disorder explain impulsivity?

17 A Certainly. People become more impulsive, which means
18 acting out without giving thought to it, whether they say
19 something or act out aggressively. It could be done if
20 someone is under the influence of alcohol or drugs.
21 People with lower intellectual functioning are at times
22 more impulsive as well.

23 Q And what about reckless disregard for people and
24 things, can something besides antisocial personality
25 disorder account for that?

1 A Certainly. The same reasons, lower intellectual
2 functioning, drug abuse, alcohol abuse, those sort of
3 things.

4 Q Okay. What about rationalization of injury to
5 others, is that exclusive to antisocial personality
6 disorder?

7 A No, ma'am, it's not.

8 Q Low intellectual functioning, drug abuse, things like
9 that, those could also have bearing on those factors;
10 correct?

11 A Those type of things can contribute to someone lying,
12 yes.

13 Q Okay. Mr. Gowdy asked you if you were aware that
14 Mr. Evins had specifically denied being physically abused
15 as a child on a prison report; correct?

16 A Yes, he did.

17 Q Have you found in your experience that people who
18 have been abused are eager to disclose that or somewhat
19 reluctant?

20 A They're often reluctant to divulge any kind of
21 abuse and often quite protective of the people who abuse
22 them.

23 Q So if someone were being booked into jail and a form
24 was being filled out and they were being asked such things
25 as what's your name, date of birth, were you sexually

1 abused, were you physically abused, were you -- anything,
2 anything in the world, do you think that being physically
3 abused is something they would jump to answer "yes"?

4 A Not, necessarily, no.

5 Q Did you fully consult with the State's doctors when
6 asked to do so and answer any questions that they had for
7 you?

8 A Yes, I did.

9 Q Did you share information with them?

10 A Yes, we did.

11 Q And you consulted freely back and forth?

12 A I thought it was very colleagueal.

13 Q Mr. Gowdy also asked you about Miranda rights and
14 certain questions that you would need to have some
15 rational thought to answer; correct?

16 A Yes.

17 Q Can certain lines or ways of asking a series of
18 questions, can that imply an expected answer or -- can
19 that imply an answer?

20 A Well, I've seen from different organizations some of
21 these type of questions asked, whether it be Miranda or
22 competency to stand trial and so forth. I mean,
23 individuals will ask them in different ways, sometimes
24 they're leading, sometimes they're not. There's no
25 cookbook answer for that, but sometimes they can be rather

1 leading.

2 Q Okay. And, Dr. Miller [sic], you did not diagnose
3 Mr. Evins with mental retardation the other day, did you?

4 A No, I did not.

5 Q Did you have concerns about mild mental retardation
6 based on low IQ?

7 A In some of the information from the outside sources
8 that I had already received, yes, ma'am, I did.

9 Q So you didn't -- you had already looked at a lot of
10 factors prior to consulting with the State's doctors and
11 interviewing other people and -- whatever the additional
12 things that went on yesterday, had you already looked at
13 most of those factors?

14 A Yes, ma'am, I did.

15 Q And what kind of factors were those?

16 A Well, first of all, the most recent IQ score in
17 regard to that, which was on the edge, the marginal value
18 I have given to the jury. And also the family members and
19 one of the teachers suggested that this is somebody that
20 had fallen through the cracks and had great difficulty.
21 And I thought that was enough to raise concern and that
22 needed to be further explored.

23 Q But as far as other things that would help you come
24 to one diagnosis or another, looking at self-care and
25 things like that, had you already looked into those

1 specific areas?

2 A Yes. And in terms of self-care, the examples that
3 concerned me -- I mean, I may be restating some of the
4 things that concerned me, but he would live in a trailer
5 with no furniture, no lights, and no heat. And it would
6 be cold and it would be stark in there. That kind of
7 behavior creates a concern. And his ability to adapt to
8 certain situations that I examined did not appear to be
9 very healthy as well. So that also fielded a lot of the
10 concerns that I had.

11 Q So you had already looked at some aspects of
12 adaptability?

13 A Yes.

14 MS. QUIMBY: One second, please.

15 (Pause.)

16 BY MS. QUIMBY:

17 Q Based on your evaluation and assessment of Mr. Evins
18 and all the investigation, how sophisticated do you
19 believe that Mr. Evins is as --

20 MR. GOWDY: Your Honor, this was gone over at length
21 on direct on Wednesday. It's not in response to cross.
22 This is another direct examination of this witness, and I
23 object to it.

24 THE COURT: I'm going to let her ask that question.

25 Go ahead. I think it's in response to cross.

1 BY MS. QUIMBY:

2 Q Do you want me to ask it again?

3 A Yeah, you better.

4 Q As far as intellectual functioning, at this time, how
5 sophisticated do you believe that Mr. Evins is as compared
6 to someone of average intellectual functioning?

7 A He is definitely below average and at the borderline
8 of intellectual functioning.

9 Q Do you believe that Mr. Evins is sophisticated enough
10 to tailor his version of events to a specific -- to the
11 elements of a specific crime?

12 A Yes. He may be able to do that.

13 MS. QUIMBY: Thank you, Dr. Martin.

14 THE COURT: Anything on recross?

15 MR. GOWDY: I just want to ask two quick questions,
16 Your Honor, if I may.

17 THE COURT: Okay.

18 RECROSS-EXAMINATION

19 BY MR. GOWDY:

20 Q If I heard you right, you spent 45 minutes with
21 Mr. Evins?

22 A Just prior to this. I saw him last month as well.

23 Q How long did you see him then?

24 A Several hours, three hours.

25 Q And you would agree with me that the reliability of

1 the information you received from your patient has a
2 direct impact on your ability to render an opinion?

3 A It does have an impact, yes, sir.

4 Q If you receive two different explanations for the
5 same incident, that impacts the credibility of information
6 given; correct?

7 A It does make me concerned, yes.

8 Q And if you later learned that both of those
9 explanations were false, that would impact the credibility
10 of the information given; correct?

11 A Yes.

12 MR. GOWDY: Thank you, Your Honor.

13 Thank you, Dr. Martin.

14 THE WITNESS: You're welcome.

15 THE COURT: All right. You may stand down.

16 MS. QUIMBY: Your Honor, the Defense rests.

17 THE COURT: All right. Anything in reply?

18 MR. GOWDY: Your Honor, the State would call Dr. Pam
19 Crawford.

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

22 WHEREUPON,

23 PAMELA CRAWFORD, M.D.,

24 after first having been duly sworn, testified as follows:

25 THE CLERK: Have a seat, please.

DIRECT EXAMINATION

BY MR. WILLINGHAM:

Q Dr. Crawford, my name is Donnie Willingham. I'm another prosecutor here in Spartanburg. I want to ask you just a few brief questions about Mr. Evins.

A Sure.

Q First of all, tell this jury who you are and where you work.

A Okay. I'm a forensic psychiatrist. That means I'm a psychiatrist that specializes in issues to do with psychiatry and the law. I'm in private practice in Columbia, South Carolina. I also work for the South Carolina Department of Mental Health. I'm doing this for the purposes -- for my private practice, but I also work for the Department of Mental Health.

Q And what type of education do you have to allow you to do your job?

A A Bachelor Degree from Emory University in Psychiatry. I got my MD, my medical doctorate at Emory, also. And I did a residency in psychiatry also at Emory. And I've taken boards and am board certified in both general and forensic psychiatry.

Q How long have you been a psychiatrist?

A I started residency in 1988, so that's when I would have started doing psychiatric work.

1 Q And have you been qualified before as an expert in
2 the area of forensic psychiatry?

3 A Yes, I have.

4 Q How many times?

5 A A lot, well over 120, 130 times.

6 MR. WILLINGHAM: Your Honor, at this time, I would
7 offer Dr. Crawford as an expert to render an opinion in
8 the area of forensic psychiatry.

9 MS. QUIMBY: No objection.

10 THE COURT: Any objection?

11 MS. QUIMBY: No objection, no, sir.

12 BY MR. WILLINGHAM:

13 Q Tell this jury what forensic psychiatry is, please.

14 A Forensic psychiatry is a subspecialty of psychiatry.
15 It deals with issues of wherever psychiatry and the law
16 intersect. It can be civil issues. It can be criminal
17 issues. We do evaluations regarding somebody's sanity,
18 and state of mind at the time they commit a crime. It is
19 issues like that.

20 Q And were you asked to do an evaluation of Fredrick
21 Evins?

22 A Yes, I was.

23 Q As part of that evaluation, were you asked to
24 determine whether or not he suffers from mental
25 retardation?

1 A Yes, I was.

2 Q Do you have an opinion with a reasonable degree of
3 medical certainty whether or not he is mentally retarded?

4 A Yes. He's not mentally retarded.

5 Q How do you know that?

6 A By an extensive evaluation. What I did was, we have
7 IQ scores, various IQ scores. We have an IQ score that
8 was recently done. We had IQ scores done when he was in
9 school. And we had an IQ score that was done in the
10 Department of Corrections.

11 Let me say this first. To be mentally retarded, you
12 have to have -- essentially, there's three factors.
13 Number one, you have to have an IQ that's below 70. Okay.
14 You have to be significantly impaired, and that's marked
15 by an IQ score below 70. So that would be the first
16 thing.

17 The second thing is you have to have impairment in
18 what they call adaptive functioning. And that means
19 significant -- it's not enough just to have a low IQ. You
20 have to have significant difficulties in a variety of
21 areas of life to be mentally retarded. So someone can
22 have a low IQ, but not be mentally retarded if they can
23 function well.

24 And the third thing is, you have to have a diagnosis
25 of this before the age of 18, meaning, this has to be

1 documented and seen in the person's early school records
2 or from other information.

3 So what I did was, there was an IQ test that was
4 given recently that had given him an IQ of 67, which was a
5 concern because that falls below 70. So the next step was
6 to examine school records and examine past IQ tests. The
7 reason past IQ tests are important is, you know, if you
8 have a bad day on a test, you can look bad, but you can't
9 make yourself look good. Let me try to explain that. You
10 can get like a 70 on -- someone who's not very bright can
11 get a low IQ score, but they can't fake a good one. Do
12 you understand what I'm saying?

13 It's impossible to look smarter than you, actually,
14 are on testing. So when you've got a low test, you've got
15 to look at other scores and see do they have higher tests.
16 Because that's going to be the more accurate information.

17 So we looked at all these other tests. And the other
18 tests fell within the range that was not mentally
19 retarded. But we looked at that. And then the other
20 thing I had to do was go back and say, okay, so we have
21 these scores, we've got to go back and look at his school
22 records to see was he diagnosed with mental retardation.
23 Well -- because that's essential for the diagnosis.

24 My concern was there was the testimony -- and I was
25 brought into this rather late, but there was some

1 testimony of him falling through the cracks. And there
2 was one teacher interview. So I felt it was very
3 important to make sure he hadn't fallen through the
4 cracks.

5 So what I did is I went and interviewed one, two,
6 three, four, five other teachers who remembered him from
7 28 -- however many years ago, to get more information to
8 see if they could remember who he was, could they read
9 their records to me to see did this kid fall through the
10 cracks. I also interviewed the director of the school
11 district for special education to have her look through
12 the records and help explain to me what these records
13 reflect. And I also talked to the school psychologist.
14 Because I wanted to be certain I wasn't going to miss
15 information about mental retardation at an early age. By
16 doing all these interviews and looking at the information,
17 it was clear to me that there was no evidence of mental
18 retardation before the age of 18.

19 The next thing that I did was we had to look at
20 adaptive functioning. Can this -- is his functioning so
21 poor that he can't do daily kind of living things if it
22 was somebody with mental retardation. And we have some
23 sort of anecdotal information, but I thought it was
24 important to do some standardized testing for that.

25 So what I had is I had a neuropsychologist come,

1 Dr. Ginsberg, and he did specific tests for adaptive
2 functioning. And these are valid tests used over and over
3 and used in these kind of cases. He did those tests and
4 on those tests, Mr. Evins showed to be average or above
5 average in adaptive functioning. So he was nowhere near
6 the range of mental retardation. So even though he had
7 the fairly low IQ score, he's very good in the adaptive
8 functioning.

9 So I also got other information. I interviewed some
10 of his employers. Because somebody who is mentally
11 retarded is going to have difficulties on the job, so it's
12 important to interview employers. So I talked with them.
13 I also was able to get his driver's record, which showed
14 evidence -- and they, actually, sent the actual test where
15 it shows that he read the material and got a certain
16 number of the questions right and passed the driver's
17 test. All that information is crucial to look at when
18 you're trying to determine in a case such as this about
19 mentally retarded. I feel like we've covered all the
20 bases. In addition, I talked to his family and friends
21 and other people.

22 Q So you had Dr. Ginsberg do additional tests?

23 A Yes.

24 Q You talked to family, teachers, employers. Did you
25 review any records?

1 A I reviewed the records -- well, I reviewed records
2 from the Department of Corrections. I reviewed his school
3 records. I reviewed a report by Dr. Brawley. I may be
4 leaving something out. I reviewed employment records.

5 Q And he's not mentally retarded?

6 A He is not mentally retarded.

7 Q Do you have an opinion whether he's competent?

8 A It's my opinion that he's competent, competent to
9 stand trial.

10 Q Competent to stand trial?

11 A Absolutely.

12 Q He understands what's going on?

13 A Yes, he does.

14 Q He understands everybody's role, the Judge, the
15 lawyers, the prosecutors, the jury? He knows what's going
16 on?

17 A Yes, he does.

18 Q And he can assist in his own defense?

19 A Yes, he can.

20 Q Does the Defendant have a mental illness?

21 A The Defendant has -- I would diagnose him with
22 alcohol and cocaine abuse. And let me say why I'm giving
23 that diagnosis, rather than dependence at this point. I
24 have such conflicting information about the actual extent
25 of his use. He, on the one hand, will tell me that he

1 drinks a couple cases of beer a night. The records --
2 sometimes, the Department of Corrections would say that he
3 doesn't drink. I talked with people who have lived with
4 him and girlfriends, they'll say he drinks a beer or two.
5 He told me that within the period of three weeks prior to
6 the events that led to this trial occurring, he hadn't
7 drank at all. But then at other times, he said he was
8 drinking. He said he hadn't used cocaine at all prior to
9 this. Other times, he said he was.

10 I can't get a clear history. Clearly, he has abused
11 these drugs and alcohol, but it's so inconsistent. And I
12 can't get a clear picture from him of what that is. On
13 Axis II -- and I haven't explained that. There's another
14 diagnosis and this is not considered a major mental
15 illness --

16 Q Well, let's stop and deal with Axis I first, which is
17 the cocaine and alcohol abuse?

18 A Cocaine and alcohol abuse. I can't say dependence
19 because I can't get a reliable history.

20 Q Does anything about that diagnosis keep him from
21 knowing the difference between right and wrong?

22 A No.

23 Q Does anything about that diagnosis make him unable to
24 conform his conduct to the requirements that the law
25 requires us to conform?

1 A No.

2 Q Okay. Now, let's go to Axis II, explain to the jury
3 what that is.

4 A Axis I is where you have major psychiatric diagnoses
5 and alcohol dependence. The only one he has on Axis I --
6 he doesn't have a major psychiatric disorder, he has the
7 alcohol and drug abuse. Axis II, that's where you put
8 diagnoses like mental retardation, which he does not have.
9 But also, that's where you put diagnoses of what we call
10 personality disorders. On Axis II, I did give him a
11 diagnosis of borderline intellectual functioning.

12 Let me explain that a little bit differently than
13 Dr. Martin about borderline intellectual functioning.
14 What we have is, you have below average, you have
15 borderline intellectual functioning and you have mental
16 retardation. Borderline intellectual functioning is a
17 pretty big range. We're talking IQ between 70 and 84.
18 Much of his testing is at the high range of that. So it's
19 not like, boy, this is a near miss on mental retardation
20 because, in my opinion, it's not. His testing, actually,
21 is in the high range of the borderline intellectual
22 functioning. Sure, he has some low tests. But, again, we
23 have to go with the highest test because that's when he's
24 giving the best effort. So I gave him the diagnosis of
25 borderline intellectual functioning.

1 I also gave him the diagnosis of antisocial
2 personality disorder. A personality disorder is a
3 lifelong pattern of behavior and ways of acting that
4 consistently causes a person difficulty in their life.
5 There are different personality disorders. It's my
6 opinion that he clearly meets the diagnosis of antisocial
7 personality disorder.

8 Q Do folks with antisocial personality disorder know
9 the difference between right and wrong?

10 A Yes, they do.

11 Q Are they able to conform their conduct?

12 A Yes, they are.

13 Q They just choose not to?

14 A It's a matter of choice. Again, it's not a mental
15 illness in the sense, but it's people who can, but choose
16 not to conform.

17 Q So I want to summarize, he's not mentally retarded?

18 A No, he's not.

19 Q He's not insane?

20 A No, he's not.

21 Q And the only type of diagnosis of any type of mental
22 illness is the substance abuse?

23 A Yes.

24 Q But that would not prevent him from knowing the
25 difference between right and wrong and being able to

1 conform his conduct?

2 A That's correct.

3 MR. WILLINGHAM: I beg the Court's indulgence.

4 (Pause.)

5 BY MR. WILLINGHAM:

6 Q I want to make sure it's clear to me and everybody
7 else.

8 A Okay.

9 Q What's the difference between abuse and dependence in
10 the substance abuse area?

11 A Okay. Substance dependence is greater. There's got
12 to be evidence of withdrawal and it's got to be a more
13 confirmed pattern. I don't have that kind of information
14 to definitively give him that diagnosis. I can't rule it
15 out entirely. All I can say is I can't get a straight
16 story from him. I get different information from friends.
17 I don't know. But, at least, abuse he has.

18 MR. WILLINGHAM: Thank you, Your Honor.

19 Thank you, Doctor.

20 THE COURT: All right. Cross?

21 MS. QUIMBY: Yes, sir.

22 CROSS-EXAMINATION

23 BY MS. QUIMBY:

24 Q Hi, Doctor.

25 A Hi.

1 Q You would agree that -- would you agree that your
2 diagnosis is really -- can really only be as accurate as
3 the information that you receive?

4 A Yes. Information I receive from the sources I
5 interview and from the individual. Yes, that's true.

6 Q Okay. And Dr. Ginsberg is the forensic psychologist
7 who did the standardized testing; is that correct?

8 A That's correct.

9 Q And he -- the standardized testing looked at adaptive
10 functioning?

11 A That's correct.

12 Q And some of those standardized tests were with
13 Mr. Evins?

14 A Yes.

15 Q And some were with other witnesses, other people who
16 know Mr. Evins?

17 A I don't know the details. To be quite honest with
18 you, I know what the tests are and what they're called. I
19 don't know the exact details of the methods that he went
20 into. He did the Vineland test for adaptive functioning.
21 He said that he had -- and I asked him, do you have
22 adequate information to render this opinion, he said,
23 absolutely, and said that this was a valid result.

24 Q Did you know that he only interviewed two people?

25 A And I believe that's what's required.

1 Q Did you know that one of them was Kizzy Smith, who
2 testified against him in this very trial?

3 A Again, I'm not aware of who he evaluated. Again, I
4 said to him, I need you to evaluate people who have known
5 this person. He said that the information and --
6 basically, the kind of questions they're asking is has he
7 used a checkbook, does he clean himself, those kind of
8 questions. And he felt, you know, that he had sufficient
9 information for those tests.

10 Q Okay. So that -- so Dr. Ginsberg would take as
11 accurate the information that he received from the people
12 that he spoke with; correct?

13 A I really can't speak -- honestly, I cannot speak to
14 his exact testing methods. Dr. Ginsberg is a very well
15 respected neuropsychologist. And if he can give me that
16 his opinion is that he has sufficient information, I would
17 go with that. I mean, that's knowing of Dr. Ginsberg and
18 his work. But I can't speak to the specific -- you'd have
19 to ask him the specifics of what went into the evaluation.

20 Q Okay. You testified that you look at the high IQ
21 tests?

22 A You look at all the IQ tests. But you can't fake
23 good, you can have a bad day and look bad. So all these
24 tests have a range of error, potentially, of about five
25 points. So -- and again, so you can look -- I'm not very

1 good at explaining this. You can't look smarter than you
2 are, but you can look dumber than you are on testing.

3 Q But the high tests was when? Do you recall?

4 A I think 1996. I'm not sure. It was in the
5 Department of Corrections.

6 Q Okay. What was the most recent test result?

7 A He had a test -- Dr. Brawley did a test a couple of
8 months ago. I have August of 1996 was the 83.

9 Q Okay. But when was the most recent IQ test?

10 A A month ago.

11 Q And what was that score?

12 A That score was the 67, I believe, or 69 -- 67.

13 Q Okay.

14 A And what concerned me about that, Dr. Ginsberg talked
15 with Dr. Brawley and looked at the information and he was
16 given -- in Dr. Ginsberg's opinion, because Dr. Ginsberg
17 repeated some of his testing, a less than adequate effort.
18 And in talking with Dr. Brawley, there was concerns about
19 the adequacy of effort on that test, the tests he's been
20 given recently.

21 Q Okay. Well, have you been able to review the test
22 scores from Dr. Brawley's assessment of him?

23 A I've seen the printed report.

24 Q Correct.

25 A And I went over that with Dr. Ginsberg, yes.

1 Q And how did he do on the malingering test?

2 A She did not report on the malingering test.

3 Q She didn't?

4 A No, she didn't. She did not include that in her
5 report, which is interesting to me. She didn't include
6 that in her report. Apparently, she told Dr. Ginsberg he
7 wasn't showing malingering. Dr. Ginsberg repeated that
8 test with him and Dr. Ginsberg found that he had -- he
9 wasn't willing to say that he was out and out malingering,
10 but there was inconsistent responding and atypical
11 responding. So he, actually, scored worse on that test
12 than Dr. Brawley said. But her stuff is -- she did not
13 include that in her report.

14 Q Okay. Do you have Dr. Brawley's report with you?

15 A No, I don't. But I'd be happy to look at it.

16 MS. QUIMBY: One moment, please. Your Honor.

17 (Pause.)

18 BY MS. QUIMBY:

19 Q Mr. Boggs -- I mean, Dr. Crawford.

20 A That's okay.

21 Q This is Dr. Brawley's?

22 A That's her report, yes.

23 Q Would that help to refresh your memory?

24 A Yes. She does not give that test. She says -- the
25 only thing she makes reference to, she says, "Assessment

1 of Effort Completely Within Normal Limits. No evidence of
2 malingering on effort."

3 She lists every test, but she does not list the TOMM,
4 which is the test of malingered memory. That's the only
5 test that she does not score and give a report on.

6 Q Okay. Well, I thought that I understood you to
7 testify just a moment ago that there was no indication of
8 her assessment of effort?

9 A No. I said there was no indication of her assessment
10 of malingering.

11 Q Okay.

12 A I said that she -- there's no indication on that
13 report of her assessment of malingering. She said --
14 there's assessment of effort. She said that he wasn't
15 malingering in the effort category, but she did not list
16 on there her test about malingering. Now, if I
17 misunderstood what your question was --

18 MS. QUIMBY: Well, I'll move on.

19 Thank you, Doctor.

20 THE COURT: All right. Anything on redirect?

21 MR. WILLINGHAM: No, sir, Your Honor.

22 Thank you.

23 THE COURT: All right. Dr. Crawford, thank you.

24 MR. GOWDY: May it please the Court?

25 That would be the State's case in reply, Your Honor.

1 THE COURT: All right. Thank you very much.

2 MR. GOWDY: Yes, sir.

3 THE COURT: All right. Madam Forelady, ladies and
4 gentlemen of the jury, I don't guess I went through my
5 five phases of a trial for this second phase of the trial,
6 but it's the same. And you have heard the completion of
7 all the testimony and evidence in the second phase of the
8 trial. And so, at this time, I'm going to excuse you back
9 to your jury room. We need to discuss some matters of
10 law. When we're finished with that, then you will return
11 to hear closing arguments of counsel.

12 All right. Thank you.

13 (WHEREUPON, the jury was excused from open court at
14 approximately 2:09 p.m.)

15 THE COURT: Anything from the State?

16 MR. GOWDY: Not from the State, Your Honor, except,
17 perhaps, a couple of minutes to get ready for closing.

18 THE COURT: Yes. I'm going to give you time to do
19 that.

20 Anything from the Defense?

21 MS. QUIMBY: Not at this time.

22 Thank you.

23 MR. WILLINGHAM: Your Honor, I think we might want to
24 briefly take a minute to put the competency stuff on the
25 record just so it's preserved.

1 THE COURT: I'll allow you to do that. I don't think
2 there's much of a question about it.

3 MR. WILLINGHAM: No, sir, there's not. But I think
4 we probably need to go into a little more detail on each
5 element of competency, but I didn't want to do it in front
6 of the jury.

7 THE COURT: Dr. Crawford, come on around, please.

8 FURTHER DIRECT EXAMINATION

9 BY MR. WILLINGHAM:

10 Q Dr. Crawford, in an effort to determine his
11 competency, did you review the case file on this
12 particular matter?

13 A Yes, I did.

14 Q In addition to all the other things that you laid out
15 to the Court earlier?

16 A Yes, I did.

17 Q Did you determine his social history?

18 A Yes.

19 Q You indicated he had the ability to understand the
20 proceedings that were against him?

21 A Yes.

22 Q Is he able to assist in his own defense?

23 A Yes.

24 Q Does he have the present ability to consult with his
25 attorneys?

1 A Yes, he does.

2 Q Does he have a reasonable degree of rational
3 understanding?

4 A Yes.

5 Q Did you determine whether or not he understands the
6 crimes that he's charged with?

7 A Yes, he does.

8 Q Does he understand the penalties for those crimes?

9 A Yes.

10 Q Did he have any insight on the purpose of the trial
11 and the reason for the possible penalties in this case?

12 A Yes. I can go briefly through that. I mean, he
13 identified his lawyer, he named his lawyer, he said what
14 her job was. He identified the Solicitor by name and said
15 what his job was. I asked him the job of the Judge and he
16 said to balance the scales of justice, which, to me,
17 indicated his understanding of that. He knew the job of
18 the jury. I asked him about this trial. He indicated
19 there was two phases and he named the phases. He talked
20 about sentencing, his understanding of the sentences. I
21 asked him about evidence, which he was able to articulate,
22 and about witnesses.

23 I asked him about his desired outcome in the case and
24 he said he'd rather live in prison for the rest of his
25 life than live on death row. I asked him some more about

1 his desired outcome and he said why he would want life in
2 prison. He said that laws change and you never know what
3 you can come back on, indicating a possible understanding
4 about -- abstract understanding of the legal system and
5 possible appeals or issues. I asked him -- and I do these
6 in all cases involving possible execution, as a penalty.
7 He knew the forms of execution. He had -- I asked him --
8 he understood the finality of death. I asked him, you
9 know, what happens after you die, can you get up and walk
10 around to make sure there was no delusional -- anything
11 delusional with that, and he has a Christian spiritual
12 belief.

13 Q Is there anything else otherwise that I haven't asked
14 about his competency that the Judge needs to know about?

15 A No. There's no evidence of a mental illness that
16 would impair competency.

17 MR. WILLINGHAM: Thank you.

18 . Please answer any questions that they may have or the
19 Court has.

20 THE COURT: Any examination from the Defense?

21 MS. QUIMBY: No.

22 Thank you, Your Honor.

23 THE COURT: I don't believe I have anything for you.

24 Thank you, Dr. Crawford.

25 MR. WILLINGHAM: Thank you, Your Honor.

1 THE COURT: Before we adjourn, just so we're all
2 clear, the Defense had requested that the statutory
3 mitigating circumstance of mental retardation be submitted
4 to the jury. And I don't think that that's appropriate
5 based on all the testimony and evidence that's been
6 presented.

7 MS. QUIMBY: Yes, sir.

8 THE COURT: Okay. Well, then otherwise, I'm going
9 to -- as you go to prepare your arguments, I'm going to
10 charge the statutory aggravating circumstance of the
11 murder being committed during the commission of
12 kidnapping. Secondly, the murder was committed in the
13 commission of CSC in the first degree. Murder was
14 committed -- a third one while in the commission of a
15 larceny with the use of a deadly weapon. And the fourth
16 was the Defendant committed the murder for himself or
17 another for the purpose of receiving money or anything of
18 monetary value.

19 MR. GOWDY: Yes, sir, Your Honor.

20 THE COURT: All right. Mitigating circumstances, the
21 murder was committed while the Defendant was under the
22 influence of mental or emotional disturbance. The
23 capacity of the Defendant to appreciate the criminality of
24 his conduct or to conform his conduct to the requirements
25 of the law was substantially impaired. These are the ones

1 you've requested.

2 MS. QUIMBY: Your Honor, we had -- I think we
3 submitted that prior to some of this additional testimony.

4 THE COURT: Okay. What are you asking -- what
5 statutory mitigators are you asking for?

6 MS. QUIMBY: Your Honor, I think, at this point --
7 one moment, please.

8 (Pause.)

9 MS. QUIMBY: Your Honor, I think that Number 2 and
10 Number 7, murder was committed while the Defendant was
11 under the influence of mental or emotional disturbance.
12 And Number 7, not the age, but the mentality of the
13 Defendant at the time of the crime. I think those are
14 ones that we believe we have shown evidence of. Also,
15 Number 6, although we have covered that at great length, I
16 still think that -- it would be our position that there
17 has been some evidence -- well, there's been evidence and
18 testimony by both doctors of borderline intellectual
19 functioning. And I would submit that a jury could find
20 that.

21 THE COURT: Well, specifically, you're asking for
22 which ones? Numbers 2, 6, and 7?

23 MS. QUIMBY: Yes, sir.

24 THE COURT: How is his capacity -- I mean, where is
25 the evidence of that?

1 MS. QUIMBY: Well, Your Honor, I think there has been
2 testimony by Dr. Martin that due to his diagnosis of
3 alcohol and cocaine dependence, there could be some room
4 for the jury to find that he was effected -- that he was
5 mentally effected by that.

6 THE COURT: All right. And you're not asking for
7 Number 8 or 10?

8 MS. QUIMBY: Number 10, no, sir.

9 MR. BOGGS: No.

10 MS. QUIMBY: We would withdraw Number 8 and Number
11 10.

12 THE COURT: So you really want Numbers 2, 6, and 7?

13 MS. QUIMBY: Yes, sir.

14 THE COURT: All right. And anything that the State
15 wants to --

16 MR. GOWDY: We don't have any objection to Number 6
17 and 7. I've got some concerns about the evidentiary basis
18 for Number 6, but out of a super abundance of caution,
19 taking things in the light most favorable, I don't have a
20 problem with it.

21 THE COURT: All right. So I'm going to submit it.

22 MR. WILLINGHAM: Judge, I have one other matter, and
23 I may be accused of being overcautious.

24 THE COURT: All right.

25 MR. WILLINGHAM: I think the Court probably does need

1 to make a finding on the record, since mental retardation
2 was an issue at some point in this trial, that the Court
3 either does or does not by a preponderance of the evidence
4 find the existence or nonexistence of mental retardation.
5 I think there needs to be a finding by the Court prior to
6 submission to the jury.

7 THE COURT: Well, despite the fact that that motion
8 was never made, I am going to find that he is not mentally
9 retarded by a preponderance of the evidence.

10 And I understand that the Defense is not even going
11 to argue that; is that correct?

12 MS. QUIMBY: That's correct.

13 THE COURT: Now, with respect to arguments, what
14 about your time? How long?

15 MR. GOWDY: Your Honor, I don't recall how long my
16 guilt closing was. I think the sentencing closing is
17 about the same amount of time, maybe a little over 30
18 minutes.

19 THE COURT: All right. From the Defense?

20 MS. QUIMBY: Probably no longer than -- I would say
21 15 minutes, about 15 or 20 minutes.

22 THE COURT: All right. Now, how about Mr. Evins?
23 He's going to address the jury; is that right?

24 MS. QUIMBY: Unless he has changed his mind, he has
25 informed me that he would like to briefly address the

1 jury.

2 THE COURT: Is that correct, Mr. Evins?

3 DEFENDANT EVINS: Yes, sir.

4 THE COURT: How do you intend to present it?

5 DEFENDANT EVINS: I just --

6 THE COURT: Last or --

7 DEFENDANT EVINS: I would just like to --

8 MS. QUIMBY: Your Honor, was the question directed at
9 Mr. Evins?

10 THE COURT: At you.

11 MS. QUIMBY: I think that it would probably be best
12 to have Mr. Evins make his brief statement before I make
13 my closing.

14 THE COURT: Okay. Well, let's take about -- how long
15 do y'all need? 15, 20 minutes?

16 MR. GOWDY: That's more than enough for me.

17 THE COURT: We've got to get this printed out.

18 MR. GOWDY: Do you want us back in here at 35 minutes
19 after the hour or 40 minutes after the hour?

20 THE COURT: Yes. That would be good. Just make it
21 at 20 till.

22 (WHEREUPON, a break was taken.)

23 THE COURT: Are we ready to go?

24 MR. GOWDY: The State is, Your Honor.

25 MS. QUIMBY: Yes, sir.

1 THE COURT: All right. Bring the jury in.

2 (WHEREUPON, the jury came into open court at
3 approximately 2:53 p.m.)

4 THE COURT: Madam Forelady, and, ladies and
5 gentlemen, again, I want to thank you for your service
6 throughout the course of this trial. We are winding down.
7 And, as I told you, in just a moment, you will hear
8 closing arguments from each side of the case. And after
9 that, I will give you my charge on the law. And then you
10 will retire to the jury room to begin your deliberations
11 in this, the second phase of the trial. So please give
12 these attorneys the same attention that you have paid
13 throughout the course of this trial as they make their
14 closing arguments to you.

15 Thank you very much.

16 MR. GOWDY: May it please the Court, Your Honor?

17 THE COURT: Yes, sir.

18 CLOSING ARGUMENT

19 MR. GOWDY: Good afternoon, Madam Forelady, and
20 ladies and gentlemen of the jury.

21 This is the last time anybody representing the State
22 of South Carolina will stand before you in this trial.
23 It's been almost two weeks. I would be remiss if the
24 first thing I did not do was to thank you, as the Judge
25 has, for what has turned out to be extraordinary service.

1 It is difficult serving on any jury. It is especially
2 difficult serving on a murder case. It is extraordinary
3 to serve in a capital case, to be sequestered from your
4 family, to have to see a side of life that, perhaps, you
5 have never seen before, to have to see images like the one
6 that you just saw. I think I speak of behalf of everybody
7 involved in the case when I say thank you for your
8 service.

9 About two weeks ago when we first met, the Judge told
10 you that you would be qualified -- or sought to be
11 qualified for service in a capital case. And each one of
12 you told the Judge and you told each one of the parties
13 that you could give life if you thought that that was the
14 right thing to do, and you could give death if you thought
15 that was the right thing to do. Each one of you has sat
16 in this witness stand where so many witnesses have sat and
17 you said, I can give life if that's what I think this case
18 calls for and I can give death if that's what I think it
19 calls for.

20 The evidence is in. It is now going to be your job
21 to decide what is the proper punishment in this case, for
22 this crime, for this Defendant. I know that it is not
23 easy to sit in judgment of your fellow human beings. It
24 is a daunting task to have to pass judgment on issues as
25 important as life and death. Everyone of you said you

1 could do it. And that's what we've come to.

2 To reach your decision, there are three things that
3 you can consider. You can consider the circumstances of
4 this crime. You can consider the impact that Rhonda
5 Ward's death has had on her family. And you can consider
6 the character of Fredrick Antonio Evins.

7 The State of South Carolina has alleged four
8 aggravating circumstances, four factors that make this not
9 an ordinary murder case. And as the Judge has told you,
10 all murder cases are not death penalty eligible. But for
11 the State to proceed in a capital case, one of those
12 enumerated aggravating factors has to be proven. The
13 State has alleged four: That this murder was committed
14 during the commission of a kidnapping; that this murder
15 was committing during the commission of a criminal sexual
16 conduct, more commonly known as rape; that this murder was
17 committed during the commission of a larceny or stealing
18 with a deadly weapon; and that this murder was committed
19 for the purpose of acquiring money.

20 All of the evidence from the guilt phase is before
21 you now. All of the evidence you found sufficient beyond
22 a reasonable doubt to find this Defendant guilty on all
23 counts is before you now. I'm not going to belabor the
24 point in terms of the State's aggravating circumstances.
25 The State has alleged four. I submit to you that the

1 State has proven four. This murder was committed during
2 the commission of criminal sexual conduct. It was
3 committed during the commission of a kidnapping. It was
4 committed during the commission of a larceny involving a
5 deadly weapon. And the purpose of it was money. The
6 State has alleged and the State has proven four
7 aggravating circumstances.

8 I'm going to move to the next, but before I do, I
9 want to say this, the reason I put that picture up there,
10 as difficult as it is for any of us to look at, is because
11 we cannot lose sight of what brought us to this point.
12 The first witness you heard from was Bill Southerland, way
13 back days ago. Somehow, we wound up in an apple orchard
14 on February 13th, 2003, stripped, naked, on a cold morning
15 with stab wounds in your body. You've already found this
16 Defendant guilty of that murder. I want you to all keep
17 in mind during the rest of this proceeding that that is
18 what has brought us to this point. There has been
19 testimony of other crimes. There has been testimony of
20 the Defendant's background. But do not lose sight of why
21 we are where we are right now, because a mother of three
22 decided to go to work on time, was kidnapped from her job
23 and, in the course of an hour, wound up like you see her.

24 In the guilt phase, the only thing you knew about
25 Rhonda Ward was what Coley Peak and Bill Southerland told

1 you. That's the way our justice system works. You don't
2 know much about the victim in the guilt phase. You know
3 what Coley and Bill told you and you know what David Wren
4 told you.

5 Before I say one more word about Fredrick Evins, I'm
6 going to talk to you about Rhonda Ward. All of our lives
7 people tell us if you do good and if you're nice to others
8 and you work hard and if you mind your own business, good
9 things will happen to you. That advice didn't hold true
10 with Rhonda Ward. Here's a mother of three, single
11 parent, working two jobs. She was a good daughter-in-law.
12 She was a good daughter. She was a good mother to her
13 children. She was a good friend to Rebecca Lathan, who
14 came and said that even when she was working the night
15 shift that Rhonda would come and sit with her because
16 Rebecca didn't want to be alone at a convenience store.
17 Rhonda Ward was a good person. She did not deserve to die
18 the way that Fredrick Antonio Evins left her, stripped of
19 her dignity and stripped of her good-byes. What had
20 Rhonda Ward done to deserve that?

21 We live in a culture that is so full of death. If
22 you flip on the television, you'll see it. If you flip on
23 the radio, you'll hear about it. And we go to the movies,
24 we'll see it. It's in cartoons. It's in adult shows. We
25 live in a culture that is obsessed with death. I think

1 sometimes we become desensitized to the fact that death is
2 final. We can come back from injury. We can come back
3 from robbery. We've even seen women like Candy Hill that
4 have come back from rape, but you cannot come back from
5 death.

6 Whatever Rhonda Ward said to her children when she
7 dropped them off at the bus stop on February the 13th is
8 just going to have to be the last thing they ever heard.
9 And whatever Rhonda Ward said to her mother is the last
10 thing she's ever going to say to her mother. And don't
11 you know that Rhonda Ward never thought that 6:30 phone
12 call to Rebecca Lathan on February the 13th would be the
13 last phone call she'd ever make. Because I promise you,
14 it wouldn't have been to Rebecca Lathan. It would have
15 been to her children. So when that little six year-old
16 girl starts singing to her momma, she's going to have to
17 understand that momma ain't going to sing back because
18 death is final.

19 And I couldn't help but think this morning, as sad as
20 it was for me to see Fredrick Evins' two brothers come in
21 here and beg for his life, that, at least, he got to see
22 him. And his daughter came in here and he got to see her.
23 And whatever Rhonda Ward did on the 13th of February, it's
24 just going to have to be enough because the people sitting
25 over there are not going to see her again. Death is

1 final.

2 You think of Rhonda Ward and the circumstances
3 surrounding her crime and you think about walking across a
4 frozen field to an apple orchard on the other side of the
5 county. At some point, she realized I'm not going to ever
6 see my children again. I'm never going to see my mother,
7 my mother-in-law. There is no retreat from death. Those
8 are the circumstances surrounding this crime. That's the
9 character of Rhonda Ward.

10 And I want to talk to you about the character of
11 Fredrick Antonio Evins. And I want to read it to make
12 sure that I get it right. "I'm not this type of person
13 that would commit this type of crime. I'm not a dangerous
14 person to society. I've never encountered something like
15 this." And now, you know the rest of the story. That's
16 what you heard during the guilt phase, not capable of
17 this.

18 The road of destruction for Fredrick Evins began with
19 an 18-year-old girl named Candy. Candy wanted to
20 celebrate her birthday with some friends. And this
21 Defendant -- she went outside to get some cigarettes and
22 this Defendant put a gun to her side, took her off into
23 the woods and raped her, not once, but twice. She was an
24 18-year-old girl. He was convicted of criminal sexual
25 conduct and she bravely came in this courtroom and told

1 you what he did to her. It's in the woods. It's cold.
2 It's Fredrick Evins raping a woman. Does that sound
3 familiar?

4 And then we move to Geneva Greene, who was minding
5 her own business in a parking lot. And this Defendant
6 comes up and puts his fist to her face and takes her
7 money. It's Fredrick Evins taking money that doesn't
8 belong to him from a woman. Does that sound familiar?

9 And then we move to Grover Berry, the man that talked
10 kind of fast that I had trouble keeping up with. He works
11 at Sally Foster gift wrap. He was minding his own
12 business in a trailer. He walks outside to say, what's
13 going on, and winds up with a cut on his neck and a cut on
14 his ear. There is Fredrick Evins taking out his
15 frustrations on somebody else with a knife. Does that
16 sound familiar to you?

17 And then there's Kimberly Clark who came down from
18 West Virginia. She was minding her own business in a
19 trailer that she shared with her ex-husband. Fredrick
20 Evins comes in -- and I'm not going to repeat what he
21 said, but you heard what she said. And he gropes her and
22 he assaults her and he threatens her with a knife and her
23 clothes are ripped off and she manages to get away. And
24 she runs to a neighbor's house. That's Fredrick Evins
25 assaulting a woman with a knife. Does that sound

1 familiar?

2 Now, the Defense brought Ms. Aiken in today. They
3 finally were able to find a woman that Fredrick Evins was
4 nice to. That's great. That's wonderful. She's lucky.
5 Annice Statin was not lucky. Annice Statin wants a ride
6 to go get some cigarettes. And I remember her voice.
7 Although it was a few days ago, I remember the
8 distinctiveness of her voice as she described wondering
9 why isn't he stopping there? I wonder why he's passing
10 that store? Why is he going on? Why is he keeping on
11 driving? And he kept saying, well, I've got to do this
12 and I've got to do that and I'm headed this and I'm headed
13 there. And they pull off Frye Road and he rips her out of
14 the car and he takes her into the woods and beats the ever
15 living hell out of her, so bad that her eyes are red, with
16 scratches all over her body. And he chokes her into
17 unconsciousness and leaves her in near freezing weather
18 naked. Now, I ask you, a woman in the woods, sexual
19 assault, left without even a coat to cover up with, does
20 that sound familiar?

21 And then we move to Demaris Huff. A lady in the
22 prime of life. I say that because this Defendant is no
23 respecter of age. He is no respecter of race. He is no
24 respecter of sex. There's been men. There's been women.
25 There's been girls like Candy Hill. There's been young

1 mothers like Rhonda Ward and Annice Statin. There's been
2 men like Grover Berry. And there were women in the prime
3 of life like Demaris Huff, who just wanted to go for a
4 morning walk. Just a walk. Just go for a walk. A few
5 hours later, she's dead. She's naked except for her
6 socks. And this Defendant's semen is in her anus. One in
7 ten quadrillion. Does that number sound familiar? That's
8 the exact same number we got from Rhonda Ward's vagina.

9 So we go from Candy Hill and Geneva Greene and Grover
10 Berry and Kimberly Clark and Annice Statin and Demaris
11 Huff. There is a path of destruction, ladies and
12 gentlemen, that doesn't discriminate. And it culminates
13 on February the 13th on Gano Road with another sexually
14 assaulted woman with no clothes, who's dead. One in ten
15 quadrillion again.

16 You're entitled to know the circumstances of this
17 crime. You're entitled to know the impact that Rhonda
18 Ward's death has had on her family and friends. And
19 you're entitled to know the character of Fredrick Antonio
20 Evins. And you got it. 20 years of taking what he wants
21 when he wants it from whoever he wants to take it from.
22 And then when he's caught, he lies about it. And he
23 minimizes his conduct and he blames the victim. Rhonda
24 stabbed herself. Do you remember? You want the character
25 of Fredrick Antonio Evins, you've got it.

1 Mental health is a serious issue. There are people
2 that suffer from mental illness. There are people that
3 are mentally retarded. There are people who suffer from a
4 wide range of issues. But you had two experts come in
5 here this morning and tell you this Defendant is not
6 mentally retarded. But, ladies and gentlemen, you heard
7 him testify Sunday. You heard him tailor his testimony to
8 fit the jury instruction that he wanted you to have,
9 voluntary manslaughter. You already knew he wasn't
10 mentally retarded.

11 And then we move to borderline intellectual
12 functioning. And the experts tell you there's nothing
13 about that that causes you to do what this Defendant has
14 done. There are scores of kids in any direction of this
15 courthouse you want to walk that have grown up poor, that
16 have grown up in single family households, whether it's
17 abuse, whether it be alcohol or drugs, and they're not
18 sitting over on this side of the courtroom. Learning
19 disabilities are real and they cause us to feel sympathy.
20 But they can never -- they should never ever excuse what
21 he has done, because there are scores of people who don't
22 do this.

23 I couldn't help but be impressed with James Evans
24 this morning. He's 16 years old and goes off to Job Corp.
25 He's got a wife and family and lives down in Atlanta. The

1 same household that Fredrick Evins grew up in. Willy
2 Collins. Perhaps, his path has not been quite as smooth
3 as his brother, James, but nevertheless, he's working. He
4 hasn't committed anywhere near the type of crimes that
5 Fredrick has. There's three people out of the same
6 household and only one is on trial for his life in front
7 of you.

8 I asked James, were there other kids in the
9 neighborhood that had difficult times, too, and he said,
10 yes. But you already knew that. There are kids all over
11 Spartanburg, there are kids in and out of Principal
12 Philbeck's school, there are kids in worse circumstances
13 than what he grew up in and they haven't killed anybody
14 and they haven't raped anybody and they haven't kidnapped
15 anybody. Sympathy, yes. Excuse, no.

16 In just a few minutes, one of his attorneys is going
17 to stand up in front of you and they're going to ask you
18 for mercy. They're going to ask you for mercy on behalf
19 of Fredrick Evins. My question to you is this, why is it
20 that the people that ask you for mercy are never willing
21 to share it with anybody else? Where was the mercy for
22 Rhonda Ward? Where was her mercy? How about Demaris
23 Huff? Where was the mercy for her? Annice Statin and
24 Candy Hill and Kimberly Clark? Why is it that people that
25 stand in front of you and beg for mercy can never show it

1 to anybody else?

2 Have you ever stood in front of a school on the first
3 day of school, especially the elementary school, and you
4 see the children walk in there. And you see the moms and
5 dads and grandparents and Mimi's and Popa's and Nana's.
6 And you see the hugs and the kisses and the tears and the
7 glances backwards to make sure that mom and dad are still
8 watching. It's a beautiful sight. And that's good-bye
9 for a day. That's what people that love one another go
10 through just saying good-bye for a day. I want you to
11 imagine saying good-bye forever, saying good-bye to your
12 three children, the momma, the mother-in-law, and the
13 friends.

14 Death is a constant in our society. It's going to
15 reach everyone of us at some point. None of us will ever
16 be immune from the grip of death. And it's not death that
17 scares us. We know it's coming. It doesn't scare us.
18 It's the way we die that scares us. Because sometimes
19 death comes gently knocking on the door in the later years
20 of life, when we're in our 70's or 80's or even our 90's.
21 And death will come and it will knock gently. And it will
22 give us a chance to get our affairs in order. We say
23 goodbye to our family. We get the state of our soul where
24 we want it. And then sometimes death comes in and kicks
25 in the front door of our life and you ain't even got time

1 to say a prayer. Fredrick Antonio Evins has kicked in the
2 front door of two women's lives and he has altered the
3 course of scores of others. Death doesn't scare us, it's
4 how we die. It's dying alone, naked, without saying a
5 word to any of the people we love.

6 There are two ends in the spectrum. On one end,
7 there's mercy and we all need mercy. We all experience
8 mercy. We've all been beneficiary of mercy. This
9 Defendant has experienced and tasted mercy. It comes in
10 many different forms. It can come in the form of a fourth
11 grade teacher that loved you enough to spend extra time
12 with you. It can come in the form of God blessing you
13 with a daughter. It can come in the form of short prison
14 sentences and removes you that could have gone longer. It
15 can come in the form of dismissed charges for criminal
16 conduct. This Defendant has experienced mercy and it did
17 not take.

18 I'm not going to stand on this side and ask you for
19 mercy for somebody that would not show it to anybody else.
20 But nor am I going to walk down here on the end of
21 vengeance, an eye for an eye, a tooth for a tooth. I'm
22 not going to ask you to take him out into a wooded field
23 off of Gano Road and do to him what he did to Rhonda Ward.
24 I'm not asking you for vengeance. I'm not going to ask
25 you for mercy. I'm going to stand in the middle on a rock

1 called justice and I'm going to tell you that for too long
2 this Defendant has taken too much from too many people.
3 It's been 20 years of taking from too many people. I
4 stand on a rock called justice and I tell you that there
5 are some crimes that you, as the collective conscience of
6 this community, cannot accept and you cannot tolerate. I
7 stand on a rock called justice and I tell you that just
8 because taking a life doesn't mean that you forfeit your
9 own, but there comes a point in time where enough is
10 enough.

11 This is the last time that anybody from the State of
12 South Carolina will stand before you. It's time for me to
13 sit down. My time is up. I keep having this thought that
14 I haven't done a good enough job of telling y'all what
15 kind of a person Rhonda Ward was. Because when I sit down
16 and my voice goes quiet, I'm afraid that Rhonda Ward's
17 voice is going to go quiet, too.

18 In different spots across our land tonight, there
19 will be people that go to bed bound in tragedy by one
20 common trait, their lives crossed paths with his.

21 From Candy Hill to Kizzy Smith, from Annice Statin to
22 Grover Berry, from Demaris Huff to Rhonda Ward. There are
23 families going to bed bound forever by the tragedy of
24 their loved ones coming into contact with Fredrick Evins.
25 And I tell you that it is time for that to stop. I ask

1 you, as the collective conscience of this community, as
2 the judge in this case, for justice to fill this courtroom
3 that you come back in and for you to sentence this
4 Defendant to the sentence that he has earned for the last
5 20 years.

6 THE COURT: All right. Mr. Evins.

7 DEFENDANT EVINS: I would like to address the jury at
8 this time.

9 I would like to say that I'm very, very sorry for
10 causing the sorrow and pain of many others. And I just
11 hope and pray for mercy.

12 Thank you.

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

14 THE COURT: Ms. Quimby.

15 MS. QUIMBY: Madam Forelady, and, members of the
16 jury, I, too, want to thank all of you for your service in
17 this case. I know this has been a long and difficult
18 trial for everyone. And we all thank you very much.

19 When I stood here at the beginning of the sentencing
20 phase, I told you that we would be giving you information
21 about Fredrick Evins, just information, not meaning to
22 excuse or justify anything. It's just information so that
23 you can make an informed decision. You have a very, very
24 difficult decision ahead of you and I don't think that any
25 of you take it lightly. So I appreciate that as well.

1 You heard the testimony of Dr. Tom Martin, both the
2 other day and today. He testified about Fredrick's
3 alcohol use, cocaine use, crack cocaine use, abuse and
4 dependence over a period of many years from a very young
5 age. It has continued throughout his adult life.

6 Both Dr. Martin and Dr. Crawford agree that they both
7 believe that Fredrick has low intellectual functioning.
8 He is a border line intellectual functioning individual.
9 His mind -- his thought processes are somewhat disjointed.
10 And, again, I'm not standing here to excuse or justify
11 anything. I'm providing you with information about
12 Fredrick Evins.

13 You also heard from Dr. Martin that, in addition, to
14 the addictions and the low intellectual functioning and
15 borderline intellectual functioning, you heard that he had
16 no real or consistent positive adult role model in his
17 life. The closest thing being a teacher that he had 25
18 years ago. He had a brother who he looked up to -- well,
19 we can imagine that he did because his brother did well.
20 His brother excelled. His brother had ambition. His
21 brother did well for himself. James Evans did fine in
22 school. I think he testified that Fred did a lot worse
23 than he did. So I think there's a difference there
24 between James and Fred. They did grow up in the same
25 house, but there is a difference.

1 He didn't really have anybody to say, hey, Fred,
2 that's not the right way to live, that's not the right way
3 to do things. When he was a child, he had a teacher that
4 worked with him a little bit extra in the fourth grade.
5 He was reading at the second grade level. He would go
6 home to a mother, who, if she were drinking that day,
7 would whip him, spank him, however you remember the
8 testimony being. There was a stepfather that some people
9 described as being married to the mother, some people
10 weren't sure. And those were Ms. Evans own children that
11 didn't know.

12 Fred didn't just have a disjointed thought process,
13 he had a disjointed family. He had a disjointed small
14 world. He didn't have any friends -- any real friends to
15 speak of when he was a child, teenager, adult, none that
16 we've heard about. Just because somebody doesn't have a
17 lot of friends growing up doesn't mean that that justifies
18 or excuses anything or that you should necessarily feel
19 sorry for him. Again, it's just information about
20 Fredrick.

21 You heard about the significant and somewhat frequent
22 emotional and physical abuse that Fredrick and his
23 brothers experienced. If they weren't experiencing it
24 themselves at any given time, they were witnessing it
25 happening to another brother. I think the best way to say

1 it is that Fredrick was plagued with a whole lot of
2 problems, dealing with a whole range of personal
3 dealings -- personal issues. He didn't know how to deal
4 with things. He misunderstood things.

5 I think that Dr. Martin explained the other day, he
6 misunderstands situations, he misunderstands social cues.
7 There are things that people of average intelligence would
8 see and interpret one way, probably the most reasonable
9 way. Dr. Martin didn't believe that Fredrick interprets
10 things that way. It's disjointed. It's not average.
11 Very simply, he just doesn't get it. He doesn't
12 understand. And, ladies and gentlemen, I submit to you
13 that taking his freedom rather than his life is the more
14 appropriate thing to do in this case.

15 Both Dr. Martin and Dr. Crawford testified and agreed
16 that Fredrick Evins has borderline intellectual
17 functioning and that he can distinguish between right and
18 wrong, and that he can conform his conduct to the mandates
19 of the law. Well, that's fine as long as he understands
20 what those mandates are. Now, he understands right from
21 wrong, that's what both doctors have testified to.
22 Understanding right from wrong doesn't mean that you
23 completely understand every situation or understand it in
24 the same way as everyone else. So I don't know that we
25 can presuppose that he does understand every situation or

1 interprets every situation the same way as someone of
2 average or above average or even below average
3 intellectual functioning would.

4 The best examples we can do is look at some of the
5 things that were brought out by the State and look and see
6 if it looks like he understood a situation or interpreted
7 it reasonably. Sometimes it just doesn't make sense, some
8 of the things he did and some of the ways he interpreted
9 things. And we can talk about that.

10 The Prosecution has gone to great lengths in putting
11 up information to you of other things, a good bit of which
12 you've also learned are charges that he was never
13 convicted of, charges that were dismissed. The Solicitor
14 is asking you to, in part, execute him partly because of
15 those things, things that he was never convicted of,
16 things that were dismissed.

17 But regardless of that, let's talk about everything
18 that the State provided to you. Let's talk about Candy
19 Hill. I'm not going to stand here and tell you that it's
20 not unfortunate what happened to her or that she should
21 not be without sympathy. I'm not here to say that. I'm
22 here to say that both she and Fredrick were 18 years old
23 at that time. They had both been at a party. They were
24 in Cashville. And I think that we all heard a little bit
25 about Cashville earlier in this trial. It's somewhere

1 between Greenville and Woodruff. I think a lot of the
2 State's witnesses were from Cashville. Ms. Hill testified
3 that Fredrick put a gun to her head or somewhere and
4 forced her to have sex with him. We're not here to
5 dispute that.

6 But some very -- I don't know whether bizarre is the
7 right word to use, but there are some very strange things
8 about all that, none going toward Ms. Hill. I'm not
9 attacking Ms. Hill. If Mr. Evins put a gun to her head
10 and forced her to have sex with him twice and then he told
11 her he loved her, that's just disjointed. Then when they
12 were walking along off to Fast Fare together afterwards,
13 she testified that he threw the gun down and said, just
14 kill me, please kill me. I'm not sure that that makes a
15 lot of sense.

16 Then they go to Fast Fare. They get to Fast Fare,
17 and what does Fred do? He goes and plays five games of
18 pin ball while Candy Hill is standing in Fast Fare with
19 him. And, again, my focus is on Fredrick on this. He
20 just didn't get it. It didn't -- things that would make
21 sense to us, Mr. Evins doesn't always get the same way
22 that we would. He doesn't understand. And, ladies and
23 gentlemen, I would submit to you that taking his freedom
24 rather than his life is the more appropriate thing to do.

25 Now, let's talk about Geneva Greene.. Fredrick Evins

1 was convicted of strong armed robbery in that case, common
2 law robbery. Ladies and gentlemen, that was not an
3 average, garden variety common law robbery. There were
4 some very odd things about that.

5 As I recall Ms. Greene's testimony, Fredrick
6 approached her at night in a parking lot, asked for \$100.
7 She said she had about \$5. And he, said, okay, a check is
8 good, write me a check. And he said, my name is Fredrick
9 Evins. I don't know whether he spelled it out for her or
10 not, but he said his name was Fredrick Evins so she could
11 write him a check. Could it be possible that Fredrick
12 just thought he was borrowing money from someone? She
13 didn't say, no. I don't know. None of us were there.
14 It's something to think about. We know that he has
15 disjointed thought processes. Ms. Greene is not to blame
16 for that. And I'm not here to blame her. I'm not here to
17 excuse or justify anything. I'm here to give information
18 and bring out some things that just didn't make sense in a
19 reasonable way of thinking.

20 We can talk about Kimberly Clark. You heard her
21 testify that she knew Fredrick's wife and her husband had
22 been an acquaintance of Fredrick's. Fredrick went over
23 there, asked where her husband was. He had it in his
24 head, though, from the testimony from Ms. Clark that there
25 might have been something between them or that he sensed

1 some vibe or that he wanted -- that he had had some either
2 indication or feeling that it might be mutual, that there
3 might be something between them. Could it be that maybe
4 she had just been polite to him one day out by the cars or
5 out somewhere? Could it be that she just was nice to him
6 one day and his disjointed thought processes
7 misinterpreted that somehow? We don't know, but there's a
8 question. It's not something that makes a whole lot of
9 sense. She tried to get away from him and she did,
10 luckily for her. I think we all feel that way. But in
11 his mind, you could imagine could it be possible that he
12 just misunderstood the situation? He just doesn't get it.
13 He doesn't understand. I would submit to you that taking
14 his freedom instead of his life would be more appropriate.

15 Let me talk about Grover Berry. Grover Berry said
16 Fredrick came to his house -- came over to his yard and
17 cut him. Mr. Berry said he knew Fredrick and that it was
18 based on some misunderstanding. Well, that makes sense.
19 Fredrick has a lot of misunderstandings. He misunderstood
20 a situation and reacted. The Solicitor's Office dismissed
21 that charge as well as with Kimberly Clark's charges.
22 Again, Grover Berry, Fredrick just didn't get it. He did
23 not understand. And I would submit to you that taking his
24 freedom rather than his life is more appropriate.

25 That brings us to Annice Statin. She testified that

1 she and her cousin Victoria were riding around with
2 Fredrick, that Victoria got out and Ms. Statin was going
3 to buy cigarettes with Fredrick. We know from her
4 testimony they didn't go get cigarettes. They ended up
5 out of the way. We heard her testify. But the Solicitor
6 also introduced Fred's statement in that case.

7 In Fred's statement, he describes how he saw and
8 interpreted that situation. He didn't get it. He
9 described a consensual meeting. A consensual act is what
10 he described. He described, we were sitting around
11 drinking a beer talking about Spartanburg, then we had
12 sex. That's disjointed. And it also doesn't make sense
13 when you look at her testimony. I don't think he gets it.
14 He does not understand. He misinterpreted.

15 Ladies and gentlemen, I submit to you, as far as
16 Annice Statin goes, we're not attacking Ms. Statin,
17 there's no intention to do that. Is it possible Fredrick
18 misunderstand the situation, misinterpreted? I submit to
19 you that taking his freedom is more appropriate than
20 taking his life.

21 Now, let's talk about Kizzy Smith. She and Fredrick
22 lived together for a while. They were involved. And we
23 heard about, at least, a couple of incidents between she
24 and Fredrick. She asked him to leave on one instance.
25 She asked him to leave and there was something about a

1 friend boy being there. Well, what did he do? Here's a
2 man, ladies and gentlemen, who didn't have friends, who
3 didn't understand social cues. And someone who had
4 accepted him was rejecting him. Could it be that he
5 misunderstood or felt so rejected based on previous abuse
6 and based on previous neglect? Maybe he misunderstood.
7 Maybe he just didn't get it. To say he acted
8 inappropriately in that situation is probably an
9 understatement. But I submit to you, taking his freedom
10 is more appropriate than taking his life.

11 This brings us now to Demaris Huff. Ladies and
12 gentlemen, Fredrick hasn't been tried on that case. I
13 don't think I can say a lot about that other than we have
14 a process for dealing with pending charges, and that would
15 be dealt with at some point.

16 So let's get back to Ms. Ward, the case that we are
17 here about. Ms. Ward's death is tragic. There is no
18 denying that. There is no excusing that. There is no
19 justifying that. I'm not here to do that. I'm here to
20 give you information about Fredrick as to this case. What
21 do we know about this case? We know that Fredrick and
22 Ms. Ward knew each other. We know they rode together from
23 Cigarette's 4 Less to Gano Road. And we've heard
24 testimony that it wasn't the first time that they had met
25 up like that and gone somewhere to be alone.

1 But we also know Fredrick is not very good at reading
2 social signs. He's not very good at interpreting whether
3 people like him, whether people don't like him, whether
4 they're interested in him, whether, as Mr. Gowdy put it,
5 he -- maybe he thinks he is so irresistible. He has a
6 disjointed thought process. He does not process
7 information and he does not process situations the same
8 way that people with average intellectual functioning do.
9 He flat out misunderstands. He flat out doesn't get it a
10 lot of the time. He's got an IQ of 67.

11 You heard testimony that an IQ alone doesn't say much
12 other than he's got -- the level of his intellectual
13 functioning. It doesn't tell you about his adaptability
14 to situations. It gives you his level of thought process.
15 An IQ, you heard, of 70 is the cut off. He's a little
16 below that. Both doctors agree, the State's doctor and
17 Dr. Martin, they agree that he's got borderline
18 intellectual functioning. And he's an addict, ladies and
19 gentlemen. It's not anything we like to hear about, but
20 he is. That's a fact. He's an addict. He's drank a
21 great deal of alcohol over the years. And he has consumed
22 a whole lot of cocaine and a whole lot of crack.

23 It's just information, ladies and gentlemen. But you
24 put those two things together, a low IQ and a person whose
25 mind has been diluted by alcohol and chemicals, you've got

1 a person very -- you end with a person with very limited
2 insight, limited insight into outside situations, internal
3 conflicts. The way you see anything is your insight is
4 disjointed. Add that to the fact that he was raised with,
5 I guess, abusive love is the best way I can put it. I
6 guess it could be interpreted that it went way past spare
7 the rod and spoil the child. The more mom drank, the more
8 indiscriminate she would be with the whippings, spankings,
9 beatings, however you remember the testimony.

10 Ladies and gentlemen, Fredrick just didn't get it.
11 He hasn't understood much, at least, not in the way that
12 someone with an average intellectual functioning would.
13 So, again, I submit to you, the more appropriate thing to
14 do is take his freedom, not his life.

15 What else do we know about Fredrick? The vast
16 majority of his life we already know he's had the
17 dependency -- the chemical dependency. We know that the
18 initial exposure to drugs and alcohol happened in his own
19 home. He would get high or get drunk with his mother and
20 his brothers from the age of early teenager, is the best I
21 can remember. And however you remember the testimony is
22 the right way. His mother had a number of male companions
23 over the years during his childhood. And I'm not
24 attacking his mother. I'm not here to do that. But he
25 had a disjointed home life.

1 A lot of people grow up in single family homes. A
2 lot of people grow up with an alcoholic parent. A lot of
3 people grow up with a single income parent. A lot of
4 people grow up in a dysfunctional home. Fredrick Evins
5 had a dysfunctional world. Everything in his world was
6 dysfunctional. I can't remember hearing about much that
7 was functional in his life. He got stuck with a low IQ.
8 There's not a lot he can do about that. His mother
9 brought a man to live in the home when he was pretty
10 young. And, again, I'm not knocking how anybody else
11 lives their life. And I'm not here to attack his mother.
12 There was a disjointed thought process.

13 You heard testimony that all the brothers resented
14 the man that had come to live with them. He wasn't the
15 father of any of them and he wasn't nice to any of them.
16 I can't remember that anybody said that he was nice to
17 anybody in that house. He wasn't even nice to Fredrick's
18 mother. He used to beat his mother in front of the
19 children. So add that to what we know about Fredrick. He
20 grew up watching his mother get beaten up by a drunk man
21 who lived in the home who wasn't his father. And, again,
22 a lot of people grow up in dysfunctional homes. One way
23 or the other, a lot of homes are dysfunctional. I'm just
24 giving you information about Fredrick's home, because
25 that's the home that's important right now.

1 We've already talked about James. He lived in the
2 house as Fredrick's brother. He lived there until about
3 16. He had kept his head down under the radar, didn't get
4 in trouble, didn't drink, did okay in school. But what
5 did he do as soon as he got able? He got out. He got out
6 of that dysfunctional, disjointed environment. But he did
7 well in school. He didn't have the intellectual problems
8 that Fredrick does. So I don't know that you can make the
9 jump that, well, if James did it, Fredrick could. I don't
10 know that we can do that.

11 Fredrick just didn't get it, ladies and gentlemen.
12 He had an awful time in school. He repeated the first
13 grade. He repeated the fourth grade. He went to -- the
14 best anybody can tell, he went to the seventh grade. He
15 went to D.R. Hill Middle School. That's the last time he
16 was in school. Ms. Philbeck was here and she talked to
17 you. And she testified she's been an educator for over 30
18 years. She was a young teacher, a fairly new teacher when
19 she had Fredrick in the fourth grade, which was the first
20 time in fourth grade.

21 Now, she has done this for 30 years and she's now a
22 principal at Anderson Elementary. And over the hundreds
23 of people, hundreds of children that she has seen over the
24 years that passed through her classes and passed through
25 other classes and when she's the principal, you have to

1 look at the whole school. All these children passed
2 through. And she says the ones that she remembers are the
3 ones that are so pitiful. She remembers the ones that tug
4 on your heart, the ones that are neglected. She testified
5 that he would come to school dirty, dirty clothes, dirty
6 body, torn clothes. And that's unfortunate. And I know
7 that there are probably -- any kid that comes to school
8 like that, that's too many kids. But when you have a
9 disjointed thought process and you don't process things.

10 She testified that he just kept his coat on all the
11 time. I don't know why he did that. Could it have been
12 because he had the dirty clothes and dirty body and he
13 didn't think the same way everybody else did. We don't
14 know. We don't know how somebody like that thinks. We
15 don't know. But we know he doesn't process things the
16 same way that an average intellectual -- a person of
17 average intellectual ability does. Ladies and gentlemen,
18 he just didn't get it. He didn't understand. I submit
19 that taking his freedom instead of his life is more
20 appropriate.

21 Sometimes justice requires mercy. Mr. Gowdy stands
22 in the middle, but justice isn't just in the middle.
23 Justice can go over there a little bit. Justice can go
24 over to mercy a little bit. Justice, to me, is scales,
25 it's not a rock. It's just not. A rock isn't flexible.

1 Sometimes justice requires mercy, but you have to have the
2 information.

3 For somebody with the disjointed thought process and
4 pitiful environment that he came out of, drugs and
5 addiction, alcoholic mother, abusive household, you heard
6 that there are still people who love him and care for him
7 and want to write him letters. His daughter wants to be
8 able to still know her father. She hasn't lived with him
9 very much of her life. She loves him. He's her father.
10 Even a teacher, who hasn't seen him for 25 years,
11 remembered him off the bat and cares what happens to him.
12 A former manager from somewhere he worked a few years ago,
13 they only worked together for ten months, she cares what
14 happens to him. I submit to you, ladies and gentlemen,
15 take his freedom and not his life.

16 One of the last things I want to talk to you about
17 are the jail and prison incidents that were presented by
18 the State. They brought a couple of people from the
19 county jail and they brought a fellow from the Department
20 of Corrections. You heard Officer Adkins testimony that
21 one day he was giving out meds in what's called -- our
22 jail has pods. They're the separate rooms that they keep
23 the inmates in. They have large rooms and within those
24 rooms, they have lots of little cells.

25 So the officer was in there giving out medication

1 door to door at the cells. He was at Fredrick's door.
2 Fredrick was standing there at the door. Another officer
3 came into the pod with a floor crew, a work crew, to do
4 some work. And Officer Adkins testified that Fredrick
5 made a threat. I'm glad he's not the one who's up here.
6 And then he testified that he made a threat. But what
7 else did Officer Adkins say? He said he was surprised.
8 And he said he was surprised because, and I quote, "He's
9 normally soft-spoken." That's not odd behavior for
10 inmates at this jail is what he said, but it was odd
11 behavior for Fredrick. It wasn't like him. When he has
12 been in that setting in the jail, in Officer Adkins'
13 experience with him, he's soft-spoken. He follows the
14 rules. He gets it.

15 Dr. Martin told you that Fred would do very well in a
16 structured environment, just like Mindy Aiken did when she
17 told you that Fredrick was a good employee, but he was
18 doing repetitive things, doing the same day in and day
19 out. That's the structure. That's the repetitiveness.
20 That is what he gets. That is what makes sense to him.
21 That is what he understands.

22 Ladies and gentlemen, I submit to you for the final
23 time, Fredrick Evins' freedom and not his life is the most
24 appropriate thing in this case. That is justice. It's
25 justice tempered with mercy on scales and not a rock.

1 Thank you for your time.

2 CHARGE ON THE LAW

3 THE COURT: Ladies and gentlemen, having found the
4 Defendant guilty of murder, it is now your duty to
5 determine which sentence to impose upon him. You are
6 called upon to decide whether to sentence him to life
7 imprisonment or to death.

8 Now, in this proceeding, as in the preceding phase of
9 this trial, you, ladies and gentlemen, are the judges of
10 the facts. As I have instructed you, the law does not
11 permit me to have an opinion about the facts of this case.
12 This is a matter solely for you, the jury, to determine.
13 As part of your fact-finding function, it is your duty to
14 determine the effect, the value, the weight, and the truth
15 of the evidence presented during this proceeding. And in
16 this regard, you're called upon to assess the credibility
17 or believability of the witnesses who testified. And you
18 must analyze and evaluate the evidence and determine which
19 evidence convinces you of its truth.

20 Please recall from my previous instructions to you
21 your consideration of the testimony of a witness qualified
22 as an expert. That is an individual, who by way of
23 training, education, or experience, acquires a certain
24 degree of knowledge or skill in a particular area and is
25 designated as an expert witness. Now, an expert witness

1 is permitted under the law to give opinion testimony in
2 his or her particular field. And these opinions
3 constitute evidence to be considered by you in connection
4 with all of the other evidence and testimony in this case.
5 You may consider an expert's opinion just as you would
6 consider all of the other evidence that has been
7 presented. And it is for you, the jury, to give the
8 expert's testimony such weight, if any, as you may
9 determine. And you can weigh such evidence, accept it or
10 reject it, in the same manner as you treat all other
11 evidence.

12 Now, in exercising your mental processes and in
13 determining what you consider to be true in assessing the
14 credibility of the witnesses, the law requires that you
15 exercise your good judgment, your common sense, and your
16 sense of logic and reasoning. You are then to apply these
17 attributes to the evidence and determine what you consider
18 to be truthful evidence. And to these true statements of
19 fact as determined by you, the jury, then apply the law as
20 I state it to you and thus arrive at your decision in this
21 case.

22 Now, as the trial judge, it is my duty to charge you
23 on the applicable law. And it is your duty to follow the
24 law as I state it to you. To the extent that any issue or
25 matter in the sentencing process requires proof beyond a

1 reasonable doubt, please consider my earlier instruction
2 to you. Proof beyond a reasonable doubt is proof that
3 would cause a reasonable person to hesitate to act.

4 Now, again, a previous instruction with respect to
5 direct and circumstantial evidence. There are two types
6 of evidence and they are direct and circumstantial
7 evidence. Again, direct evidence is the testimony of a
8 person who claims to have actual knowledge of a fact, such
9 as an eyewitness. Circumstantial evidence is proof of a
10 chain of facts and circumstances indicating the existence
11 of a explain fact. The existence of a fact cannot be
12 based on speculation, surmise, or conjecture.

13 Now, the law makes absolutely no distinction between
14 the weight or value to be given to either direct or
15 circumstantial evidence, nor is a greater degree of
16 certainty required of circumstantial evidence than of
17 direct evidence. You shall weigh all of the evidence in
18 this case.

19 Now, by your verdict, you have no friends to reward
20 and no enemies to punish. Your verdict should speak the
21 truth. Ladies and gentlemen, any decision you make with
22 regard to a sentence for this Defendant must be unanimous.
23 And that simply means that all 12 of you must agree.
24 Moreover, a sentence of death must be based on proof
25 beyond a reasonable doubt.

1 I further instruct you and emphasize to you that the
2 fact that the Defendant did not testify during this
3 proceeding is not a factor to be considered by you in any
4 way in your deliberations with regard to the sentence to
5 be imposed upon him. It must not be considered by you in
6 any manner whatsoever. A Defendant has a Constitutional
7 right to remain silent. And the assertion of such
8 Constitutional right cannot and must not be considered by
9 you in your deliberations. I repeat, the burden of proof
10 in this proceeding is upon the State and the fact that the
11 Defendant did not testify is not to be considered by you
12 in your deliberations with regard to the sentence imposed
13 upon him.

14 Now, in determining the appropriate sentence for the
15 Defendant, you may consider any statutory aggravating
16 circumstances that are supported by the evidence. You may
17 also consider the particular nature of the crime and the
18 particular characteristics, if any, of the Defendant. You
19 may also consider any evidence presented with regard to
20 the Defendant's prior criminal record and any other
21 alleged acts, although such evidence must not be
22 considered as evidence of any of the statutory aggravating
23 circumstances. Rather, a Defendant's prior criminal
24 record and alleged prior acts may be considered only as
25 evidence of his character and characteristics.

1 Now, in arriving at your decision, you must first
2 determine from the evidence presented during the trial and
3 during this sentencing proceeding whether the alleged
4 statutory aggravating circumstances existed beyond a
5 reasonable doubt at the time that the victim was murdered
6 by the Defendant. Again, I tell you that the statutory
7 aggravating circumstance is a fact, an incident, a detail
8 or an occurrence which the General Assembly of South
9 Carolina has declared by statute to aggravate or make
10 worse the offense of murder when that fact, that incident,
11 that detail, or that occurrence accompanies the act of
12 murder. In other words, a statutory aggravating
13 circumstance increases the enormity of the offense and
14 adds to the injurious consequences of the offense.

15 Before you can impose a death sentence on the
16 Defendant, all 12 of you must agree and find beyond a
17 reasonable doubt that the evidence in this case
18 establishes that a statutory aggravating circumstance
19 exists. Unless you so find, you cannot sentence the
20 Defendant to death or to life imprisonment. The statutory
21 aggravating circumstances alleged by the State will be
22 submitted to you in writing in a document entitled
23 "Statutory Instructions," which you will have in the jury
24 room with you when you begin your deliberations.

25 Now, the statutory aggravating circumstances alleged

1 in this case are -- and there are four of them: One, the
2 murder was committed while in the commission of
3 kidnapping; two, the murder was committed while in the
4 commission of criminal sexual conduct in the first degree;
5 three, the murder was committed while in the commission of
6 larceny with the use of a deadly weapon; and four, the
7 Defendant committed the murder for himself or another for
8 the purpose of receiving money or a thing of monetary
9 value.

10 Now, if all 12 of you agree and find beyond a
11 reasonable doubt that one or more of the alleged statutory
12 aggravating circumstances existed at the time the victim
13 in this case was murdered, then you would be authorized to
14 impose either a sentence of life imprisonment or a
15 sentence of death. In the event you find beyond a
16 reasonable doubt the existence of, at least, one of the
17 statutory aggravating circumstances, I would tell you
18 again that a sentence of life imprisonment means life
19 without the possibility of parole. And in that situation,
20 having found a statutory aggravating circumstance, under a
21 sentence of life imprisonment, the Defendant would never
22 be released from prison. If, however, you do not find
23 beyond a reasonable doubt that one or more of the alleged
24 statutory aggravating circumstances existed at the time
25 the victim was murdered, then you would cease your

1 deliberations and advise the Court of your decision by
2 having the Foreperson sign the verdict form entitled no
3 finding of aggravating circumstances. And this form will
4 be with you also in the jury room.

5 Now, in arriving at your decision, you must also
6 consider if you find from the evidence the following
7 statutory mitigating circumstances which the General
8 Assembly of the State of South Carolina has declared by
9 statute to mitigate the offense of murder. And, again,
10 this is on the form entitled "Statutory Instructions."
11 And those alleged are that the murder was committed while
12 the Defendant was under the influence of a mental or
13 emotional disturbance. Number two, the capacity of the
14 Defendant to appreciate the criminality of his conduct or
15 to conform his conduct to the requirements of the law was
16 substantially impaired. And, three, the mentality of the
17 Defendant at the time of the crime. And, again, this form
18 will be back with you in your jury room throughout your
19 deliberations.

20 Now, in addition, you may find mitigation evidence
21 beyond those enumerated by the General Assembly in the
22 Code of Laws. You must consider as a mitigating factor
23 any aspect of the Defendant's character or record and any
24 of the circumstances of the offense or otherwise from this
25 record of evidence which you find offers a basis for a

1 sentence other than death. In other words, you may
2 consider any relevant mitigating factors or circumstances
3 enumerated in the Code of Laws or otherwise as you may
4 find.

5 Now, a mitigating factor is treated equally under the
6 law, whether it is found in the statute or simply found by
7 you based on the evidence before you. Mitigating
8 circumstances are facts, details, incidents, or
9 occurrences that mitigate the offense of murder.
10 Mitigating circumstances are any facts which in fairness
11 and mercy must be considered as extenuating or as reducing
12 the Defendant's culpability for the commission of the act
13 of murder or that weigh in favor of a life sentence for
14 any reason. You must consider mitigating circumstances
15 because if you are to make an individualized assessment of
16 this particular Defendant, which the law of this state
17 requires you to do, evidence about the Defendant's
18 background and character is relevant.

19 Now, while it is necessary that you find beyond a
20 reasonable doubt that one or more of the alleged statutory
21 aggravating circumstances existed at the time the victim
22 was murdered, in order to impose a sentence of death, it
23 is not necessary that you find unanimously that any
24 mitigating circumstances exist in order to impose a
25 sentence of life imprisonment. Unlike the aggravating

1 circumstances, which the law must prove beyond a
2 reasonable doubt, there is no evidentiary burden placed on
3 a Defendant to establish mitigating factors.

4 Moreover, you are authorized to impose a sentence of
5 life imprisonment regardless of whether you find any
6 mitigating circumstances exist. Simply stated, you may
7 sentence the Defendant to life imprisonment for any reason
8 or no reason at all or simply as an act of mercy.
9 However, a decision to impose a sentence of life
10 imprisonment, like a decision to impose a sentence of
11 death, must be unanimous.

12 Now, in that regard, ladies and gentlemen, there is
13 another verdict form, which is entitled "Unanimous
14 Recommendation of the Sentence of Life Imprisonment." And
15 also, there is another verdict form, which is "Unanimous
16 Recommendation of Sentence For the Death Penalty." All
17 these forms will be back in the jury room with you.

18 Now, if you find beyond a reasonable doubt the
19 existence of a statutory aggravating circumstance and if
20 you find any mitigating circumstances in the record of
21 evidence in this case, you must give thorough and
22 meaningful consideration to all such factors before making
23 your decision. And in arriving at your decision, you are
24 not to allow passion, prejudice, or any other arbitrary
25 factor to influence your judgment. As jurors, you must

1 make your decision without bias toward or without
2 prejudice against any party. You must not allow yourself
3 to be governed by passion or sympathy. You are to honor
4 your oath and, in that regard, carefully and impartially
5 consider all the evidence in this case and follow the law
6 as I have explained it to you. Again, please understand
7 the Court -- this Court will follow your recommendation.
8 Your verdict will be the sentence that is imposed.

9 Now, again, I show you these -- all these will be
10 back in the jury room with you. And I would tell you,
11 with respect to the unanimous finding of a recommendation
12 for the death penalty, all 12 jurors must sign that form.
13 I reiterate that regardless of the sentence you decide to
14 impose, you must first determine whether the State has
15 proven beyond a reasonable doubt, at least, one of the
16 alleged statutory aggravating circumstances. That is the
17 first step you must take. Any decision you make must be
18 unanimous.

19 In summary, you may impose the death penalty only if
20 you unanimously first find beyond a reasonable doubt the
21 existence of, at least, one statutory aggravating
22 circumstance and you further unanimously find and agree
23 beyond a reasonable doubt that the sentence should be
24 death.

25 You may impose a sentence of life imprisonment only

1 if you unanimously find beyond a reasonable doubt the
2 existence of, at least, one of the alleged statutory
3 aggravating circumstances and you further unanimously find
4 and agree that the sentence should be life imprisonment.
5 You may sentence the Defendant to life imprisonment
6 regardless of the presence or absence of mitigating
7 circumstances.

8 Now, ladies and gentlemen, that is my charge to you
9 on the law in this proceeding. And I am going to excuse
10 you momentarily to go back to your jury room. Please, at
11 this time, do not begin your deliberations. Allow me an
12 opportunity to go over -- in this very important matter to
13 go over my charge on the law with all of the attorneys
14 involved in this case to make sure I have not misstated
15 something or omitted something.

16 When we send this group of forms to you and all the
17 exhibits in this case, then you may begin your
18 deliberations. And I hope I have been clear. Your first
19 job is to determine whether the State has proven beyond a
20 reasonable doubt the existence of one of the four -- one
21 or more of the four alleged statutory aggravating
22 circumstances. If and when you make that decision, then
23 you go forward to resolving how to -- what sentence to
24 impose.

25 At this time, ladies and gentlemen, please retire to

1 your jury room.

2 Mr. Scruggs, please ask Mr. Gwinn to step out or hold
3 him in the hallway, please.

4 Thank you.

5 (WHEREUPON, the jury was excused from open court at
6 approximately 4:15 p.m.)

7 THE COURT: All right. Are there any exceptions or
8 objections to the charge as given?

9 MS. QUIMBY: None from the Defense.

10 THE COURT: All right.

11 MR. GOWDY: Your Honor, there are no objections and
12 no exceptions.

13 I do not know the answer to this, but I wanted to
14 bring it to the Court's attention. I don't know whether
15 or not the jury has to be reinformed as to the definitions
16 of the crimes or whether or not they can incorporate the
17 definitions that were given --

18 THE COURT: Well, I don't intend to recharge those.
19 I will bring them back and instruct them that they are to
20 incorporate my previous instructions, and if they have any
21 questions with respect to the definition of the specific
22 charges that I will give it to them again.

23 All right. Let's bring them back real quick.

24 Is that all?

25 That's a good point.

1 Thank you.

2 (WHEREUPON, the jury came into open court at
3 approximately 4:18 p.m.)

4 THE COURT: Madam Forelady, and, ladies and gentlemen
5 of the jury, thank you very much for letting me run y'all
6 around.

7 As the excellent attorneys have pointed out, you all
8 may have some question with respect to my charge to you on
9 the law with respect to the offenses that are enumerated
10 as statutory aggravating circumstances. Those are
11 kidnapping, criminal sexual conduct in the first degree,
12 and larceny.

13 Now, I gave you charges on those in the first part of
14 this proceeding. I don't want to be too repetitive. You
15 all have been very attentive throughout this case and have
16 had to listen to me quite a bit. But I want you to know
17 that you are authorized and, please, are required, in
18 fact, to incorporate my previous charge on the law to you,
19 my charge to you at the end of the first phase, and any
20 instructions I have given to you throughout the course of
21 this trial.

22 I am going to allow y'all to retire. If you would
23 like me to charge you on the offenses of kidnapping,
24 criminal sexual conduct in the first degree, or the
25 larceny charge, just talk about it and I will be more than

1 happy to do that. If you have questions about the charge
2 or you need other things answered, if you will write a
3 note and send it out to me, I will respond to you to the
4 full extent that the law allows me to do so.

5 At this time, I'll excuse everybody with the
6 exception of Mr. Gwinn.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 4:20 p.m.)

9 THE COURT: All right. Do we have all the exhibits?
10 Any exceptions to that instruction?

11 MR. BOGGS: None, Your Honor.

12 MR. GOWDY: No, sir.

13 THE COURT: Okay. Well, I understand -- have you all
14 examined the exhibits?

15 MR. BOGGS: Mr. Barnette and I have, we've gotten
16 with the court reporter.

17 MR. BARNETTE: That's correct, Your Honor.

18 THE COURT: And I propose that we go ahead and send
19 all that back to the jury.

20 Mr. Gwinn, it is to you, I guess, I owe the greatest
21 thanks and greatest apology. I have required you -- or I
22 should say the law has required that you sit through this
23 trial and hear everything that the 12 have heard, suffered
24 through it all just like they did, and yet, the law does
25 not allow you to deliberate with them. So I suspect or I

1 would certainly understand if you felt a little cheated by
2 that, but the law only requires 12 to deliberate. I can't
3 cut you loose at this time. I need to hold you until the
4 jury reaches its decision, but I can't let you be in there
5 with them. So I'm going to ask that you be sequestered in
6 a separate room and be provided all the comforts that we
7 can provide for you at this time.

8 Thank you very much for your service. And I
9 appreciate your patience.

10 Thank you, sir.

11 (WHEREUPON, the alternate juror was excused.)

12 THE COURT: All right. The jury is out at 4:22.
13 We'll be at ease.

14 Before we go any further, I would like to
15 congratulate the attorneys on an excellent job and their
16 high degree of professionalism is greatly appreciated.
17 It's made my job much easier.

18 So thank you very much.

19 MR. GOWDY: And, Judge, we appreciate the Court's
20 patience for the last two weeks.

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

22 (WHEREUPON, the proceedings were recessed at
23 approximately 4:23 p.m.)

24 THE COURT: We just got a note from the jury. I'm
25 writing, "Please write down all statutory aggravating

1 circumstances that you find beyond a reasonable doubt."

2 Is that good enough?

3 MS. QUIMBY: Yes, sir.

4 MR. GOWDY: Yes.

5 (WHEREUPON, Court's Exhibit No. 32 was marked for
6 identification and admitted into evidence.)

7 (WHEREUPON, the proceedings were recessed at
8 approximately 4:48 p.m.)

9 THE COURT: I understand we have a verdict. And I
10 just want to ask everybody -- or tell everyone to keep
11 their composure. And if you don't think you can maintain
12 your composure, please leave the courtroom now.

13 THE BAILIFF: Do you want the alternate with them,
14 sir?

15 THE COURT: Yes.

16 (WHEREUPON, the jury came into open court at
17 approximately 7:20 p.m.)

18 THE COURT: Madam Forelady, I understand that y'all
19 have reached a verdict; is that correct?

20 JUROR #108, LIZZIE FRAWLEY: We have, Your Honor.

21 VERDICT

22 THE COURT: Would you hand it to the bailiff, please.

23 Ladies and gentlemen, I understand that you all have
24 found beyond a reasonable doubt that this murder was
25 committed in the commission of a kidnapping, and also, it

1 was committed in the commission of criminal sexual conduct
2 in the first degree.

3 If that is correct, that you have found these two
4 statutory aggravating circumstances beyond a reasonable
5 doubt, if so, please indicate by raising your right hand.

6 (All jurors raised their hands.)

7 THE COURT: I also understand, ladies and gentlemen,
8 that you have found beyond a reasonable doubt -- after
9 having found beyond a reasonable doubt the existence of
10 those two statutory aggravating circumstances that you
11 recommend that the Defendant be sentenced to death. If
12 that is your verdict, please indicate by raising your
13 right hand.

14 (All jurors raised their hands.)

15 THE COURT: All right. Thank you very much.

16 Are there any matters that any of the attorneys wish
17 to inquire of the jury?

18 MR. GOWDY: Not from the State, Your Honor.

19 MS. QUIMBY: Your Honor, we would ask that the jury
20 be polled.

21 THE COURT: All right. Charlena, I'm going to ask
22 you to do that.

23 THE CLERK: Ladies and gentlemen, I will pose a
24 question to you, after which, I will call your names
25 individually. At that time, I will ask you to stand and

1 answer my question.

2 The question being: Is this your verdict and still
3 your verdict, Juror #149, Mr. Henline?

4 JUROR #149, MICHAEL HENLINE: Yes.

5 THE CLERK: Thank you.

6 Juror #316, Mr. Roller?

7 JUROR #316, MARK ROLLER: Yes.

8 THE CLERK: Juror #309, Ms. Ridings?

9 JUROR #309, PAMELA RIDINGS: Yes.

10 THE COURT: Juror #66, Mr. Combs?

11 JUROR #66, ALLEN COMBS: Yes.

12 THE CLERK: Juror #194, Ms. Kanipe?

13 JUROR #194, SUSAN KANIPE: Yes.

14 THE CLERK: Juror #306, Mr. Richards?

15 JUROR #306, NEDDIE RICHARDS: Yes.

16 THE CLERK: Juror #108, Ms. Frawley?

17 JUROR #108, LIZZIE FRAWLEY: Yes.

18 THE CLERK: Juror #19, Mr. Bower?

19 JUROR #19, DONALD BOWER: Yes.

20 THE CLERK: #284, Mr. Perry?

21 JUROR #284, ROBERT PERRY: Yes.

22 THE CLERK: Juror #153, Ms. Higgins?

23 JUROR #153, PHILLIS HIGGINS: Yes.

24 THE CLERK: Juror #204, Ms. Kirby?

25 JUROR #204, BETTY KIRBY: Yes.

1 THE CLERK: Juror #246, Ms. Means?

2 JUROR #246, LINDA MEANS: Yes.

3 THE CLERK: The jurors have been polled.

4 THE COURT: Thank you.

5 Anything further?

6 MS. QUIMBY: Nothing further.

7 THE COURT: Madam Forelady, and, ladies and
8 gentlemen, you are welcome to stay for the rest of the
9 proceeding, or if you desire to leave the courtroom, you
10 may do so now.

11 And I would ask if you all leave to wait in the jury
12 room, because I will need to address you briefly back
13 there.

14 Thank you.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 7:25 p.m.)

17 THE COURT: Mr. Evins, if you would, please stand.

18 As the trial judge in this action and prior to the
19 imposition of the death sentence upon the Defendant, I
20 find as an affirmative fact that the evidence of this case
21 warrants the imposition of the death penalty and its
22 imposition is not a result of prejudice, passion, or any
23 other arbitrary fashion.

24 Now, I would ask you, is there anything you'd like to
25 say?

1 DEFENDANT EVINS: No, sir.

2 THE COURT: Anything from any of the attorneys?

3 MR. BOGGS: Nothing on that, Your Honor.

4 We would move to set aside the verdict. We'd also
5 move for a new trial based on that the evidence does not
6 support the verdict.

7 THE COURT: I respectfully deny those motions.

8 SENTENCE

9 THE COURT: Mr. Evins, having been found by the jury
10 to be guilty of the offense of murder and the jury having
11 recommended that you should be sentenced to death, it is,
12 therefore, the judgment and sentence of this Court that
13 you, Fredrick Antonio Evins, be taken to the Spartanburg
14 County Detention Center and hence to the State Department
15 of Corrections, henceforth to be kept in close and safe
16 confinement until the 19th day of January, 2005, upon
17 which day between the hours of 6:00 p.m. and 6:00 a.m. on
18 January 20th, 2005, whereupon an order of execution issued
19 by the South Carolina Supreme Court that you, Fredrick
20 Antonio Evins, shall suffer death in the manner prescribed
21 by law. It is so ordered.

22 May God have mercy on your soul.

23 (WHEREUPON, Defendant Evins exited the courtroom.)

24 (WHEREUPON, the proceedings were recessed at
25 approximately 7:27 p.m.)

1 THE COURT: We need Mr. Evins back to sentence him on
2 the other cases. I'm sorry.

3 (WHEREUPON, Defendant Evins entered the courtroom.)

4 THE COURT: Mr. Evins, I apologize.

5 On indictment 03-2533, criminal sexual conduct in the
6 first degree, the sentence is 30 years.

7 And the sentence on the grand larceny, \$1,000 to
8 \$5,000, indictment 03-2534, the sentence is five years.

9 Thank you, sir.

10 (WHEREUPON, Defendant Evins exited the courtroom.)

11 THE COURT: Again, I would like to, for the record,
12 thank the attorneys for their professional and outstanding
13 work in this case. It made my job very easy.

14 Thank you very much.

15 Now, before y'all go, have -- he's already gone.

16 Have you spoken to him about his right to appeal?

17 MS. QUIMBY: Yes, sir. We have spoken with him about
18 that and, actually, spoken at length.

19 THE COURT: And I expect you're going to file a
20 notice of appeal; is that correct?

21 MS. QUIMBY: Yes, sir.

22 THE COURT: Thank you.

23 *****END OF TRANSCRIPT OF RECORD*****
24
25

CERTIFICATE OF REPORTER

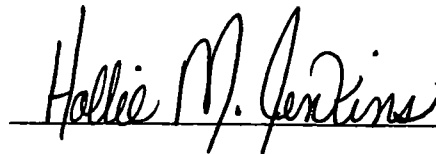
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, and 19th days of November, 2004.

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

September 1, 2005

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 11-17-10

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

COURT OF GENERAL SESSIONS

2003-GS-42-2532

2003-GS-42-2533

2003-GS-42-2534

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

FREDRICK ANTONIO EVINS, A/K/A)

FREDRICK ANTONIO EVANS,)
DEFENDANT.)

ORIGINAL

March 30, 2004

Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

A P P E A R A N C E S:

HAROLD W. GOWDY, III, Solicitor

BARRY J. BARNETTE, Deputy Solicitor

JOHN C. ANTHONY, Assistant Solicitor

THOMAS A.M. BOGGS, Esq.

KAREN M. QUIMBY, Esq.

Attorneys for the Defendant

HOLLIE M. JENKINS
Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

1 THE COURT: I just thought we ought to have a status
2 conference in this case and try and figure out when we're
3 going to try it, and take care of any other issues that
4 you all think we need to take care of today.

5 So what -- I guess, Mr. Solicitor, you have some
6 other things on your plate coming up?

7 MR. GOWDY: Your Honor, I'm trying a case in front of
8 Judge Few on May 17th, which should be over with within
9 two weeks. And any time other than that that suits Your
10 Honor and Mr. Boggs, we're ready to go on Mr. Evins.

11 THE COURT: Mr. Boggs, what do you -- what's your
12 pleasure?

13 MR. BOGGS: Originally, had we not talked about doing
14 it in October? Are you thinking about changing that date?

15 THE COURT: Well, no. I had thought that we would do
16 it in the fall. And the problem is, I'm now going out to
17 this National Judicial College the weeks of October 11th
18 and 18th. So that kind of throws a wrench into the month
19 of October.

20 MR. BOGGS: Do you want to push it up? Were you
21 thinking of September?

22 THE COURT: Tell me your thoughts on it. I want to
23 make sure you've got plenty of time to get ready.

24 MR. BOGGS: Well, I think we can be --

25 Do you want to set it for September or November?

1 MR. GOWDY: I have tried them in early November and
2 there wasn't much issue in terms of jurors trying to get
3 out of it. I have never tried one in September. I don't
4 know with --

5 THE COURT: School just in session and all that?

6 MR. GOWDY: I mean, I hate to say something as trite
7 as college football, but I don't know. I've never done it
8 in September, but I will do it either month.

9 THE COURT: Well, what do you -- tell me, how long is
10 this case going to last? What can you tell me about it?

11 MR. GOWDY: I would say, if the past holds true,
12 Judge, three days for jury qualification, a couple of days
13 in the guilt phase. If there's a guilty verdict, we take
14 24 hours, and maybe two days on the sentencing, no more
15 than ten days. I haven't had one yet -- out of the three,
16 I haven't had one that's gone ten days yet.

17 THE COURT: All right.

18 MR. BOGGS: I think that's pretty accurate. I can't
19 see going over ten days, maybe not even that long.

20 THE COURT: All right. Well, let's --

21 Caroline, bring my September schedule out here,
22 please.

23 I didn't bring my September schedule out here.

24 MR. BOGGS: November will be fine. I know what
25 Mr. Gowdy is talking about and that is --

1 THE COURT: Pardon?

2 MR. BOGGS: September sometimes is kind of cumbersome
3 to try something like this, so November is fine with us.

4 You'll be back the 25th then?

5 THE COURT: Yes. And I probably -- you know, I would
6 suspect -- I'll be back the week of the 25th. I don't
7 think it's probably -- I don't think it's a good idea to
8 start then. There may be issues that come up that need to
9 be addressed before we get the jury in.

10 MR. BOGGS: I would think, at least, two weeks after
11 you get back.

12 THE COURT: And I don't want to run into a conflict
13 with Thanksgiving.

14 So the week of November 8th?

15 MR. GOWDY: I think that gives us plenty of time,
16 Judge.

17 MS. QUIMBY: That's fine, Your Honor.

18 MR. GOWDY: It -- I'm trying to remember, Judge, if
19 we're going to lose part of Tuesday due to the general
20 election.

21 THE COURT: Well, that's true.

22 MR. GOWDY: But even if we do, by that point, we'll
23 have them broken down into panels. And as we bring the --
24 it won't be all the jurors. It will be just broken down
25 into panels, and I would think they'd have an opportunity

1 to vote otherwise.

2 THE COURT: Is it the first Tuesday of the month?
3 It's the first Tuesday in November.

4 MR. GOWDY: Okay. So that's not even an issue.

5 THE COURT: So you must not be up for election this
6 year, Mr. Gowdy.

7 MR. GOWDY: I, actually, am. And I was thinking more
8 about the primary, which is, I think, the second Tuesday
9 in June. But you are correct as always, it is the first
10 Tuesday in November. I guess Veterans Day will be
11 around -- I don't know if that's a state or federal
12 holiday.

13 MR. BARNETTE: That's a county holiday.

14 MR.. GOWDY: It's a county holiday.

15 MS. QUIMBY: That's Thursday the 11th.

16 MR. GOWDY: I've never known a judge to, actually,
17 honor Veterans Day.

18 THE COURT: Well, we honor it. Veterans work hard,
19 don't they?

20 MR. GOWDY: That's what Ross Anderson always told me.
21 You never knew a veteran that took Veterans Day off, so.

22 THE COURT: All right. Well, let's kind of
23 tentatively look at the week of Monday the 8th and see if
24 we can't do it then. And if not, we'll re-evaluate.

25 Have you all -- speaking to the Defense lawyers, have

1 you all signed the -- your affidavits as to certification?

2 MR. BOGGS: On this case, no, I don't think so.

3 MS. QUIMBY: Your Honor, I've brought with me --
4 excuse me. I'm sorry. I'm trying to get over a cold.

5 THE COURT: All right.

6 MS. QUIMBY: The -- a blank order appointing counsel.
7 When we had the telephone conference, I believe, back in
8 December, I advised the Court that I would not be
9 certified to be lead counsel until April 9th of this year.
10 I've made a blank order for the Court's review if the
11 Court would like to read it, review it, and then possibly
12 sign it on Monday, April the 12th. Then on April the 9th,
13 I've already got my certification form, and I was going to
14 sign it and put it in the mail on the 9th.

15 THE COURT: Okay.

16 MS. QUIMBY: May I hand that up?

17 THE COURT: Yes, sure.

18 MR. BOGGS: I do have one on file. This is my third.

19 THE COURT: Okay. We just need -- who is going to --
20 are you acting as lead counsel in this, Ms. Quimby?

21 MS. QUIMBY: Yes, sir.

22 THE COURT: All right. Well, we will hang on to
23 this, review it, and then sign it at the appropriate time.

24 MS. QUIMBY: Yes, sir.

25 THE COURT: Anything else from the State that you all

1 need? Do you all think you need a scheduling order in
2 this matter?

3 MR. GOWDY: Your Honor, I -- Ms. Quimby and Mr. Boggs
4 are so easy to work with, I think that we probably won't
5 have any difficulty getting together. I mean, it's an
6 open file. To the extent that they don't already have my
7 notebooks, it's available to them. And, Your Honor, of
8 course, has been through these.

9 In terms of when to send the juror questionnaire out,
10 now, I don't know whether Your Honor has his own standard
11 form or would like us to present proposed questionnaires.
12 We're happy to do that.

13 THE COURT: All right. Why don't y'all present a
14 proposed questionnaire.

15 MR. GOWDY: Okay.

16 THE COURT: And this is my first appearance as a
17 judge in a death penalty case.

18 MR. GOWDY: Yes, sir.

19 THE COURT: You all -- if you all will present those,
20 that would be good.

21 Anything else you -- is there any -- well, I know
22 it's early in the case. But any question about competency
23 or anything like that?

24 MS. QUIMBY: Not at this time as to competency, Your
25 Honor.

1 THE COURT: Okay. And, now, I don't know if y'all
2 are going to -- how the Defense intends to proceed with
3 their motions. Certainly, the funding motions are all ex
4 parte. So whenever -- you know, whenever you're ready.
5 And then I don't know if you're going to do a series of
6 motions or you're going to wait until the last minute,
7 however you want to do it. I'm available for -- I just
8 want to get the thing jump-started and get going and kind
9 of take it off the back burner.

10 MS. QUIMBY: Yes, sir.

11 THE COURT: Or start to pull it off the back burner.
12 Anything else?

13 MR. GOWDY: Mr. Anthony, I think, was working on a
14 proposed gag order, if Your Honor wanted to go that route.
15 It helps us particularly when we have family members that
16 want to talk. So I'll let Mr. Anthony speak to that.

17 MR. ANTHONY: I believe -- I just need to give
18 Ms. Quimby another chance to look at it. But I believe we
19 have reached an agreement on an appropriate order. And we
20 can probably submit that to the Court this afternoon.

21 THE COURT: Okay.

22 MS. QUIMBY: Yes, sir.

23 THE COURT: All right. Is that fine?

24 MS. QUIMBY: Yes, sir.

25 MR. BOGGS: Judge, there is one problem that could --

1 and I guess we might as well go ahead and throw it out.
2 The way the press has written this thing up -- and they
3 had an article this past weekend about the death penalties
4 coming up. Because there was another murder that was --
5 my client's been charged with, that murder involved
6 somebody of some stature in the community. The press is
7 jumping all over this because of the other victim. And if
8 they continue, we're going to have to be considering a
9 change of venue at some point. Unfortunately, it's one of
10 those things you don't know when the press is going to hop
11 out with another story.

12 THE COURT: Right.

13 MS. QUIMBY: And, Your Honor, the initial gag order
14 proposed, I have reviewed that and had some questions.
15 And I had spoke with Mr. Anthony about those. It was
16 revised in a way to better define that the gag order
17 includes restraining all of us and family members from
18 discussing both cases. Obviously, we -- I mean, it
19 doesn't include the press. But as I review the order, the
20 order sufficiently covers both cases in the gag order.

21 THE COURT: All right. I haven't seen any press. I
22 don't take the Spartanburg Herald. So you all will have
23 to keep me up to speed on that. I don't have any idea
24 what's being --

25 MR. GOWDY: Your Honor, there was an article last

1 week that was kind of a combination of criticisms, three
2 in one year, no budget for it in Spartanburg County. And
3 Ms. Quimby is right, when they do mention Frederick Evins,
4 they mention that he's also accused of killing Demaris
5 Huff, but that's not the case that we're going forward on.

6 My experience with the media has been the more times
7 you ask them not to write something, the more likely they
8 are to do it. I can't imagine another article until we
9 get closer to the trial. And I think they'll write one.

10 Although, we did have some success in Eric Morgan
11 with asking them to wait until the jury had been
12 admonished by the Court. And Judge Cole, actually, put in
13 his introductory letter with the questionnaire, if you see
14 something about this case, don't read it. And we,
15 actually, had very few jurors that knew anything about the
16 last capital case we tried. So that's something if Your
17 Honor wanted to consider that introductory letter just
18 admonishing them, if you see the name Fredrick Evins, quit
19 reading, quit watching.

20 Can I mention one thing to Mr. Boggs and Ms. Quimby?

21 THE COURT: Sure.

22 (Pause.)

23 THE COURT: Yes, sir.

24 MR. GOWDY: Your Honor, that is all on our behalf.

25 And I appreciate you letting us meet with you on the case

1 today.

2 THE COURT: Yes. Well, when -- I guess we'll have to
3 have some more meetings, but I'm going to let y'all duke
4 it out a little bit and then tell me about it. If you all
5 need to have a hearing, you need to let me know. I don't
6 think I'm going to be over in Spartanburg. I'm not
7 scheduled to be there, but I'll be over here. And I'm not
8 traveling too much.

9 MR. GOWDY: We will begin to spot issues. And
10 anything, obviously, that can be taken care of in advance
11 with you being close by in Greenville, we would look to do
12 that. As the questionnaires come in, in the past, defense
13 counsel and the prosecutors have been able to sit down and
14 agree on a lot of the disqualifications.

15 And those that we don't agree on, which is pretty
16 few, we, actually, bring to the Court's attention. And
17 you may want to go about it in a different way. You may
18 want to have a hearing on all of them. But I think the
19 ones I've done thus far, the Judge has said, you see if
20 you all can agree first. But, again, I've had a lot of
21 cases with both defense attorneys and never had a problem.
22 So I think we'll be okay.

23 THE COURT: All right. And you all think you'll get
24 the questionnaire to me when?

25 MR. GOWDY: We can get you ours this week. I think

1 we can get you the one Judge Clary used and the one Judge
2 Cole used. And you can --

3 THE COURT: Well, share it with the Defense first.
4 If you all have problems, I need to know what they are.
5 So I want to make sure that you feel satisfied that your
6 needs are covered as well.

7 MS. QUIMBY: Yes, sir.

8 THE COURT: So you all talk. And then -- and if you
9 want to submit two separate ones, if you can't agree,
10 that's fine. Or if you just want to submit one that
11 you -- with your -- what you all disagree about, however
12 you want to do it.

13 MS. QUIMBY: Okay.

14 THE COURT: But you all -- and if you have trouble
15 with that, just let me know and we'll do it some other
16 way.

17 MS. QUIMBY: Thank you.

18 THE COURT: Anything else?

19 MR. GOWDY: No, sir.

20 THE COURT: All right. Great. I appreciate you all
21 coming to Greenville.

22 *****END OF TRANSCRIPT OF RECORD*****
23
24
25

CERTIFICATE OF REPORTER

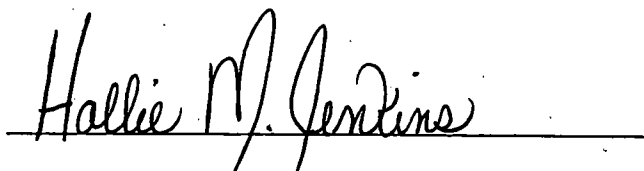
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 30th day of March, 2004.

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

September 8, 2005

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 11-17-10

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

COURT OF GENERAL SESSIONS

2003-GS-42-2532

2003-GS-42-2533

2003-GS-42-2534

STATE OF SOUTH CAROLINA,)
PLAINTIFF,)

vs.)

TRANSCRIPT OF RECORD

FREDRICK ANTONIO EVINS,)
DEFENDANT.)

COPY

October 27, 2004

Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

A P P E A R A N C E S:

HAROLD W. GOWDY, III, ESQ.

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BARRY J. BARNETTE, ESQ.

Deputy Solicitor

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Assistant Solicitor

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Assistant Public Defender

Attorneys for the Defendant

HOLLIE M. JENKINS

Official Court Reporter

I N D E X

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness

Page No.(SW) STEVE DENTON:

Direct Examination by Mr. Gowdy.....3
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(SW) JASON YOWN:

Direct Examination by Mr. Gowdy.....49
 Cross-Examination by Mr. Boggs.....62

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
(State's Exhibits)			
S-1	Waiver Form.....	3.....	9
S-2	Statement.....	3.....	14
S-3	Sworn Affidavit by the Defendant.....	3.....	17
S-4	Photo Lineup and Affidavit.....	3.....	23
S-5	Diagram of Knife Length.....	3	
S-6	Permission to Search by the Defendant...3.....		24
S-7	Conversion Table.....	71.....	71
S-8	Meteorological Records.....	71.....	71
(Court's Exhibits)			
C-1	Statement of Ronald Ostrowski.....	72.....	72

All Exhibits were retained by the Clerk of Court for
 Spartanburg County.

1 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, and 6
2 were marked for identification only.)

3 MR. GOWDY: Good afternoon, Your Honor.

4 This is 2003-GS-42-2532, the State of South Carolina
5 vs. Fredrick Antonio Evins. He's charged with murder.
6 And one indictment of kidnapping and criminal sexual
7 conduct in the other, which is 2533.

8 Thank you for letting us come over to Greenville and
9 take care of these pre-trial matters. I would think in
10 the interest of time, we might want to get started on the
11 Denno hearing.

12 THE COURT: All right. That would be fine.

13 MR. GOWDY: There was a statement taken by Detectives
14 Denton and Yown.

15 And I would, at this point, call Detective Steve
16 Denton.

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

19 WHEREUPON,

20 STEVE DENTON,
21 after first having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. GOWDY:

24 Q Good afternoon, Detective Denton.

25 A Good afternoon, Solicitor.

1 Q Can you tell the Court how long you have been in law
2 enforcement?

3 A Approximately 19 and a half years.

4 Q In what capacities have you worked in the past 19
5 years?

6 A All of it is in investigations, specifically, violent
7 crime and homicide.

8 Q Where do you currently work?

9 A I currently work for the Greer Police Department,
10 Greer city, South Carolina.

11 Q In February of 2003, where did you work?

12 A The Sheriff's Office in Spartanburg, South Carolina.

13 Q And what division within the Sheriff's Department
14 were you assigned to?

15 A Investigative.

16 Q How many homicide investigations have you worked in
17 your career?

18 A At least, 200 -- I would say over 200, 220 possibly.
19 I've been involved in them. The chief agent on them,
20 somewhere around 60, 70, 80, around that number.

21 Q Did you come to be involved in the investigation into
22 the disappearance and suspected abduction of Rhonda Marie
23 Ward?

24 A I did.

25 Q How did you come to be involved in that?

1 A The Spartanburg City Police Department, they were
2 called to a location that they believed was in Spartanburg
3 city at the time. I believe the business was called
4 Cigarettes 4 Less. It's a division of Hot Spot/Jordan Oil
5 Company.

6 We realized, along with the city, that Cigarettes 4
7 Less is, actually, in the Spartanburg County side. Given
8 that, they had a video that they wanted me to look at,
9 which depicted a female pulling up in a car, a male coming
10 up to the car, and the female and male leaving. And they
11 wanted -- at that time, before we realized the city and
12 county limits, they wanted some advice on what to make of
13 it.

14 Q Did you participate in the investigation from the
15 time of the suspected abduction on the 13th and 14th up
16 until the 28th of February?

17 A I did.

18 Q Was a suspect discovered?

19 A Absolutely.

20 Q And who did your attention go to towards the end of
21 your investigation?

22 A Fredrick A. Evins.

23 Q In fact, were warrants issued for his arrest for both
24 murder and kidnapping?

25 A Absolutely.

1 Q Did you -- were you able to location Mr. Evins?

2 A Yes.

3 Q Where were you able to locate him?

4 A We immediately started looking for him, obviously,
5 because of these warrants we had in hand for murder. And
6 we got a call from the Greer City Police Department,
7 specifically, a Mark Cleveland, who is a custodial records
8 clerk for the jail and the police department, that he
9 recognized we were looking for Fredrick Evins and that
10 Evins was in the jail there.

11 Q Do you recall what Mr. Evins was in the Greer city
12 jail for?

13 A I believe it was a traffic violation that -- I
14 believe that's correct.

15 Q Do you recall what length of time he had been in the
16 Greer city jail?

17 A One day, not counting the day that we, actually, went
18 over to pick him up.

19 Q So is it fair to say more than 24 hours?

20 A Absolutely, it was.

21 Q Okay. Upon learning that he was at the Greer city
22 jail, did you go to the Greer city jail?

23 A We did.

24 Q And for what purpose did you go there?

25 A To serve these warrants for murder and to pick him up

1 and bring him back to Spartanburg.

2 Q And did you do so?

3 A We did.

4 Q Who was with you?

5 A Jason Yown.

6 Q Did either you or Mr. Yown Mirandize Mr. Evins? And
7 if so, how?

8 A I Mirandized him using a typical form that the
9 Spartanburg County Sheriff's Office incorporates into any
10 investigation. It's a Miranda form that has the five
11 rights. It would be read to a person. I had him initial
12 out beside each number, along with my initials, that he
13 understood them. That's the form that I used.

14 Q And would this have been done at the Greer city jail
15 or back when you -- once you got to the Sheriff's
16 Department?

17 A At the Sheriff's Office.

18 Q On the way from Greer to Spartanburg, do you recall
19 whether or not Mr. Evins received his Miranda warnings
20 from either you or Detective Yown?

21 A I believe that -- again, as far as this case was
22 concerned, first of all, nothing was discussed about this
23 specific case or any parts of it. I believe, if I'm not
24 mistaken, that Detective Yown did read him his rights.

25 MR. BOGGS: Your Honor, unless he can state

1 specifically --

2 MR. GOWDY: That's fine. I'm going to call Detective
3 Yown.

4 That's fine.

5 THE WITNESS: Sure.

6 BY MR. GOWDY:

7 Q Once you got to the Spartanburg -- I think I may have
8 interrupted you when you were saying there were no
9 questions asked of Mr. Evins during the ride?

10 A That's correct.

11 Q Once you got to the Spartanburg County Sheriff's
12 Department, did you Mirandize Mr. Evins?

13 A I did.

14 Q Let me show you what's been marked as State's Exhibit
15 No. 1, and ask you if you recognize that?

16 A I do. This is a form that I testified to earlier
17 that the Spartanburg County Sheriff's Office uses for
18 Miranda, a pre-interrogation form.

19 Q Is that your signature at the bottom?

20 A It is.

21 Q Were you present when the Defendant signed the bottom
22 of that page?

23 A I was.

24 MR. GOWDY: Your Honor, we would move State's Exhibit
25 No. 1 in at this point.

1 THE COURT: What does the Defense say?

2 MR. BOGGS: No objection, Your Honor.

3 THE COURT: After careful examination by Defense
4 counsel, this is admitted without objection.

5 MR. GOWDY: Thank you, Your Honor.

6 (WHEREUPON, State's Exhibit No. 1 was admitted into
7 evidence.)

8 BY MR. GOWDY:

9 Q Detective Denton, what is the date on the
10 pre-interrogation waiver form?

11 A The date at the top of the page is 2-28-03, at 2:33
12 p.m. And that would depict the date that this was,
13 actually, done.

14 Q And would that also depict the date that you went to
15 Greer and retrieved him from the Greer city jail?

16 A That's correct.

17 Q And served warrants on him?

18 A That's correct.

19 Q You, I believe, testified you have been in law
20 enforcement for 19 years. Do you have a procedure that
21 you follow when you are having suspects or witnesses
22 advised of their Miranda rights?

23 A What I do is simply fill out the top. It has a place
24 for the name, address, age, date, time, and location.
25 That's filled out. It has one through five, which would

1 be your rights.

2 Number one, "I have the right to remain silent."

3 Number two, "Anything I say can and will be used against
4 me in a court of law." Number three, "I have the right to
5 talk to a lawyer and have him present with me while I'm
6 being questioned." Number four, "If I cannot afford to
7 hire a lawyer, one will be appointed to represent me
8 before any questioning, if I so wish." And number five,
9 "I have the right to stop answering questions at any point
10 in the questioning."

11 I initialed each number as I read them. And as the
12 person is being read to, if he understands those rights, I
13 ask them to initial at the period behind each sentence.
14 And that was done.

15 Q The "FE" that appears to be behind each one of those
16 sentences that constitute the Miranda warnings, who put
17 that mark there?

18 A The Defendant, Fredrick Evins, did.

19 Q And do you have him do that once he reads the right
20 and expresses to you that he understands it?

21 A Once I read it to him -- he's certainly welcome to
22 read along. It's in English. But after that's completed,
23 if he understands it, to initial it.

24 Q And did he indicate on all five of those Miranda
25 warnings that he understood them?

1 A He did.

2 Q And did you have him sign at the bottom of the page

3 in addition to initialing?

4 A In two places. That's correct.

5 Q Okay. After he was advised of his Miranda warnings,

6 did he chose to waive his Miranda rights and provide you

7 with information relative to the disappearance and murder

8 of Rhonda Marie Ward?

9 A He did.

10 Q Did he initially admit involvement or did he

11 initially deny involvement?

12 A He initially denied involvement.

13 Q Detective Denton, can you describe for the Court what

14 Mr. Evins' demeanor was when you met him in Greer up until

15 the point where you began to interrogate him about the

16 disappearance of Rhonda Ward?

17 A Cordial. He seemed very intelligent, coherent,

18 aware. He knew who we were, where we were at. He's

19 familiar with Spartanburg and had lived there, fairly

20 normal.

21 Q Did he ever ask for medication or food and you deny

22 the same to him?

23 A Absolutely not.

24 Q Did he ever ask for something to drink and you deny

25 the same to him?

1 A No.

2 Q Did you threaten him in any way or promise him some
3 leniency if he talked to you?

4 A Absolutely not.

5 Q Have you ever seen anyone under the influence of
6 drugs or alcohol?

7 A Many times.

8 Q Did Mr. Evins appear to be under the influence of
9 either when you talked to him?

10 A No, sir.

11 Q At the time you went over his Miranda warnings with
12 him, were you also aware that he had been in custody for
13 more than 24 hours?

14 A I was.

15 Q All right. He initially denied knowing Rhonda Ward.
16 Did -- I'm trying to recollect what you testified to.

17 A He initially denied having any involvement in any way
18 with Rhonda Ward.

19 Q Okay. Did he also initially deny having any
20 knowledge of what kind of car Rhonda Ward was driving?

21 A I believe so.

22 Q Subsequent to his initial denials, did he provide you
23 with a statement that did implicate him in both the
24 disappearance and murder of Rhonda Ward?

25 A He did.

1 Q I want to show you what's been marked as State's
2 Exhibit No. 2, and ask you whether or not you recognize
3 that?

4 A I do. This is a six-page original statement that
5 myself and Detective Yown took from Fredrick Evins. It's
6 signed at the bottom with my name, and also Fredrick
7 Evins, and also Detective Yown.

8 Q Were you present when Mr. Evins was questioned?

9 A Yes.

10 Q Were you present when the answers to those questions
11 were then reduced to writing by Detective Yown?

12 A Yes, I was.

13 Q And that is your signature at the bottom of each one
14 of those pages?

15 A All six. That's correct.

16 Q Do you recall whether or not Mr. Evins was given an
17 opportunity to go over that statement since it was written
18 by Detective Yown? Do you recall whether he was given an
19 opportunity to go over that statement and make any changes
20 he wanted to make?

21 A He did. And he did make changes and initialed those
22 changes, along with Detective Yown's initials.

23 MR. GOWDY: Your Honor, we would move State's Exhibit
24 No. 2 into evidence at this point.

25 MR. BOGGS: No objection, Your Honor.

1 THE COURT: All right. Again, after careful
2 examination by Defense counsel, this exhibit is admitted
3 without objection.

4 MR. GOWDY: Thank you, Your Honor.

5 (WHEREUPON, State's Exhibit No. 2 was admitted into
6 evidence.)

7 BY MR. GOWDY:

8 Q Detective Denton, I may or may not have asked you
9 this --

10 THE COURT: Has she marked it?

11 MR. GOWDY: Yes, sir, Your Honor.

12 Would the Court like to --

13 THE COURT: No. Go ahead with it.

14 BY MR. GOWDY:

15 Q The Cigarette's 4 Less that you testified there was
16 some disparity as to whether or not it may have been in
17 the city versus the county --

18 A That's correct.

19 Q -- is it fair to say that that business entity is in
20 Spartanburg County, regardless of whether it's in the city
21 or not?

22 A It is definitely in Spartanburg County, regardless of
23 whether or not it is in the city. But it, actually, did
24 not sit in the city. And that's why they had the
25 videotape for X number of hours.

1 Q Did you also go to the scene where Rhonda Marie
2 Ward's body was found off of Gano Road?

3 A I did.

4 Q Can you tell the Court what county that that took
5 place in?

6 A That was in Spartanburg County also. It would be on
7 the -- looking at a map, it would be west. It would be
8 off of Reidville Road headed towards the Greenville area,
9 specifically, on a road named Gano Road, G-A-N-O. It's in
10 Spartanburg County.

11 Q Detective Denton, can you summarize for the Court
12 what is contained in State's Exhibit No. 2, which is a
13 six-page statement by Fredrick Evins about his involvement
14 in the disappearance and murder of Rhonda Ward?

15 A Specifically, he talks about how -- finally, he
16 talked about how he knew Rhonda. He had met her to smoke
17 some crack with her earlier that morning. She showed up
18 to work about 7:00 in the morning. He had gotten in the
19 car with her. They left to go purchase crack over in the
20 Greer-Lyman area, which is far west from Reidville Road
21 and close by, in fact, where the car -- where the body was
22 found. And that he had known her for a while. He had had
23 sex with her, those kind of things.

24 Then, of course, later on, realizing that we had
25 different information, different evidence, he was asked,

1 specifically, about those inconsistencies, and then he
2 decided that because of the videotape and possible DNA and
3 those kind of things that he would like to and did tell us
4 how he murdered Rhonda Ward.

5 Q Did he admit to you that he stabbed Rhonda Ward?

6 A He did.

7 Q Now, if I read his statement correctly, he said he
8 stabbed her one time; is that correct?

9 A I believe he says that he stabbed her one time, or
10 indicated one time.

11 Q Did you, contemporaneous with him giving the
12 statement, also ask him to act out what he had done to
13 Rhonda Ward?

14 A I did. I said, "Show me on my body how you murdered
15 this girl." I said, "What did you do?"

16 And I gave him a pencil. And he stabbed me four
17 times in my chest.

18 Q Did he initially deny having sex with Rhonda Ward?

19 A I believe initially he did. But later on, given the
20 fact of the evidence that we had recovered and questions
21 about those inconsistencies, he admitted that it was -- or
22 told us it was a consensual situation.

23 MR. BOGGS: I'm sorry. I didn't hear that last word.

24 THE WITNESS: Consensual situation. That's what he
25 had told us.

1 BY MR. GOWDY:

2 Q Let me show you State's Exhibit No. 3, and ask you
3 whether or not you recognize that?

4 A I do. This is a form that the Spartanburg County
5 Sheriff's Office, again, uses for -- or uses to swear the
6 truth and validity of the statement. It simply says, "I
7 swear that the statement that I have just given is the
8 truth, the whole truth, and nothing but the truth, so help
9 me God," signed by Fredrick Evins.

10 It's dated 2-28-03, and notarized by myself with
11 December -- with my notary expiring December 9, 2004.

12 MR. GOWDY: Your Honor, we would move State's Exhibit
13 No. 3 into evidence.

14 THE COURT: Any objection?

15 MR. BOGGS: No objection.

16 THE COURT: All right. Without objection.

17 MR. GOWDY: Thank you, Your Honor.

18 (WHEREUPON, State's Exhibit No. 3 was admitted into
19 evidence.)

20 BY MR. GOWDY:

21 Q For purposes of the record, Detective Denton, this
22 statement is completed first, and then you have them
23 complete the authenticity sheet or whatever -- the part
24 where they swear that they just told the truth?

25 A Sure. It's after the statement is read and

1 understood, any corrections that need to be made, and then
2 it's sworn to.

3 Q Now, during the course of this statement that he gave
4 you -- and we won't go into great detail about any
5 inconsistencies at this point. We just take the statement
6 at its face value. Initially during the first four pages,
7 he said that a "dude," D-U-D-E, was with him when he
8 killed Rhonda Ward?

9 A That's correct.

10 Q He later said that he was riding around in a car --
11 in Rhonda Ward's car?

12 A That's correct.

13 Q With someone by the name of Eugene?

14 A That's right.

15 Q Did you, as part of your investigation, show him a
16 lineup and ask him to identify the person that was with
17 him when he murdered Rhonda Ward?

18 A I did.

19 MR. BOGGS: The voluntariness of the statement, I'm
20 not sure if there's a tie-in to that.

21 MR. GOWDY: Say that again.

22 MR. BOGGS: We're here to determine whether --

23 THE COURT: He's not sure if it's relevant to the
24 Jackson vs. Denno hearing.

25 MR. GOWDY: It's a statement that he gave which he

1 signed where he said, "I brutally stabbed and murdered
2 Rhonda Ward."

3 THE COURT: All right. This is another statement.

4 MR. BOGGS: Another statement, is that what you're
5 trying to introduce?

6 MR. GOWDY: Yeah.

7 THE COURT: Okay. Go ahead.

8 MR. BOGGS: Then our -- of course, our motion to
9 suppress we had in limine, but our motion to suppress
10 covers that, too.

11 MR. GOWDY: Well, that's why I'm going through it. I
12 mean, I --

13 MR. BOGGS: Well, I didn't know what the relevancy
14 was. He didn't write that, so.

15 THE COURT: Go ahead.

16 BY MR. GOWDY:

17 Q Let me show you State's Exhibit No. 4, and ask you
18 whose signature that is at the bottom?

19 A The bottom of this particular form, which is an
20 affidavit and photograph identification, it's the
21 signature of Fredrick Evins. He also prints his name and
22 he gives an address of 111 Hanover Place, Apartment 9 in
23 Spartanburg, 29306. The phone number is 542-1001. And
24 it's notarized by Detective Yown on the same date at 4:10
25 p.m.

1 Q Were you present when that was done, or was that
2 Detective Yown?

3 A Detective Yown and myself both were present.

4 Q Okay. And, again, this statement was completed in
5 conjunction with showing a lineup to Mr. Evins so that he
6 might could tell us who was with him?

7 A This is a dude that he said was with him and,
8 finally, gave us a first name. And, of course, we
9 realized who he was more than likely talking about. And
10 we showed it to him. And he picked him out.

11 MR. BOGGS: Your Honor, we -- I object to this.

12 This is not a statement he's made. He signed
13 something in conjunction with a photo lineup that contains
14 information that was written by the police officer. We
15 object to that being introduced.

16 THE COURT: Well, I think he's saying that this is an
17 oral statement.

18 MR. GOWDY: It is a --

19 MR. BOGGS: He's trying --

20 THE COURT: Wait a minute.

21 Go ahead.

22 MR. GOWDY: It is Mr. Evins signature on an affidavit
23 and photographic identification wherein a law enforcement
24 officer wrote, "The person identified in position number
25 three was with me when I brutally stabbed and murdered

1 Rhonda Ward, an acquaintance of mine, in Reidville, South
2 Carolina."

3 That portion of it was completed by law enforcement.
4 Fredrick Evins adopted that statement by signing his name
5 to the bottom of it, which is exactly what he did in this.

6 THE COURT: Right.

7 The date and time of that statement?

8 MR. GOWDY: February 28, 2003, which is the same day
9 that this statement was taken.

10 THE COURT: And the time of the first statement?

11 MR. GOWDY: The time of the first statement, Your
12 Honor --

13 It's on the waiver form.

14 THE WITNESS: Well, actually, the time is right there.

15 MR. GOWDY: It's 4:07 p.m.

16 THE COURT: So three minutes later?

17 MR. GOWDY: Yes, sir.

18 THE COURT: Now, Officer, let me just ask you before
19 we go any farther, 4:07 was the time he signed the
20 authenticity sheet after he had been through and made
21 changes?

22 THE WITNESS: 4:07 p.m., which is at the bottom of
23 each page on the statement is the time that he, actually,
24 signed and finished -- completed signing the last page.

25 THE COURT: And what time is the waiver? Is that

1 signed?

2 THE WITNESS: The waiver is signed at 2:33 p.m.

3 THE COURT: Okay.

4 THE WITNESS: And then the -- this -- the swearing
5 was signed at the same time this would have been signed.
6 I mean, you might have had a 20-second interval to explain
7 what this is, however long that would have taken.

8 THE COURT: Okay. Now, your objection was based on
9 what, Mr. Boggs?

10 MR. BOGGS: My objection is that that's not a
11 statement that he made. He was to pick out someone out of
12 a lineup. The actual substance of that form was filled
13 out by the police officer. That's not a statement. It
14 was filled out in the words of a police officer, not the
15 words of the Defendant.

16 THE COURT: My understanding is that the State's
17 position is that the Defendant adopted this as his
18 statement when he signed that.

19 Can I look at the form, please?

20 MR. GOWDY: Yes, sir.

21 MR. BOGGS: That's not the purpose of that, Your
22 Honor. The purpose of it is for him to pick out somebody
23 out of a lineup. If that were the case, the officer then
24 could have written in there that he killed JFK, too. And
25 he would have had to have adopted that.

1 MR. GOWDY: Well, I would have hoped he wouldn't have
2 signed that.

3 MR. BOGGS: Well, of course, he signs them in blank.

4 THE COURT: I'm going to overrule your objection.
5 And for purposes of this hearing -- I think what you're
6 talking about goes to credibility. This is -- and there's
7 no question, they're not saying that he wrote the
8 statement, but they are saying that he adopted it.

9 So I think you can develop that on cross-examination.

10 MR. GOWDY: Thank you, Your Honor.

11 (WHEREUPON, State's Exhibit No. 4 was admitted into
12 evidence.)

13 BY MR. GOWDY:

14 Q Detective Denton, let me show you State's Exhibit
15 No. 6, and ask you whether or not those are your initials
16 or Detective Yown's? I cannot tell.

17 A This is a permission to search form. Those are my
18 initials. There's three places where it says, "Blood,
19 hair, and saliva." Mr. Evins initialed underneath each
20 word of "blood, hair, and saliva." I initialed on top.
21 That's mine, "SLD."

22 Q Were you present when he signed his name to the
23 bottom of that document?

24 A Yes.

25 MR. GOWDY: Your Honor --

1 THE WITNESS: And also Detective Yown.

2 BY MR. GOWDY:

3 Q And, again, this is a permission to search, if the
4 chronology is correct. After you took a statement from
5 him, he initially denied having sex with Rhonda Ward. You
6 took him to the hospital for a suspect kit, he consented
7 to such --

8 A That's correct.

9 Q -- and while at the hospital, he admitted that he
10 had, in fact, had sex with her?

11 A He, actually, admitted much later on during the
12 interview on the statement form that he had sex with her.

13 Q Okay.

14 A But given that and understanding our evidence of DNA
15 and what we have -- what we knew we had, that's why that
16 permission to search form was executed.

17 MR. GOWDY: Your Honor, it's not technically a
18 statement. But to the extent that he signed his name to a
19 permission to search, I was going to do it at this time,
20 and see if there are any objections to it.

21 THE COURT: Any objection?

22 MR. BOGGS: Not that it's his signature, no.

23 THE COURT: Okay.

24 (WHEREUPON, State's Exhibit No. 6 was admitted into
25 evidence.)

1 BY MR. GOWDY:

2 Q Finally, Detective Denton, during the course of your
3 interview of Mr. Evins, did he describe the knife that he
4 used to stab Rhonda Ward?

5 A He did.

6 Q Can you tell the Court what he said? Because it is,
7 actually, not in the written statement. It is on a
8 separate sheet of paper, which just for identification
9 purposes, I will say is State's Exhibit No. 5.

10 A Right. What he did is he motioned or used his hands
11 to measure the length of the knife and the type of knife
12 it was. So what I had him to do is simply put his fingers
13 on the paper. How long was it? How long was the blade?
14 How long was the knife? And, basically, he puts his
15 fingers here. I simply draw a line and draw a line above
16 it showing that's the length of the knife. It's very
17 simplified.

18 Q Can you show the Court with your hands how long he
19 said the blade was?

20 A That long. Let me see if I can do this.

21 That long.

22 MR. GOWDY: Your Honor, since Mr. Evins did not sign
23 this document, we're not offering it as a statement. I'm
24 just offering it to the extent it may become necessary for
25 identification purposes to refresh the recollection of

1 Detective Denton. I think his testimony will be what we
2 go with at trial in terms of the length of the knife, not
3 the diagram, given the fact that it was drawn by law
4 enforcement and not adopted by him by way of signature.

5 So we're not offering it as an exhibit.

6 THE COURT: Okay. But the -- there was no verbal
7 statement or questioning surrounding --

8 THE WITNESS: Sure.

9 THE COURT: -- I mean, you told me -- just describe
10 that to me.

11 THE WITNESS: Sure.

12 We asked him to describe the knife that he used to
13 stab her with and give -- to be able to articulate that to
14 people later on, I'd like there to be some measurement.
15 And I simply had him take his fingers and put them down,
16 you know. And it's a great estimation. It's not,
17 obviously, scientific. But he puts his fingers down and
18 it's about that long. And, quite frankly, given the
19 report from the Coroner's Office, it's very close in size
20 and length. But that's -- I had him do it on paper.

21 THE COURT: All right. Did he give any other verbal
22 description of what the knife looked like?

23 THE WITNESS: Black handle. It was a kitchen-type
24 knife. And that's also written there the day that he does
25 it.

1 THE COURT: What other verbal statements did he make
2 with respect to -- anything that you can think of?

3 THE WITNESS: In relation to this particular
4 document, that would be it.

5 THE COURT: Described as a black-handled kitchen
6 knife approximately that long --

7 THE WITNESS: That long.

8 THE COURT: -- using his fingers to gesture as to the
9 length?

10 THE WITNESS: That's correct.

11 THE COURT: And do you know what time that was?

12 THE WITNESS: No, sir, I don't.

13 I know that it would have been after the statement
14 was taken. It wouldn't have been before, obviously.

15 THE COURT: Okay.

16 MR. GOWDY: Thank you, Your Honor.

17 BY MR. GOWDY:

18 Q Detective Denton, are there other statements that, to
19 your recollection, Mr. Evins made either before, during,
20 or after Detective Yown took down the statement that you
21 can recall now?

22 A No. And there may have been things that -- and,
23 obviously, the Defense has a copy of my notes also. If
24 so, it would be noted in there.

25 MR. GOWDY: Your Honor, one moment, if the Court

1 would allow it.

2 THE COURT: All right.

3 (Pause.)

4 MR. GOWDY: Your Honor, I have no further questions
5 for Detective Denton.

6 THE COURT: Before you start, Mr. Boggs, let me just
7 say --

8 Officer, do you need some time to review your notes?
9 Do you think there are any other statements that he might
10 have made? Because I'd like to cover them all today. I
11 wouldn't want anything to come up later.

12 THE WITNESS: Your Honor, I could do that.

13 THE COURT: Are you all -- I'll ask Defense counsel,
14 are you all aware of any other statements that are
15 allegedly made that's contained in the officer's notes?

16 MR. BOGGS: No.

17 THE WITNESS: I'm not either. But if there were, it
18 would be in my notes, if it was important.

19 THE COURT: All right. Go ahead.

20 CROSS-EXAMINATION

21 BY MR. BOGGS:

22 Q Do you mean there may be other ones that we're not
23 aware of --

24 A No, sir.

25 Q -- that are somewhere buried in your notes? Is that

1 what you were talking about?

2 A No, sir. He asked me, specifically, if I wanted to
3 review my notes. And if there were any important
4 statements that he might have made in there, it would be
5 in my notes. I'm not aware of any. But I can look at
6 them real quick, if you'd like me to. And that way, I can
7 say definitively.

8 Q Well, no, let's get them over with if there are any
9 more.

10 MR. BOGGS: Don't you think, Your Honor?

11 THE COURT: Yes. Let's go ahead and take just a
12 couple of minutes.

13 MR. GOWDY: Your Honor, I'm going to hand his
14 typewritten investigative notes to him, if the Court will
15 allow.

16 THE COURT: Yes, absolutely.

17 (Pause.)

18 THE WITNESS: I do not see any.

19 THE COURT: Okay. Thank you, Officer.

20 THE WITNESS: Yes, sir.

21 BY MR. BOGGS:

22 Q Officer Denton, you -- this was back in 2003; right?

23 A It was.

24 Q And you've had numerous cases since then; correct?

25 A Numerous cases since then?

1 Q Yeah. I assume this is not the only case you've had
2 since then; right?

3 A Well, no. I've worked other cases since then. I
4 don't know how many I've had since then. And I don't know
5 that they're numerous.

6 Q All right. Let me get this straight. Now, you were
7 investigating -- as of the 13th of February, you began
8 investigating or working on the investigation of this
9 case; right? Somewhere around there; correct?

10 A Yes.

11 Q Okay. And over the next two weeks, did you
12 accumulate a good bit of information?

13 A Yes.

14 Q Okay. In fact, you interviewed people that gave some
15 identifications out of the videotape, et cetera, et
16 cetera; correct?

17 A Absolutely.

18 Q All right. And by the time that the 28th came
19 around, at least, in your opinion, you had a pretty good
20 idea who the suspect was; correct?

21 A Yes.

22 Q Okay. So by the time you picked Mr. Evins up from
23 the Greer jail, you felt pretty sure you had the right
24 guy; right, based on what you had learned the previous two
25 weeks?

1 A Based on -- yes. Based on a lot of things, not any
2 one particular thing.

3 Q Well, it wasn't anything that you knew before then,
4 was it?

5 A Before the 28th?

6 Q No, before the 13th. You said it was based on a lot
7 of things.

8 A It was based on a lot of things, not just one
9 particular --

10 Q Right. And that's what I was saying, it was what you
11 pieced together over the two weeks?

12 A That's correct.

13 Q And the bottom line is, when you went there, you knew
14 that you were going to arrest him because you had the
15 arrest warrants; correct?

16 A That's correct.

17 Q And you picked him up at the Greer jail at about 1:00
18 that afternoon, I think?

19 A That's correct.

20 Q He had just gotten out of a bond hearing on some
21 traffic charges or something like that; correct?

22 A I believe that's close to the time.

23 Q And you took him back to the Spartanburg jail?

24 A No, to the Spartanburg County Sheriff's Office.

25 Q The Sheriff's Department; correct?

1 A Yes.

2 Q And you didn't have any conversation on the way;
3 right?

4 A Not about this case, no, sir.

5 Q Well, what did you talk about? Anything or just --

6 A Probably the weather. I mean, it wouldn't have been
7 anything specific about a criminal case.

8 Q All right. And you get back. When do you think you
9 would have gotten back to the Sheriff's Department,
10 roughly?

11 A If you say we were there at 1:00, it takes about 25
12 minutes to drive from the Greer city jail to the Sheriff's
13 Office, 1:25, an approximate time.

14 Q And what did you do once you got there?

15 A He would have been placed in a large conference room
16 that we use as an interview room.

17 Q He wasn't put in one of the small interview rooms?

18 A No.

19 Q Why not? Why the large one, as opposed to the small
20 one?

21 A Well, first of all, the small rooms are usually used
22 for people that may be there for a short amount of time,
23 witnesses, victims, that kind of thing. When you're
24 dealing with somebody that possibly murdered someone, then
25 a much more comfortable and larger room is what we tend to

1 use. And that's what we used, mainly, for the comfort of
2 the suspect and detectives.

3 Q All right. So you put him into an interrogation
4 room. And then what happened?

5 A Miranda would have been read.

6 Q Okay. And when would that have been read?

7 A I think it was at 2:33.

8 Q All right. So what happened in the intervening hour?

9 A Probably a lot of discussion I can tell you between
10 myself and the supervisor over that case, which would have
11 been Jason Yown.

12 Q All right. So he sat in there in the interrogation
13 room roughly an hour by himself?

14 A Probably so, give or take a while. That's correct.

15 Q And you go in and you say you've got a Miranda waiver
16 signed about 2:33?

17 A That's correct.

18 Q But prior to that, you had gotten a consent to search
19 signed?

20 A Prior to that, I got a consent to search, permission
21 to search.

22 Q And wasn't it at 2:29? Maybe I've got my times
23 wrong.

24 A You may be correct.

25 That's correct.

1 Q Permission to search?

2 A That's correct.

3 Q So you did go in and, at least, discuss that you
4 wanted him to -- or, at least, you had some discussion
5 with him before Miranda about consent to search?

6 A That's correct.

7 Q Okay. And what did you explain to him was the reason
8 for that?

9 A Simply to find out if, in fact, he had any
10 involvement with Rhonda Ward, you know, criminally or
11 otherwise.

12 Q All right. Had you already informed him then that he
13 was being arrested for the murder of Rhonda Ward?

14 A I'm not sure of that. I can't answer that.

15 Q So your testimony is, you take a man from the Greer
16 jail, you put him in the Spartanburg jail, you leave him
17 there for an hour, and then you come in and get a consent
18 to search, and he doesn't even know what you're doing?

19 A No, sir.

20 Q Okay. At what point did you explain to him --

21 A We're talking about specific times here, and I can't
22 give you that. I can give you the times that are on these
23 forms. I can tell you that Detective Yown and I drove
24 from the Greer city jail to the Spartanburg County
25 Sheriff's Office. He would have been placed in that

1 conference room. For how long, I'm not sure. It could
2 have been an hour. It could have been less than an hour
3 while we discussed things.

4 And then after that is when we would have gotten the
5 permission to search form, also the Miranda, and so forth.

6 Q All right. So I take it, at that time, you had not
7 served the arrest warrants on him?

8 A I can't answer that definitively. I don't --

9 Q You have a copy. Wouldn't it have --

10 A Of an arrest warrant?

11 Q Yeah. Wouldn't it have a time on it when it was
12 served?

13 A It may. They may have a copy. I do not have a copy.
14 I know that it would have the date on it. I don't know
15 about the time.

16 Q All right. So you don't even know if the arrest
17 warrant had been served at that point?

18 A I do not.

19 Q But before he signed his Miranda waiver, you went in
20 and got him to sign a consent to search, which was to take
21 body fluids, hair, et cetera?

22 A At that point, we would have already -- at that
23 point, we would have told him while he was there. So to
24 answer your question about the arrest warrant, it may have
25 already been served. I'm not sure.

1 Q If it had not been served, would you have told him
2 while he was there that he was under arrest for anything
3 in particular?

4 A Oh, I would think so. Yes, sir.

5 Q Well, can you remember?

6 A I cannot. That could have been something that
7 Detective Yown could have -- could answer.

8 Q But you don't dispute that you were, at least,
9 getting him to sign the consent form before you read him
10 the Miranda rights?

11 A Before he signed this Miranda paper, that's very
12 true.

13 Q All right. And what did you explain to him was the
14 reason that you wanted him to sign the consent to search?
15 That's what I'm trying to get at.

16 A We would have talked about the investigation and
17 where we were at. And, again, I think that's something
18 Detective Yown can answer.

19 Q You weren't present during that period of time?

20 A The initial part of the verbal interview, there's a
21 possibility that I was not.

22 Q All right. When would that have been then?

23 A Time wise, I don't know. It would had to have been,
24 obviously, after 1:25 and before 2:29. So at some point
25 in there, Detective Yown could have --

1 Q Okay. So at some point during that period of time,
2 there was an actual interview, according to your
3 testimony, of Mr. Evins?

4 A I'm sorry. Repeat that.

5 Q Well, you said during the initial interview that you
6 might not have been there. So before the Miranda
7 rights --

8 A During the -- between 1:25 and 2:30 -- 2:29,
9 Detective Yown could have talked to him and could have
10 served those warrants. Again, that's something he'll need
11 to address.

12 Q All right. Well, you're saying you didn't ever say
13 anything to Mr. Evins then during that hour. Let's call
14 it an hour just for convenience sake.

15 A Well, I want to make --

16 Q 1:25 to 2:29, you're saying you didn't say anything
17 to Mr. Evins at all?

18 A No, sir. I'm not saying that. We could have started
19 talking to him, obviously, about the case while he was
20 there asking him -- advising him of the reason he's there.
21 And, again, if he can answer that -- I can't about the
22 warrant being served prior to that.

23 Q Is that when you told him that you had the video and
24 the DNA and all that?

25 A No, sir.

1 Q When was that?

2 A That was during the interview and the statement
3 given.

4 Q Okay. And did you, actually, have any DNA evidence
5 at that time?

6 A We knew that we had --

7 Q No. My question was, did you have any actual
8 evidence at that time?

9 A Yes.

10 Q You did?

11 A Yes.

12 Q Do you know where that report is?

13 A I would imagine it would be with the case file.

14 Q Okay. Because wasn't that the day that the blood
15 was, actually, drawn?

16 A Are you talking about his blood or Rhonda Ward's
17 blood?

18 Q His blood.

19 A I'm, specifically, talking about evidence of a
20 foreign substance that wouldn't belong to Rhonda Ward in
21 her vagina. So --

22 Q But that's not what you told him. Because your
23 testimony was that you told him that you already had DNA
24 evidence linking him to it.

25 A No, sir. That's not what I testified to. What I

1 testified to is that we had DNA evidence from Rhonda Ward.

2 Q All right. So you told him that for what purpose?

3 A To let him know that we had DNA evidence from Rhonda
4 Ward that didn't belong to Rhonda Ward. It wasn't
5 consistent with her DNA. And it appeared to be a foreign
6 substance from a male. She would be a female.

7 Q All right. And the purpose, again, was what, to try
8 to tell him that you knew his first statement wasn't true
9 or what?

10 A To let him know that we had DNA evidence that wasn't
11 consistent with Rhonda Ward. And certainly if it was his,
12 we'd need to know that.

13 Q An hour and a half later or a little more than that,
14 he signs a statement; correct?

15 A He signed this statement, yes, a six-page statement,
16 that was taken by Detective Yown.

17 Q At 4:07; right?

18 A If I could look at it.

19 Yes.

20 Q And did you write that or did Yown write that?

21 A Detective Yown.

22 Q Okay. So he signed a statement that Detective Yown
23 wrote an hour and a half after you got the consent to
24 search, et cetera; correct?

25 A That's correct.

1 Q All right. And did he read that statement, or do you
2 remember, or was it read to him?

3 A He read the statement as Detective Yown read it aloud
4 to him. In fact, he sat beside him as he did.

5 Q Did you audio tape this at all?

6 A No, sir.

7 Q Is that not a standard practice?

8 A No, sir, it's not.

9 Q It isn't?

10 A No, sir.

11 Q All right. And then after the statement is signed,
12 what did you decide you needed to do at that point?

13 A Once the statement was signed?

14 Q Yeah. What did you do next?

15 A We went to the Spartanburg Regional Medical Center to
16 draw blood, saliva, and hair.

17 Q Okay. But you got him to sign some documents before
18 you did that, didn't you?

19 A Yes, sir.

20 Q And then you went to the hospital; correct?

21 A The document was already signed, then we went to the
22 hospital after the statement was taken.

23 Q Okay. So you got him to sign the statement, sign
24 documents, and then you went to the hospital?

25 A I believe so, yes, sir.

1 Q Okay. And one of those was that he signed -- after
2 he signed the statement, then you handed him another
3 document that says, this is a certification or a
4 verification or something saying that this is a true
5 statement; correct?

6 A Yes, sir.

7 Q And he signs that --

8 A After the statement, yes, sir. It's a sworn
9 statement affidavit.

10 Q I'm sorry.

11 A It's a sworn statement affidavit.

12 Q And was that done at the same time or immediately
13 following that -- the signing of the statement?

14 A It was done following signing the statement. I mean,
15 it would be right after that.

16 Q And then you got him to sign something -- or got him
17 to look at a photo lineup; correct?

18 A That's correct.

19 Q And you asked him if he could -- well, first of all,
20 when did -- when was that lineup put together?

21 A What time was the lineup put together?

22 Q Yeah.

23 A I don't know. It was put together that day after he
24 gave his statement telling us there was a dude with him.
25 And he, finally, gave us the name of the dude.

1 Q Okay. And was this one where you pull it up on the
2 computer, or did you physically go in and get pictures, or
3 do you remember?

4 A I know that the system -- that's something we don't
5 do. That's something the ID division does. I know that
6 it, specifically, is on a computer and it's pulled up
7 randomly.

8 Q Well, then would you do something like get in touch
9 with ID and say, these are the characteristics we're
10 looking for?

11 A It probably was not me that got in touch with them.
12 But probably Detective Yown would have gotten in touch
13 with them and had them do a lineup.

14 Q So you didn't have anything to do with putting
15 together the lineup?

16 A No.

17 Q Were you present when he looked at the lineup?

18 A Absolutely.

19 Q Okay. That looks like old Willy Black here. That's
20 not him, is it?

21 A That would be him.

22 Q Is it?

23 A That would be him.

24 Q Okay. So let me get the lineup -- you got the
25 statement signed -- well, you started interrogating around

1 2:33, you got the statement signed at 4:07. And then you
2 get the verification signed pretty much after that?

3 A Right.

4 Q Investigator Yown gets in touch with ID and says, we
5 need a lineup and these are the characteristics we're
6 looking at. All right.

7 A Okay.

8 Q Now, did he look at the lineup before you took him to
9 the hospital? Did Mr. Evins look at the lineup before?

10 A I would think so, yes, sir.

11 Q Okay. So you're waiting on the lineup. And then he
12 looks at it and identifies somebody; correct?

13 A He does.

14 Q And then he has to sign that he identified picture
15 number three or whatever it is?

16 A Whatever number it is. I think it was three.

17 Q Okay. So it was position number three. So,
18 Detective Denton, didn't Mr. Evins just sign this
19 affidavit of photograph identification in blank and then
20 it get filled in later?

21 A Absolutely not.

22 Q Okay. Well, how could all that have been done in
23 about three minutes?

24 A Well, you show the lineup --

25 Q But you had to go put the lineup together, according

1 to you.

2 A During his statement --

3 Q No. I asked you and you said Detective Yown, after
4 his statement was signed, went to ID and got the lineup;
5 correct?

6 A Well, he requested ID to get the lineup.

7 Q Okay. So they have to put the lineup together, and
8 then you have to let Mr. Evins look at it, and then he has
9 to identify it. And that can all be done within three
10 minutes?

11 A No, sir. During the statement when he mentions this
12 person that was with him and identifies him as Eugene, at
13 that point -- and, again, that's something Detective Yown
14 would need to address. But, at that point, I would say
15 that that's when the lineup was asked for or requested.

16 Q All right. But you don't know?

17 A Well, I can't testify to calling ID myself. I can
18 tell you that that's --

19 Q But you were present during that whole period of
20 time?

21 A Yes, sir. During the interview, I was, yes, sir.

22 Q All right. Did he -- well, scratch that.

23 Clarify one thing for me. He initially denied any
24 involvement with Rhonda Ward was the statement you had
25 made. Now, clarify that. Did he -- was he denying even

1 knowing Rhonda Ward?

2 A After he was Mirandized and we began talking with
3 him, I recollect him, at first, saying he didn't know her,
4 whatever. After we knew the inconsistencies of that and
5 he knew we knew, in his statement, obviously, he starts
6 off with how he knew her, what their involvement was, what
7 they did together, all those kind of things.

8 Q Now, have you reviewed his statement? It's a
9 six-page statement handwritten by Detective Yown.

10 A Oh, yes. I've reviewed it.

11 Q Okay. A good bit of that is not true, isn't it?

12 A A good bit of what?

13 Q His statement.

14 A I believe it not to be true.

15 Q All right. Do you have any evidence to show that
16 most of it is not true?

17 A Yes, sir.

18 Q Okay. Such as?

19 A Well, consensual --

20 Q Let me ask you this. Did you ever follow-up to find
21 out if there was another dude, for example?

22 A Absolutely.

23 Q Was there, according to your investigation?

24 A Sure. There was another dude that he says was with
25 him at the homicide scene. There was a dude with him

1 after he murdered Ms. Ward and --

2 Q At the scene?

3 A No, sir.

4 Q Okay.

5 A After he murdered Ms. Ward, he was with the dude,
6 Eugene, who he picks out in his photo lineup. And, of
7 course, he tells us that he was with him at the homicide
8 scene. Eugene happened to be a witness in this case after
9 the homicide had been committed. And Mr. Evins, I
10 believe, again, knew that at the time that he told us
11 about Eugene.

12 Q All right. Well, let's not talk about that. Let's
13 talk about what's in the statement.

14 A Okay.

15 Q Let's deal with what's in the statement.

16 A Well, again --

17 Q In the statement, he says there's a dude that's
18 there; correct?

19 A Right.

20 Q At the homicide scene?

21 A Right.

22 Q Is that true, according to your investigation?

23 A According to my investigation and my opinion, no.

24 Q Okay. There are other things in here that, according
25 to your investigation, are they true?

1 A I think -- the part about the consensual sex, I think
2 that is not true.

3 Q Even after talking to other potential witnesses?

4 A Sure. I think that that is not true. About Ms. Ward
5 smoking crack, that is absolutely not true.

6 Q Okay. So this is not a credible statement at all?

7 A I think the first parts of it are not credible. I
8 think the guts of it are very credible and match what
9 happened at the crime scene, given that the only person
10 that would know that would be the person that murdered
11 her.

12 Q All right. But you're saying that a lot of it -- you
13 kind of pick and choose, part of it you believe --

14 A Mr. Boggs, I don't pick and choose anything.

15 Q Part of it you believe --

16 A I take what anybody gives me. If there are
17 inconsistencies, I look at those inconsistencies and try
18 to find out why they're inconsistent. And in this case,
19 we did.

20 Q So what he told you, a good portion of it turned out
21 not to be true; correct? And when you have somebody
22 that's signed a sworn statement and it turns out not to be
23 true, he has no credibility in that statement; correct?

24 A Quite honestly, I lost you during that. I understand
25 where you're going with it, but that's not exactly true,

1 in my opinion.

2 Q Okay. So you can have selective credibility?

3 A No, sir. I think that people tend to, especially
4 when they're possibly being accused of something as --

5 Q That really was just a "yes" or "no" question.

6 A Well, no, it's not. It's not something I can explain
7 with a "yes" or "no."

8 So may I continue since we're on the record?

9 Q The question was, was it selective credibility?
10 That's either "yes" or "no."

11 MR. GOWDY: Your Honor, I'm going to --

12 THE WITNESS: I can't --

13 THE COURT: I'm going to allow him to explain his
14 answer.

15 THE WITNESS: Thank you, Your Honor.

16 Simply, a person that's being possibly charged with
17 something as serious as a homicide, it is my experience --
18 and I have a lot of it -- that they tend to lie on the
19 first part of their statement and throughout the
20 statement. I tend to also have an opinion that towards
21 the end of the statement that it becomes much more valid.
22 That's based on experience. That's not based on some
23 whimsical theory.

24 MR. BOGGS: I don't have any further questions.

25 MR. GOWDY: Nothing on redirect.

1 THE COURT: All right. Thank you, Officer.
2 You can stand down.

3 MR. GOWDY: Your Honor, the State would call
4 Detective Jason Yown.

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

7 WHEREUPON,

8 JASON YOWN,
9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GOWDY:

12 Q Good afternoon, Detective Yown.

13 A Good afternoon, sir.

14 Q Can you tell the Court where you work now?

15 A I'm currently a fraud investigator with the Saint
16 Paul Traveler's Insurance Company.

17 Q And in February of 2003, where did you work?

18 A The Spartanburg County Sheriff's Office.

19 Q Did you leave the Sheriff's Department on good terms?

20 A Yes, sir, I did.

21 Q How long were you in law enforcement prior to
22 leaving?

23 A Eight and a half years.

24 Q Was a portion of that time spent as a homicide
25 investigator?

1 A Two and a half years of that was a homicide
2 investigator.

3 Q Do you know how many homicides you would have worked
4 on during your career?

5 A Roughly 30 homicides, probably 100 deaths.

6 Q Is it fair to say that you were considered to be the
7 lead detective on the murder of Rhonda Marie Ward?

8 A Yes, sir.

9 Q At some point, did you develop Fredrick Antonio Evins
10 as a suspect?

11 A Yes, sir, we did.

12 Q And did you go to a magistrate judge and seek
13 warrants for murder and kidnapping?

14 A Yes, sir, I did.

15 Q Where did you find Mr. Evins?

16 A We received a call from a civilian at the Greer
17 Police Department stating Mr. Evins was in custody in
18 their facility.

19 Q Did you accompany Detective Denton, or vice versa,
20 did he accompany you, since you were the case agent, to
21 Greer to find him?

22 A I, actually, accompanied him. I think he had driven
23 to lunch and we left shortly after lunch to go to Greer.

24 Q Do you recall what time you would have gotten there?

25 A I would say 1:30, 1:45 in the afternoon on the 28th.

1 Q Did you serve the warrants on Mr. Evins at Greer or
2 did you wait to do that until you got back to the
3 Sheriff's Department?

4 A I did not serve the warrants on Mr. Evins. I think
5 it's a good faith policy that we have at the Sheriff's
6 Office that individuals that sign the warrants are not the
7 actual person that serves it. So another officer would
8 have served those warrants.

9 Q Okay. Do you know who that was?

10 A I cannot recall today, no, sir.

11 Q Okay. Did you tell him when you picked him up at
12 Greer that you thought he was a really good suspect in the
13 murder and kidnapping of Rhonda Marie Ward before you took
14 him to Spartanburg?

15 A No, sir.

16 Q Was there any discussion at all into the
17 disappearance and death of Rhonda Marie Ward before you
18 got to Spartanburg?

19 A No, sir.

20 Q Did you Mirandize him verbally on the way from Greer
21 to Spartanburg?

22 A Yes, sir. If I could explain.

23 Q Sure.

24 A Mr. Evins, it took us several minutes to get him out
25 of the facility there at Greer. When we placed him in

1 Investigator Denton's patrol car, I was sitting in the
2 back seat with him. Mr. Evins was very talkative. He
3 wanted to know what we wanted to speak to him about. I
4 told him I was not at liberty to say at this time. He
5 inquired if it involved a car that his current girlfriend
6 owned that he was, actually, arrested driving.

7 Q At that point, did you decide it would be in his and
8 your best interest to verbally Mirandize him?

9 A Absolutely. He's talking about a criminal incident
10 there. And I thought it would be in our best interest to
11 verbally Mirandize him at the time.

12 Q And the fact that you verbally Mirandized him is not
13 something new that came to you today. In fact, it's in
14 your investigate notes --

15 MR. BOGGS: Your Honor, I would ask that the -- I
16 know we're in a nonjury matter, but --

17 THE COURT: That's all right.

18 MR. BOGGS: -- if he would phrase a question.

19 THE COURT: Shorten your question.

20 BY MR. GOWDY:

21 Q Is that reflected in your investigative notes?

22 A I believe so.

23 Q How do you verbally Mirandize people? Do you do it
24 off of a card or memory?

25 A I, actually, do it off of memory, sir.

1 Q Do you know what rights you would have covered with
2 Mr. Evins?

3 A Yes, sir, I do.

4 Q Can you verbally tell us what those were?

5 A Yes, sir. He has the right to remain silent.
6 Anything he says can and will be used against him in a
7 court of law. He has the right to have an attorney and to
8 have his attorney present with him while he's being
9 questioned. If he cannot afford to hire a lawyer, one
10 will be appointed to represent him at no cost. And he has
11 the right to stop answering questions at any point in the
12 investigation.

13 Q When you got to Spartanburg, tell the Court what
14 happened.

15 A When we came to the Spartanburg County Sheriff's
16 Office, we proceeded to what we call our criminal
17 investigation division, CID. We have several rooms that
18 sit off of that from where our desks and cubicles are.
19 They are small interview rooms, probably four foot by six
20 foot.

21 Due to the fact that we thought this would be a
22 lengthy interview, we asked Mr. Evins to accompany us to a
23 larger conference room. This conference room would have a
24 large table with probably -- I'd say approximately ten
25 chairs around it, a television, several file cabinets.

1 And we asked him to have a seat there.

2 Q State's Exhibit No. 6 is a permission to search that
3 is dated the 28th of February and timed at 2:29. Is that
4 your signature on that?

5 A As -- in the witness?

6 Q Yes.

7 A Yes, sir. That is my signature and my I-number,
8 which was I-22.

9 Q And did he sign State's Exhibit No. 6?

10 A Yes, at the sign slot with the "X."

11 Q Were you the detective that asked him whether or not
12 he would give permission to search and do a suspect kit on
13 him?

14 A That, I cannot recall. It would have been either
15 myself or Investigator Denton. We were together in the
16 interview at that time.

17 Q Okay. Do you recall about what time y'all would have
18 gotten to the Sheriff's Department?

19 A I would say 2:15, 2:30.

20 Q Were you present when he was Re-Mirandized by
21 Detective Denton?

22 A Yes, sir, I was.

23 Q Were you present when he signed State's Exhibit No.
24 1, which is pre-interrogation waiver form?

25 A May I see it?

1 Q Yes.

2 A Yes, sir.

3 Q Is that your signature?

4 A Yes, sir, at the notary slot.

5 Q Do you recall Detective Denton going over each one of
6 those rights with the Defendant?

7 A Yes, sir. Because it took a period of time. Because
8 as Detective Denton testified, as he would read each
9 Miranda right, Mr. Evins initials that he understands
10 those rights.

11 Q Did Mr. Evins agree to waive his Miranda rights and
12 consent to an interview with you?

13 A Yes, sir. On the same form, there's a bottom
14 paragraph that says, "I waive, give up my rights explained
15 above and agree to talk to Officer Yown and Denton in
16 reference to the murder of Rhonda Ward. Any statement I
17 may make is of my own free will without fear, threat, or
18 promise, or favor, or reward of any kind. I'm able to
19 read and write the English language and finished nine
20 years of school."

21 Mr. Evins signed below that paragraph. And that's
22 separate from understanding his Miranda rights.

23 Q And did you, as the Miranda warrant indicates, not
24 threaten or coerce him in exchange for his statement?

25 A Absolutely not.

1 Q Did you offer him any leniency if he did give you a
2 statement?

3 A Absolutely not.

4 Q Did he request food, medicine, or water and you deny
5 him the same?

6 A I, actually, think he requested a cup of water on
7 several occasions and he was provided water in a styrofoam
8 cup.

9 Q Did -- tell the Court how interviews work. Do you
10 interview them first and then reduce it to writing, or
11 were you writing that contemporaneous with him speaking?

12 A No, sir. We interview the individual whether it be a
13 defendant, whether it be a witness, or a victim. We
14 interview the individual just as we did with Mr. Evins.
15 There again, you'll have inconsistencies in this
16 interview. You'll clarify those inconsistencies to your
17 best of ability. And then you'll condense that into a
18 statement form -- or I shouldn't say condense. Sometimes
19 exactly what they've told you in the interview goes right
20 into the statement. It's his decision, not our decision,
21 what goes into the statement.

22 Q Do you recall initially asking Mr. Evins whether he
23 even knew Rhonda Ward and what his answer was?

24 A Initially, yes, sir, he denied knowing her.

25 Q He denied knowing her?

1 A He denied knowing her.

2 Q Do you recall initially asking him whether he knew
3 anything about a white Nissan Sentra and what his answer
4 may have been?

5 A Actually, those questions would have been reversed.
6 I, actually, asked him first about the white Nissan car
7 and if he had any knowledge or any possession of a white
8 Nissan Sentra vehicle. And he denied having possession or
9 knowing anyone that owned a white Nissan. And then it
10 moved into the questions of knowing Ms. Ward where he
11 denied that also.

12 Q And at some point after the interrogation continued,
13 I would assume you confronted him with evidence to the
14 contrary. Did he admit that he did know Rhonda Ward?

15 A Yes, sir, he did.

16 Q Did he proceed to give you the information that is
17 contained in that six-page statement, which is State's
18 Exhibit No. 2?

19 A In the interview, yes, sir.

20 Q Did you give him the option of writing his own
21 statement?

22 A Yes, sir. Normally, I prefer that. It's their
23 statement, so they have a right. So I ask them would they
24 mind writing their own statement. Mr. Evins stated he
25 would prefer someone else to write his statement. I

1 inquired if he'd have a problem with me writing his
2 statement. He said, "No."

3 Q Do you have the suspect's or defendant's read over
4 the statement and indicate in any way that those are, in
5 fact, their words?

6 A Absolutely. From -- on occasion, you may while
7 you're -- while he's speaking, you're writing, and you may
8 miss something. It's my procedure to, actually, sit
9 beside the individual, place the original statement
10 between us, take my pen and go word for word through the
11 statement while I read it out loud.

12 Q Is it fair to say that while State's Exhibit No. 2 is
13 your handwriting, those are his words?

14 A Yes, sir, and his corrections.

15 Q State's Exhibit No. 4 is the affidavit and
16 photographic identification in conjunction with the photo
17 lineup.

18 Now, Mr. Boggs had some questions about the timing of
19 the lineup. Do you know how the lineup came to be?

20 A Yes, sir, I do. The gentleman's name "Eugene" had
21 came up earlier in the investigation. We had recovered
22 property on the evening before. I believe that would have
23 been February the 27th. We spoke to several witnesses in
24 the general area of where the property was located on
25 Walker Road, which is in Spartanburg County. They had

1 provided a name of an individual that had an association
2 with Mr. Evins. That individual is Eugene. And I
3 apologize. I don't recall his last name at this time.

4 But I had completed a lineup on the 27th to show
5 witnesses to assist us in identifying this individual that
6 they had identified. So the lineup was, actually, created
7 on the 27th. And as Mr. Boggs eluded to, it's a computer
8 generated -- you, basically, plug a name or
9 characteristics in. In this case, we did have a name.
10 And then the other five pictures are based on the
11 characteristics of the original information. And then you
12 can print off one, ten, 25 copies, which we did on the
13 27th.

14 Q Does the name Eugene Edwards sound right?

15 A Yes, sir, Eugene Edwards.

16 Q Do you know whether or not you would have interviewed
17 Eugene Edwards in between the time that you developed his
18 name and the time you interviewed Mr. Evins?

19 A Yes, sir. We did interview him.

20 Q Okay. Would you describe him as being cooperative or
21 uncooperative?

22 A Cooperative.

23 Q The affidavit that accompanied him picking
24 Mr. Edwards as his accomplice in the murder, do you know
25 if Mr. Evins signed his name to that? Were you present

1 when that was done?

2 A Yes, sir. That is his signature. He printed the
3 name. He wrote the address. And there was a correction.
4 He originally wrote "100" and then changed it to 111
5 Hanover Place, Spartanburg, South Carolina, 29306, with a
6 phone number. That is all his handwriting.

7 Q Do you recall whether or not he would have signed
8 that form in blank and then you later filled in what you
9 wanted to, or would you have filled in the middle portion
10 of that prior to his signature?

11 A Absolutely not. He would have signed it filled in.

12 Q So you would not have written anything on that form
13 after he signed his name?

14 A No, sir.

15 Q Okay. After -- now, how long after you took the
16 six-page statement did you show him the photo lineup?

17 A It's not -- it's timed at 4:10 p.m. The statement
18 was at 4:07, three minutes -- three to five minutes
19 depending on -- it was my watch versus Detective Denton's
20 watch. So I would say no more than five, but probably the
21 three-minute time that's represented on those documents.

22 Q After you concluded taking the statement and his
23 signing the affidavit in connection with the photo lineup,
24 did you take him to Spartanburg Regional to complete the
25 suspect kit that he had already agreed to?

1 A Yes, sir, we did, myself and Detective Denton.

2 Q Well, let me ask you, during your initial interview
3 of Mr. Evins before you began to reduce anything to
4 writing, did you ask him whether or not he had had sex
5 with Rhonda Marie Ward?

6 A Yes, sir, I did.

7 Q And what did he say?

8 A He denied it.

9 Q At any point during that six-page statement did he
10 ever say that he had sex with Rhonda Marie Ward?

11 A On the date of the murder or in general?

12 Q On the day of the murder.

13 A He denied having sex with her on the day of the
14 murder.

15 Q When is the first time that you heard from him that
16 he had had sex with Rhonda Marie Ward on the day of her
17 murder?

18 A When we take suspects to Spartanburg Regional Medical
19 Center, they have set aside an examining room, just a
20 little more secure area, that we can bring individuals
21 into. We had had to request a nurse or an RN to come
22 assist us in taking these samples. So there would have
23 been a short time delay, 10 or 15 minutes, of us
24 requesting a nurse, a nurse coming to us, completing the
25 necessary paperwork, and then, actually, taking the sample.

1 In this 10 to 15 minutes that we were waiting on the
2 nurse, Mr. Evins volunteered the information that there's
3 really no need to do this anymore because that was his
4 semen. He had had sex with Ms. Ward on the day of the
5 homicide.

6 MR. BOGGS: I didn't hear that last part. On the way
7 to the what? He had sex on --

8 MR. GOWDY: On the day of the homicide.

9 THE WITNESS: On the day of the homicide, the
10 incident.

11 MR. BOGGS: I'm sorry.

12 MR. GOWDY: One moment, Your Honor, please.

13 (Pause.)

14 MR. GOWDY: No further questions for the former
15 Detective Yown.

16 THE COURT: All right.

17 CROSS-EXAMINATION

18 BY MR. BOGGS:

19 Q I'm sorry, Detective Yown, I didn't hear that last
20 part. He did say at some point that before he was served
21 with the warrants that he did have sex with her; right?

22 A Before he was served with the warrants?

23 Q That's what I'm trying -- your last --

24 A Can I just explain the answer again?

25 Q Yeah.

1 A I'll try. When we take him -- we took him to the
2 Spartanburg Regional Medical facility. We placed him in
3 an examining room. In the period of time that we were
4 waiting, actually, for a nurse to assist us, Mr. Evins
5 volunteered -- stated he did not know why we were needing
6 to do this because he had had sex --

7 Q So it was all within the continuous chain of events
8 from the time you picked him up?

9 A Yes, sir. And then we would have left there and gone
10 to the Spartanburg County jail.

11 Q Okay. So even though that didn't appear in the
12 statement, the reason being that he was at the hospital at
13 that point during this whole chain of events --

14 A The reason it's not in his statement is because he
15 denied it in his statement.

16 Q My question was this --

17 A Yes, sir.

18 Q -- even though it didn't appear in his statement,
19 during the course of this whole sequence of events, he did
20 say that he had sex with her; right?

21 A Yes, sir.

22 Q Okay. And according to you, it was kind of bam, bam,
23 bam, sign the statement, look at this, sign this, get to
24 the hospital?

25 A I wouldn't say bam, bam, bam. There's --

1 Q Well, three minutes -- now, come on, Detective, three
2 minutes to hand the guy a six-person photo lineup --

3 A Absolutely.

4 Q -- and get him to look at it --

5 A Sir, it was in the room with us.

6 Q Say what now?

7 A It was in the room with us. My case file was in the
8 room with us by this time. It's a matter of opening
9 probably a four-inch binder and pulling a lineup out and
10 showing it to Mr. Evins.

11 Q Okay. And so that's the normal procedure or does it
12 normally take just a minute or two to do that?

13 A Sir, I've had people look at lineups for 30 minutes.
14 I've had people look at them for 30 seconds and identify
15 the individuals.

16 Q Now, when he -- when Mr. Evins picked out -- was it
17 Eugene?

18 A Yes, sir.

19 Q Okay. What did he say?

20 A What did he say?

21 Q What did Mr. Evins say?

22 A He said, "That was the guy that was with me when the
23 murder took place."

24 Q Anything else that he said?

25 A Not that I recall.

1 Q Well, he didn't have much time to say anything
2 because we're still talking about that short period of
3 time. But he says, "That's the guy that was with me,"
4 period?

5 A Yes, sir.

6 Q And that's it; right?

7 A Yes, sir.

8 Q Okay. Clarify one thing. Mr. Gowdy asked what time
9 you got to the Sheriff's Office when you -- after you
10 picked Mr. Evins up from Greer.

11 A Yes, sir.

12 Q And I understood you to say between 2:15 and 2:30?

13 A Yes, sir.

14 Q It could have been as early 2:15, it could have been
15 as late as 2:30?

16 A Yes, sir.

17 MR. BOGGS: That's all I have.

18 Thank you.

19 MR. GOWDY: Nothing on redirect, Your Honor.

20 THE COURT: All right. Let me just ask you. Did
21 you -- were you familiar with Mr. Evins before this event
22 occurred, before this arrest?

23 THE WITNESS: When we identified him on the 27th,
24 Your Honor, that was the first time I had any knowledge of
25 who Mr. Evins was.

1 THE COURT: How old is he? Do you know?

2 THE WITNESS: How old?

3 THE COURT: Yes.

4 THE WITNESS: Give me one second.

5 His date of birth is 2-2-68. So he's 36 now.

6 THE COURT: All right. Did you observe any
7 developmental problems or problems with his competency?

8 THE WITNESS: No, sir. He was a very intelligent
9 man.

10 THE COURT: Did he appear to be under the influence
11 of anything?

12 THE WITNESS: No, sir.

13 THE COURT: That's all I've got.

14 MR. GOWDY: Nothing from the State on redirect.

15 THE COURT: You may step down.

16 Anything else on this issue?

17 MR. GOWDY: That would be the State's showing, Your
18 Honor.

19 THE COURT: All right.

20 MR. BOGGS: Your Honor, we would not offer any more
21 proof on this.

22 THE COURT: Okay.

23 MR. BOGGS: I just do have a motion based upon their
24 statement, on their --

25 THE COURT: Well, go ahead and tell me what it is as

1 it relates to the Court's --

2 MR. BOGGS: It relates to one of the items or
3 documents they've put in as a "statement," specifically.

4 THE COURT: All right.

5 MR. BOGGS: Your Honor, if the Court rules that the
6 photo lineup with the adjoining statement that they say
7 he's adopting, we ask that the portion written by
8 Detective Denton that says -- let me exactly --

9 THE COURT: I know what statement you're talking
10 about.

11 MR. BOGGS: "Brutally murdered" -- Jason Yown
12 testified that during that one brief sequence of events
13 that the only thing Mr. Evins said was, "That's him." And
14 then they took him to the hospital. There's no testimony
15 that he said it. Now, to let them back -- go in a
16 statement that the police --

17 THE COURT: You're worried about a 403 prejudice?

18 MR. BOGGS: Yeah.

19 THE COURT: Okay. What do you all want to tell me?

20 MR. GOWDY: Your Honor, Mr. Evins made corrections on
21 every single page of his six-page statement. If you look
22 at that, that's State's Exhibit No. 2, on every single
23 page, there was a mistake made by the Detective that was
24 corrected by Mr. Evins.

25 If he did not want to sign his name to that affidavit

1 in connection with the photographic lineup, he either
2 didn't have to sign his name or he could have crossed
3 through it if he wanted to. He adopted the statement. He
4 adopted the statement that, "I brutally murdered Rhonda
5 Ward," which is fairly consistent with what he just got
6 through confessing to.

7 So he adopted it. It's his signature. The page
8 wasn't blank when he wrote it -- when he signed it. It
9 was on there. It's not any more prejudicial than the fact
10 that he just got through confessing to stabbing the woman.
11 I mean, that's what he just said he did, I stabbed the
12 woman. He says it again, except for the word "brutally,"
13 which is a subjective word. But he could have crossed it
14 through. He crossed through words on every page on his
15 six-page document. He could have crossed through
16 "brutally."

17 THE COURT: I understand your argument. I'm just not
18 convinced that this is not a separate and distinct issue
19 because it is -- and I don't know that the officers didn't
20 tell him -- or whether the officers told him he could make
21 any corrections on that particular document. I don't
22 think at this time it's -- I'm going to think about that
23 one. I'm not going to rule on that at this time.

24 I am going to find by a preponderance of the evidence
25 that the other statements that have been made, both orally

1 and written, have been voluntarily and intelligently made.
2 And I, at this time, will allow them to be submitted to
3 the jury.

4 Of course, whether or not you want to question --
5 argue the voluntary, intelligent nature to the jury is
6 your choice.

7 MR. BOGGS: Yes, sir.

8 THE COURT: All right. What other issues do we have?

9 MR. GOWDY: Your Honor, we had secured from a
10 Government agency a meteorological report for the dates of
11 February 13th, 14th, and 15th. This information is
12 readily available on the Internet. You can go to a
13 Farmer's Almanac and look it up. It is a certified copy
14 from the National Climatic Data Center, along with a
15 conversion chart from celsius to fahrenheit.

16 We were going to offer this and ask the Court to
17 accept this on judicial notice that this is a Government
18 agency whose responsibility it is to keep up with the
19 weather. It's -- there's not any ambiguity as to what the
20 weather was that day and what the temperature was. These
21 are hourly temperature readings. It's very objective
22 data. There's no subjectivity to it whatsoever.

23 So we are asking the Court to take judicial notice of
24 it, along with the conversion chart, so that the jury
25 might be able to consider the fahrenheit as well as the

1 celsius.

2 THE COURT: As an 803 Subsection 8 exception to the
3 hearsay rule, is that what you're driving at, which is
4 public records and reports?

5 MR. GOWDY: Well, Your Honor, I was, actually, asking
6 under the rule for judicial notice that there is certain
7 information -- I think it's Rule 201. In terms of what
8 evidentiary mechanism that it comes in -- I'm not familiar
9 with that hearsay rule, but it -- I certainly will be in
10 just a second.

11 THE COURT: Was there any objection by the Defense?

12 I don't know the relevance of the temperature or any
13 of that. I'm not -- and that's not important for this
14 ruling.

15 But do you all have any objection?

16 MR. BOGGS: Judge, I think --

17 MS. QUIMBY: Your Honor, we would leave that in the
18 Court's discretion.

19 THE COURT: All right. Well, I'm going to admit it.
20 I will take judicial notice of that.

21 If you want to mark them as exhibits.

22 Have you all had an opportunity to --

23 MR. BOGGS: We've looked at it.

24 Do we have a copy of that?

25 MS. QUIMBY: Yes.

1 MR. BOGGS: We have a copy of it, Your Honor.

2 MR. GOWDY: Thank you, Your Honor.

3 (WHEREUPON, State's Exhibit Nos. 7 and 8 were marked
4 for identification and admitted into evidence.)

5 THE COURT: How long -- how much more do we have to
6 do?

7 I have a jury that's been sitting back there for an
8 hour.

9 MR. GOWDY: Your Honor, there's -- frankly, we can do
10 our third-party guilt motion later, in the interest of
11 time.

12 There is the matter of Demaris Huff's murder being
13 used in sentencing.

14 And the only other matter that I wanted to bring
15 up -- again, I'm not trying to beat a dead horse, although
16 it doesn't hurt the horse. We have not received a single
17 shred of information from the Defense under our reciprocal
18 Rule 5, nothing. And time is of the essence. I've got
19 experts I would need to go get. And I just wanted to
20 bring that up again. We have not gotten anything

21 THE COURT: What do you all -- how do you all want to
22 respond to that?

23 Did they file a Rule 5?

24 MS. QUIMBY: Yes, Your Honor, they did.

25 THE COURT: Well, I mean, did you file a Rule 5?

1 MS. QUIMBY: Yes, Your Honor.

2 MR. BOGGS: We can get everything to them by tomorrow
3 afternoon, except --

4 MS. QUIMBY: By late tomorrow afternoon.

5 MR. BOGGS: -- except DNA information. And the
6 reason we can't get that is we were not provided by SLED
7 the information necessary for our expert to make his
8 analysis. We did not receive that until Thursday of last
9 week, October 21st. We transported it immediately up
10 there. They know the name of the expert. But what his
11 actual data would be, we hoped it would be here before
12 trial. But according to him -- and I'll go ahead and
13 introduce those right now.

14 I gave you all a copy of this.

15 It is a statement from Dr. Ostrowski.

16 THE COURT: Just mark that as a Court's exhibit, I
17 guess.

18 (WHEREUPON, Court's Exhibit No. 1 was marked for
19 identification and admitted into evidence.)

20 MR. BOGGS: We got that -- Your Honor, we got that
21 today after we've been trying to push him. And he's,
22 basically, said that because it's so late in getting the
23 information, he doesn't know that he's going to have the
24 analysis done by trial.

25 THE COURT: All right. Mr. Barnette.

1 MR. BOGGS: We -- excuse me.

2 THE COURT: No. Go ahead.

3 MR. BOGGS: We think we can have everything else to
4 you, at least, by late tomorrow afternoon.

5 MR. BARNETTE: Your Honor, one thing was -- I know we
6 had a discussion back in chambers about it and so forth.
7 But the Codus was actual notice that DNA was coming up.
8 Ostrowski has testified as an expert in the past for the
9 Public Defender's Office. He knows their protocol with
10 SLED. He's been given it numerous times before. That's
11 what's on the disk that's being talked about. It should
12 not be any different than any other case he's testified --
13 or not testified, but, actually, evaluated evidence for
14 the Public Defender's Office in the past, which he has not
15 testified in.

16 The other thing, Your Honor, this information was
17 given to him. We had a pre-trial conference with you and
18 I believe you told us to go ahead and give it to them.
19 They gathered up -- it was, actually, two cases. It was
20 on the Huff case and the Ward case. They provided the
21 information on both of those. It was given to them in
22 ample time.

23 I'm just reading the Court's exhibit. I don't want
24 to get into nitpicking or whatever. But, basically, it
25 wasn't sent until this afternoon. This fax was sent at

1 1:05, if that information is correct. So I don't know
2 when he's evaluated this stuff. He, obviously, received
3 it and waited until Wednesday afternoon to evaluate it
4 when he received it knowing it's a death penalty case
5 coming up.

6 You know, obviously, SLED -- I've talked to Ira
7 Jeffcoat and talked to the two -- anybody that's involved
8 with SLED in DNA. Obviously, this information is
9 available to them at any time. Any questions they may
10 have or whatever, we want to help as best we can. But
11 this is a position where they have known about this for a
12 long time, that this was coming down the pike.

13 The only thing that should be new to Ostrowski is,
14 obviously, the case file notes that was given to him on
15 the two cases. But the protocol and everything else, he
16 should be very familiar with and be able to work with.
17 And I don't understand why the delay in this case when
18 we've had cases before and we've supplied this information
19 and why the delay in this case.

20 And the other thing that I wanted to mention to you,
21 our first Rule 5 request was delivered to Ms. Quimby --
22 or, actually, given to Kevin Riddle on May 7th of 2003.
23 I've sent another request over since then that was sent a
24 couple weeks ago. And we still haven't received anything.
25 And they've known ahead of time. And, plus, the DNA on

1 both cases -- the Ward case was given in plenty of time.
2 There's no question about it. The Codus was given to
3 them. They've known -- even aggravating circumstances
4 that we gave to them, we listed that this information was
5 going to be used.

6 So this is not any surprise in any way to the
7 Defense. And I want to make sure that the Court is aware
8 of that.

9 THE COURT: All right. Thank you.

10 Ms. Quimby.

11 MS. QUIMBY: I guess as far as the two Rule 5's, I
12 acknowledge that I have received those. And as we have
13 just stated, I can have everything over to them --

14 THE COURT: Okay. By tomorrow afternoon.

15 Does that prejudice you in any way?

16 MR. GOWDY: Well, I don't think -- I mean, I don't
17 think so, Your Honor. It depends on what's in it.

18 I mean, obviously, we're not going to ask the Court
19 for a continuance. It just -- it depends on what it is.
20 I mean, if they have a psychiatrist, I have to go get a
21 psychiatrist. I mean, I have every bit as many problems
22 as they do with their DNA person. I mean, at least, they
23 could afford some DNA. I can't foresee what their
24 mitigation is going to be, so.

25 THE COURT: Okay.

1 MS. QUIMBY: Your Honor, as to the DNA, the fact that
2 the Solicitor's Office -- the fact that there was a Codus
3 match, that does not -- it doesn't naturally flow from
4 that that there will necessarily be a DNA match where
5 there is some scientific equipment used, there is blood
6 used, that they come up with a result that can give a --
7 something of evidentiary value.

8 The Codus match, that's just saying that it matches
9 something in the system. But even at the bottom of that
10 report, Your Honor, it says, so we got a hit, so if you
11 ever arrest anybody and you want us to test it, send us
12 some blood. And so I was on notice that they had done a
13 Codus match. It doesn't necessarily flow from that that
14 there would have been the DNA. Apparently, when I
15 received this on October 21st -- the report is dated --

16 THE COURT: Well, what is it that the expert has got
17 to do that's going to take so long? Is he not -- he
18 already has -- is what Mr. Barnette told me true, that he
19 has been used before by your office, that he is familiar
20 with the SLED protocol? What new studies does he have to
21 do to get ready for trial?

22 MS. QUIMBY: He has been used by our office before,
23 never by me. As far as the SLED protocol, I, honestly,
24 can't speak to what exactly the SLED protocol is. I know
25 that we received a multi-document CD, which we requested,

1 a multi-document CD, and then 250 pages of the discovery.
2 And I -- delay has been mentioned. We didn't request it
3 on October the 21st. We requested it two months before
4 trial.

5 THE COURT: Okay. I'm not going to go into all that.
6 We don't need to revisit those issues at this time.

7 I would just tell you to tell him to get to work.

8 MS. QUIMBY: Yes, sir.

9 THE COURT: And, you know, based on the other
10 evidence, you know, he's going to have to -- it will be
11 miraculous scientific work on his part to be of
12 significance, I think. Okay.

13 MS. QUIMBY: Yes, sir.

14 THE COURT: All right.

15 MR. BOGGS: Your Honor, the other couple of things
16 that we talked about back at the status conference, we
17 just need to put on the record.

18 THE COURT: Yes.

19 MR. BOGGS: Number one, we object to any cameras
20 being in the courtroom. That's one thing we discussed. I
21 need that on the record.

22 Additionally, we would ask that the State not be
23 allowed to serve any further aggravators on us. We've got
24 a list of seven now -- or six -- or five, or whatever it
25 is. But anything last minute, we would ask that they be

1 precluded from doing that.

2 THE COURT: Well, let's ask them.

3 Do you anticipate any more aggravators?

4 MR. GOWDY: No, sir, Your honor.

5 THE COURT: Okay.

6 MR. BOGGS: That takes care of that.

7 We also ask that witnesses be sequestered. I don't
8 know if the State objects to that at this point or not.

9 MR. ANTHONY: We'd leave that up to the Court. If
10 the Court sequestered, we'd just ask that it be
11 reciprocal. And we'd ask that Detective Denton be allowed
12 to stay in the courtroom.

13 THE COURT: Okay.

14 MR. BOGGS: I thought Jason Yown was the case officer
15 that was going --

16 MR. GOWDY: Well, I need to talk to Jason about --

17 THE COURT: Well, they can pick out their own lead
18 investigator, whoever their case officer is going to be,
19 and he can stay in the courtroom. But I'll grant that
20 motion for sequestration.

21 MR. BOGGS: The Solicitor and I have talked about two
22 other things that he's putting together for us. One of
23 them is criminal records on their witnesses. The other is
24 criminal records on potential jurors. He's getting those
25 for us, but I wanted to put on the record that we have

1 requested them.

2 THE COURT: Okay.

3 MR. BOGGS: The other thing, Your Honor, that
4 Ms. Quimby is handling is -- deals with the Huff matter
5 and sentencing. And I don't know -- I know you've got a
6 jury out. And that is going to take a while.

7 THE COURT: Yes.

8 Mr. Hodge, would you get Mr. Utecht and let me talk
9 to you all for just a minute.

10 Go ahead while he's -- go ahead.

11 MR. BOGGS: I think that's all we have.

12 MR. ANTHONY: Your Honor, if he's referencing the
13 matter of the Huff murder that the State wants to
14 introduce in sentencing, we filed a motion yesterday -- or
15 a memo in support of that. I hope the Court has it.

16 THE COURT: I have it.

17 MR. ANTHONY: Our position is set forth in that memo
18 that both the facts that we think we can prove in
19 sentencing and the legal grounds that we think allow us to
20 do that. So unless the Court has any questions or
21 concerns, the State is willing to rest on the --

22 THE COURT: -- stand on your memo.

23 MR. ANTHONY: -- written memo that is filed. Yes,
24 sir.

25 THE COURT: And what is it y'all want to limit? You

1 want to totally limit that?

2 MS. QUIMBY: Your Honor, yes.

3 I don't --

4 THE COURT: How do you reconcile that with State vs.
5 Owens?

6 Let me see the attorneys in the other case up here.

7 Let's take a brief break for me to dismiss the jury
8 in the other case.

9 (WHEREUPON, a break was taken.)

10 THE COURT: Ms. Quimby.

11 MS. QUIMBY: Yes, sir, Your Honor.

12 You had asked, Your Honor, about Owens. And that is,
13 Your Honor, a case from Greenville County. In between
14 guilt and sentencing phase, the Defendant committed a
15 murder in jail. And the State attempted to use that and
16 did use that in the sentencing phase. And it's my
17 understanding from -- it's my reading of the case that it
18 was admitted as character evidence and that the attorney
19 did have notice of it through the notice of aggravating
20 circumstances and evidence.

21 I'm not trying to say I don't have notice of Huff.

22 I'm not trying to say that character can't be used.

23 Because I do understand that character of the Defendant
24 can be admissible in sentencing phase presentations.

25 However, how I would reconcile my position with Owens is

1 that regardless of the ability to have character evidence
2 admitted during that part of a capital trial, it has to
3 pass a due process threshold. It's got to pass the
4 Fourteenth Amendment. It's got to pass -- well, and --

5 THE COURT: Well, isn't the standard that they have
6 to show by clear and convincing evidence?

7 MS. QUIMBY: Your Honor, I don't even believe it's
8 clear and convincing.

9 THE COURT: Well, what do you think the standard of
10 proof is?

11 MS. QUIMBY: Your Honor, it's -- I think at one time
12 it had been clear and convincing. I am -- unless I am
13 wrong -- and I will certainly go research this -- I
14 believe that it's a preponderance of the evidence.

15 THE COURT: Okay. So a lower standard?

16 MS. QUIMBY: An absolutely lower standard, especially
17 when the case that they are trying to bring into the
18 sentencing phase -- if we get that far -- is as in Owens,
19 a pending case. This case in Owens did not -- the jury
20 wasn't as -- let me switch gears.

21 In the Demaris Huff case, that was an unsolved murder
22 for six months. There was considerable publicity about
23 it, considerable concern --

24 THE COURT: So you're worried about a 403?

25 MS. QUIMBY: Well, I'm worried about 403 and due

1 process. Because I don't want him to be convicted -- I
2 don't want a result in this trial right here because of
3 the Demaris Huff case where it's only got to be proven by
4 a preponderance of the evidence where it's a pending case
5 and subject to beyond a reasonable doubt.

6 THE COURT: So you're -- okay. Here is my
7 inclination. It is to allow character evidence of the
8 Defendant in the sentencing phase should it come that
9 far -- get that far, that the State will have the burden
10 to show -- I was going to require them to do it by clear
11 and convincing evidence, that whatever evidence it is that
12 they want to introduce. Once they have done that, then a
13 determination has to be made whether or not -- pursuant to
14 a 403 analysis, whether or not that evidence would be so
15 overwhelming that it would overpower the jurors reason and
16 that any decision would be based on passion, prejudice, or
17 some other improper influence.

18 MS. QUIMBY: Yes, sir.

19 THE COURT: So, at this time, that is how I view
20 this. And I don't -- I think it's premature at this time.
21 They don't have their witnesses here to show me what it is
22 that they want to prove in the sentencing phase.

23 Am I right about that, Mr. Gowdy?

24 MR. GOWDY: We do not have the witnesses here, Your
25 Honor.

1 We have discussed this at considerable length within
2 my office. The witnesses would essentially consist of
3 somebody to set the timeline as to when Mrs. Huff left her
4 house that morning, somebody to identify it as a crime
5 scene. And this Defendant's DNA was found in her anus.
6 When you combine that with medical testimony as to how
7 long sperm lasts, typically, less than 24 hours, it
8 greatly narrows down the window of people that could have
9 deposited sperm in Mrs. Huff's body. That DNA comes back
10 to somebody that she had no relationship with and had
11 never met before, this Defendant. That's our showing.
12 That would be four witnesses. John Anthony is handling
13 that part of it.

14 John, what have I left out?

15 MR. ANTHONY: That's correct.

16 THE COURT: Well, you know, I think what we're going
17 to have to do is have a hearing outside of the presence of
18 the jury. If there's only four witnesses, if that's what
19 you've got, that shouldn't take very long.

20 MR. GOWDY: Yes, sir.

21 THE COURT: And then -- and if the Defense has
22 some -- is going to make a showing, I think they've got to
23 be prepared to make a showing with respect to whatever the
24 publicity was. Since I'm not from Spartanburg and I don't
25 read the Spartanburg paper, I am not familiar with what

1 evidence -- or what publicity might have surrounded this
2 case. So I'm coming into this with a blank slate.

3 MR. GOWDY: There are 250,000 people in Spartanburg
4 County. The subscription for the Spartanburg Herald is
5 35,000. I will concede that there was publicity before
6 they knew who did it. But that was because, primarily,
7 they thought her husband had done it. After the DNA match
8 came back and we found out it was just a garden variety
9 serial killer, I -- there hasn't been any publicity
10 since --

11 MR. BOGGS: Your Honor, I object to --

12 THE COURT: I'll sustain it.

13 You don't need to get --

14 MR. GOWDY: There hasn't been any publicity since
15 that arrest.

16 MR. BOGGS: If he's conceding publicity, how much
17 publicity is he conceding? Is it voluminous amounts or
18 what --

19 MR. GOWDY: Well, that's not the test.

20 MR. BOGGS: Yes, sir. Well, that's what he just
21 asked.

22 MR. GOWDY: No. The test is whether or not you can
23 get a fair juror. I mean, there are plenty of high
24 publicized cases. They've got one in California right
25 now.

1 The question is, can you find 12 or 15 people who
2 either haven't heard about it or can put it out of their
3 mind. And I'm happy to voir dire the jury on the Demaris
4 Huff murder, if that's what you want to do.

5 THE COURT: I think you've got to be very careful
6 with the questions you ask that jury -- or potential jury
7 in voir dire.

8 MR. BOGGS: Since he brings that up, if he intends to
9 do that, then we need to know that ahead of time because
10 we object to that. We have -- if he is planning to voir
11 dire the jury on that particular point before there's ever
12 been a conviction to get to the sentencing, we object to
13 that totally.

14 THE COURT: Yes.

15 MR. GOWDY: Of course, I'm not going to ask a
16 potential juror --

17 MR. BOGGS: What you said --

18 MR. GOWDY: No, Tam. What I said is you can voir
19 dire. If you are so concerned about pre-trial --

20 MR. BOGGS: You said you'd be glad to.

21 MR. GOWDY: -- about Demaris Huff, you can voir dire.
22 I don't need to voir dire. Why would I voir dire? If you
23 would like to ask potential jurors if you find out --

24 MR. BOGGS: Well, I --

25 THE COURT: All right. Now, wait a minute.

1 Let me just tell you right now. The ground rules in
2 this case are that you all talk to me and not to each
3 other when we're in the courtroom. Okay.

4 MR. GOWDY: Yes, sir.

5 THE COURT: I'm not sure -- I haven't thought that
6 through, but I will. There will be latitude in voir dire
7 for the Defense with respect to what potential jurors
8 might or might not know about Mr. Evins. If you want to,
9 specifically, raise Mrs. Huff -- I wouldn't think you
10 would, but -- so we'll -- you all need to think about that
11 and we'll talk about it before we do voir dire.

12 But I'll give you latitude in that regard because of
13 what my preliminary ruling is with respect to that
14 character evidence.

15 MR. BOGGS: So I think we need to go -- still going
16 back to what the original lead in was, you told us that we
17 need to have some --

18 THE COURT: Well, if you're going to make a claim
19 that there's overwhelming publicity, then you're going to
20 have to show me what it is. But it takes an awful lot
21 to --

22 MR. BOGGS: I understand.

23 THE COURT: -- to hit that threshold.

24 MR. BOGGS: I understand.

25 THE COURT: Now, I had some questions about some of

1 the other aggravators.

2 MR. BOGGS: May I ask the Court one other thing?

3 THE COURT: Yes.

4 MR. BOGGS: We are going to ask our expert to work
5 with the candle on -- if he has to because that's where
6 this evidence could be important, his analysis. If he
7 finds a defect, it could be critical at the sentencing
8 stage, if we got there. That's what our concern is.

9 So I just wanted to clarify that that's why we put
10 his record -- I mean, his letter in there.

11 THE COURT: All right. Now --

12 MS. QUIMBY: Your Honor, I also --

13 THE COURT: I'm sorry. Go ahead.

14 MS. QUIMBY: I apologize.

15 I also wanted to add, Huff is -- the Huff case is not
16 the only one we are trying to suppress and exclude. There
17 are a few prior charges that have been made against
18 Mr. Evins and were, subsequently, dismissed. And those
19 are noticed in the notice of aggravating circumstances. I
20 think that -- and I didn't know how you wanted to handle
21 that, Your Honor. I didn't know whether you wanted it to
22 be handled the same way as the other.

23 THE COURT: Well, let me just tell you this, when I
24 read through this, if I remember correctly --

25 Who were some of these other victims of the previous

1 CSC's?

2 MS. QUIMBY: Amy Stanton --

3 MR. BARNETTE: Annice Statin and Candy Hill, Your
4 Honor.

5 There's also several other victims form different
6 crimes. There's a Ms. Dowden, she's from an attempted
7 CSC. Grover Berry, which is from an ABHAN attempt
8 situation where his face was cut. Also there's another
9 victim, Kizzy Smith, it was a CDV situation. And there's
10 also another case that will be -- we've already passed
11 that information to them, a case that came out of Greer, a
12 strong armed robbery, that will be brought into it, too.

13 THE COURT: Are they convictions or just pending
14 charges?

15 MR. BARNETTE: The --

16 MS. QUIMBY: Most of them are dismissals.

17 MR. BARNETTE: Well, no. I disagree with her on
18 that --

19 MS. QUIMBY: Well, the ones that --

20 THE COURT: Wait a minute. One at a time.

21 MS. QUIMBY: I apologize.

22 THE COURT: What are they? What was the disposition?

23 MR. BARNETTE: Okay. On Candy Hill, it was a CSC
24 second, Your Honor. And that was in 1987.

25 With Ms. Statin, there was a CSC. It was nolle

1 prossed per plea agreement, which I think is very serious.
2 That was put on the indictment itself. That's been
3 provided to Ms. Quimby and Mr. Boggs. He was convicted of
4 strong armed robbery on her. But the CSC was dismissed
5 for that reason. That's what was written on the
6 indictment.

7 Also, he's been convicted of CDV. It involves Kizzy
8 Smith.

9 He's also been involved -- Ms. Dowden's was
10 dismissed. I believe that was dismissed per the
11 Prosecutor's discretion, which I think is completely
12 different. I think if he was found not guilty because of
13 juries or by judges, I think that's different. But if
14 it's found by the Solicitor's choice, I think that's
15 something -- that goes to character evidence and can be
16 used under our case law.

17 So I think that's where I disagree with Ms. Quimby on
18 there about her situation is that these may be dismissals,
19 but it's part of the Solicitor's -- they're prior bad
20 acts, Your Honor, and should be used then as character
21 evidence and can be used in sentencing.

22 THE COURT: Without making a determination today,
23 because I think I've got it, on those non convictions, I
24 think you've got to make a showing. Now, I need to hear
25 what that is before I admit it.

1 But I thought I read in here that you intended to put
2 the victim up in these previous cases to discuss how it
3 has effected their lives.

4 MR. BARNETTE: Yes, sir, we -- I do.

5 THE COURT: And I'll tell you right now, I am not
6 inclined to let you do that. It is victim impact of
7 another offense. Now, all -- the appropriate victim
8 impact in this case is separate entirely from victim
9 impact in a conviction that occurred in 1989.

10 How does that go to the Defendant's character?

11 MR. BARNETTE: It goes to show his bad character all
12 the way across the border. I know in previous cases --
13 we've had these situations before where they testify about
14 what happened, obviously, and how it's impacted them.
15 This shows what this Defendant has done. That's part of a
16 sentencing part to show the jury.

17 THE COURT: Well, my concern is that he would be
18 sentenced on this crime from victim impact in an unrelated
19 offense.

20 MR. GOWDY: Your Honor, you are correct.

21 We are not going to illicit testimony from Kimberly
22 Dowden, Annice Statin, and Kizzy Smith as to what impact
23 those crimes had on their lives. We're going to illicit
24 testimony from them as to what this Defendant did. That
25 is pure and simple character. The victim impact part,

1 we're not going to ask them what impact did that have on
2 your life. Because, as Your Honor said, that -- you can
3 do that with a victim of this crime.

4 We're not even going to do that with James Huff. I'm
5 not going to ask James Huff, what impact did the murder of
6 your wife have on you? They are, clearly, fact witnesses.
7 This Defendant did this to me, period. Now, if they cry
8 when they're talking about it, I can't stop that. But I'm
9 certainly not going to ask them, you know, did it ruin
10 your life? How has your life been since he raped you?
11 We're not going to ask those questions. We're going to
12 say, what happened on this date and this year?

13 THE COURT: Okay.

14 MR. GOWDY: Pure character, not victim impact.

15 THE COURT: All right. Well, I think you're going to
16 have to be careful with that so that there won't be any
17 question, you know, that the jury was swayed by passion,
18 prejudice, or emotion from some offense that occurred 15
19 years ago.

20 MR. GOWDY: Yes, sir.

21 THE COURT: Okay.

22 MS. QUIMBY: Your Honor, I understand that you had
23 said before they -- well, I just want to make sure I
24 understand. Before they introduce -- or before they call
25 any of those witnesses, would we be able to object again

1 and possibly do an --

2 THE COURT: You can raise -- yes. I mean, what I've
3 said -- what I've outlined here, I think, is a procedure
4 that we would follow. And I think if the State -- I'm
5 sure they're confident that they can show -- make a
6 showing that will satisfy me or they wouldn't be doing it.
7 And once they have shown that they've got the goods with
8 respect to his character, then you go through the 403
9 analysis. Okay.

10 MS. QUIMBY: Yes, sir.

11 I just wanted to also -- State vs. Arthur in 1986 and
12 then, I think it was State vs. Young, that comes after
13 that, that is discussing where a formal charge has been
14 made and then dismissed by the Prosecutor. Both
15 charges -- well, both cases, the cases were dismissed
16 based on a plea to a lesser included offense, which would
17 be the case in -- well, the Candy Hill case. Then in -- I
18 just think we have a couple of different categories of
19 charges that were dismissed. And we can address that at
20 the appropriate time.

21 THE COURT: All right.

22 MR. GOWDY: Your Honor, I think in, at least, one of
23 those cases -- I mean, it almost seems -- I would hope no
24 Prosecutor would try to do it. But in one of those cases,
25 they put in a warrant and an affidavit. They didn't call

1 any witnesses in a case that had been dismissed. I would
2 hope that all Prosecutors would know that you cannot do
3 that.

4 We're not doing that on Ms. Smith's case. We're
5 calling the actual person who will be subject to
6 cross-examination as to whether or not a prior bad act
7 took place. So I've read Arthur and I've read its
8 prodigy. We're not just putting in the fact that he was
9 indicted for armed robbery, but it was dismissed. I mean,
10 that would be -- clearly, you can't do that. But I do
11 think you can call the victim to say, did this happen to
12 you on this date, without any reference to whether or not
13 it was a conviction or not. It's a prior bad act, which
14 is what character is all about.

15 THE COURT: Correct. We just have to be -- and what
16 I'm trying to -- and I think you all understand that.
17 We've just got to be careful. We don't want some victim
18 up here in an old crime who's going to raise the passion
19 and prejudice of the jury in this case.

20 MR. GOWDY: Yes, sir.

21 THE COURT: Based on -- that would be, basically,
22 victim impact evidence in that prior case. So we've just
23 got to caution them.

24 Yes, sir, Mr. Barnette.

25 MR. BARNETTE: And, Your Honor, just to clear up the

1 record, the one in Greer that I was talking about, it's
2 indictment 91-GS-23-7086. It's not an aggravating
3 circumstance. We've discovered this. And I've given it
4 to Ms. Quimby and Mr. Boggs. And the victim in that case
5 is a Geneva Greene. She was the victim in that case.

6 THE COURT: All right.

7 MR. BARNETTE: And I've given the indictments and
8 we've just, actually, received the file today. So I will
9 be supplying information to them. And, obviously, we'll
10 have her come and testify about that strong armed robbery.
11 And it was a conviction, Your Honor.

12 THE COURT: Yes, sir, Mr. Boggs.

13 MR. BOGGS: I'm just thinking.

14 THE COURT: Okay. Well, how about let me --
15 Well, go ahead. Yes, sir, Mr. Barnette.

16 MR. BARNETTE: I'm sorry.

17 Your Honor, on the third-party guilt motion that we
18 made a motion in limine and in talking in chambers, I
19 believe that Mr. Boggs and Ms. Quimby agree with that
20 motion and has agreed that, obviously, they can't bring up
21 third-party guilt. They would like to talk about the
22 police investigation, I believe. And I understand that's
23 part of the -- you know, doing their job. But I believe
24 the third-party guilt, they've agreed to the motion.

25 THE COURT: Unless it's -- you know, it's a question

1 of consistency with the guilt in this case, so -- with the
2 Defendant's guilt. So we'll keep an eye on that.

3 I'm glad you brought that to my attention.

4 How about the jurors? Do you all have any problems,
5 any jurors in question that you all are aware of?

6 MR. GOWDY: I think we've worked almost all of those
7 out, Your Honor.

8 THE COURT: Okay.

9 MS. QUIMBY: There's another package. But we've been
10 doing fine with meeting and agreeing on whatever. And any
11 problems that we have, I'm sure that --

12 THE COURT: All right. Just let me know.

13 And you all have had an opportunity to review all of
14 those -- all the questionnaires?

15 Are you all getting to see those?

16 MR. GOWDY: Yes, sir.

17 MS. QUIMBY: They're coming in, yes, sir.

18 THE COURT: Now, for your review, I've got a proposed
19 order for sequestration of the jury. It's a pretty
20 standard thing. I want to hand these out.

21 Charlene, would you hand those to them.

22 I'll let you review them. Take your time.

23 Here, Charlene, give them so they each have two of
24 them.

25 Let me know so I can get that signed and get it to

1 SLED.

2 MS. QUIMBY: Your Honor, should I assume that you
3 have denied my motion that was filed in my supplemental
4 pre-trial motions.

5 THE COURT: Which one is that?

6 MS. QUIMBY: Well, actually, it may have been in my
7 original pre-trial motion. For SLED -- for the jurors not
8 to be supervised by SLED, as SLED is a key state witness
9 in this case. Despite how it's been done in the past,
10 SLED is going to be a presence in the courtroom,
11 especially if Huff comes in -- if the evidence on Huff
12 comes in. And since it's -- and I can imagine it will be
13 coming in in this case. I just don't think it would be
14 appropriate.

15 THE COURT: How is SLED involved in the investigation
16 of this case?

17 MS. QUIMBY: SLED did all the DNA analysis and the
18 toxicology.

19 THE COURT: Well, it wouldn't be their field agents,
20 it would be their scientific laboratory; is that right?

21 MS. QUIMBY: As far as I know.

22 MR. GOWDY: Toxicology, Your Honor, DNA.

23 THE COURT: Well, do you have -- I'll just tell you,
24 review that order.

25 And I am inclined to deny your motion. I'll allow

1 you to put anything you want on the record which you think
2 might demonstrate some prejudice. But they will be -- the
3 officers will have to swear an oath with respect to this
4 case. They will be instructed not -- and if you so
5 desire, I will give them a separate instruction with
6 respect to the agency may or may not testify.

7 MS. QUIMBY: Okay. Yes, sir.

8 THE COURT: So I don't know how many death penalty
9 cases that we have done in the State of South Carolina.
10 But I don't know of any complaint or confirmed misconduct
11 on the part of a SLED agent with respect to sequestration
12 of a jury. So I am inclined to deny that motion.

13 Anything else?

14 MR. BOGGS: Just a house cleaning thing, we -- every
15 day, of course, we're getting in new discovery, every day,
16 every day. Some of which have summaries of witnesses
17 statements without addresses or whatnot.

18 And I assume that you all have a current address
19 where any of these people will be and that y'all will be
20 glad to turn it over to us.

21 MR. GOWDY: Certainly.

22 What he is referring to, Judge, is as we're going
23 through our pre-trial preparedness, I meet with each
24 witness that I'm assigned to, and so do the others. And
25 to the extent that they tell us anything that deviates

1 from their statement, under Giglio and Brady, I feel like
2 I have a duty to turn that over.

3 So they are receiving things every day. And I'm
4 happy to provide any addresses that I have. Some of them,
5 he may not want to go to that particular part of
6 Spartanburg County and talk to them. But I'll be
7 delighted to give him addresses and phone numbers on all
8 the people that he wants. But discovery is ongoing
9 because our interviews are ongoing.

10 THE COURT: Okay.

11 MR. BOGGS: What I'm talking about is some of the new
12 ones like last week we got one in that didn't have like an
13 investigation form.

14 MR. GOWDY: Mr. Scruggs from the trailer?

15 MR. BOGGS: No. This is one even before that.

16 But, anyway, if he would give them to us, that's fine.

17 MR. GOWDY: I'll give him whatever I've got.

18 THE COURT: All right. Any other issues that anybody
19 can think of?

20 MR. GOWDY: I have reviewed Your Honor's proposed
21 order and have absolutely no objection to it.

22 THE COURT: All right.

23 MR. ANTHONY: Your Honor, the only other thing I'd
24 ask is going to back to the issue of the Huff matter
25 coming in for sentencing, I would ask the Court to -- or

1 call the Court's attention to State vs. Middleton, which
2 is cited in the last paragraph of the legal argument in
3 the memo. And the cases are cited in that paragraph and
4 discuss the standard by which character evidence has to be
5 proven to be admitted. And it would be the State's
6 argument that that is a preponderance standard.

7 THE COURT: A preponderance. Well, I will follow the
8 standard as laid out by our Supreme Court.

9 That was the Middleton case?

10 MR. ANTHONY: Yes, sir.

11 THE COURT: And you're saying that's in the -- where
12 are you referring?

13 MR. ANTHONY: I'm referring to the very last sentence
14 on the second page where it starts, "Furthermore, the
15 Court rejected the Defendant's argument that State vs.
16 Lyle requires the State to prove the crimes by clear and
17 convincing evidence."

18 And those two cases that are cited along with it at
19 the end of the next sentence.

20 THE COURT: George and Green?

21 MR. ANTHONY: Yes, sir.

22 Thank you.

23 THE COURT: I appreciate you pointing that out.

24 MR. ANTHONY: Yes, sir.

25 THE COURT: Yes, sir, Mr. Barnette.

1 MR. BARNETTE: And one other thing, Your Honor, on
2 third-party guilt. If they decide to enter evidence,
3 then, obviously, they have to proffer that ahead of time.
4 I think that would be --

5 THE COURT: They're on notice about that.

6 MR. BARNETTE: And any third-party evidence, you'd
7 have to proffer beforehand and let the Judge determine
8 anything concerning that.

9 MS. QUIMBY: Yes, sir. I thought we had already
10 covered that.

11 THE COURT: Third-party guilt. So if you're in the
12 middle of cross-examination and you think you want to go
13 somewhere with it, then you just ask for a bench
14 conference and we'll discuss it at that time.

15 MS. QUIMBY: Yes, sir.

16 MR. BARNETTE: Thank you, Your Honor.

17 THE COURT: Anything else?

18 MR. GOWDY: Not from the State, Your Honor.

19 THE COURT: I'll be here next week. So you all let
20 me know if you have problems or questions.

21 *****END OF TRANSCRIPT OF RECORD*****
22
23
24
25

CERTIFICATE OF REPORTER

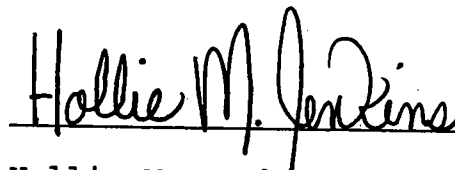
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 27th day of October, 2004.

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

November 4, 2004

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 11-17-10

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF SPARTANBURG)
)
)
INDICTMENT NO. 2005-GS-42952

STATE OF SOUTH CAROLINA,)
)
VS.) MEMORANDUM IN SUPPORT OF THE
) STATE'S INTRODUCTION OF EVIDENCE
FREDRICK ANTONIO EVANS,) IN THE SENTENCING PHASE OF
) THE DEFENDANT'S COMMISSION OF
) ANOTHER MURDER
DEFENDANT.)

MARCO

TO: THE DEFENDANT AND HIS ATTORNEYS: KAREN QUIMBY, THOMAS A. BOGGS,
CHRISTOPHER BROUGH, AND THE SPARTANBURG COUNTY PUBLIC DEFENDER'S OFFICE.

Should the jury convict Mr. Evans of the murder of Rhonda Ward, the State intends to introduce evidence in the sentencing phase of his trial that he has committed another murder.

On September 14, 2002 at approximately 1:00 p.m., the body of Demaris Huff was found in Duncan Park in Spartanburg. Ms. Huff had been reported missing earlier that morning by her husband, James Huff. According to Mr. Huff, Ms. Huff had left their home on Park Drive in Spartanburg to go walking at approximately 7:00 a.m. When Ms. Huff did not return home, Mr. Huff called neighbors looking for her and then the police. Ms. Huff's body was discovered by a neighbor at the bottom of a steep hill in a wooded area across from her home. She was naked except for ankle-length socks on her feet. A wire was wrapped around her neck. Dr. David Wren, a pathologist with the Spartanburg Regional Medical Center examined Ms. Huff's body at the scene at 3:45 p.m. Observing pronounced rigor mortis, Dr. Wren approximated that Ms. Huff had been dead at least eight hours at the time of the examination.

On September 15, 2002, Dr. Wren performed an autopsy upon Ms. Huff's body where he determined that Ms. Huff's death had been caused by strangulation. As part of the autopsy, Dr. Wren swabbed her mouth, vagina, and rectum. While Dr. Wren did not identify evidence of spermatozoa on the swabs, semen was identified by an Agent of the South Carolina Law Enforcement Division on the anal swab taken at the autopsy and forwarded to SLED. After Mr. Evans was charged with Ms. Ward's murder and his DNA had been found in Ms. Ward's vagina, his DNA was compared and matched to the

DNA found in Ms. Huff's rectum, Mr. Evans was charged with Murder, Kidnapping, and First Degree Criminal Sexual Conduct (03-GS-42-2529-31) in connection with Ms. Huff's death. These indictments are pending in Spartanburg County General Sessions Court.

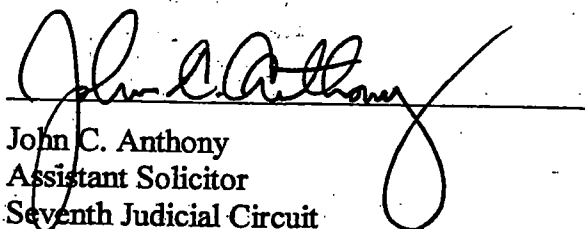
In the sentencing phase of his trial, the State intends to introduce evidence that Mr. Evans murdered Ms. Huff in order to show his character. The South Carolina Supreme Court has held that "the admission of testimony that a defendant has attempted a similar crime as that for which he is on trial is proper because such testimony indicates a defendant's individual characteristics and predisposition to commit similar crimes." State v. George, 476 S.E.2d 903, 913 (1996). The Court has on several occasions approved such use of evidence of prior crimes in the sentencing phase of a capital murder trial, even when the prior crimes were not the subject of a conviction.

In State v. Owens, 552 S.E.2d 745 (2001), the Defendant gave a statement admitting to stabbing and killing a fellow inmate during the waiting period between his conviction in the guilt phase and the beginning of the sentencing phase of his death penalty trial. The Supreme Court reversed the death sentence because the Defense had not been given sufficient time to defend against the statement's introduction in the sentencing phase, but held it admissible as evidence of the Defendant's character. Id. at 756. See also State v. Ray, 498 S.E.2d 640, 641-42 (1998) (photographs of victim of prior ABIK admissible to show circumstances of the prior crime and character); State v. Green, 392 S.E.2d 157, 162-63 (1990) (evidence of separate incidents involving two shootings, a robbery, and a car breaking all admissible character evidence); State v. Howard, 369 S.E.2d 132, 137 (1988) (confessions to seventy armed robberies and a murder admissible to show character without additional corroborating evidence).

In State v. Middleton, 368 S.E.2d 457 (1988), the Defendant's confession, which had been redacted for use in the guilt phase, was resubmitted to include previously deleted descriptions of an assault on one woman and the rape and murder of a second woman. The Supreme Court ruled that the Judge had properly instructed the jury that it could consider the prior crimes as evidence of the Defendant's character, but not as substantive evidence of the aggravating circumstances. Id. at 460. Furthermore, the Court rejected the Defendant's argument that State v. Lyle, 118 S.E.2d 803 (1923),

required the State to prove the prior crimes by clear and convincing evidence. Lyle, the Court held, creates a standard for the admission of substantive evidence to establish guilt, not for character evidence relevant to capital sentencing. Id. at 461. See George, 476 S.E.2d at 913; Green, 392 S.E.2d at 163.

The State can prove that Mr. Evan's semen was present in Ms. Huff's rectum when her naked body was found in Duncan Park on September 13, 2002. Ms. Huff was murdered shortly after leaving her home that morning, increasing the probability that the man whose semen was found in her rectum also killed her. These facts establish by at least a preponderance of the evidence that Mr. Evans kidnapped, sexually assaulted, and murdered Ms. Huff. As this evidence is indicative of Mr. Evans character, it should be considered by a jury in determining whether he should receive the death penalty.



John C. Anthony
Assistant Solicitor
Seventh Judicial Circuit

Spartanburg, South Carolina
October 26, 2004

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS

SEVENTH JUDICIAL CIRCUIT

State of South Carolina)

ORDER RE: MEDIA COVERAGE

vs. The Court)

Case Number(s): 03-GS-42-2532

03-GS-42-2533

03-GS-42-2534

Fredrick Antonio Evans)

04-GS-42-1649

Defendant.)

The matter of media coverage of the above-entitled action having been full considered by this Court, the following Order is hereby entered and pertains to all future Circuit Court proceedings in the above-referenced case. The purpose of this Order is to provide the parties a fair trial on the issues in this case, preserve the dignity of these proceedings and allow the media reasonable access to these proceedings.

- 1.) There will be no use of flashbulbs, strobe lights or other artificial lights anywhere in the courtroom.
- 2.) There will be no still or television cameras or recording devices permitted in the courtroom during any portion of jury selection. Photographing during the voir dire process will be prohibited.
- 3.) The privacy of jurors being of paramount importance to this Court, the photographing of jurors at any time during the trial will be prohibited.
- 4.) Sidebar conferences will not be photographed.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2004 NOV 08 AM 9:31
MARCKITCHEN



5.) Any camera utilized must not be able to be heard by anyone seated in the jury box.

6.) The use of any camera or recording device in the courtroom shall be prohibited unless the camera person is a representative of the media and has obtained the permission of the Court. The Court shall determine the use and placement of the camera in the courtroom.

7.) During the trial of this matter, television and audio equipment and tripod mounted still cameras must not be placed in or removed from the courtroom except prior to commencement or after adjournment of the proceedings each day, or during recess.

8.) Any television camera or recording equipment that is permitted in the courtroom shall be turned on and operating only while the Court is in session.

9.) Media representatives are expected to present a neat appearance in keeping with the dignity of the proceedings and be sufficiently familiar with court proceedings so as to conduct themselves in a manner which does not interfere with the dignity of the proceedings, or to distract counsel, the jurors or the Court.

10.) Coverage of the proceedings shall be subject to the continuing supervision of this Court. No coverage shall take place within the courtroom, whether during recesses or at any other time, when court is not in session.

11.) No television or still camera is permitted to focus on the papers, exhibits or other documents on counsel table in such a manner that the contents of these materials can be read or otherwise discerned by the viewer.

12.) The terms of this Order are subject to change by the Court.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2004 NOV -8 AM 9:21
MAC KITCHENS

AND IT IS SO ORDERED

Frederick Anthony Davis

Edward W. Miller

Edward W. Miller
Circuit Court Judge

Spartanburg, South Carolina
November 8, 2004

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2004 NOV -8 AM 9:21
MARC KITCHENS

Nov. 11. 2004 11:24AM

No. 1225 P. 25

2711

Fax: 8132278500

Nov 10 2004 18:29

P. 25

11/8/04

AS Evans Trial 3-ENG-VO

Duration: 0:16

[Tape: 2003-209 00:18:32:00]

[Anchor: KRISTEN]

[***KRISTEN***]

THERE ARE 2 TRIALS GOING ON TODAY THAT WE'RE KEEPING AN EYE ON FOR YOU...

[TAKE VO]

[***KRISTEN VO***]

THE FIRST IN SPARTANBURG...

FREDERICK EVINS IS ACCUSED OF KILLING DAMARIS HUFF LAST YEAR IN DUNCAN PARK.

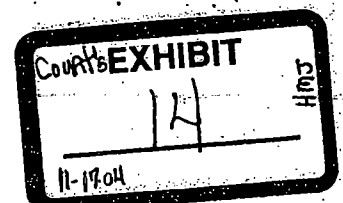
HE WAS ALSO INDICTED FOR THE MURDER OF RHONDA GOODWIN... A SPARTANBURG CONVENIENCE STORE CLERK.

HIS TRIAL IS SCHEDULED TO START TODAY...

[TAKE WIPE]

Printed: 11/9/2004 12:14 By January Jones

Page 1



9/18/02

D01 Duncan Park Polo

Duration: 0:29

[Camera: 2-2shot]

[Tape#: 2002-249/00:25:57/00]

[Effects: 2-SHOT]

[JULIE 2-SHOT]

STILL NO ARRESTS IN LAST WEEKEND'S MURDER IN SPARTANBURG DUNCAN PARK. INVESTIGATORS ARE WORKING SIDE BY SIDE WITH F-B-I OFFICIALS - AS THEY SORT THROUGH OVER A HUNDRED TIPS THAT HAVE BEEN PHONED IN...

[Effects: TAKE... VO HATS]

(FRED VO)

[CG:LOC1\Spartanburg]

DETARIS HUFF, A LIBRARY WORKER, WAS FOUND STRANGLED IN DUNCAN PARK - CONSIDERED A LOW-CRIME AREA.

YESTERDAY, UNIFORMED AND PLAIN-CLOTHES OFFICERS... WERE PATROLLING THE PARK.

IF YOU USUALLY WALK OR JOG THERE, POLICE RECOMMEND THAT YOU BRING ALONG A PARTNER OR GO IN A GROUP.

[CG:LOC2\58-CRIME\Crimestoppers]

IF YOU HAVE INFORMATION ON THE CRIME... YOU CAN CALL CRIMESTOPPERS... AT 58-CRIME.

Nov. 11. 2004 11:18AM

No. 1225 P. 8

2713

Fax: 0132278800

Nov. 10 2004 16:25

P. 08

9/18/02

All Duncan Park Murder

Duration: 9:26

[Tape#: 2002-254 00:36:43:00]

[Camera: 2-2shot]

[Effects: 2-SHOT]

[PAM/2-SHOT]

IN OTHER NEWS:

THE SEARCH FOR THE KILLER OF A SPARTANBURG WOMAN
CONTINUES TONIGHT...

[Effects: TOM - VO]

[CG: LOC2 \Duncan Park \Spartanburg]

(TOM - VO)

DAMARIS HUFF'S BODY WAS DISCOVERED... OFF A WALKING
PATH... IN DUNCAN PARK... LAST SATURDAY.

SHE HAD BEEN STRANGLED.

TO REASSURE RESIDENTS... PUBLIC SAFETY OFFICERS HAVE
SET UP A COMMAND POST AT THE PARK'S ENTRANCE... AND CONTINUE
TO PATROL THE AREA.

[Effects: WIFE FULLSCREEN]

[SS: FS: VISITATION]

(TOM - FS)

MEMBERS OF DAMARIS HUFF'S FAMILY... ARE RECEIVING
FRIENDS TONIGHT... UNTIL -8- O'CLOCK... AT THE EPISCOPAL
CHURCH OF THE ADVENT.

[SS: FS: MEMORIAL SERVICE]

(TOM - FS)

A MEMORIAL SERVICE... IS SET FOR TOMORROW MORNING AT -
11-... AT THE CHURCH.

Fax: 8132278500

Nov 10 2004 18:25

P. 09

9/18/02

A09 S-See You At The Pole

Duration: 1:09

[Effects: TAKE ENG/SOT]

[Tape: 2002-291/00:04:33:00]

[Source: PHED]

[TI: 14]

[OC: THAT DAY]

[CE: INT/Heather Hodge/Dorman HS Seniors]

[SOT 8:03:01]

"My first three years here I was kind of in the background, listening to the other seniors speak...singing and praying...and thinking someday I'd like to do that when I'm a senior and here's that day."

Police in Spartanburg have received more than one hundred phone tips, but have not made any arrests in the murder of Damaris Huff. The woman's body was found last weekend in Duncan Park. She had been strangled. Huff was a library worker and a friend to many in the community. Tonight, family members will welcome friends from 6:00 until 8:00 at the Episcopal Church of the Advent. A memorial service will be held at 11:00 tomorrow morning at the church.

<p>

Converse College is getting a new building. Ground has been broken for a 36,000-square-foot Science and Technology Hall. The three-story building will house biology and chemistry labs and will be named Phifer Hall. Susu Phifer Johnson and her husband George Dean Johnson helped raise money for the building. Construction should take a little over a year.

[Effects: VO CONTINUES]

[CG: LOC1/Anderson]

(JULIE VO)

STUDENTS AT CALHOUN STREET ELEMENTARY IN ANDERSON DODGED THE RAINDROPS AS WELL TO PARTICIPATE IN "SEE YOU AT THE POLE."

LAST YEAR.. IN THE WAKE OF 9-11.. MORE THAN THREE MILLION PEOPLE MET OUTSIDE SCHOOLS IN ALL 50 STATES.

A25 Duncan park latest

Duration: 0:01

9/19/02

[Tape#: 2002-191/00;57;45;00]

[Camera: 3 GR]

[SS: gtx-duncan park investigation] [Source: DESK: NEW VIDEO OF
POLICE COMMAND POST]

[Effects: TOM LIVE]

(TOM LIVE)

[ReadRate: 200]

SPARTANBURG POLICE... WILL KEEP A CLOSE WATCH ON A
MURDER SCENE... THIS WEEK.

[Effects: TOM - VO MARS]

(TOM - VO)

TONIGHT... THE PUBLIC SAFETY DEPARTMENT TELLS US... ITS
COMMAND POST WILL STAY IN DUNCAN PARK... THROUGH THE
WEEKEND.YOU'LL REMEMBER A PERSON WALKING THERE... FOUND THE
BODY OF DAMARIS HUFF... LAST SATURDAY.

INVESTIGATORS SAY... SHE WAS STRANGLED.

HUFF'S HUSBAND REPORTED HER MISSING... AFTER SHE DIDN'T
RETURN... FROM HER REGULAR MORNING WALK.

9/19/02

A07 Duncan Park MurderDuration: 0:17

[Tape: 2002-250 : 00:28:13:00]
[Source: 2002-233/00:43:24:00]
[Effects: TAKE ENG/VO OFF TOP]
[CO: LOC2\Spartanburg\Saturday]
{PAM/VO}

STILL NO ARRESTS IN THE MURDER OF A SPARTANBURG WOMAN.
55-YEAR-OLD DAMARIS HUFF WAS FOUND STRANGLED... OFF A
WALKING PATH... IN DUNCAN PARK... LAST SATURDAY.

PUBLIC SAFETY OFFICERS CONTINUE TO FOLLOW-UP ON SEVERAL
TIPS..

A MOBILE COMMAND POST REMAINS IN PLACE AT THE PARK'S
ENTRANCE... AND OFFICERS HAVE BEEFED UP PATROLS OF THE
AREA.

Nov. 11. 2004 11:16AM

No. 1225 P. 2

Fax: 8132270500

Nov 10 2004 16:23

P. 02

A12 DUNCAN PARK UPDATE

Duration: 0:02

10/18/02

[Tape: 2002-189/01:05:00:00]

[Camera: 3-TOM]

[Source: TAPE 2002-189 01:05:00:00]

[Effects: TOM LIVE]

[ReadRate: 200]

(**TOM**)

IT'S STILL UNSOLVED...BUT SPARTANBURG POLICE MAY BE GETTING CLOSER TO ANSWERS IN A MURDER THAT HAPPENED LAST MONTH IN DUNCAN PARK.

SPARTANBURG PUBLIC SAFETY DIRECTOR TONY FISHER APPEARED BEFORE CITY COUNCIL TONIGHT TO GIVE AN UPDATE ON THE INVESTIGATION INTO A RECENT MURDER...

[Effects: TAKE VO]

(**TOM VO**)

[CG: LOC2\Spartanburg\September 14]

THE BODY OF DAMARIS HUFF WAS FOUND AT THE BOTTOM OF AN EMBANKMENT NEAR HER HOME IN DUNCAN PARK... ON SEPTEMBER 14TH.

HER MURDER IS THE ONLY UNSOLVED CASE IN THE CITY THIS YEAR.

TWO DETECTIVES ARE WORKING THE CASE FULLTIME.

[Camera: 3-TOM]

[Effects: TOM LIVE]

(**TOM**)

FISHER SAYS A SUSPECT IS BEING LOOKED AT...PLUS FBI AND SECRET SERVICE AUTHORITIES ARE NOW LOOKING AT KEY EVIDENCE IN THE CASE.

THEY HOPE TO CONCLUDE THE CASE FAIRLY SOON.

10/31/02

D01 Duncan Park Murder

Duration: 0:42

[Camera: 2-2shot]

[Tape#: 2002-252/01:02:22:001]

[Effects: 2-SHOT]

{JULIE 2-SHOT}

AN UPDATE NOW ON AN UPSTATE MURDER CASE...

[Effects: 2-SHOT]

{FRED 2-SHOT}

THE BODY OF DAMARIS HUFF... A SPARTANBURG LIBRARIAN WAS FOUND STRANGLED IN DUNCAN PARK LAST MONTH...

[Camera: 3a talk]

[Effects: TURN FRED]

{FRED TURN}

TODAY'S HERALD JOURNAL QUOTES AN ATTORNEY FOR DAMARIS HUFF'S HUSBAND, AS SAYING MR. HUFF THINKS HE'S THE TARGET OF THE INVESTIGATION.

SOURCES SAY HUFF'S HUSBAND TOOK A POLYGRAPH TEST AND PERFORMED POORLY ON THAT TEST...

SPARTANBURG'S PUBLIC SAFETY DIRECTOR - TONY FISHER TELLS NEWS CHANNEL 7 THAT POLICE HAVE HAD NO CONVERSATIONS WITH HUFF'S ATTORNEY, OR MR. HUFF... THAT SHOULD LEAD THEM TO BELIEVE HE'S A SUSPECT.

FISHER TELLS US THERE ARE TWO SUSPECTS IN THE CASE... HUFF REFUSED TO TALK TO US YESTERDAY - SAYING HE DIDN'T WANT TO COMPROMISE THE INVESTIGATION...

CRIMESTOPPERS HAVE POSTED A TEN-THOUSAND DOLLAR REWARD FOR INFORMATION ON THIS [CC:1002\23-CRIME\Crimestoppers] CASE... CALL 23-CRIME.

A19 In-Duncan Crime

Duration: 0:42

01/24/03

[Tapes: 2002-233 00:43:24:00]

[Effects: TAKE PS]

[STACI PS]

[SS: PS: City of Spartanburg]

Crime Analysis 2002

Property Crimes

- Auto Theft

Violent Crimes

- Rapes / Robberies

- Homicides]

POLICE SAY THERE IS CERTAINLY ROOM FOR IMPROVEMENT... ESPECIALLY WHEN IT COMES TO AUTO THEFTS... THERE WERE 343 REPORTED LAST YEAR... THAT'S MUCH HIGHER THAN OFFICERS WOULD LIKE.

AS FOR VIOLENT CRIMES... RAPES AND ROBBERIES WERE THE SECOND LOWEST IN TWELVE YEARS.

HOMICIDES ARE DOWN SIGNIFICANTLY AS WELL. THERE WERE THREE IN 2002, IN PAST YEARS THE CITY HAS AVERAGED 10.

[Effects: WIPE TO VO]

[WIPE TO VO]

[CG: LOC2\Spartanburg County\Sept. 14, 2002]

YET, ONE OF THOSE -3- HOMICIDES REMAINS UNSOLVED.

THAT'S THE DAMARIS HUFF CASE... HER BODY WAS FOUND STRANGLED TO DEATH IN A WOODED AREA OF DUNCAN PARK... THAT WAS BACK IN SEPTEMBER.

DIRECTOR TONY FISHER TOLD ME TODAY THAT THEY'RE STILL WORKING THE CASE. HOWEVER, POLICE STILL DO NOT HAVE ANY SUSPECTS THAT THEY CAN NAME AT THIS TIME.

[Effects: TAKE STACI AT CHROMA]

[TAKE STACI AT CHROMA]

[CG: LOC1\Staci Waller]

[SS: PS: CRIMETRACKER CROMAKEY-CRIME TRENDS]

THE REWARD HAS BEEN RAISED TO 20-THOUSAND DOLLARS. IF YOU HAVE ANY INFORMATION, PLEASE CALL 58-CRIME.

FBI 10132270500

Nov 10 2004 16:27

P. 17

1/24/03

ELB F-Duncan Park

Duration: 1:03

[Tapet: 2002-391 00:07:47:00]

[Source: staci/rich]

[note of dogs and lady walkers]

IT TAKES THEM EXACTLY AN HOUR TO FINISH THE DUNCAN PARK LOOP...AND EACH TIME AROUND...THEY ALWAYS PASS THE SPOT... THE WOODED AREA WHERE DEMARIS HUFF WAS FOUND...STRANGLER TO DEATH....JUST OUTSIDE HER HOME... IT'S A REALITY THAT WON'T MELT AWAY...

[002:14:47 - Lee Ann Williams]

"Everytime like if you're out at a party, somebody will bring it up and talk about it. There's just a lot of curiosity."

[002:11:35 - Amy Holbain]

"We've been a while without a lot of information."

POLICE HAVE BEEN PRETTY QUIET LATELY...AWAITING THE RESULTS OF KEY EVIDENCE THAT WAS SENT AWAY TO THE SECRET SERVICE...THE RESULTS ARE BACK AND IT'S NOT ENOUGH TO LEAD TO A SUSPECT...

[001:39:53 - Tony Fisher]

"They did lab tests. It was not as encouraging as we had hoped for."

[002:26:09 - Staci Walker]

"It's been more than 4 months and only the temperature has dropped here in Duncan Park. Police say the Demaris Huff murder is everything but a cold case and they may have a new lead."

[002:33:50 - Steve Lamb]

"Maybe not a new lead. But we're trying to use some new techniques. We've researched some new techniques from several agencies and probably we're going to return with a fine tuned survey to the community to help us solve this case."

POLICE SAY THEY'RE CONFIDENT THE ANSWERS ARE HERE...RESTING SOMEWHERE IN THIS TYPICALLY QUIET AND SERENE COMMUNITY.

1/24/03

A16 Duncan Park Update

Duration: 0:02

{Camera: 2gx}

{Tape#: 2002-380 00:43:41:00}

{Duncan park}

{ReadDate: 205}

{SS: GFK-7015 CRIME TRACKER ALERT}

ONE OF THOSE -3- HOMICIDES REMAINS UNSOLVED.

THAT'S THE DAMARIS HUFF CASE THAT STUNNED THE DUNCAN PARK COMMUNITY.

SEVERAL OF YOU HAVE CALLED US... ASKING FOR THE LATEST IN THE INVESTIGATION...

{Effects: TAKE VO}

{TAKE VO}

YOU'LL REMEMBER MS. HUFF WAS FOUND PARTIALLY NUDE... AND STRANGLER... BESIDE A WALKING PATH IN DUNCAN PARK IN SEPTEMBER.

PUBLIC SAFETY DIRECTOR TONY FISHER SAYS HIS OFFICERS ARE STILL WORKING THE CASE.

LT. STEVE LAMB SAYS INVESTIGATORS ARE USING NEW TECHNOLOGY TO HELP IN THE ABSENCE OF NEW LEADS...

Nov. 11. 2004 11:22AM

No. 1225 P. 18

2722

Fax: 8132278500

Nov 10 2004 16:28

P. 18

E18 P-Duncan Park

Duration: 1:03

IN DUNCAN PARK. STACI WALKER. NEWS CHANNEL SEVEN.

Printed: 11/8/2004 12:53 by January Jones

Page 2

Fax: 8132278500

Nov 10 2004 16:26

P. 11

2/6/03

A19 V-Duncan Park

Duration: 9:17

[Expt#: 2002-373 00:54:10:00]

[Source: STACI/DUKE]

[Effects: TAKE VO OFF TOP]

[CG: FOLLOW/Duncan Park Murder]

[**STACI VO**]

IT WAS A RAINY SATURDAY MORNING IN SEPTEMBER THAT THE BODY OF DAMARIS HUFF WAS FOUND IN A WOODED AREA JUST OUTSIDE HER DUNCAN PARK HOME.

SHE WAS A REGULAR WALKER IN THE PARK..SO SOME OF THE QUESTIONS ON THE QUESTIONNAIRE ARE SPECIFICALLY ABOUT HER....ABOUT THE DUNCAN PARK NEIGHBORHOOD...THE COMMUNITY AS A WHOLE....AND A POSSIBLE SUSPECT.

Fax: 813 227 8500

Nov 10 2004 18:28

P. 21

27/03

B01 V-Duncan Park

Duration: 0:35

[Camera: 2]

[Tap: 12002-30 00:05:10:001]

[Effects: 2-SHOT/FRED LIVE]

(2-SHOT/FRED LIVE)

SPARTANBURG PUBLIC SAFETY IS TURNING TO NEIGHBORS FOR HELP IN SOLVING THE CITY'S ONLY UNSOLVED MURDER OF 2002 - THAT OF DAMARIS HUFF.

[Effects: JULIE TURN/HOLD UP QUESTIONNAIRE]

[Camera: 1]

(JULIE TURN/HOLD UP QUESTIONNAIRE)

THIS MAY HELP BREAK THE CASE..

IT'S A SIX-PAGE QUESTIONNAIRE, ASKING FOR AS MANY DETAILS AS A PERSON CAN GIVE ABOUT THE VICTIM, THE AREA WHERE HER BODY WAS FOUND AND INFORMATION ABOUT ANYBODY SUSPICIOUS THEY MIGHT REMEMBER.

AND POLICE HAVE JUST RELEASED NEW INFORMATION ON THE CASE. WHEN MRS. HUFF'S BODY WAS FOUND LAST SEPTEMBER, SHE WAS NAKED. HER CLOTHES, TENNIS SHOES AND POSSIBLY HER WALKMAN ARE STILL MISSING.

[Effects: TAKE JULIE VO]

(TAKE JULIE VO)

SEVERAL PEOPLE IN THE COMMUNITY ARE TRYING TO HELP BY ANSWERING THE QUESTIONS IN DETAIL, EVEN THOUGH IT'S BEEN FOUR MONTHS SINCE THE MURDER.

[Effects: WIFE TO SOT] (WIFE TO SOT)

2/24/03

All Duncan Park

Duration: 0:01

[Tape: 2003-22 00:13:31:00]

[Camera: 2 2shot]

[Source: RICH/CARL]

[Effects: TOM 2-SHOT]

[ReadRate: 200]

(TOM 2-SHOT)

THE SPARTANBURG PUBLIC SAFETY DEPARTMENT... HASN'T
GIVEN UP... ON THE DAMARIS HUFF MURDER CASE.

[Effects: PAM - VO]

[ReadRate: 200]

(PAM - VO)

INVESTIGATORS COMBED DUNCAN PARK, AGAIN TODAY, LOOKING
FOR ANY CLUES THEY MIGHT HAVE MISSED IN EARLIER
SEARCHES.

THEY SAY THIS LATEST SEARCH IS TO MAKE SURE THEY HAVEN'T
MISSED ANYTHING BEFORE GRASS AND BRUSH GROWS OVER THE AREA
THIS SPRING.

DAMARIS HUFF'S NEARLY NUDE BODY WAS FOUND LAST
SEPTEMBER AT THE BOTTOM OF AN EMBANKMENT NEAR HER HOME IN
DUNCAN PARK.

DETECTIVES ACKNOWLEDGE THEY DIDN'T FIND ANYTHING NEW
TODAY... AND THEY HAVE NO SUSPECTS IN THE CASE.

Nov.11. 2004 11:22AM

No.1225 P. 20

2726

Fax:8132278500

Nov 10 2004 16:28

P.20

AIS Duncan Park foto

Duration: 9:01

[Tape#:2083-23 00:16:10:00]

[Camera:1 GR]

[FrameRate:200]

{PAM LIVE}

[SE:GFM-OIS FOLLOW UP]

IN A SEVEN ON YOUR SIDE FOLLOW-UP... INVESTIGATORS TRY
USING A SURVEY AGAIN TO HELP THEM FIND A KILLER..

[Effects:PAM - VO NATS]

{PAM - VO}

SPARTANBURG PUBLIC SAFETY OFFICERS WERE OUT IN THE
NEIGHBORHOODS AROUND DUNCAN PARK AGAIN TODAY.

THEY WERE PASSING OUT MORE OF THE QUESTIONNAIRES ABOUT
THE MURDER OF DAMARIS RUFT.

A WALKER FOUND HER BODY IN THE PARK LAST SEPTEMBER..

THE SURVEY HAS QUESTIONS ABOUT THE CRIME AND THE AREA
WHERE IT HAPPENED.

POLICE HOPE IT WILL LEAD TO AN ARREST.

2/26/03

Nov. 11. 2004 11:20AM

No. 1225 P. 12

2727

Fax: 813 227 8500

Nov 10 2004 16:25

P. 12

2/28/03

A15 V-Ward killer

Duration: 0:02

[Type: 2002-977 01:10:01:00]

[Camera: 1 GR]

[Source: XANA]

[Effects: PAM LIVE]

[ReadRate: 200]

[PAM LIVE]

[SS: GFK OYS FOLLOW UP MURDER ARREST]

SPARTANBURG COUNTY SHERIFF'S DEPUTIES ASKED FOR -YOUR-
HELP IN FINDING A SUSPECTED MURDERER...

AND MOMENTS LATER... THAT PERSON WAS FOUND... IN
ANOTHER JAIL!

[Effects: PAM - VO NARS]

[PAM - VO]

POLICE PULLED OVER 35-YEAR-OLD FREDERICK EVANS IN GREER
LAST NIGHT.

HE WAS CHARGED WITH NOT HAVING A DRIVER'S LICENSE.

TODAY... ONE OF THE GUARDS WAS WATCHING TV, AND SAW A
PICTURE OF EVANS ON THE NOON NEWS..

HE CALLED THE SHERIFF'S OFFICE... AND DEPUTIES PICKED
UP EVANS.

[Camera: 1]

[Effects: PAM ON-CAM TAG]

[PAM ON-CAM TAG]

EVANS IS ACCUSED OF KILLING 32 YEAR-OLD RHONDA MARIE
WARD TWO WEEKS AGO.

Fax: 818 227 8500

Nov 10 2004 18:26

P. 13

2/28/03

E11 V-Ward Killer

Duration: - 0:02

[Camera: 2 GR]

[Time: 2002-379 01:21:35:00]

[Effects: DIANA LIVE]

[OnCam: WatsonD]

[HeadRate: 195]

[SS: GPK-OYS FOLLOW UP MURDER ARREST]

SPARTANBURG COUNTY SHERIFF'S DEPUTIES ASKED FOR -YOUR-
HELP IN FINDING A SUSPECTED MURDERER...

AND MOMENTS LATER... THAT PERSON WAS FOUND IN ANOTHER
JAIL!

[Effects: TAKE VO]

[**TAKE VO**]

TURNS OUT POLICE PULLED OVER 35-YEAR-OLD FREDERICK
EVANS IN GREER THURSDAY NIGHT.

HE WAS CHARGED WITH NOT HAVING A DRIVER'S LICENSE.

YESTERDAY... ONE OF THE OFFICERS AT THE GREER JAIL SAW
A NOON BROADCAST SHOWING EVANS' PICTURE... AS A SUSPECT
WANTED IN A LOCAL MURDER CASE.

HE CALLED THE SHERIFF'S OFFICE... AND DEPUTIES PICKED
UP EVANS.

[Camera: 3 TAG]

[Effects: ON CAM TAG]

[**ON CAM TAG**]

EVANS IS ACCUSED OF KILLING 32 YEAR-OLD RHONDA MARIE
WARD TWO WEEKS AGO.

Fax: 813 227 8500

Nov 10 2004 16:27

P. 15

2/28/03

A04 P-Loophole

Duration: 0:44

[Tape: 2002-290 00:43:09.00]

[Source: TARA/DUKE]

(sot 3:38:47-:52)

"We knew if we didn't find him by 11 this morning, we should enlist the help of the community."

(FS/EVANS)

THEY DID AND FOUND THEIR MAN, FREDERICK EVANS, JUST DOWN THE ROAD AT THE GREER CITY JAIL. TURNS OUT A GUARD WAS SICK AT HOME, SAW THE BROADCAST AND CALLED THE SHERIFF.

(sot 3:37:58-:13)

"It's not all together unheard of to have a fresh arrest warrant for someone but in a case like this it is a little unusual to have a murder warrant issued and that individual is in a jail in an adjoining county."

A WARRANT ONLY TAKES ABOUT 15 MINUTES TO CREATE.

(nat 2:47:19 typing)

(sot 3:49:54-:59)

"We type it up in the computer and as soon as it's in the computer, it's in the system ready to be served."

(nat 3:49:03 printing and rip)

EVANS' MURDER WARRANT WAS IN THE COMPUTER, BUT NOT IN TIME...HE HIT A LOOPHOLE BY MATTER OF HOURS.

(sot 3:39:43-:51)

"But since he was already booked into the jail the check would have revealed no outstanding warrants because the new ones were only just this morning entered."

3/2/03

A03 L-Duncan Park

Duration: 0:00

[Tap:2002-391/01:00:00:00]

[Camera:2 2shot]

[Effects:PAM 2/SHOT]

[ReadRate:200]

(PAM 2/SHOT)

THANKS FOR JOINING US....

A SIGN OF RELIEF FOR THE SPARTANBURG COMMUNITY
TONIGHT... NOW THAT POLICE SAY THEY HAVE A SUSPECT IN THE
DUNCAN PARK MURDER BEHIND BARS.

[Effects:TOM LIVE]

[ReadRate:200]

(TOM TURN)

[Camera:3gr]

[SS:GFX-MURDER INVESTIGATION]

DAMARIS HUFF WAS FOUND STRANGLER... IN DUNCAN PARK...
IN SEPTEMBER.

[Effects:TAKE DOUBLEBOX]

[Camera:2box TOM]

[SS:DHL BOX SNG AMC]

[CG:DLBOX\Spartanburg\Duncan Park Arrest]

STACI WALKER JOINS US LIVE... WITH DETAILS.
CAN THIS COMMUNITY... FINALLY REST EASIER, STACI?

Fax: 8132278500

Nov 10 2004 16:26

P. 10

3/21/03

A07 Duncan Park Update

Duration: 0:02

{Camera: 2 GR}

{Tape#: 2902-359 01:30:02:00}

{duncan park}

{ReadRate: 205}

{AS: 62K-7098 CRIME SCENE/Park Murder}

FOR SIX MONTHS IT'S BEEN A MYSTERY.. TONIGHT POLICE
CONSIDER THE DUNCAN PARK MURDER SOLVED.

{Effects: take vo}

{TAKE VO}

IN THIS SEVEN ON YOUR SIDE FOLLOW UP..

35 YEAR OLD FREDERICK EVANS FACES A NUMBER OF CHARGES
INCLUDING MURDER.. IN THE DEATH OF DAMARIS HUFF.IF EVANS LOOKS FAMILIAR THAT'S BECAUSE SHERIFF DEPUTIES
JUST CHARGED HIM LAST MONTH WITH THE MURDER OF RHONDA WARD.INVESTIGATORS TOOK EVAN'S D-N-A FROM WARD'S MURDER AND
MATCHED IT TO EVIDENCE FOUND IN THE HUFF CASE.TONIGHT JAMES HUFF.. DAMARIS'S HUSBAND.. AND THE ENTIRE
COMMUNITY ARE RELIEVED.

{Effects: wipe to sot}{WIPE TO SOT}

3/22/03

A12 V-Duncan Park

Duration: 0:02

{Camera: 2 GR}

{Tape#: 2003-49 14:55:17}

{Effects: DINA LIVE}

{OnCam: Watson}

{ReadRate: 195}

{SS: GRX-CRIME TRACKER-Park Murder}

FOR 6-MONTHS... IT'S A MURDER CASE THAT PUT ONE URBAN
COMMUNITY ON EDGE.THIS MORNING... SPARTANBURG POLICE CONSIDER THE DUNCAN
PARK MURDER... -SOLVED-.

{Effects: TAKE VO}

{**TAKE VO**}

IN THIS "-7- ON YOUR SIDE" CRIME TRACKER UPDATE... 35-
YEAR-OLD FREDERICK EVANS FACES A NUMBER OF CHARGES...

INCLUDING MURDER... IN THE DEATH OF LIBRARIAN DAMARIS HUFF.

EVANS MAY LOOK FAMILIAR TO YOU.

THAT'S BECAUSE... HE WAS ALREADY IN CUSTODY.

SPARTANBURG COUNTY DEPUTIES CHARGED HIM LAST MONTH...
WITH THE MURDER OF RHONDA WARD.INVESTIGATORS TOOK EVAN'S D-N-A FROM WARD'S MURDER...
AND MATCHED IT TO EVIDENCE FOUND... IN THE HUFF CASE.THE VICTIM'S HUSBAND... AND AN ENTIRE COMMUNITY... ARE
RELIEVED:

7/11/03

A07 Duncan Park

Duration: 0:32

[Camera: 2-2shot]

[Tape: 2003-126 00:38:23:00]

[Effects: 2-SHOT/JULIE LIVE]

[2-SHOT/JULIE LIVE]

ALSO IN THE NEWS THIS MORNING - A MURDER CASE THAT
SHOOK UP A SPARTANBURG COMMUNITY.

[Effects: 2-SHOT/FRED LIVE]

[2-SHOT/FRED LIVE]

A GRAND JURY SAYS FREDERICK EVANS - CAN - STAND TRIAL..
FOR THE MURDER OF DEMARIS HUFF.

[Effects: FRED VO]

[FRED VO]

[CG: FOLLOW/ Evans indictment].

HER BODY WAS FOUND AT DUNCAN PARK LAST YEAR. NO TRIAL
DATE HAS BEEN SET FOR EVANS.. WHO WAS ALSO INDICTED FOR THE
MURDER OF RHONDA WARD.

INVESTIGATORS USED EVIN'S D-N-A FROM WARD'S MURDER..
AND MATCHED IT TO EVIDENCE FOUND.. IN THE HUFF CASE.

[Effects: FRED ON CAM TAG]

[FRED ON CAM TAG]

[Camera: 3 tag]

EVINS HAD A PRIOR RECORD.. AND IS A REGISTERED SEX
OFFENDER.

8/29/03

All Evins-Death Penalty

Duration: 0:02

[Tape: 2003-186/00/32:52:00]

[Source: 2003-126 00:38:23:00 (HIM) 2003-19/06:17:31:00

(BODY)]

[Camera: 3 GR]

(TOM LIVE)

[ReadDate: 2003]

[SS: DEX-DEATH PENALTY]

[Effects: TOM LIVE]

TWO CRIMES... THAT PUT MANY OF -YOU- ON EDGE.

TONIGHT THERE'S WORD THAT UPSTATE PROSECUTORS WILL SEEK
THE DEATH PENALTY AGAINST AN ACCUSED DOUBLE-MURDERER.

[Effects: TAKE HQ/VO (EVINS-MUG SHOT)]

(TOM - VO)

FREDERICK EVINS WAS INDICTED IN JULY IN CONNECTION WITH
THE MURDERS OF DAMARIS HUFF... AND RHONDA GOODWIN.

[CG: LOC2\Spartanburg County\Febuary 15]

GOODWIN WAS A CONVENIENCE STORE CLERK... WHO WAS
KIDNAPPED ON FEBRUARY 13-TH... HER BODY WAS FOUND TWO DAYS
LATER.A SPOKESMAN FOR SOLICITOR TREY GOWDY SAYS THE EVIDENCE
PROSECUTORS HAVE GATHERED IN THE CASE... HAS LEAD THEM TO
SEEK THE DEATH PENALTY.



The family of Damaris A. Huff, left, continues to grieve privately as officers hunt for her killer.

Dozens of leads, but still no killer

DUNCAN PARK SLAYING:
Crime in area hasn't escalated, police say

By TERESA KILLIAN
Staff Writer

Spartanburg police officers did not say Tuesday what Duncan Park community members need to hear — that they know who killed a 55-year-old library worker with a reputation for good deeds.

No arrests have been made in connection with the death of Damaris A. Huff, whose mostly nude body was found Saturday afternoon just yards from her 335 N. Park Drive home.

As of Tuesday, the police had not said whether they have any suspects in the case, but they did say they were investigating several dozen tips.

A neighbor found Huff's body in a wooded area near a trail she regularly walked.

She had left her home about six hours before, according to a report filed at the Spartanburg Public Safety Department.

Her death was ruled a homicide. The cause was asphyxiation.

A \$10,000 reward, announced Monday, for information that could help police in the case might have boosted the flurry of calls that investigators evaluated Tuesday.

They were generating callback lists from more than 100 interviews and tips, said Lt. Steve Lamb of the Spartanburg Public Safety Department.

"We are getting a tremendous amount of calls and leads from the community," Lamb said. "We've had calls where people remembered things from over 15 years ago."

♦ SEE SAFETY PAGE A11

Funeral and visitation

♦ Visitation will be from 6-8 p.m. today at The Episcopal Church of the Advent. The funeral will be held at 11 a.m. Thursday at the church.

♦ The west-side branch of the Spartanburg County Public Library, where Huff worked, will close at 6 p.m. today so library employees can attend the visitation.

Police working to put pieces together to find k

♦ SAFETY continued from A1
How safe is Duncan Park?

Meanwhile, statistics released Tuesday by the police did not suggest escalating violence in the Duncan Park community.

Emergency dispatchers answered 399 calls from January to August in an area that stretches from about West Park Drive to Lincorne Drive and then from just south of Union Street to Beth Court.

Three robberies were reported in the area between January and August. Of those, two were settled by an officer and, in the third, the caller could not be found.

Officers received two calls related to assaults. One was marked for further investigation, and no arrest was made on the second, Lamb said.

Reports filed indicated police looked into one sexual assault in the past eight months, which

was cleared by arrest. They also looked into four aggravated assaults, 10 assaults, a drug offense and other thefts and larcenies, according to graphs released by police.

Police presence continues

Police officers set up a constant presence Tuesday by parking the large, camperlike police mobile command unit on the street by the house Damaris Huff shared with her husband, James.

Police cars, both marked and unmarked, drove the same stretch of road with relatives of the family who continued grieving privately — away from media cameras and questions.

Public Safety Director Tony Fisher had urged those who attended a community meeting Monday to take extra safety measures. He shared with them his belief that the killer was not someone who would be lurking

in the area. He asked those with information to call Spartanburg at 596-2065, or Crime at 582-7463 or (800) 442-2735.

Teresa Killian can be reached at 582-4511 or teresa.killian@timesandtribune.com.

Court's EXHIBIT

15

11-17-04

STATE

Ministry celebrates
15 years / B6



SATURDAY
FEBRUARY 15, 2003

B

HERALD-JOURNAL
SPARTANBURG, S.C.

Police suspect missing woman abducted

LAST SEEN: She arrived at her job but never went into the building.

By BENNY LEE SMITH
Staff Writer

Rhonda Ward's regular pattern was to drop off her two children at a relative's house at 6:45 a.m., go to work and then pick them up in the afternoon.

On Thursday, that routine was interrupted after she dropped off her kids on Collins Avenue. Ward arrived at her

job at the Cigarettes for Less outlet on Drayton Road at about 7 a.m., but was missing a short time later.

"She never made it inside to her job," said her aunt, Dr. Joyce Miller.

Spartanburg County Public Safety Capt. Randy Hardy said surveillance footage at her job shows Ward talking



to a black male for a few minutes and then both getting into the car.

"The tape doesn't reveal that the subject had a weapon, but we still are treating this as an abduction," Hardy said.

Miller said the incident has shaken the entire family.

"This is just devastating," Miller said. "I have a nephew's funeral that I am going to attend tomorrow and now this... just not hearing anything about her."

Ward's family has searched extensively. They split into teams

patrolling parking lots at the mall and other large shopping centers. They have even driven different routes to Ward's place of employment to see whether they could find any clues.

Ward was last seen with the black male driving away in her 1993 white Nissan four-door vehicle she had just purchased. It still had the new tags on the back, Miller said.

Ward's family said she does not have a history of mental illness and has never left without giving her fam-

◆ SEE MISSING PAGE B2

Family spent the night calling each other, hoping for news

◆ WARD continued from B1
ly notification of her whereabouts.

"She is always here to pick up her kids in the afternoons," Miller said. "She loves her two children and we do too."

Meanwhile, her family is left searching for answers.

"All night we were calling each other to see if anyone had learned anything new," Miller said.

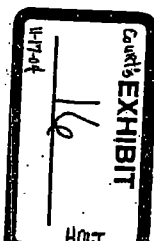
"We have done everything, including talking to police,

providing them with a photo, looking ourselves and praying."

Ward is described as a white female, 5 feet 6 inches tall, 230 pounds, with brown hair and blue eyes.

Anyone with information about Ward's whereabouts is asked to call the public safety department at 596-2065.

Benny Lee Smith can be reached at 582-4511, Ext. 7216, or benny.smith@shj.com.



2157936

Sheriff's deputies continue search for missing woman's white car

◆ **BODY** continued from B1

it was unlike her to not return to a relative's house to pick up her children where she had left them that morning.

Spartanburg police who took the initial report that Ward was missing turned it over to the Sheriff's Office Friday because the store is in the county's jurisdiction.

Sheriff's Lt. Ron Gabagan

said late Saturday night he could not release much information on the body that was found.

"We don't know a whole lot. We know it's a female," he said.

An autopsy today requested by the Spartanburg County Coroner's Office is expected to help answer many questions, Gabagan said.

The body was found in a

rolling terrain which complicated the investigation, he said.

After the body was discovered, sheriff's deputies stepped up their search for the car Ward drove, which still had not been found by midnight.

Ward's family could not be reached for comment on the discovery of the body.

The report filed by officers

states that her vehicle was a white 1993 Nissan two-door with a South Carolina license plate of 485NLW.

Anyone with information on the car is asked to call Crime Stoppers at 582-7463 or the Sheriff's Office at 596-2646.

Janet Spencer can be reached at 582-4511, Ext. 7222, or janet.spencer@shj.com.

Nude body found may be missing woman

By JANET S. SPENCER

Staff Writer

A woman whose nude body was found in an apple orchard Saturday afternoon may be Rhonda Ward missing for two days from a Drayton Road parking lot.

A resident on Gano Drive said the description of Ward's car in Saturday's *Herald-Journal* account of the woman's apparent abduction led him to the body about 4:30 p.m.

"That kind of car was seen down in the apple orchard Thursday morning," he said.

His family urged him to see if the car so similar to the one of the missing woman may have taken the old roadbed.

"I finished working today. They kept on about it, so I went in on a four-wheeler. It's like something just told me to go there," he said.

About 300 yards off the highway between Reidville and Duncan, he found the body in the open area of a wooded field and called 911.

"That's a terrible thing to find. A terrible thing to happen to somebody," he said of the woman's death.

Ward, 32, was last seen Thursday morning at the Cigarettes for Less outlet when she arrived for work at 6:50 a.m.

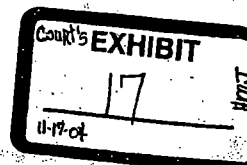
Spartanburg police Capt. Randy Hardy said a security surveillance tape at the store showed her get out of her car, and a man approached her.

They stood beside the car for a couple of minutes.

She did not go inside but got back into her car on the driver's side. The man got in on the passenger side, and then they left, Hardy said.

Her family began searching for her, saying

◆ SEE BODY PAGE B2



UPSTATE

Body identified as woman missing since Thu

From Staff Reports

Members of the family of 32-year-old Rhonda Marie Ward gave up their last hopes Sunday of finding the missing woman alive.

Ward, of Hanover Place in Spartanburg, was identified as the body found nude in an apple orchard Saturday afternoon off of Gano Road.

"We are just hanging in here and praying," said Ward's aunt, Dr. Joyce Miller. "It's just a lot. She's a good mother and a hard worker."

An autopsy will be conducted today to determine the manner and cause of death, said Alan Mason, chief investigator with the Spartanburg

County Coroner's Office.

Ward was last seen Thursday morning, according to information from the Spartanburg Public Safety Department.

She dropped off her two children about 6:45 a.m. Thursday at a relative's house on Collins Avenue before going to her job at Cigarettes for Less on Drayton Road.

Surveillance footage shows Ward talked to a



Ward

man for a few minutes before they both got into her white Nissan. There was no indication that he had a weapon, though police treated the case as a possible abduction.

Ward's family had searched for her — patrolling parking lots at shopping centers and driving different routes to her job.

A resident said he had seen a car resembling that of the missing woman's in the area of the apple orchard Thursday morning.

At the urging of his family, he went to look at the old roadbed and discovered Ward's body in an open area of a wooded field about 300 yards off

the highway between

according to prior reports. The Spartanburg Office continuing to investigate the death, said Lt. Ron

Anyone who may have seen a Nissan with a South Carolina 485NLW or has other information is asked to call Crime

Sheriff's Office at 596-1111. A cash reward may be used in the investigation.

STATE

Graham: Senate has longer hours, more stress/B4*



TUESDAY
FEBRUARY 18, 2003

B

HERALD-JOURNAL
SPARTANBURG, S.C.

Ward died from multiple stab wound

AUTOPSY REPORT: Case ruled a homicide

By TERESA KILLIAN
Staff Writer

A nude woman found dead Saturday in a wooded area died from multiple stab wounds, according to preliminary autopsy results released Monday.

The death of Rhonda Marie Ward, 32, of Hanover Place, was ruled a homicide by the Spartanburg County Coroner's Office, said Chief Investigator Alan Mason.

Ward was last seen Thursday morning after she dropped her children off at a relative's house. Surveillance video at her workplace, Cigarettes 4

Less on Drayton Road, showed her talking with a man Thursday morning. Both left in her car.

The clean, compact store offers cigarettes, lottery tickets and newspapers.

Authorities began searching for Ward and her missing car, a white 1993 Nissan that may have South Carolina license plate 485 NLW.

A person who thought he saw the vehicle later found Ward's body in a wooded area near Gano Road. She died sometime between Thursday morning and late Saturday afternoon when her body was discovered, Mason said. More forensic tests will be conducted.

Family members said Ward was a dedicated worker. On Monday, a steady stream of customers continued

to pull in and out of the parking lot. A clerk there declined comment.



Ward

The Spartanburg County Sheriff's Office is releasing little information about the case in order to protect the investigation.

Lt. Ron Gahagan of the sheriff's office did not say whether detectives had located a possible weapon or what that weapon could be.

He declined to specify whether Ward's clothes have been located. He did not have information, nor was there any listed on a Spartanburg Public Safety missing person report of what Ward was wearing when she was

last seen.

Authorities did not release information about whether Ward had divisive wounds, how many stab wounds she had, from which direction appeared to be attacked or whether assault had appeared to take place in the same area where her body was found.

Anyone who may have seen Ward's car or has other information about the case is asked to call Crime Stoppers 582-7463 or the Sheriff's Office at 2646. Crime Stoppers may offer a reward for information used in investigation.

Teresa Killian can be reached at 4511, Ext. 72.
teresa.killian@sh

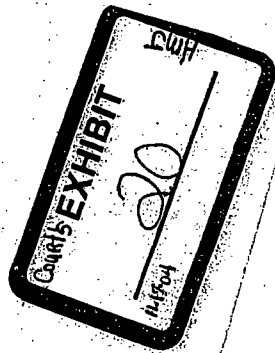
11-17-04

Court's EXHIBIT

19

HMJ

2739



Woman had been stabbed, left in orchard

◆ CAR continued from C1

Fire officials notified the investigators with the Greenville County Sheriff's Office because "it appeared that the fire was intentionally set."

It was unclear Tuesday who reported the fire. An incident report revealed that a deputy spoke to a woman at the scene who said she saw the vehicle parked there sometime between 6 p.m. and 6:30 p.m. Monday.

A Gano Drive resident started looking for clues Saturday after learning about Ward's abduction and the car's description in the *Herald-Journal*. The man said he saw a car fitting the description of the vehicle traveling to an apple orchard off that road. He found the body about 300 yards off the highway between Reidville and Duncan. Ward was stabbed to death, according to Spartanburg County Coroner's Office investigators.

Family members reported Ward missing Thursday after she dropped off her children at a relative's house before she went to work at Cigarettes 4 Less on Drayton Road.

That afternoon, she never showed up to pick up her children.

Videotape surveillance from Cigarettes 4 Less show a man talking to Ward when she got out of her car.

They both got into the vehicle and drove away.

Slain woman's car found

Fire appears intentional; culprit remains free

By BENNY LEE SMITH
Staff Writer

TAYLORS — Greenville authorities found the car belonging to a slain Spartanburg County woman burning in front of an abandoned home on Bell Avenue late Monday.



Ward

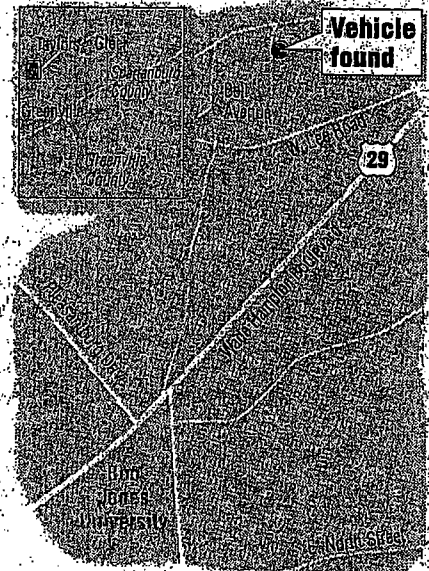
The 1993 Nissan belonged to Rhonda Ward, 32, who was found dead Saturday in a wooded field off Gano Drive in Spartanburg County.

"The recovery value on this car is \$100, so you can figure that it was pretty much destroyed," said Sgt. James McCann, Greenville County Sheriff's Office spokesman.

McCann said the Wade Hampton Fire Department responded to the burning car report at 11:54 p.m.

Car found burning

Rhonda Ward's white Nissan was found at 106 Bell Ave. in Taylors late Monday. Authorities say that the car was on fire when they arrived.



◆ SEE CAR PAGE C2

Y 19, 2003

OBITUARY

Rhonda M. Goodwin

Rhonda Marie Ward Goodwin, 32, of 111 Haver Apartments No. 108 died Feb. 15, 2003.

A native of California,

she was the daughter of the late Eddie Farrell of Granada Hills, Calif. and Cathy Tessier of Oakley, Calif. She was the wife of James Edward Goodwin of Spartanburg.

Surviving in addition to her husband and parents are two daughters, Alexandra Goodwin and Kailynn Goodwin, both of Spartanburg; one son, James A. Goodwin of Spartanburg; and two brothers, Joseph Farrell of Granada Hills, Calif. and Dustin Ward of Tennessee.

The family is at the home of her mother-in-law, Faith Goodwin, at 412 Brighton Woods Drive, Moore.

J.W. Woodward Funeral Home is in charge of arrangements.

Yvonne S. Cunningham

JONESVILLE — Yvonne Stevens Cunningham, 67, of 205 Fairbanks St. died Feb. 17, 2003.

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Court's EXHIBIT

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HmJ



Rhonda Ward Goodwin

Goodwin's dreams cut short

By KATHY DALTON
For the Herald-Journal

Rhonda Ward Goodwin was just like anyone in life according to her stepfather, Eddie Farrell of Granada Hills, Calif.

"She just wanted to fall in love with a guy, raise a family, and have the white picket fence," Farrell said.

It didn't quite work out that way.

Goodwin of Hanover Apartments in Spartanburg was stabbed to death on Feb. 15. She was 32.

She had experienced love and marriage, but also separation and the imprisonment of her estranged husband. She planned to earn a college degree, but worked nights at clerical jobs so she could spend days with her three children.

"She dreamed of becoming an accountant," her stepfather said. "We also talked about her going back to school to study computers. She had bigger goals than staying a clerk or

◆ SEE DREAMS PAGE B6

Goodwin's love, generosity and drive
toward a better life brought
families together

◆ DREAMS continued from B1
managing the retail store she was managing."

Rhonda struggled as a single parent, living what must have seemed a world away from her childhood home and family near Los Angeles. She called her family faithfully, always in good spirits, always remembering birthdays.

"As difficult as life was, trying to make ends meet, she loved it," Farrell said. "She never complained. She never

Article 2
[Sun. 4/6/03]

Farrell recalled that about six months ago, after a phone call from Rhonda, his wife told him that Rhonda was having car problems and was in a financial bind.

"I couldn't believe it," Farrell said. "She wouldn't ask for money. Debbie had to come in and ask me."

The last time Debbie Farrell talked to Rhonda, "She was really jazzed because she had just gotten a car," her stepmother recalled. "A '93 Nissan Sentra, I think."

About a week later, the burned car was found in front of an abandoned residence in Taylors.

Her generosity makes Rhonda's death all the more confusing for those close to her. The family thinks her killer's motive was money for drugs.

"Rhonda would have given him anything, everything she had," Debbie Farrell said.

Her mother, Cathy Tessier, remembers her pleasant disposition started at birth.

Quick to smile, slow to anger, "She was always in a good mood. She was always a happy baby," Tessier said.

Rhonda was raised Jewish, but when her maternal grandfather died, the family stopped practicing their religion. Still as a young girl, Rhonda logged for a Star of David necklace.

Her mother purchased one for her and put it on a gold chain. Rhonda never took it off, Tessier said.

Now Tessier waits for the Spartanburg County Sheriff's Office to return it. It will be a keepsake.

Rhonda grew up with a half-brother, Joey, who was six years her junior. She was his baby sitter. She attended his baseball games.

"She never did wrong," he said. "But when I did wrong, she let me know."

Rhonda attended North Hollywood schools, where she was an honor student. When she became pregnant at 16, "It was a big shock," her brother remembered. "It broke a lot of people's hearts."

Rhonda dropped out of high school. She eventually earned a general equivalency diploma. At a home for unwed mothers she learned about childbirth and child care. Her mother accompanied her to the hospital. "I was there. I delivered him," she said of her grandson, James A. Goodwin.

Rhonda and her son stayed with her mother and her step-parents for a couple of years before Rhonda married her child's father, James Edward Goodwin.

Goodwin joined the Navy and the young family followed him to San Diego. Then they moved to South Carolina, where he had relatives. The family grew to include two daughters, Alexandra and Kailynn.

Rhonda liked getting away from the fast pace of Los Angeles. She chose not to return when her husband was imprisoned for armed robbery.

When her stepfather visited her, he understood why.

"People (in South Carolina) are so nice; they take the time to

it's so different. Everyone is in a rush."

Farrell remembered that about three years ago, Rhonda's natural father contacted her for the first time. Farrell encouraged her to meet him. She did, but only after assuring Farrell that "you're my Dad, no matter what."

After meeting her natural father, Rhonda attended the wedding of a "new" half-brother in Tennessee.

Not too long after, he attended her funeral.

It was natural for Rhonda to embrace her new family. She did the same when her stepfather remarried when she was 9.

"She was just real considerate and loving," Debbie Farrell said.

Rhonda was devoted to the man she had called father since she was 4 years old. She opened her arms to her new stepmother. The Farrells, in turn, treated the 9-year-old no differently than her half-brother.

Visitation meant both children went to see Eddie and Debbie Farrell, even though Rhonda was Eddie's stepdaughter.

The family followed Rhonda's example, embracing one another after Rhonda's death in ways some families wouldn't understand. When Cathy Tessier received the news of Rhonda's death, she stayed overnight at Eddie and Debbie Farrell's home to make an early flight out of Los Angeles.

Tessier spoke to her daughter nearly every day by phone.

"I spoke to her on Wednesday, the day before she got abducted," she said. "We were laughing and talking because my son and I were going out there for Christmas."

The women talked about how they would shop and cook together.

"She loved homemade macaroni and cheese, my lasagna and my roast with potatoes and carrots. She was the one who made the good spaghetti."

Now the Christmas tickets will be used to attend the accused's trial.

Tessier attends support meetings for people experiencing grief. The meetings help but she cries daily for "my daughter and my very best friend."

Eddie Farrell tries to understand why his daughter was taken so young. When he came home from the funeral, he suffered emotionally and physically.

"I didn't get out of bed for a week," he said.

Rhonda's husband has written letters from his prison cell remembering the day he met her at a swimming pool, describing the swimsuit that she wore. He and his son feel guilty that they could not in some way have protected Rhonda.

"I feel that every parent should remember every day to tell their children how much they love them," Cathy Tessier said.

"That's the most important thing a parent can do. I miss my daughter very much. She always had a smile on her face," Tessier added.

2742

Colleges take steps to ward off date rape

Tuesday seminar
offers tips to prevent
violent encounters

By MESHA Y. WILLIAMS
Staff Writer

Dating violence is all too common on many college campuses today, according to a recent survey.

The National Center for Victims of Crime, based in Washington,

D.C., has completed a study showing that 2.8 percent, or 1 in 36 female students, experienced some form of attempted rape during a seven-month period.

In addition, in nine out of 10 cases, the victim knew the offender, according to the survey.

PLAY IT SAFE
Marlene Evans of Safe Homes Crisis Center offers these tips to students:

- ◆ Go out in groups.
- ◆ Know the people you are with as well as your surrounding areas.
- ◆ Never leave your drink unattended at a party.
- ◆ Never accept a ride home from a stranger.
- ◆ Get to know a person and traits before rushing into a relationship.

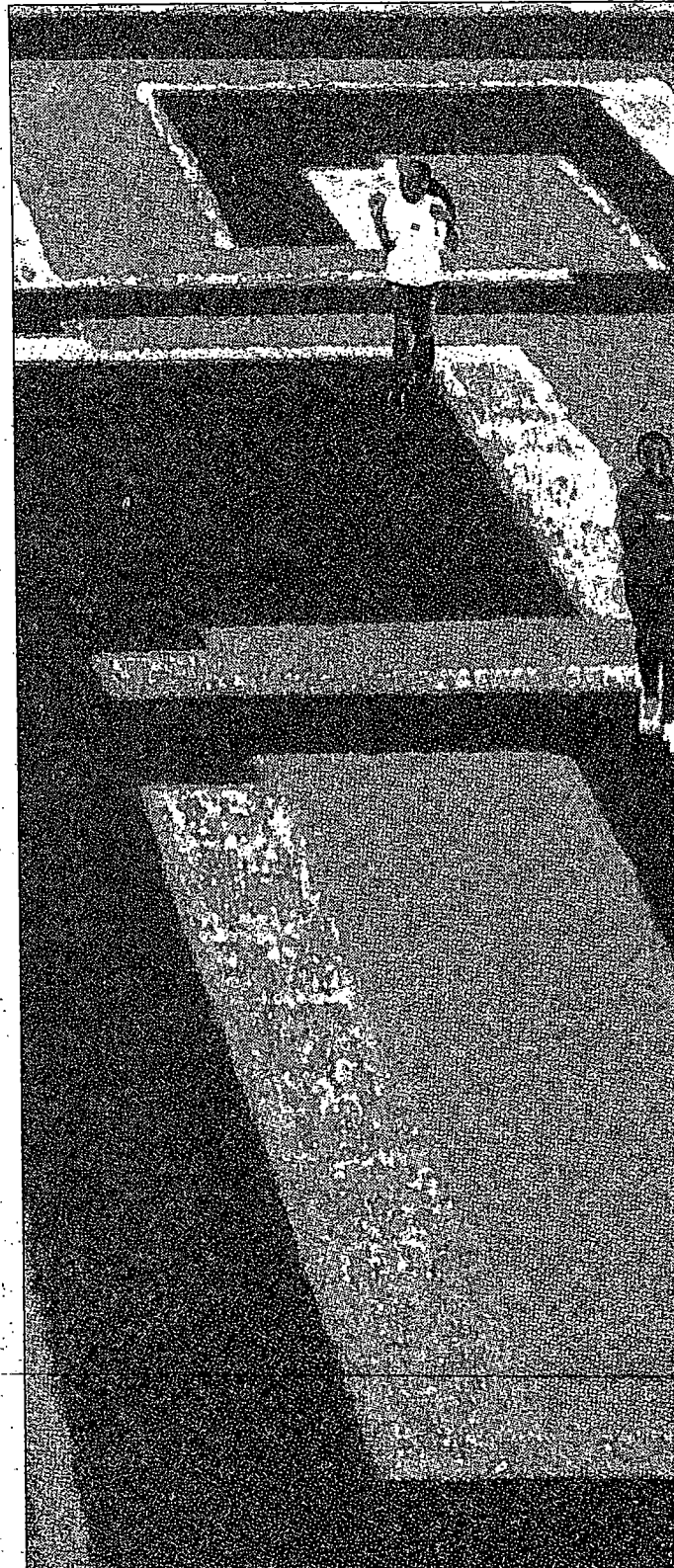
school's student population is 66 percent female.

USC Upstate faculty members are doing all they can to keep national trends from being reflected on their campus.

The Center for Women's Studies and Programs and Residential Life is taking a proactive approach by sponsoring a seminar entitled

WALK TI

PHOTO BY ALEX



A SPECIAL REPORT/SEX C

Offenders are required to update their addresses

♦ OFFENDERS continued from A1 crime?

"I'm a direct person. I'm nosy and want to know all the information that would be helpful for the safety of my kids," Reid said.

Despite the lack of details, she thinks public access to the registry is a good thing.

"I sure wish I had known this before I moved in here in November. I would have been more cautious," said Reid, the mother of a 4-year-old son and 8-year-old daughter.

Many parents have never attempted to search the list, but maybe they should, Reid agreed.

A *Herald-Journal* analysis of the registry using 2000 Census data found that an estimated 16,500 children in Spartanburg County live within a half-mile of an offender who has been convicted of a crime against a minor.

Searching the list

An investigation by the *Herald-Journal* shows that the South Carolina Sex Offenders Registry is less valuable to the public than the registries in other states.

It's not possible to view a map the way you can when you visit the Web sites of Alabama, Arizona and Kansas.

You can search by county, city, or zip code, but since zip codes are often wrong and the city of residence is self-reported, searching by county with the "report generator" and scanning for familiar streets is probably the surest method.

Out of the 208 Spartanburg County addresses in the registry on April 22, 38 had the wrong zip codes. Twenty-three had street addresses that contained errors. One house number was listed as 8208 instead of 8028. An address on Gowan Street was listed as Gowan Circle.

S.C. SEX OFFENDER REGISTRY

The public portion of the South Carolina Sex Registry lists 6,127 offenders.

Rank	County	Offenders
1	Charleston	542
2	Greenville	327
3	Richland	495
4	York	308
5	York	307
8	Spartanburg	272
24	Cherokee	87
27	Union	63

Top Offenses

Committing lewd act upon child under 16	1,693
Criminal Sexual Conduct with minors	849
Criminal Sexual Conduct First Degree	790
Criminal Sexual Conduct Third Degree	501
Criminal Sexual Conduct Second Degree	349

As of last week, 11 people on the list were missing, but seven of those were still listed as living at the old or unverified addresses.

Coffey supports public access to the list and was actually one of the few sheriffs who had ordered his deputies to confirm the addresses when the registry first went public five years ago, although the addresses had not been checked since then. South Carolina law does not require that the addresses be confirmed, although some states have adopted various methods to attempt to confirm the addresses and keep track of a list that is constantly changing.

Coffey says that his patrol officers will verify the addresses quarterly and he is considering getting Bishop, who is also in charge of ID, forensics, and missing persons, some help.

"Just because we know where these people live doesn't mean we are living safe and sound. They can do anything at any time," Coffey said. "But

anyone," he said, adding that he gave a DNA sample as he was leaving prison and as of this year must pay \$100 when he updates his address each year.

More problems

Wrong or unverified addresses aren't the only problems with the list.

One person on Spartanburg's list who was charged at age 12 was listed as committing spousal abuse. After contacting the S.C. Law Enforcement Division, which oversees the entire list, the registry was corrected to reflect the true charge.

Some address errors discovered by the *Herald-Journal* have been corrected, but new entries and address changes continue to contain inaccuracies.

A photo of Rodney Lamire Jones, a black offender, currently accompanies an entry that lists his race as white.

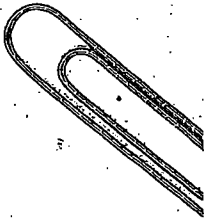
Even if the charges listed on the registry are correct, they only tell part of the story. By looking at the list, the public can only see the very first sexual offense.

Under the 1998 Sexually Violent Predator Act, sexual predators can be civilly committed once they finish their prison sentence. Statewide, the registry identifies 66 men as predators. All but two are listed at 4460 Broad River Road, Columbia, the address of the Broad River Correctional Institution, home of a mental health treatment facility for sexual predators. If they are released, they are required to re-register every 90 days.

Registry history

The original list was established in South Carolina in 1994 to assist law enforcement agencies. It went into effect before the 1996 federal legislation known as Megan's Law, which now mandates that states register convicted sex offenders. The law is named for Megan Kanka, a 7-year-old New Jersey

The Spal and Info http



Addresses are often listed as mobile home parks or apartment complexes but without street addresses.

The offenders self-report their addresses once each year. The law requires them to report changes of address to the Sheriff's Office within 10 days.

In February, when Spartanburg County deputies went looking for Fredrick Antonio Evins to charge him with murder, they soon discovered that he had moved.

He had been in for his annual check-up to update his listing as required by law. But a month later, he wasn't where he was supposed to be and had failed to let anyone know that he had moved.

It didn't take long to find Evins, who was sitting in jail in Greer because he had been charged with a traffic violation.

After he was charged with the murder of a cigarette outlet employee, his DNA was collected and a match was made in the murder and sexual assault of a library worker six months earlier.

At the time, several of the victim's co-workers at the Westside branch library were anxious to see the Web site and look up Evins, saying they had never used it or been asked about it.

Verifying addresses

The Evins case prompted Spartanburg County Sheriff Bill Coffey to order his deputies to go find the more than 200 people on the list to make sure their addresses were correct.

At the end of two weeks, the department signed warrants against eight people who were not where they were supposed to be, said Sgt. Doug Bishop, one of about three officers who manages the Spartanburg County list.

verifying the addresses should let these folks know that we are keeping track of them the best we can and we will take action if they violate the law."

Since 1995, 49 people have been jailed for failure to register or re-register their addresses, according to the booking records from the Spartanburg County jail.

Verification of the addresses by deputies is time-consuming, and most of the other sheriff's offices don't attempt to confirm the addresses at all. They send out letters and in some cases publish the list in the local newspaper.

The addresses on the list are often sufficient for the purposes of law enforcement officials, who knew where to find the offender whose address in May was "under bridge S Church."

This month William Herndon changed his address to 189 N. Forest St., Miracle Hill Mission, a homeless shelter for men, women and children.

He offered a tour of his makeshift home under the bridge, but it wasn't on South Church. It was inside a tunnel near West Main Street.

This week, Herndon, who served eight years of his 15-year sentence in the state's prison system for having sex with his 13-year-old half-sister when he was 21, said he tries to abide by the law despite the fact he has no permanent address. His name went on the list when he was released from prison in November. He was given a bus ticket and told to contact the sheriff when he ended up somewhere.

That somewhere has been in and out of homeless shelters between Spartanburg and Greenville.

"If you look, I probably have changed my address more than

net, SLED received \$1.28 million from the U.S. Department of Justice to establish the site, which was to include photographs and information on sex offenders. While SLED worked to build its database and transfer information, the S.C. Attorney General's Office posted a list on its site.

Computers and cameras were to be given to each sheriff's office, but some counties still haven't posted photos.

"It has been a slow process to capture the information and to make sure sheriff's offices have the camera equipment they need to add the photographs to the site. The longer we do this, the more photographs we will have," said Maj. Mark Huguley, who oversees the registry and Web site for SLED.

Huguley said if the state were not in compliance, the federal funds would be in jeopardy. Only about 70 percent of the more than 6,550 people on the list last week had been photographed despite the fact that South Carolina received one of the largest federal grants to provide the registry with photos.

Spartanburg and Union counties include photographs, while Cherokee County does not.

Lee Caldwell, media spokeswoman for the Cherokee County Sheriff's Office, said the county has had the camera and computer for a few months and plans are now under way to work with SLED and get everything up and running.

"I'm annoyed that all of the don't have photographs. I've been ranting and raving for more than 18 months for them to get the photos on there," said Laura Hudson, executive director of the S.C. Victim Assistance Network in Columbia.

It also bothers her that the public can't see repeat offenders so they can judge the risk.

AS OF LAST WEEK, 11 PEOPLE ON THE SPARTANBURG COUNTY LIST



Samuel Gossett



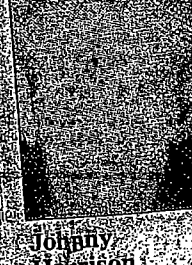
James Baker



Wilma Sanders



Monroe Thomas



Johnny Harrison

level of those on the list. Nothing in the law requires this.

"The registry is passive. We need to be a lot more aggressive," she said.

Beyond the photographs and addresses, is the list right? Is it helpful to the public?

It's just a start in Hudson's eyes.

"The sex offenders' registry gives you a false sense of safety because not everyone and every charge is on the list," Hudson said.

From SLED's viewpoint, any problems with the list have to do with the lack of funds, the lack of staff and the time it has taken to build the database.

Huguley says the list has been a massive undertaking during years of budget cuts.

Using the list

But how much is it used by the public? Huguley has anecdotal evidence that people have used the site but no firm numbers.

"We believe that it has had a positive effect and has provided citizens something they can use to protect themselves," Huguley said.

Huguley doesn't deny that there will be mistakes. For instance, in March, Robert Mitchell Cole's conviction was listed as spousal sexual battery in 1996. The only problem was he was born in 1984, making him 12 at the time of his conviction.

After the *Herald-Journal* questioned the charge, SLED quickly corrected the listing to first-degree criminal sexual assault.

Evins' original charge was wrong, too.

His charge was listed as criminal sexual conduct with a minor, but after his arrest, the charge was corrected to criminal sexual assault. He was 18 when he was convicted of raping a girl after a party.

"When we are aware of the possibility of inaccuracies, we take steps to correct it. While we intend to change the Web site as soon as we can, the original purpose remains: a tool for

law enforcement," Huguley said.

The list on the public Web site does not include multiple charges, details about the incident, next of kin, place of employment or whether the state has collected a DNA sample.

This information is available only to law enforcement.

The list of names and addresses changes daily as offenders leave prison, move or return to prison after committing new offenses. Some offenders have unsettled lives and move frequently. But those who oversee the registry agree that this number does not reflect all of the sex offenders living in the state and that number is only expected to grow as officials learn of past crimes or sex offenders are released from prison.

Who is on the list?

Who goes on a state registry varies from state-to-state, based on conviction date.

Everyone released from a South Carolina prison after 1994 is on the list. In some cases, sheriffs add names to the list as they become aware of offenders living in their community.

Some offenders avoid the list by plea-bargaining to assault and battery.

On April 23, Spartanburg theater owner David Crenshaw pleaded guilty to assault and battery of a high and aggravated nature after being charged with a lewd act on a minor — a 10-year-old girl. Seventh Circuit Court Judge Ned Miller said Crenshaw did not have to register but would have to go to counseling. He was sentenced to 10 years in prison, suspended to one year and five years probation.

Assistant Solicitor Tony Leibert said he's more concerned that offenders serve prison time than be listed on the registry.

Notification

In Spartanburg County, Sgt. Eric Boutin sends out letters

schools and daycares when a sex offender moves within a mile of their facility.

The state law only mandates that the sheriffs notify them when the sex offender lives within a half mile, though.

"We try to go above and beyond," he said.

There's no requirement that residents be notified when an offender moves nearby. Occasionally, people new to town will come to the Sheriff's Office to learn about crime rates and some ask whether the neighborhood they are interested in has sex offenders living there.

"Sometimes they ask my opinion on whether they should buy the house. I tell them to do what they think they should do and I don't say, 'yes' or 'no,'" Boutin said.

In Cherokee County, the victim's assistance office sends out letters notifying daycares and schools. And the local newspaper runs the list once a year. As of last week, 83 offenders were registered in Cherokee County.

"That helps us verify the addresses because we often have people call us and tell us that the person doesn't live at a certain address," Caldwell said.

Boutin said most people still don't know that the Web site exists.

And he often gets calls from concerned parents who may have a computer but are unfamiliar with how to get to the Web site or how to use it, so he helps them with the information.

Solutions?

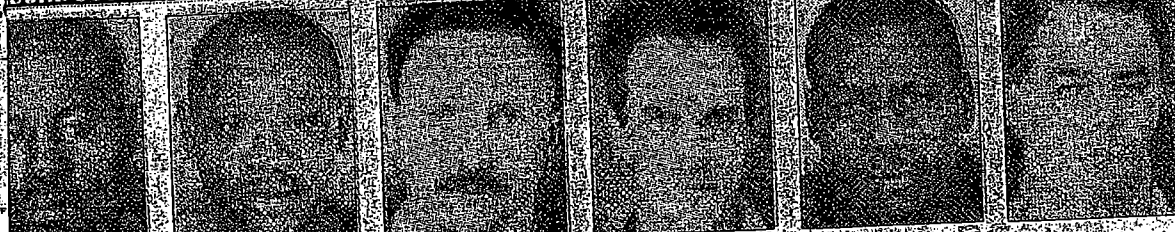
Every year since requiring sex offenders to register, legislators in Columbia have been adding new requirements, piling on more jobs for SLED and sheriffs.

In some cases, such as in Greenville County, sheriffs have created new positions so that keeping up with the whereabouts of sex offenders becomes someone's only job.

Many other states send non-

♦ SEE REGISTRY PAGE A9

SPARTANBURG COUNTY LIST PICTURED BELOW WERE MISSING



they had, they made her look for money to buy more. If she couldn't find any, the child said, they tied her to a bed or a chair, took her clothes off, and beat her with a cord.

The child said Evins' boyfriend once hit her on the mouth with a belt buckle.

Magdeline Evins denied that she or her boyfriend had abused the child, but DSS reported a doctor's examination had found scars "that are consistent with (the child's) statements of being beat with a belt and drop cord."

DSS officials referred Magdeline Evins to alcohol and drug abuse treatment, they reported, but she did not follow up. Evins had denied the alleged substance abuse problems, reports state.

Two years later, she was convicted of public drunkenness and of having an open liquor bottle in a motor vehicle.

Fredrick Evins has acknowledged alcohol use and drug addictions, most notably crack cocaine. Counseling for those problems was a condition of probation in at least one of his cases.

Gleaning insight into Evins from the sketchy and sometimes contradictory public record of his life is a bit tricky.

Evins has claimed, at various times, anywhere from eight to 10 years of schooling. He has no established trade, working instead in a succession of fast food and menial labor jobs. He has worked as a cook, a dishwasher, an industrial equipment operator and a mill worker.

Living in mobile home parks and low-income apartment complexes in Spartanburg and Greenville counties, and represented by public defenders throughout his criminal career, Evins apparently is poor. He has been booked into the jail with such sums as 43 cents, 11 cents and 1 cent in his pockets.

Known by the nickname "Snow," Evins has had tattoos on his chest that say, "Snow Man" and "Aquarius," his astrological sign. For reasons known only to him, he signs his name, "Evans" as well as "Evins." Court records show the name spelled both ways.

Three women have been described in various legal papers as Evins' wife, although there is evidence of only one marriage — to Bertha Jean Young of Greer in 1990 — and no divorces in Spartanburg or Greenville counties. Attempts to reach Bertha Evins were unsuccessful.

Records from a child support dispute show that Evins has fathered at least one child, a daughter by Bertha Evins born on Jan. 27, 1991.

A woman who visits Evins at the jail — one of the three "wives" — said he insists that he has killed no one.

"He's always been nice to me," said the woman, who

(expensive deleted) brains out."

The woman refused to perform a sex act on Evins.

"I said no, and to go ahead and shoot me," she wrote. "He said he didn't want to hurt me, that he loved me."

When she refused to kiss Evins, the woman wrote, he beat her head against the ground and cursed her.

After raping her twice, the woman wrote, Evins told her he loved her, apologized and let her get dressed.

"We went down a dirt path toward the road and he threw the gun down and told me to kill him," the statement says. "I told him it wouldn't do me no good, to just take me to (a nearby convenience store)."

At the store, the woman wrote, Evins played five games of pinball before leaving.

Evins was charged with first-degree criminal sexual conduct. On May 1, 1987, he pleaded guilty to second-degree criminal sexual conduct, an offense punishable by up to 20 years in prison. Then Circuit Judge E.C. Burnett III sentenced him to 15 years, but suspended the sentence upon the service of three years and payment of \$20 with three years of probation to follow.

Circuit Judge James B. Stephen later determined that Evins had violated his probation. Instead of sending him to prison for the remaining 12 years of his sentence, Stephen ordered Evins to serve one more year and gave him credit for time served while awaiting the probation revocation.

"Judge Stephen (now deceased) could impose long sentences, but generally he didn't when he had a choice," said Spartanburg defense attorney Andy Johnston, who also tried cases before Stephen as a prosecutor.

"He was a very lenient man, a very kind and compassionate man who would listen to mitigating circumstances."

The DSS case

The DSS case, which stretched out over three years, began the moment that the female child opened the door of the Evins home on June 1, 1987, and began wandering the streets alone. Neighbors later told DSS that she frequently wandered the streets at night alone.

The girl reported that Magdeline Evins was drunk and that Evins' boyfriend had beaten her. She was placed into DSS emergency protective custody.

Within two weeks, the child began talking about the sexual abuse that medical reports later substantiated she had suffered.

From a DSS report dated July 13, 1987:

"(Fredrick Evins) told her if she told anyone what he had done to her, he'd do it harder the next time. He has also

[Sun, 4/6/03]
Article 3

to get cigar
"pick up so
woman said
instead to
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look (expletive deleted) brains out." If she said, "I said no, and to go ahead and shoot me," she wrote. "He said he didn't want to hurt me, that he loved me."

When she refused to kiss Evins, the woman wrote, he beat her head against the ground and cursed her.

After raping her twice, the woman wrote, Evins told her he loved her, apologized and let her get dressed.

"We went down a dirt path toward the road and he threw the gun down and told me to kill him," the statement says. "I told him it wouldn't do me no good, to just take me to (a nearby convenience store)."

At the store, the woman wrote, Evins played five games of pinball before leaving.

Evins was charged with first-degree criminal sexual conduct. On May 1, 1987, he pleaded guilty to second-degree criminal sexual conduct, an offense punishable by up to 20 years in prison. Then Circuit Judge E.C. Burnett III sentenced him to 15 years, but suspended the sentence upon the service of three years and payment of \$20 with three years of probation to follow.

Circuit Judge James B. Stephen later determined that Evins had violated his probation. Instead of sending him to prison for the remaining 12 years of his sentence, Stephen ordered Evins to serve one more year and gave him credit for time served while awaiting the probation revocation.

"Judge Stephen (now deceased) could impose long sentences, but generally he didn't when he had a choice," said Spartanburg defense attorney Andy Johnston, who also tried cases before Stephen as a prosecutor.

"He was a very lenient man, a very kind and compassionate man who would listen to mitigating circumstances."

The DSS case

The DSS case, which stretched out over three years, began the moment that the female child opened the door of the Evins home on June 1, 1987, and began wandering the streets alone. Neighbors later told DSS that she frequently wandered the streets at night alone.

The girl reported that Magdeline Evins was drunk and that Evins' boyfriend had beaten her. She was placed into DSS emergency protective custody.

Within two weeks, the child began talking about the sexual abuse that medical reports later substantiated she had suffered.

From a DSS report dated July 13, 1987:

"(Fredrick Evins) told her if she told anyone what he had done to her, he'd do it harder the next time. He has also

whom she did not know.

Evins told her he was going to get cigarettes and then to "pick up some money," the woman said, but he took her instead to a remote area.

What happened next prompted investigators to charge Evins with first degree-criminal sexual conduct, kidnapping and common-law robbery.

The woman said Evins stopped the car, opened the passenger door, grabbed her by her hair and ordered her to get out of his car.

Her statement graphically described a sexual assault in a wooded area during which she was punched in the face, dragged by the hair through bushes, briars and garbage, repeated; kicked in her private parts and in the side and, finally, raped and forced to perform oral sex.

Evins took the woman's clothes, she said, then choked her with a belt until she passed out. A passer-by found her running naked on Frey Road.

But prosecutors reported to the state Attorney General's Office that they had encountered problems in pursuing the rape case. An unsigned April 30, 1996, letter on 7th Circuit Solicitor's Office stationery states that the victim did have scratches consistent with her account, but no vaginal injuries.

There was DNA evidence of sex, the letter stated, but "DNA developed no profile unlike that of the victim."

The letter further noted that the victim had been convicted of drug charges, aggravated assault and battery, and prostitution.

The victim also had medical problems and had been diagnosed with depression and an anxiety/panic disorder, the letter stated.

"She does not feel she can physically or emotionally withstand a trial and has requested that our office negotiate on the charges to avoid the same," the letter stated.

Former Assistant Solicitor Beverly Jones, now a prosecutor in Union County, acknowledged that she probably wrote the letter. "It's unfortunate what has happened since then with Mr. Evins, but you have to deal with the facts as they are at the time," she said. "You try to get something out of it, rather than risking a not guilty verdict."

In the end, Jones dismissed the sexual assault and kidnapping charges against Evins in return for his guilty plea to the remaining charge of common-law robbery. He was sentenced to eight years in prison, getting out on the early release program in January 2000.

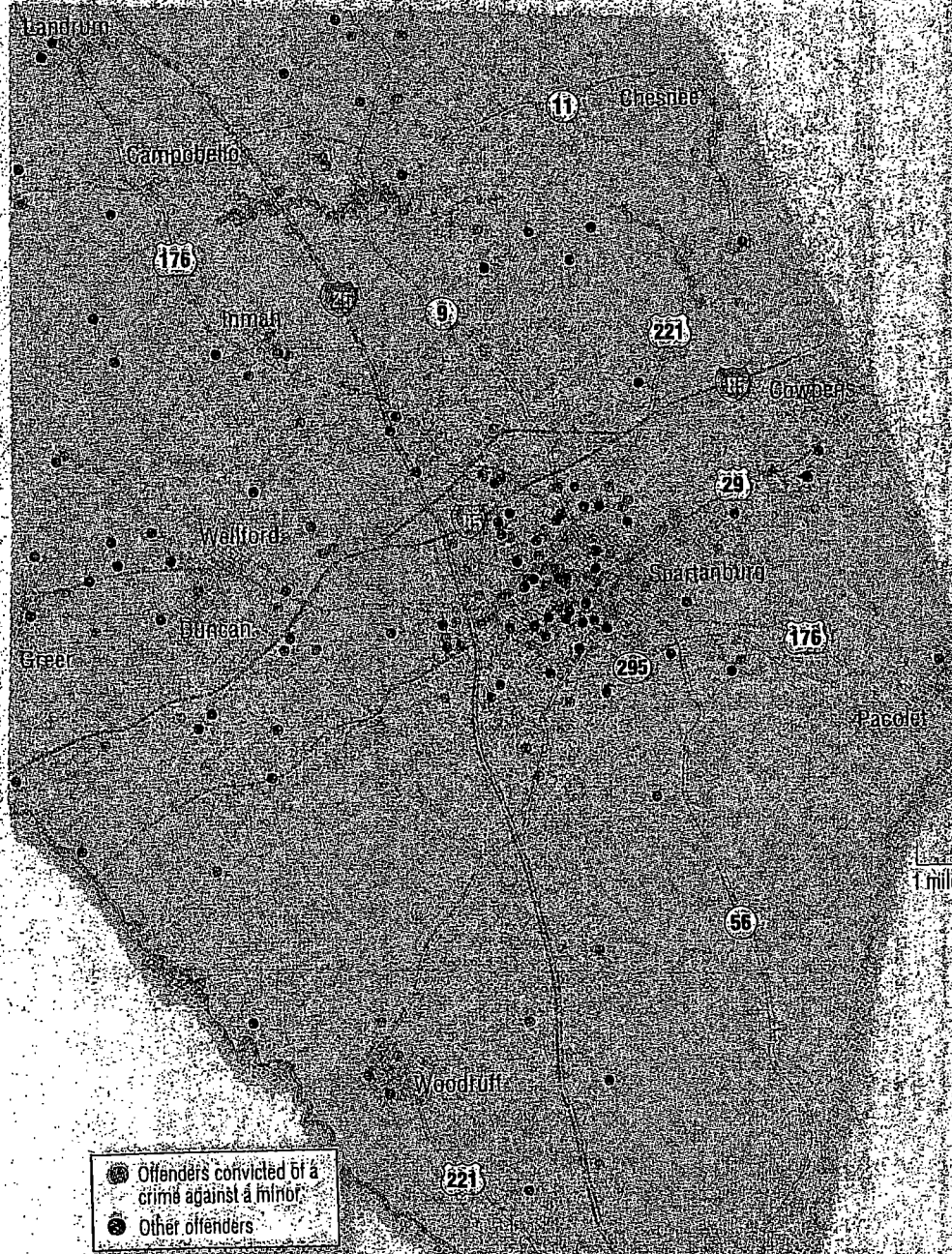
Evins was held accountable for stealing the victim's coat, keys and \$16 in cash.

[Sun, 4/6/03]
Article 3

SEX OFFENDERS

Spartanburg County sex offenders

These are the approximate locations of 200 registered sex offenders in Spartanburg County as of Thursday, June 19. Another 39 are incarcerated and 11 others have outstanding warrants. For the most recent address information, check the South Carolina Sex Offender Registry at <http://www.sled.state.sc.us/SLED/default.asp?Category=SCSO>.



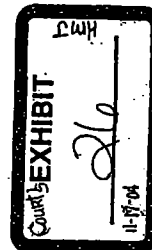
4/13/03

STATE

S.C. legislators seek partnership
with Georgia in deepwater port / B3

SUNDAY
APRIL 13, 2003

B+
HERALD-JOURNAL
SPARTANBURG, S.C.



Margaret Shands was reported missing Feb. 25 and found dead across the street from her Caulder Circle home on Feb. 28.

Is this life all there is?

MARGARET SHANDS:
Heartbreaking existence,
disappointments could
yield clues to her death

By SUELENE DEAN
Staff Writer

D'Angelo Shands was sitting in his prison cell when an officer delivered the news. His mother, Margaret Shands, was dead.

He had not seen her in five months. She gave him money for cigarettes and offered him advice on how to handle an

argument with his girlfriend.

"The last time I saw her she told me this was my last chance. She used to tell me all the time to stay out of trouble. But that time her voice was bold," said D'Angelo, who at age 30 has been in and out of prison for fighting and selling drugs.

Hours later, he would be in custody again for violating probation.

"I didn't want my mama to come here



D'Angelo Shands, son of Margaret Shands, has been in and out of prison.

and see me like this. I loved my mama," he said.

On Feb. 21, he was returned to the Spartanburg County jail, hoping to be released. But he had another charge waiting for him from eight months earlier. This time, he was accused of strong-armed robbery — taking \$23 away from a 50-year-old woman walking through his south-side neighborhood.

While he waited to see a lawyer, his girlfriend called him to say his mother was missing.

Margaret Shands' boyfriend,

◆ SEE SHANDS PAGE B5

Officers investigate mysterious death of woman who endured heartbreaking life

2751

PHOTOS continued from B1

aries Brandon, reported her sighting on Feb. 25. He had not seen her in three days, and knew something was not right. He had given her a ring and Valentine's and she had gotten mad and given it back. Brandon accompanied police to the Caulder Circle house. He woke in through a window and found her purse and a set of keys. The beds were made. The house was tidy, except for a few beer cans on the table. Investigator Russell Porter searched the woods behind Shands' house.

"We never thought she'd be across the street," Porter said. On Feb. 28, Brenda Ellis said she was searching for cans long Caulder when she came across a black woman face down in the weeds. Her gray hair was pushed up around her upper body. Her backside was bare.

Robin Brown, who lives across from Shirley's Pantry, identified the body. It was Shands, the grandmother of Brown's child.

Today, investigators still don't know what caused Shands' death. No obvious marks were on her body. She was not stabbed or shot. Her neck was not broken, Porter said. And no evidence exists that shows she was sexually assaulted.

It could be weeks, even months, before the State Law Enforcement Division delivers the results of toxicology tests to the Spartanburg County Coroner's Office.

"We will consider her death suspicious until we get all the results," said Alan Mason, an investigator with the Spartanburg County Coroner's Office.

Six months before Shands' death and less than a mile away, Damaris Huff's nude body was found along a trail near her brick house in Duncan Park. Twelve days before Shands was reported missing, Rhonda Ward Goodwin, who lived in an apartment a block or so from Shands' house, disappeared from her job at a cigarette outlet store on Drayton Avenue. She was stabbed to death and her body was found in an apple orchard on Feb. 15.

Frederick Antonio Evins, whose mother lives on the south side not far from where Shands lived, has been charged with murder in both cases.

Those cases are forcing police to consider whether Evins is connected to old, unsolved sexual assaults in the city.

So far, nothing links Evins to Shands' death, which could very well end up being labeled as natural or due to exposure.

"It just don't look like they are doing that much, to be honest. It's like, 'That's another nigger gone.' That's the way it looks from here," D'Angelo Shands said.

Investigator Porter quickly got to know the Shands family as an officer who was assigned to the south side 12 years ago. He often went to talk to Margaret about D'Angelo. Once he even went to arrest Margaret's boyfriend for hitting her.

"She was known as a generous person in the neighborhood. She helped a lot of neighbors out with food. She was the one



Strewn in the ruins of Margaret Shands' house on Caulder Circle above, were a solitary pink slipper, below left, and a discarded book of Bible stories, below right.



something to eat or something to drink," said Porter, adding that Shands worked off and on as a sitter for the elderly.

About eight years ago, Shands came close to death in a drive-by shooting. She took five shots to the neck, shoulder and head.

"She knew more than she would tell us. She just wouldn't cooperate. I guess she had her reasons," Porter said.

About the same time, Shands was diagnosed with cancer but survived that, too.

Shands was a survivor.

She had D'Angelo when she was 15. She dropped out of Spartanburg High School but never married D'Angelo's father. Instead, she and D'Angelo lived mostly with her parents, Mary and Elbert. Five years later, she finished school.

D'Angelo quit school when he was 17 and still in the ninth grade. Now he is a father. His 10-year-old daughter lives with her mother across from Shirley's Pantry and his 8-year-old daughter lives with her

brother. "I remember her holding a diploma. I remember that," D'Angelo said as he sat in a break room in the jail on California Avenue.

Margaret had five older brothers. In 1961, one brother's body was found after two weeks in a field near Arkwright. Her father identified him by his shoes. Another brother was shot and killed by a girlfriend. And one brother slipped into a diabetic coma. Shands' best friend, Elaine Tinsley, was stabbed seven times by her boyfriend.

The youngest and the oldest brothers live in the Washington, D.C. area. For years, they tried to get her to move away.

Margaret was close to her youngest brother, Samuel, who was born nine years before her. They talked every week and he had visited in January. He was coming for her in May so she could attend his daughter's wedding.

"I told her to have her bags packed because I wanted her to move here and get away from

"I told her to have her bags packed because I wanted her to move here and get away from Spartanburg. I should have been more persistent. But I think she had some connection between that house and my father. She didn't want to leave it."

SAMUEL SHANDS

Margaret Shands' youngest brother, who lives in Washington, D.C.

Spartanburg. I should have been more persistent. But I think she had some connection between that house and my father. She didn't want to leave it."

Samuel waited all day on Feb. 22 for Margaret to call him and wish him a happy birthday.

"She always called me on my birthday. I waited for that call until 11 that night," he said. He went to bed disappointed, thinking the call would come the next morning. He never heard from her. Instead, he received a call letting him know his sister's body had been found.

"It just wasn't like my sister to go outside her house like that. She was a real homebody," he said.

"I hope we get some answers so we can have some closure. Whatever happened, she didn't deserve to be thrown out like a piece of garbage," he said.

The house where Margaret Shands spent the last years of her life is now empty, ready for another renter. All the furniture is gone. The walls are bare.

Black garbage bags lined the street outside the house. One pink slipper had escaped the open bags and fallen beyond the sidewalk.

A paperback book, yellowed and missing its cover, had fallen from the trash and into the dirt. The title: "Is this life all there is?" A book of Bible stories sat on top of another bag filled with kitchen trash.

Life on the south side goes on.

The smell of fried chicken filled the air on this day, pulling people into Shirley's Pantry, a place that Shands frequented for groceries and beer. The regulars chatted, and when asked, everyone in the crowd knew Shands.

She was 45, but looked

younger. Slender. Friendly.

"She was a beautiful woman," said Bruce Moss, whose family runs Shirley's. Drinking, disappointments and death.

Is this life all there is?

Shands left a journal behind that described the life on her street and all her worries about her son and a boyfriend she had lost faith in.

Nov. 10, 2002: "I want to move out of Spartanburg. Just do new and different things. I will come to a conclusion about this very soon. Most of the time I feel so alone, not lonely. Just like there is no one here for me. That is horrible!"

On an undated page she wrote these words: "Margaret Shands, you need some rest or some knowledge. I'm so glad to know within myself when the end is the end."

It could be just a sad ending to life. Investigators can only speculate at this point.

Did she drink too much? Did she lock herself out of her house and decide to cross the street in her bare feet to use the bathroom in the bushes. Did she pass out and just go unnoticed until it was too late?

When her family went through Margaret's closet, they found that someone had already gone through all of her things and taken her best clothes. For her burial, they bought her a new dress.

D'Angelo was escorted in shackles to the funeral home before the service to see his mother for the final time.

"I looked at her as long as I could — about 15 minutes. I kissed her on the head. I still can't believe she's gone."

Shellen E. Dean can be reached at 562-7229 or shellen.dean@sja.com.

Lanford Pollard
FUNERAL HOME

Now Locally Owned And Operated

GRIEF SEMINAR
Facilitated by Dr. Kirk H. Neely

Pastor of Morningside Baptist Church

6:30-8:00 P.M. at

Lanford-Pollard Funeral Home

April 21: The Grief of Anticipated Death
April 28: The Grief Following Sudden Death

Mary Kay Whitman, Co-Host, is Multilingual

2752

THE INTERNET:

Here's what you
can and can't find

By CHANDRA PLACER

Staff Writer

Most states provide a Web site where residents can search their sex offender registries. And most provide basic information — the sex offender's name, age, height and weight.

But after four months of searching the sites and researching the laws, the bottom line is that they aren't all vanilla.

They come in hundreds of flavors and those flavors are changing every day.

Here's a look at some of the differences:

Four states won't give you a the offenders' street address. Some include the city or county where they reside. South Carolina offers this information.

Moia states distinguish sex offenders from sexually violent predators by length of time on the registry (15 vs 25 years) and how often they are required to verify their address (90 days vs annually). South Carolina has a law that forces predators back into a mental health facility but doesn't provide multiple offenses on its site or establish risk levels beyond the predators. South Carolina includes some juveniles and requires that sex offenders regardless of the

There is no requirement to verify addresses under South Carolina law, and South Carolina lists only the first conviction that put the offender on the list.

offenses remain on the list for life.

Seventeen states post the verification date on their Web site. South Carolina doesn't. Oklahoma and Florida have the most extensive search capabilities.

Oklahoma allows you to search by name, street, and zip code to age, scars, and offense and everything in between. Florida includes an advanced search that allows you to search by offender type or status. South Carolina has searches, but not like these.

Fourteen states do not have an online registry, including California, which has the most registered sex offenders (99,660 as of May 1, 2003).

Some of those states have counties or cities that post their own sex offenders on a Web site.

The Oregon State Police have

chosen not to post names of offenders on the Internet, although a 2001 Oregon statute allows them to do so. Connecticut's registry came back online March 31 after being down since May 2001. South Carolina's registry and public access has been challenged and upheld at least twice.

All online registries but Illinois list the offense committed. Some go further to inform the public of the conviction date, disposition, county or court of conviction and whether they have multiple convictions. Minnesota, Alaska and Virginia go so far as to give the court case number. South Carolina lists only the first conviction that put the offender on the list.

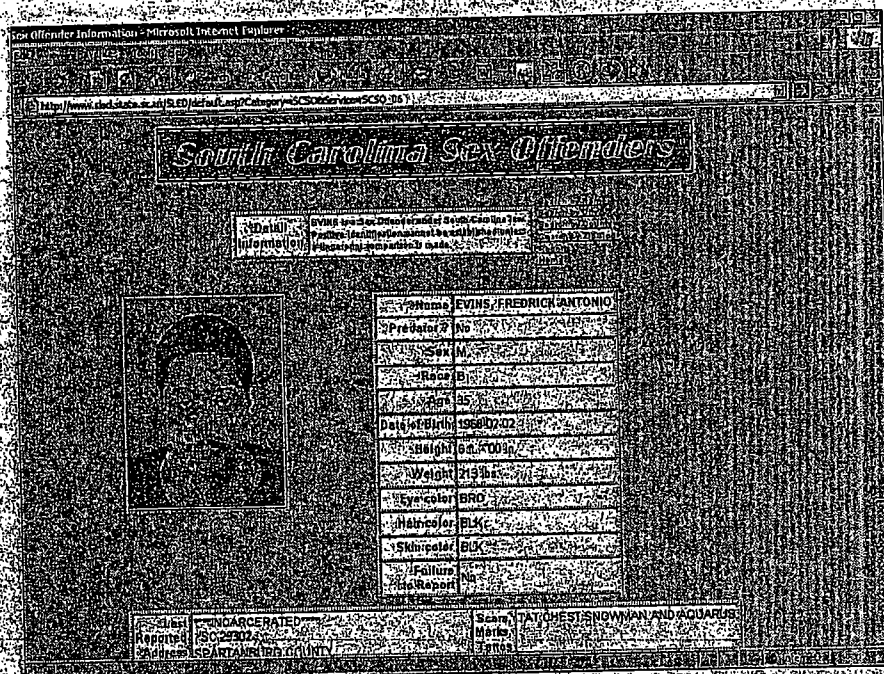
Three states don't post photos of the offenders: Indiana, Michigan and New Hampshire.

South Carolina still has 30 percent of the list without photos.

Five states give you information about where an offender works. Utah and New York will even tell you what kind of car they drive. West Virginia and New York also collect an offender's Internet accounts and screen names. South Carolina does not include any of this information.

Alabama, Arizona and Kansas provide a map of the sex offender's residence. Arizona even maps the nearby schools or daycares. South Carolina doesn't provide maps.

The Texas online registry shows the offenders' shoe size. Tennessee includes their dri-



The S.C. Sex Offender Registry listing for Fredrick Antonio Evans now lists his address as incarcerated. When Spartanburg County deputies went looking for him in February, he was no longer at the address he had reported.

ver's license number. If you want to know the details of the crime, North Dakota's Web site will tell you.

Texas, Illinois and Arizona require proof of residency when registering. Illinois also requires visitors to register if they are in the state for 10 or more cumulative days a year. Offenders may also show up on

two lists if they work or go to school in a different state. One offender who works in Indian Trail, N.C., but lives in Pageland, S.C., is listed on both registries.

Most states verification process includes sending a non-forwardable letter to the last known address of each offender.

Wisconsin takes it a step further by systematically administering polygraph tests to verify that offenders are complying.

There is no requirement to verify addresses under South Carolina law.

Chandra Placer can be reached
at 562-7246 or
chandra.placer@shj.com.

Court's EXHIBIT

27

PO-21-18

Evins ran on fringe of law with lucky breaks keeping him from doing long stretches in prison

♦ **BRUTAL** continued from B1
for prison inmates, he has never spent more than four years and 10 months in custody at any one time.

During that time, Evins proved he could be just as menacing behind bars. On Nov. 6, 1996, while serving separate prison sentences for common-law robbery and strong-arm robbery, he was cited for threatening to "inflict bodily harm" on a corrections officer.

Now Evins is charged with the abduction, sexual assault and murder of Huff and the abduction and murder of Goodwin, whose nude body was found with multiple stab wounds in an apple orchard.

Prosecutors could seek the death penalty in either case.

Juvenile records are sealed, so it is not known whether Evins has a criminal history before age 18. What is known is that the crimes against women of which he has been accused throughout his adult life, both proven and unproven, are consistent in one regard: their brutality.

The man

Evins refused a request to be interviewed at the Spartanburg County jail, where he is being held without bond. His mother, Spartanburg resident Magdeline Evins, also declined to comment. DSS records list a James Fowler as his biological father. Efforts to locate Fowler were unsuccessful.

Records in the DSS case — the agency's successful attempt to remove the female child from the home that Magdeline Evins shared with Evins and a boyfriend — paint a portrait of that home as a place of violence, alcoholism, mental abuse and "menace."

spoke on condition of anonymity.

Police reports, however, indicate that the same woman has had disputes with Evins that have resulted in misdemeanor charges against him.

Evins apparently has the prototypical career criminal's contempt for authority, resisting arrest on more than one occasion, violating the terms of probation and failing to appear for court dates and defendant roll calls.

The first major crime

A 1986 sexual assault case was Evins' first major brush with the law as an adult. He had pleaded guilty to a charge of resisting arrest stemming from a fight with law enforcement officers six weeks after his 18th birthday, but the sexual assault charge filed eight months later exposed him to a possible 30-year prison sentence.

The then-18-year-old victim's written statement recounting her rape at gunpoint states that she and a friend had gone to a party in a mobile home. She wrote that she decided at 4 a.m. to step outside, and Evins lured her behind the mobile home with promises of beer.

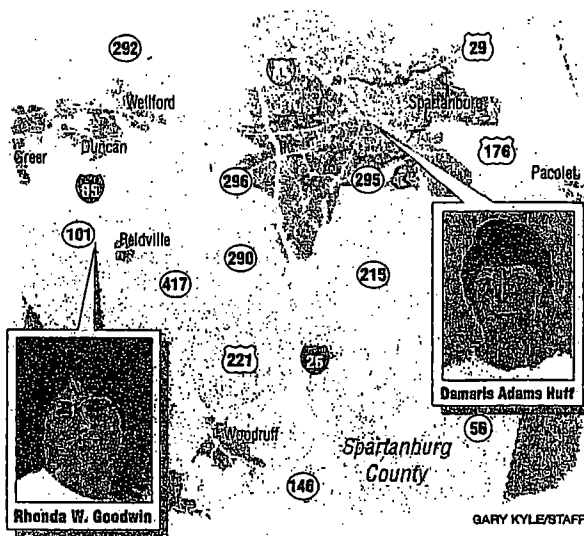
"He pulled a gun from his back pocket and put it to my back and told me to walk and don't say nothing," the statement said.

The woman wrote that Evins walked her into a nearby field, made her remove her coat, and tore her sweater open. He also tore off her underwear.

The statement describes a series of sex acts performed at a gunpoint. The woman wrote that Evins repeatedly threatened to kill her or violate her

Locations of victims

The body of 55-year-old Damaris Adams Huff was found Sept. 14 in a wooded area off a Duncan Park trail. Huff died of asphyxiation and her body was found with an electrical cord wrapped around her neck. The body of Rhonda Ward Goodwin was found Feb. 15 in an apple orchard near Reidville. Goodwin had been stabbed to death. Fredrick Antonio Evins has been charged with killing both women.



threatened to choke her if she told. (The girl) was afraid Fredrick would shoot her with the guns he kept behind the old refrigerator if she told."

On July 30, a DSS worker interviewed Evins at Manning Correctional Institute, where he was serving his sentence for the 1986 criminal sexual conduct conviction. "Mr. Evins denied the sexual abuse and stated that if he were going to rape anyone, it would be an adult..." a DSS report stated.

Like other aspects of Evins' story, the question of why charges weren't filed is a mystery. Sexual abuse of a child was then, as it is now, punishable by up to 30 years in prison.

nax interviewed the child. A Family Court judge's order states that Mullinax also was present at an Aug. 4, 1987, 30-day merit hearing at which the sexual abuse allegations were discussed and Evins was named the alleged perpetrator.

But Major Willie J. Brown said the Sheriff's Office never initiated a criminal investigation in the case because neither DSS nor Wellford police requested one.

Brown said Mullinax was told that the alleged abuse happened in Wellford and that a Wellford police officer had taken the child into DSS' emergency protective custody so she assumed that age

Mullinax "is sure" she never interviewed the child, Brown said. He said the detective did run a criminal history on Evins for DSS and she took it upon herself to find out whether the child's school had reported her chronic absenteeism — but "that was the extent of her involvement in this case."

Brown said Mullinax cannot recall why she would have attended the Aug. 4 hearing, unless DSS invited her because she had looked up Evins' criminal history or unless she attended in her capacity as a member of a multidisciplinary team that staffed DSS abuse cases to ascertain the best interests of child victims.

Peggy Gilliland, a DSS worker assigned to the case, also cannot recall why Mullinax would have attended the hearing, Brown said. Gilliland referred inquiries to DSS Director Gaynelle West, who declined to comment "for confidentiality reasons."

The Sheriff's Office declined to make Mullinax, now a master deputy in its warrants division, available for an interview.

The breaks

Throughout his criminal career, Evins has avoided the possibility of conviction on serious charges through what for him were fortuitous circumstances.

In 1991, Evins was charged with assault with intent to commit first-degree criminal sexual conduct — an offense punishable by up to 30 years in prison — because a Greer woman who was an acquaintance of his said he had tried to rape her in her home. The 26-year-old woman said Evins threatened her with a gun and

The woman reported that she had run from the home screaming and with Evins in pursuit, escaping only because her husband arrived and chased Evins away. Witnesses corroborated that account, and investigators found bruises on the woman.

The alleged incident occurred on Jan. 24, 1991 — three days before Evins' daughter was born.

But the charge was dropped at a preliminary hearing 10 months later because the victim did not show up for a pretrial conference.

From March 1995 until January 2000, before his release from prison on a supervised furlough early release program, Evins was incarcerated on separate common-law robbery and strong-arm robbery convictions.

After that, but before he was arrested on murder charges, he accumulated two criminal domestic violence convictions in Magistrate Court. In both cases, the 34-year-old victim was another of his "wives."

In the latter incident, the victim and her son reported that Evins had threatened her with a knife. Evins first claimed there had been no violence, then said the woman had attacked him.

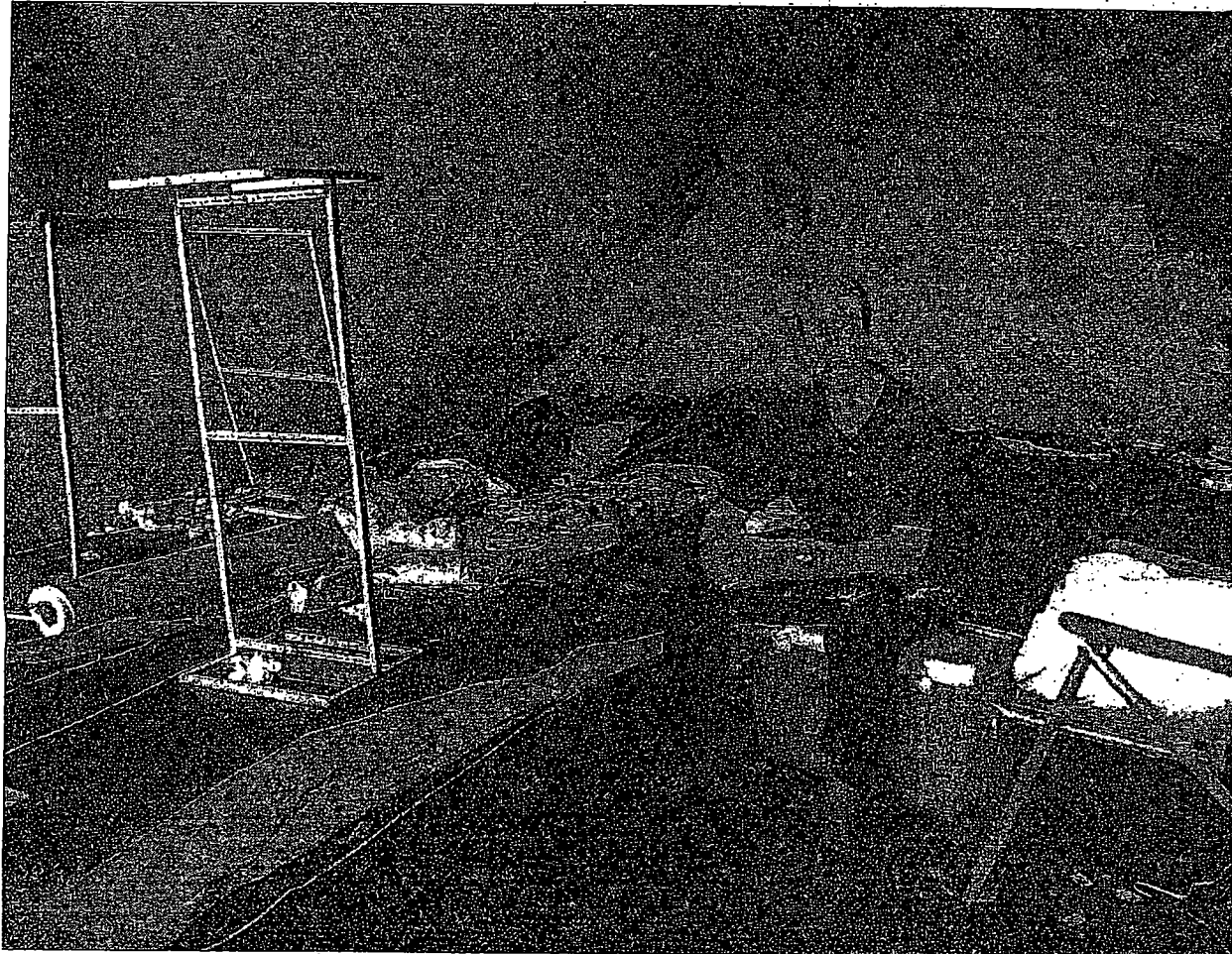
Magistrate Johnny L. Cash released Evins with credit for time served after his arrest — 20 days.

The bad victim

In March 1995, a Spartanburg woman reported that, while walking to a store to get breakfast for her children, she accepted a ride in a car containing a female cousin of hers, an elderly woman she did not know — and Fredrick Evins

SEX OFFENDERS

One, or several, may be living in your neighborhood
Their addresses are online, but can you find them?



JOHN BYRN

William Herndon, a registered sex offender, lives at the Miracle Life Mission. Before that, he lived in this tunnel near West Main Street.

IN THE SEARCH FOR NAMES: Information often wrong and background is lacking

By SUELLEN E. DEAN
AND CHANDRA PLACER
Staff Writers

When Spartanburg resident Yolanda Reid was shown the sex offender registry Web site for the first time she was shocked to learn that four registered sex offenders live in her west-side apartment complex.

For the past five years in South Carolina, anyone with Internet access has been able to log on and learn the names and addresses of registered sex offenders.

But Reid, a single mother of two, had never tried.

Not because she wasn't interested in the names on the list, but because she didn't know

how to search it with her home computer.

When she was directed to the Web site, she tried to search the list by address, as you can in several states, including Alaska, Florida and Indiana, but soon learned she couldn't.

Then she wanted to search by zip code, but she learned that the zip codes on the list are often wrong.

So she searched by city, only to discover a list of 107 names but no addresses.

To search every name, she admitted, would have taken her a long time and she may not have persevered without help.

She learned how to use a "report generator" to get a list of offenders and their addresses. Reid, who lives in Rose Hill Apartments off Powell Mill Road, found the faces of the four offenders who live in her complex and read through the information only to be disappointed again that she couldn't find out more details about what her neighbors had done. Had they committed more than one sex

◆ SEE OFFENDERS PAGE A8



SUELLEN E. DEAN

Yolanda Reid, right, of Spartanburg gives some instructions to her cousin, Jani Cook, on how to look for sex offenders on the Internet. You can find tips for searching the registry on A9.

BY THE NUMBERS

16,500

The estimated number of children in Spartanburg

6,127

The number of offenders listed in the public portion of the

Courts EXHIBIT

28

11-17-01

SIDE

s. A11
d. C4
B7
ord. C10
by. B8
s. A14
ps. C10
Escape
es. A9
fl. B6



LOUDY
HIGH: 89
LOW: 66



VOLUME 158
NUMBER 192

Grand jury indicts murder suspect

By TOM LANGHORNE
Staff Writer

Fredrick Evins, the man accused of murdering library worker Damaris Huff and cigarette store manager Rhonda Ward Goodwin, was indicted by a grand jury Thursday on charges related to both crimes.

Speaking on Evins' behalf publicly for the first time, his attorney said he "maintains his innocence to both murders."

"He is to be presumed innocent unless or until proven guilty," said Assistant Public Defender Karen Quimby.

Huff's nude body was found in a wooded Duncan Park area on Sept. 14, just yards from her home. An electrical cord was wrapped around her neck.

Her husband, James Huff, reported her missing.



Evins:
Accused
of killing
library work-
er, cigarette
store worker

◆ SEE INDICTS PAGE A8

Gowdy weighs whether to seek death penalty

◆ INDICTS continued from A1

after she did not return from her routine morning walk. Her body was discovered later that rainy afternoon. Investigators said she died of asphyxiation.

Goodwin was kidnapped from her job at the Cigarettes 4 Less store on Drayton Road on Feb. 13. Her nude body was found two days later in an apple orchard. An autopsy revealed that she died of multiple stab wounds.

In the Huff case, the grand jury indicted Evins on charges of murder, first-degree criminal sexual conduct and kidnapping. Evins faces separate counts of the same charges in the Goodwin case, plus one count of grand larceny because he is accused of stealing her vehicle.

Solicitor Trey Gowdy said he hasn't decided whether to seek the death penalty in either or both cases.

"I'm consulting the victims' families and looking at all the other factors I look at," he said. "These are a couple of crimes that shocked the conscience of our community, and that's another factor I'll consider."

Asked which case he will try first, Gowdy said that depends on the death penalty decisions he makes.

Principal Deputy Solicitor Barry Barnette said the first case will go to trial next year. Barnette said he doesn't know enough to be more specific than that.

"Just because charges are made and the cases have been indicted doesn't mean the investigation ends," he said. "Additional investigation is being done, and evidence is being examined by experts."

"We feel like the evidence will clearly show Mr. Evins committed these crimes."

The grand jury, a panel of at least 18 citizens, determines whether enough evidence exists in a given case to believe a crime has been committed. At least 12 of the 18 must agree that the witnesses before them — usually law enforcement officers — have provided sufficient evidence to grant an indictment, or "true bill."

ATLANTA JOURNAL-CONSTITUTION • FRIDAY, JULY 11, 2003

STATE

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missions / B9



SATURDAY
AUGUST 30, 2003

B

HERALD-JOURNAL
SPARTANBURG, S.C.

Gowdy seeks death penalty for Evins

Defendant faces trials
in connection with
Huff, Goodwin deaths

By TOM LANGHORNE
Staff Writer

Prosecutors will seek the death penalty against Spartanburg resident Fredrick Antonio Evins, the man accused of murdering library worker Damaris Huff and cigarette store manager Rhonda Ward Goodwin.

Solicitor Trey Gowdy said he would seek the death sentence in the Goodwin case first because Evins was arrested in connection with that case

before his arrest in the Huff case. Gowdy said a decision on seeking the death penalty in the Huff case would depend on the outcome of a trial in the Goodwin case.

The prosecutor said court rules prohibit him from commenting further.

Evins' attorney in both cases, Assistant Public Defender Karen Quimby, said she will protect his rights.

"Obviously, the death penalty is not a pleasant thought for anyone to be facing, but Mr. Evins is still entitled to the same constitutional procedures and safeguards and protections that



Evins

any defendant is entitled to," Quimby said.

Quimby, who has said Evins maintains his innocence to both deaths, declined to comment further.

Goodwin, a 32-year-old Spartanburg resident, was kidnapped from her job at the Cigarettes 4 Less store on Drayton Road on Feb. 13.

Her nude body was found two days later in an apple orchard. An autopsy revealed that she died from multiple stab wounds.

Huff's nude body was found in a wooded Duncan Park area on Sept. 14, just yards from her home. An electrical cord was wrapped around her neck.

Her husband, James Huff, reported

her missing after she did not return from her routine morning walk. Her body was discovered later that rainy afternoon. Investigators said she died of asphyxiation.

Cathy Tessier, Goodwin's mother, said from her home in Oakley, Calif., that she is "totally for the death penalty."

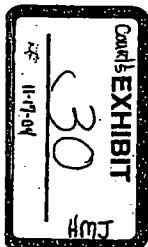
"(Evins) doesn't deserve to live," Tessier said. "He took the most important thing from me, my daughter."

Tessier said she and several other family members would fly to Spartanburg for Evins' trial, which has not been scheduled.

Tom Langhorne can be reached at 562-7221 or tom.langhorne@shj.com.

EASY ON ENVIRONMENT

Addicted



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2756

Evins facing murder trial

CAPITAL CASE: Juror
selection starts today

By ALEXANDER MORRISON
Staff Writer

Jury selection is scheduled to begin today in the capital murder trial of Fredrick Antonio Evins.

The 36-year-old Spartanburg County man has been charged with the murder of Rhonda Ward Goodwin. He will face life in prison or the death penalty if convicted.

Goodwin was kidnapped from her job at the Cigarettes 4 Less store on Drayton Road on Feb. 13, 2003. Authorities found her body two days later in an apple orchard. An autopsy revealed that she died of multiple stab wounds.

Evins also faces charges of kidnapping and grand larceny in the Goodwin case.

The Solicitor's Office declined to comment, citing a gag order issued by Judge Ned Miller, who will be presiding. The trial will be Miller's first capital case.

In contrast, the Evins trial will be the third capital case Seventh Circuit Solicitor Trey Gowdy has handled this year. Principal Deputy Solicitor Barry Barnette and John Anthony, an assistant solicitor, will try the case with Gowdy.

In both of Gowdy's other capital cases, juries found the defendants guilty and sentenced them to die.

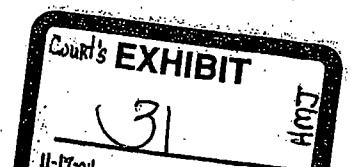
Thomas Boggs and Karen Quimby will defend Evins. They also declined to comment.

Jury selection in capital trials is far more complex than most criminal cases. Hundreds of potential jurors are called to the courthouse to be interviewed. The selection process probably will run three or four days, Miller said.

Evins also has been charged with killing Damaris Huff, whose body was found in a wooded area in Duncan Park in September 2002.

Gowdy has decided to try Evins on the Goodwin case first.

Alexander Morrison can be
reached at 562-7215 or
alex.morrison@shj.com.

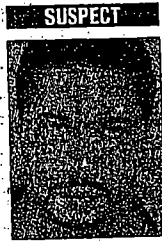


3/22/03

Man charged in killing of Duncan Park woman



Damaris Huff



Fredrick Evins

SECOND MURDER CHARGE:

Evins is already jailed
in store worker's death

By TONY TAYLOR
Staff Writer

A man jailed in the death of a cigarette store worker last month was charged Friday in the slaying of a 55-year-old Duncan Park library worker,

a case that had gone unsolved for six months.

The Spartanburg Public Safety Department charged Fredrick Antonio Evins with murder in the death of Damaris Huff after the department said a DNA sample collected by authorities identified him as the killer. Evins, 35, also faces kidnapping and first-degree sexual conduct charges in connection with the case.

SEE PAGE A11

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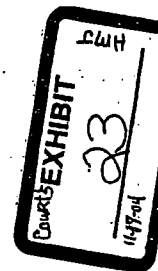
Video from news conference
announcing Evans' arrest
is on www.GoUpstate.com.

INSIDE

◆ Murder charge brings closure to
Huff's neighbors, colleagues. A11

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VOLUME 158
NUMBER 81



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next article

Huff's neighbors, colleagues feel a sense of relief

By SUELLEN E. DEAN
AND TOM LANGHORNE
Staff Writers

Allison Anderson had taken Friday off from her job as head librarian at the Westside Branch of the Spartanburg County Library on Oak Grove Road and had just finished having lunch with her husband in Greenville when she got the call. It was a call that she had sometimes doubted would come.

Detectives had a suspect in the 6-month-old murder of Damaris Huff, one of Anderson's library workers.

"My husband teaches auto repair and he was changing my tires in his shop. I told him to get them on," she said. "I had to get to Spartanburg."

Anderson, along with Todd Stephens, director of Spartanburg County Public Libraries, and Assistant Director Doris Wright were in the crowd that gathered for a Friday news conference in a building a few steps away from City Hall.

"I felt incredible relief," Anderson said, describing her first reaction to the news. "My next question was whether they were 100 percent certain they had the right person."

Huff's nude body was found along a wooded trail near her Duncan Park home on Sept. 14. The cause of death was by asphyxiation.

The case stumped city investigators, who solicited the FBI and the South Carolina State Police for help and passed out questionnaires to library workers and Duncan Park residents.

As soon as she got the news, Anderson called the Westside Branch to let the other librarians know that a suspect had been charged. The staff expressed shock when they learned that the man was already in jail, charged with the murder of another woman last month.

The staff gathered around a computer to see whether the suspect had a library card and to see whether they recognized his picture, which was on the state's sex-offender registry.

Residents of the Huffs' usually quiet, upper-middle-class Duncan Park neighborhood greeted the news of Evins' arrest with a mixture of joy and hope that police have caught the true killer, too.

"Oh, goodness!" Margie C. Nash said, clutching her chest. "It's so wonderful to put a closure to this." Nash, who is elderly and disabled, said she has lived in the same North Park Drive house for 48 years. She has lived alone since her husband's death in 1998.

"I almost never locked my door until the police and my family asked me to after this happened," Nash said.

An attorney representing

"Oh, goodness! It's so wonderful to put a closure to this."

MARGIE C. NASH;
Huff's neighbor

arrested. "But I wondered, what if he didn't do it?" she said. "This man lost his wife and he's had to listen to all this talk. He must have been going through hell. He has my sympathy today."

Before Evins' arrest, police had said repeatedly that they did not believe the killer of Damaris Huff was a stalker or serial killer.

Nash and other Duncan Park residents said they don't fault the police for the warnings, which may turn out to have been false. "I'm not bothered by that," said Nonie Hudnall. "They did the best they could to make an arrest, and they did."

Hudnall, who described herself as a frequent runner in Duncan Park, said the police may have been trying to avoid panic among neighborhood residents.

"I've never really been that scared, and neither have my friends that I run with," she said. "I've always felt like this was a very safe neighborhood."

"I'm really glad someone has been arrested, so maybe we can bring some closure to this."

Jeremy Henrichs, a 28-year-old father and resident of Forest Avenue, said he is pleasantly surprised by the arrest.

"I wasn't real confident that they were going to get anyone," Henrichs said as he sent a Frisbee sailing into a grassy field for his dog to catch. "But it's great that they did."

Henrichs said it doesn't bother him that police didn't think they were dealing with a serial killer. "They were going on their best assessment at the time," he said. "I trust their judgment. I mean, they were definitely a lot more visible after this happened."

Beth Coil, a resident of Ponce De Leon Avenue and head coach of Converse College's basketball team, said the killing occurred within a few weeks of her relocation to the neighborhood.

"I'm definitely relieved," said Coil, 35, who attended one of the neighborhood meetings organized by the police during the investigation. Coil said she isn't bothered by the possibility that police were wrong about the kind of killer they were seeking. "That may have been the evidence they had at the time," she said.

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"I almost never locked my door until the police and my family asked me to after this happened," Nash said.

An attorney representing Damaris Huff's husband, James Huff, said in October that his client felt as if he were the target of the Spartanburg Public Safety Department's investigation. "He tells me, 'I can't believe they think I did that,'" Spartanburg attorney Keith Kelly said.

Nash volunteered that many people in Duncan Park were convinced James Huff would be

Damaris Huff was a stalker or serial killer.

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UPSTATE

Emergency crews learn lessons from rescue at well / B3

SUNDAY
APRIL 6, 2003

B
HERALD-JOURNAL
SPARTANBURG, S.C.

EYES OF A CRIMINAL



Frederick Antonio Evins has an extensive criminal history as an adult. He was charged with his first sexual assault within 10 months of his 18th birthday.

Suspected Huff killer has long, brutal past

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Primary puts S.C. in 'pole' position

DEMOCRATS: Hopefuls
woo early support
from Southern base

BY MATTHEW C. QUINN
Cox News Service

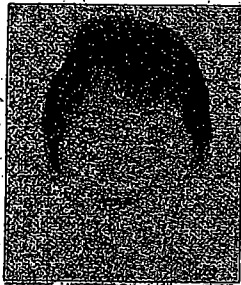
COLUMBIA — The slow-start-
ing South Carolina presidential pri-
mary campaign finally is showing
signs of life.

Most of the attention has been on
Iowa and New Hampshire, which,
as always, will kick off the primary
season.

But South Carolina — which
holds its 2004 primary one week
after New Hampshire and played a
key role in choosing the 2000
Republican presidential candidate
— is starting to gain share of
attention. Candidates are visiting
more often, campaign office loca-

3 different articles [4/6/03]

Suspect has love



Damaris Huff

Neighbor saw beauty in all things

By TERESA KILLIAN
Staff Writer

Damaris Huff saw beauty everywhere — even in unexpected places.

The tall, elegant 55-year-old took pleasure in simply coloring with children or chatting with an elderly friend.

She knew neighbors' pets by name. She read voraciously from "Smithsonian" to the Bats Conservation International publication "Bats."

She found things to love that others overlooked.

Take Huff's pig collection. The farm animals often were misunderstood — were intelligent — she told her husband.

Her life full of family and friends had no room for fear. At least twice daily for 15 years she walked, noting friends and wildlife along the way.

"She enjoyed walking alone because she could walk at her pace, where and when she wanted to," her husband, James Huff, wrote in an e-mail

◆ SEE NEIGHBOR PAGE B7



SALLIE TURNER/STAFF FILE

James and Damaris Huff lived at 335 N. Park Drive. Damaris loved to take walks and enjoy the view in Duncan Park's natural setting.

'This kindness and love. It's what she was'

◆ NEIGHBOR continued from B1

interview. "... She never had an unpleasant experience. She loved walking in and around the park."

She never came home from a routine Saturday morning walk on Sept. 14, 2002. Her strangled body, nude except for her socks, was found in a wooded area.

Murder cut short the life of a wife, a mother, a grandmother, a library worker, a voracious reader and, above all, a friend.

Just the day before, a card from Huff had added to the 17th birthday celebration of her long-time friend Linda Kopp's daughter.

"Damaris never forgot a birthday or an anniversary," said Kopp, a New Jersey resident who first met Huff when they were teens.

The two girls and Huff's sister, Emily Bonek, spent summers serving food at The Emily Dining Room — "Just the Best Food In Town" — in Ocean City, N.J.

Huff was born in Spartanburg on Jan. 11, 1947, in the place her mother's family called home. Later, her parents moved north when Damaris and her older sister, Emily, were in elementary school.

The sisters played cowboys and Indians on their bikes. They became regulars at the library and played basketball at the YWCA on Saturday nights, Bonek said.

Damaris took classes while in high school to complete "beauty culture school." Though she did not practice professional hairdressing, she occasionally cut Kopp's hair or trimmed her bangs.

Clemson University lured the honors student back to the South, and it was there that she had a chance meeting with James Huff. They talked philosophy briefly in 1966, but did not meet again until August 1970.

By then, Huff had graduated from Converse College with a Bachelor of Arts in history with honors. She had become a mother, but her first marriage was over.

She and her daughter, Jennifer, doubly blessed James Huff's life, he said.

"We fell in love, and we stayed in love all the rest of our lives," Huff wrote. "I can honestly say we grew closer over time."

She taught for several years at Blacksburg High School and Cecil's Business College. Huff was employed for nearly two decades with the Spartanburg County Public Library as bookmobile supervisor and with the Pacolet and Westside branches.

"Mommy believes that education never ended," her daughter, Jennifer Washburn, wrote. "Reading and exploring different belief systems and ideas were so important to her. I think she really wanted to understand everyone in the world — why people are the way they are."

The mother and daughter were friends who enjoyed traveling together. After Washburn's college graduation, they trekked to London and Amsterdam.

They laughed later at the memory of themselves walking 45 minutes in strong winds trying to decide where to eat.

"We would research places and figure out what we wanted to see," Washburn said.

"Museums were a must. We were hoping to do Scotland next but never had the time."

What Huff always found time for was family.

When Washburn and her husband adopted a 14-year-old girl, Masha, from Russia, grandmotherhood left Damaris Huff ecstatic. Grandmother and granddaughter went to crafts stores, ate ice cream and fed ducks. Damaris Huff even had Russian language books and tapes to surprise her granddaughter.

"We would be talking about something, and Damaris would ask Masha a question or make a comment in Russian," James Huff said. "There was no warning, and it was a total surprise to Masha, who was absolutely delighted."

That memory is just one that stays with James Huff.

"We had so many great times together, but I guess what I miss most of all is coming home to an empty house and knowing we won't be sharing each others' lives," he said. "I miss talking with her about everything, eating dinner together and our after dinner walks."

"Everything about her is what I miss — her kindness, not just to me, but to everyone, even people she didn't know — kind deeds and words. She was the essence of what I aspire to be in a person. She was the finest person I've ever known."

"I've said this many times in past months, but it isn't what she did — this kindness and love. It's what she was."

Teresa Killian can be reached at 562-7216 or teresa.killian@shj.com.

Dead Hung ing, brutal

Article 3 [Sun 4/6/03]

By TOM LANGHORNE
Staff Writer

Fredrick Antonio Evins, the man accused of murdering library worker Damaris Huff and cigarette store manager Rhonda Ward Goodwin, has cut a brutal swath across Spartanburg County for literally his entire adult life.

The 35-year-old Evins' crimes since his 18th birthday include rape, assaulting law enforcement officers, criminal domestic violence, strong-arm robbery and common-law robbery.

In 1987, a judge declared that medical records substantiated Department of Social Services allegations that Evins had sexually abused a female child. DSS records indicate the child said Evins, then 19, repeatedly raped her from the age of 6 until after her 8th birthday, the abuse stopping only because he was jailed after a criminal sexual conduct conviction in a separate case.

No charges were filed in the case. DSS records indicate a Spartanburg County sheriff's detective interviewed the child, but the officer said through a spokesman that she recalls no such interview.

Almost as lurid are the alleged crimes against women for which Evins has been charged but not convicted. Two criminal sexual assault charges and a kidnapping charge have been dismissed — as has an aggravated assault and battery charge involving an attack on a man with a box cutter — because alleged victims failed to appear for pre-trial meetings or presented other problems.

The time Evins has served has been relatively short despite the gravity of his proven offenses. Because of lenient treatment in court and an early release program

◆ SEE BRUTAL PAGE B7 ◆

The crimes against women of which Fredrick Evins has been accused throughout his adult life, both proven and unproven, are consistent in one regard: their brutality.

IV THE suspect already been jailed

2764

STABBING DEATH:

Man was being held on unrelated charge

BENNY LEE SMITH

Staff Writer

Deputies believe they have the man responsible for Rhonda Ward Goodwin's death two weeks ago.

Fredrick Antonio Evins, 35, of Spartanburg County was charged Friday with murder, kidnapping and grand larceny in Goodwin's disappearance and death Feb. 13.

Spartanburg County Sheriff Bill Coffey said at a noon news conference Friday that officials were looking for Evins.

But within five minutes of the news conference ending, Coffey was told that Evins was already being held in the Greer City Jail on an unrelated charge. A Greer jailer called the Sheriff's Office and said they had picked up Evins Thursday night during a traffic stop and charged him with having no driver's license.

"It is a little unusual, but not rare to issue a murder warrant and then find out that our suspect is in jail in an adjoining town," Coffey said.

Deputies accused Evins of abducting Goodwin about 6:50 a.m. in the parking lot of her workplace, Cigarettes for Less on Drayton Road. A video surveillance tape shows a man walking on Drayton Road and then approaching Goodwin.

After talking a few moments, Goodwin got in the driver's side of her 1993 white Nissan Sentra and the man entered on the passenger's side. A weapon could not be seen on the videotape, but deputies have not ruled it out.

The videotape footage was the last evidence of Goodwin being alive. Two days later, a Gano Road resident found her body in a field in Reidville. Autopsy results revealed that she was stabbed to death.

A day later, Greenville County deputies found her missing car burnt in front of an abandoned residence at 106 Bell Ave. in Taylors in east

Greenville County.

Sheriff's deputies started a poster campaign Wednesday night in an attempt to find Goodwin's killer.

Coffey said deputies passed out fliers with information about Goodwin and the case. He said the campaign was apparently successful because deputies subsequently interviewed a witness who identified Evins as the man in possession of the car after Goodwin's death.

Coffey said other "hard evidence" he could not make public also linked him to the killing.

"We definitely got our man," he said.

Evins was convicted in the past on two criminal sexual conduct charges and is listed on the S.C. attorney's general's Web site as a sex offender. One of those convictions was second-degree criminal sexual conduct with a minor. He also has been in the detention center on charges of various other violent crimes, including first-degree burglary, domestic violence and assault.

Officials don't have a motive but did reveal that Goodwin may have known Evins. During a previous arrest, he gave an address at Hanover Apartments. Goodwin also lived at Hanover Apartments.

Coffey said that although they believe they have their man, deputies are continuing their investigation so they will have strong evidence to present to Solicitor Trey Gowdy for a conviction.

This is the first murder case in Spartanburg County this year.

IN CUSTODY



Evins

VICTIM



Goodwin

Benny Lee Smith can be reached at 582-4511, Ext. 7214, or benny.smith@shj.com.

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MONDAY
NOVEMBER 8, 2004

2765

A11

THE HILLS JOURNAL
SPARTANBURG, S.C.

HIS WAY

D. HICKS JR.

Evins facing murder trial

**CAPITAL CASE: Juror
selection starts today**

BY ALEXANDER MORRISON

Staff Writer

Jury selection is scheduled to begin today in the capital murder trial of Frederick Antonio Evins.

The 36-year-old Spartanburg County man has been charged with the murder of Rhonda Ward Goodwin. He will face life in prison or the death penalty if convicted.

Goodwin was kidnapped from her job at the Cigarettes 4 Less store on Drayton Road on Feb. 13, 2003. Authorities found her body two days later in an apple orchard. An autopsy revealed that she died of multiple stab wounds.

Evins also faces charges of kidnapping and grand larceny in the Goodwin case.

The Solicitor's Office declined to comment citing a gag order issued by Judge Ned Miller, who will be presiding. The trial will be Miller's first capital case.

In contrast, the Evins trial will be the third capital case. Seventh Circuit Solicitor Trey Cowdy has handled this year. Principal Deputy Solicitor Barry Barnette and John Anthony, an assistant solicitor, will try the case with Cowdy.

In both of Cowdy's other capital cases, juries found the defendants guilty and sentenced them to die.

Thomas Boggs and Karen Gulinby will defend Evins. They also declined to comment.



STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

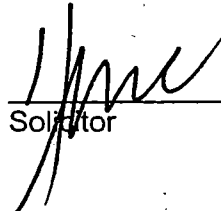
INDICTMENT

At a Court of General Sessions, convened on JUL 10 2003, the
Grand Jurors of Spartanburg County present upon their oath:

MURDER

The Defendant, Fredrick Antonio Evans, did in Spartanburg County on or about February 13, 2003, feloniously, willfully, and with malice aforethought, kill one Rhonda Marie Ward, by stabbing the victim multiple times in the chest, and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, 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.



Solicitor

2767

WITNESSES

I. R. Yown

Spartanburg Co. Sheriff Dept.

DOCKET NO. 03-GS-42-2532

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 14 2003

TERM

THE STATE

VS.

Frederick Antonio Evans

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

FILED
CLERK OF COURT
SPARTANBURG, SC
2003 SEP 23 PM
MARC KITCHEN

Computer

ARREST WARRANT NUMBER

H397327

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 7/10/03

VERDICT

Guilty

Foreperson of Petit Jury

Date: 11-15-2004

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

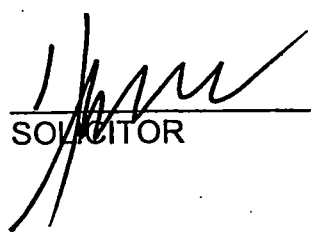
INDICTMENT

At a Court of General Sessions, convened on JUL 10 2003, the
Grand Jurors of Spartanburg County present upon their oath:

GRAND LARCENY

The defendant, Fredrick Antonio Evans, did in Spartanburg County on or
about February 13, 2003, feloniously take and carry away the personal goods
of Rhonda Marie Ward, of the value of more than Five Thousand Dollars,
described as follows: 1993 Nissan Sentra and its contents belonging to
Rhonda Marie Ward, with the intent to deprive the owner permanently of
such property, in violation of Section 16-13-30 (B) (2), 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.



SOLICITOR

WITNESSES

Yown

Spartanburg Co. Sheriff Dept.

SENTENCE MADE

REPORT ENDED

CARD PULLED

INDEXED

CHECKED WARRANTS

CHECKED SIGNATURE

ASSESSMENT ARREST WARRANT

FINE CARD MADE

1397329
VIOLATIONS COPY

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 7/10/03

VERDICT

Guilty

Foreperson of Petit Jury

Date: 11-15-2004

03-GS-42-2534

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 14 2003

TERM

THE STATE
VS.

Fredrick Antonio Evans

Indictment for

GRAND LARCENY

SC Code: 16-13-30(B) (2)

CDR Code: 479

Class FEL-E

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2003 SEP 23 PM 4:12
MARC KITCHENS

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JUL 10 2003

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE - KIDNAPPING

The Defendant, Fredrick Antonio Evans, did in Spartanburg County, on or about February 13, 2003, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Rhonda Marie Ward, without authority of law, all in violation of Section 16-3-910, Code of Laws of South Carolina (1976, as amended).

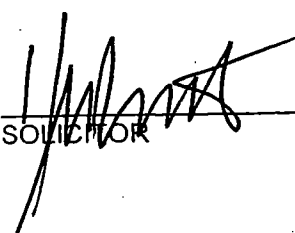
COUNT TWO - CRIMINAL SEXUAL CONDUCT

The Defendant, Fredrick Antonio Evans, did in Spartanburg County, on or about February 13, 2003, willfully and unlawfully commit a sexual battery upon the Victim, Rhonda Marie Ward, and either:

- (1) the Defendant used aggravated force to accomplish the sexual battery; or
- (2) the Victim submitted to the sexual battery by the Defendant under circumstances where the victim was also the victim of forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or any other similar offense or act,

in violation of Section 16-3-652, 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.



SOLICITOR

WITNESSES

J.R. Yown

Spartanburg Co. Sheriff Dept.

DOCKET NO.

03-GS-42-2533

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUL 14 2003

TERM

THE STATE
vs.

Fredrick Antonio Evans

Indictment for

COUNT ONE - KIDNAPPING
COUNT TWO - CRIMINAL SEXUAL
CONDUCT, FIRST DEGREE

SC Code: 16-03-910; 16-3-652

VERDICT

Count one - guilty
Count two - guilty

Foreperson of Petit Jury

Date:

11-15-2004

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

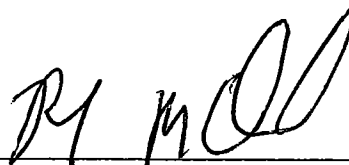
Date: 7/10/03

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2003 SEP 23 PM 4:12
MARC KITCHENS

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.

November 6th, 2006



Robert M. Dudek
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT.