THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Honorable Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2017-002281

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

v.

STATE OF SOUTH CAROLINA.....RESPONDENT.

APPENDIX
VOLUME 14 OF 14

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THAT SUBPOENA TODAY?

THE COURT: I HAVE NO CONTROL OVER IT. I HAVE NO HANDLE IN THAT DEPARTMENT. I DO NOT KNOW WHAT THEIR SCHEDULE IS FOR THE SERVICE OF PROCESS, AND I WOULD SUGGEST YOU CONTACT THEM. THEY DON'T ASK TO CONTROL MY COURTROOM AND I DON'T ASK TO CONTROL THEIR DEPARTMENT.

I AM CERTAIN, HOWEVER, THAT THEY WILL DO ALL THAT THEY CAN TO ASSIST YOU BECAUSE THEY ARE EXTREMELY ACCOMMODATING.

MR. DIGGS: YOUR HONOR, WE WANT TO MAKE A PROFFER WHILE THE JURY IS OUT, IF I MAY.

THE COURT: CERTAINLY. YOU MAY PROCEED.

BY MR. DIGGS:

Q DR. WU, ARE YOU FAMILIAR WITH THE TYPE OF SOFTWARE THAT WAS USED BY DR. SPICER IN ORDER TO ARRIVE AT HIS OPINION IN THIS CASE?

A YES.

Q WHAT KIND OF SOFTWARE DID HE USE?

A THE SOFTWARE THAT DR. SPICER USED WAS A SOFTWARE CALLED HERMES BRASS SOFTWARE, BRAIN REGISTRATION AND ANALYSIS SOFTWARE SUITE.

Q AND WHAT ARE THE RECOMMENDED USES BY THE MANUFACTURER FOR THAT SOFTWARE?

A WELL, THE RECOMMENDED USE OF THIS SOFTWARE IS USED

WITH A DATABASE, A COMPLEX SOFTWARE. THAT DATABASE IS COMPOSED OF INDIVIDUALS AT REST. AND SO SINCE MR. STANKO'S PET SCAN WAS NOT A PET SCAN DONE AT REST, IT WAS AN ACTIVATED PET SCAN, IT WILL BE AN INVALID COMPARISON TO USE A BRASS SOFTWARE WITH AN AT REST DATABASE TO COMPARE THAT TO A PET SCAN OF A CLINICAL SUBJECT UNDER AN ACTIVATED STATE.

THESE ARE -- ARE APPLES AND ORANGES. AND -- AND THEY CANNOT BE PROPERLY COMPARED BECAUSE THEY'RE DONE IN TWO DIFFERENT CONDITIONS.

Q WHAT KIND OF CONDITIONS ARE RECOMMENDED FOR USE WITH THE HERMES SOFTWARE?

A FOR THE HERMES SOFTWARE IN ORDER TO USE THIS TO COMPARE A CLINICAL INDIVIDUAL, THAT CLINICAL INDIVIDUAL'S PET SCAN HAS TO BE ACQUIRED FROM THE SAME CONDITION AS THE CONTROL DATABASE.

Q NOW, IN THE HERMES DATABASE, WHAT ARE CONTROL CONDITIONS?

A THE CONTROL CONDITIONS WERE SUBJECTS AT REST.

Q OKAY. AND BY, AT REST, CAN YOU DESCRIBE THAT FOR ME?

A WELL, AT REST WOULD MEAN THAT THEY'RE NOT ENGAGED IN ANY ACTIVATION PROCEDURE SUCH AS A COMPUTERIZED PERFORMANCE -- CONTINUANCE PERFORMANCE TEST. THEY ARE BASICALLY ASKED TO LIE IN A ROOM AND -- AND WITHOUT ANY FORM OF STIMULATION OR -- THAT IS PROVIDED TO THEM BY THE

EXPERIMENTER.

Q NOW, WHAT WERE THE CONDITIONS FOR MR. STANKO DURING HIS PET SCAN OR AT THE TIME OF HIS PET SCAN?

A MR. STANKO DURING THE TIME OF HIS PET SCAN WAS UNDERGOING A CONTINUOUS PERFORMANCE TEST WHICH IS A ACTIVATION TASK WHICH IS MARKEDLY DIFFERENT FROM A PET SCAN ACQUIRED UNDER A REST STATE OR CONDITION.

Q NOW, IN PRODUCING THE PET SCAN IMAGE THAT'S BEEN INTRODUCED INTO EVIDENCE IN THIS CASE FROM YOU, THAT YOU PRODUCED AT OUR REQUEST, DID YOU USE HERMES SOFTWARE?

A NO, I DID NOT USE HERMES SOFTWARE.

Q WHAT DID YOU USE?

A WELL, I USED SOFTWARE CALLED AVINCI TO LOOK AT THE IMAGE, AND THIS IS A DICOM VIEWER SOFTWARE.

Q NOW, IN FACT, DOES IT HAVE A DATABASE WITH IT?

A AVINCI DOES NOT COME WITH A DATABASE.

Q OKAY. AND SO YOUR TEST, HOWEVER, DID HAVE A DATABASE; DID IT NOT?

A WE HAVE NORMAL CONTROLS AT OUR CENTER THAT WERE ACQUIRED UNDER A CONTINUANCE PERFORMANCE TEST CONDITION.

Q ARE THOSE TIGHTLY CONTROLLED, THOSE CONDITIONS?

A YES, THEY ARE.

Q SO THAT YOUR DATABASE -- YOUR -- YOU'RE SURE THAT THE DATABASE CONTAINS ONLY IMAGES THAT ARE CONSISTENT AND IN CONFORMITY WITH THE PROCEDURES THAT WERE USED IN

MR. STANKO'S CASE AT MUSC?

A YES. AND THE DATABASE THAT CONTROLS THAT WE COMPARED MR. STANKO'S IMAGE TO WERE ACQUIRED UNDER THE SAME KIND OF ACTIVATION CONDITION OF A CPT AND SO ARE DIRECTLY COMPARABLE.

MR. DIGGS: YOUR HONOR, THAT WOULD BE BASICALLY THE SHOWING. AND AGAIN--

THE COURT: QUITE FRANKLY, MOST OF WHAT YOU ASKED YOU CAN ASK IN THE PRESENCE OF THE JURY. YOU JUST CAN'T MAKE ANY REFERENCE TO DR. SPICER OR HIS CONCLUSIONS OR ASK THE WITNESS TO JUDGE THE CREDIBILITY OR THE VORACITY OF THE WITNESS.

MR. DIGGS: WELL, NO, I'M NOT.

THE COURT: YOU'RE NOT LISTENING.

MR. DIGGS: I AM. LET ME PHRASE IT THIS WAY.

THE COURT: NO. LET ME TELL YOU. AND I NEED YOU TO LISTEN TO ME VERY CAREFULLY. OKAY? FOCUS. ALL RIGHT.

MR. DIGGS: YES, MA'AM. ALL RIGHT.

THE COURT: ALL RIGHT. YOU CAN ASK HIM ALL THE QUESTIONS YOU JUST ASKED WITH THE EXCEPTION OF -- YOU CAN ASK HIM ABOUT THE SOFTWARE THAT WAS USED, THE DIFFERENT KINDS THAT ARE USED, AND THE METHODOLOGY.

YOU CAN ASK HIM WHETHER MR. STANKO'S PET SCAN WAS TAKEN WHEN HE WAS AT REST OR WHETHER -- THE

CONDITIONS THAT YOU TALKED ABOUT.

YOU CAN -- THE ONLY QUESTION THAT RAISES MY CONCERN WAS ABOUT THE INVALID COMPARISON OF THE CLINICAL SUBJECT. AND I HAVE TO LOOK BACK AT THE REALTIME TO TELL YOU EXACTLY THE QUESTION THAT CONCERNED ME. JUST GIVE ME A MOMENT.

BUT OTHER THAN THAT, YOU CAN ASK ALL THOSE QUESTIONS. YOU -- WE DIDN'T EVEN NEED TO DO A PROFFER. NONE OF THOSE QUESTIONS IN MY ESTIMATION ARE PITTING.

MR. DIGGS: WELL, THERE WERE TWO QUESTIONS SPECIFICALLY ABOUT THE SOFTWARE THAT DR. SPICER USED. AND IF THE STATE WOULD STIPULATE--

THE COURT: YOU CAN ASK ABOUT THE SOFTWARE WITHOUT MAKING REFERENCE TO DR. SPICER. YOU CAN ASK HIM ABOUT THE METHODOLOGY.

MR. DIGGS: YOUR HONOR--

THE COURT: YOU CAN SIMPLY ASK IS THERE A TYPE OF SOFTWARE CALLED -- AND I -- WHAT LOOKS LIKE HERMES, BUT I KNOW THAT'S NOT HOW IT'S PRONOUNCED. I DON'T HAVE A PROBLEM WITH THAT.

THE PROBLEM IS WHEN YOU DRAW THE COMPARISON AND YOU ASK HIM TO ASK IF SOMEONE ELSE'S TEST RESULTS ARE VALID OR NOT.

MR. DIGGS: I ASKED HIM IF IT WAS A VALID USE OF

THE SOFTWARE.

THE COURT: WELL, QUITE FRANKLY, THERE'S SOME FOUNDATION PROBLEMS WITH THAT, TOO.

MR. DIGGS: WELL, I CAN CERTAINLY LAY THE FOUNDATION FOR IT.

THE COURT: WHEN YOU WERE ASKING ABOUT WHETHER OR NOT A -- WHETHER ANOTHER DOCTOR'S ANALYSIS WAS VALID AND HOW THEY PERFORMED IT AND WHETHER IT'S VALID, AND THEY HAVE ALREADY TESTIFIED, AND YOU KNOW THEY ARE ADVERSE AND YOU KNOW THAT'S THE SUBJECT OF THEIR OPINION AND YOU PLAN TO CALL THEM ANY WAY, IT'S PITTING. STAY AWAY FROM IT.

THE REST OF THE QUESTIONS I DON'T HAVE ANY PROBLEM WITH. YOU ASK HIM ALL DAY LONG. I DON'T THINK THERE'S ANYTHING RUN AFOUL OF THE EVIDENTIARY RULE.

MR. DIGGS: WELL, THE REASON I BROUGHT DR. WU HERE WAS TO GET TESTIMONY IN THE RECORD ABOUT THIS PARTICULAR SOFTWARE AND HOW IT IS TO BE PROPERLY USED.

THE COURT: YOU CAN TALK TO HIM ABOUT THAT WITHOUT MAKING ANY REFERENCE TO DR. SPICER OR THE CREDIBILITY OF DR. SPICER'S TESTIMONY.

MR. DIGGS: NOW, HERE IS--

THE COURT: AND YOU JUST DID THE VERY THING.

MR. DIGGS: HERE'S WHAT I'M RECOMMENDING AS OPPOSED TO HAVING TO SUBPOENA DR. SPICER TO COME HERE FROM CHARLESTON TO SIMPLY STIPULATE THAT THE HERMES BRASS WAS THE TYPE OF SOFTWARE THAT HE USED IN HIS ANALYSIS.

THE COURT: I DON'T THINK THE STATE'S GOING TO DO THAT.

MR. DIGGS: WELL YOUR HONOR, HE JUST TOLD ME THAT THIS MORNING.

THE COURT: I DON'T KNOW WHAT Y'ALL DISCUSSED. I WAS NOT A PARTY TO THAT. UNLESS IT WAS REDUCED TO A WRITTEN STIPULATION OR PLACED ON THE RECORD, IT'S NOT ENFORCEABLE.

MR. DIGGS: WELL, THEN WE WILL SUBPOENA HIM AND BRING HIM IN TOMORROW.

THE COURT: IT'S SIXTY-FIVE MILES. IT TAKES AN HOUR. HE WILL BE ALL RIGHT. AND I DOUBT WE PROBABLY NEED TO SUBPOENA HIM. IF YOU CALL HIM, HE'LL PROBABLY JUST COME.

MR. DIGGS: WELL, YOUR HONOR, THE LAST THREE DAYS I HAVE ASKED FOR INFORMATION. IN FACT, I WOULD ASK YOUR HONOR TO TELL THE STATE TO PROVIDE ME WITH THE INFORMATION THAT DR. SPICER HAD WHEN HE PRESENTED HIS TESTIMONY. THAT'S ALL I WANT TO DO.

THE COURT: THE STATE IS REQUIRED TO GIVE TO YOU

WHAT THEY HAD IN THEIR POSSESSION. THEY'VE REPRESENTED TO THE COURT -- AND I HAVE NO REASON TO QUESTION IT -- THAT THEY HAVE BEEN WAITING FOR IT THE SAME WAY YOU HAVE BEEN WAITING FOR IT.

I CANNOT REQUIRE THEM TO TURN OVER SOMETHING THEY DON'T HAVE PHYSICALLY IN THEIR POSSESSION AND WHERE THEY HAVE INDICATED TO THE COURT THAT THEY ATTEMPTED TO GET. I DON'T KNOW WHY YOU ALL JUST DIDN'T HAVE HIM LEAVE IT WHEN HE WAS HERE TO BEGIN WITH.

MR. DIGGS: WELL, BECAUSE HE HAD IT ON HIS COMPUTER HARD DRIVE.

THE COURT: WELL--

MR. DIGGS: AND TO BE HONEST WITH YOU--

THE COURT: -- GOT CDR'S. I MEAN, THERE'S A WALMART RIGHT DOWN THE STREET. I'M SURE SOMEBODY IN THE BUILDING HAS A CD REWRITE--

MR. DIGGS: YOUR HONOR, BECAUSE DR. SPICER WAS A REPLY WITNESS, I DIDN'T KNOW ABOUT HIM IN ADVANCE. I HAD NO KNOWLEDGE THAT HE WAS GOING TO TESTIFY OR ABOUT WHAT HE WAS GOING TO TESTIFY.

THE COURT: NOR -- YOU'RE NOT ENTITLED TO.

MR. DIGGS: WELL, THAT'S WHY I'M ASKING NOW.

THE COURT: BUT I'M NOT GOING TO GO IN CIRCLES ABOUT IT. THIS IS NOT A DIALOGUE BETWEEN YOU AND THE

COURT. YOU ALL COULD HAVE GOT THAT INFORMATION FROM HIM WHEN HE WAS HERE. HE WAS HERE FOR A LONG AMOUNT OF TIME.

MR. DIGGS: YOUR HONOR, HE'S AN EXPERT AND I'M NOT. I WOULD JUST POINT OUT--

THE COURT: MR. DIGGS? MR. DIGGS. I'M NOT GOING TO -- I'VE RULED. NOT A TWO WAY DIALOGUE. I DON'T KNOW WHAT THE CIRCUMSTANCES WERE NOR DO I AT THIS MOMENT BELIEVE THEY ARE CRUCIAL TO ANY DECISION THAT I HAVE MADE.

HE WAS A REBUTTAL WITNESS. THEY HAD NO DUTY TO TELL YOU HE WAS GOING TO BE HERE OR THAT HE WAS GOING TO TESTIFY OR WHAT THE SUBSTANCE OF HIS TESTIMONY WAS GOING TO BE.

NOW, HAVING SAID THAT, HE WAS HERE FOR A LONG TIME. THERE'S NOTHING THAT PRECLUDED YOU OR THE STATE, AND THAT WAS MY PONDER. I'M NOT PLACING THE ONUS ON ANYONE.

EITHER ONE OF YOU COULD HAVE GOTTEN A COPY OF WHAT HE HAD. IT'S SIMPLY A MATTER OF GETTING A REWRITE DISK, WHETHER IT'S ON HIS HARD DRIVE OR NOT AND HAVING IT COPIED BEFORE HE LEFT.

HINDSIGHT IS ALWAYS 20/20. AND WHEN YOU'RE DEALING WITH A DOCTOR WHO HAS A VERY BUSY SCHEDULE, I KIND OF DOUBT WE'RE AT THE TOP OF HIS FOOD CHAIN

RIGHT NOW.

IN ANY EVENT, I -- BASED ON WHAT THE STATE HAS REPRESENTED TO ME, AND I HAVE NO REASON TO DOUBT THAT, THERE IS NOT ANY DELIBERATE ATTEMPT TO KEEP THIS INFORMATION FROM YOU.

THEY HAVE BEEN STRUGGLING TO GET IT THE SAME WAY YOU HAVE BEEN. AND IT'S MY UNDERSTANDING YOU NOW HAVE IT AND THEY DON'T. IS THAT CORRECT?

MR. DIGGS: I HAVE WHAT?

THE COURT: THAT YOU HAVE HIS INFORMATION AND THEY DO NOT.

MR. DIGGS: I HAVE THE...

THE COURT: IS THAT CORRECT?

MR. DIGGS: THE NAME OF THE SOFTWARE. I DON'T HAVE THE IMAGES THAT HE PRODUCED.

THE COURT: SO NEITHER OF YOU HAVE HIS IMAGES AT THIS POINT. IS THAT CORRECT?

MR. HEMBREE: THAT'S CORRECT, YOUR HONOR. WE ARE WAITING--

THE COURT: HE INDICATED THEY WOULD BE HERE BY FEDERAL EXPRESS TODAY; IS THAT CORRECT?

MR. HEMBREE: THAT'S CORRECT.

THE COURT: SO THEN AS SOON AS YOU GET THEM, YOU WILL TURN THEM OVER TO MR. DIGGS.

MR. HEMBREE: THAT'S CORRECT.

THE COURT: CORRECT?

MR. DIGGS: YOUR HONOR, JUST FOR THE RECORD, THAT'S NOT GOING TO BE TIMELY. I HAVE GOT MY WITNESS HERE TODAY FROM CALIFORNIA. HE WAS SUPPOSED TO LEAVE HERE AT 4:00 TO GET ON A FLIGHT. BUT WE'LL MOVE ON.

THE COURT: THE LOGISTICS OF DR. WU'S TRAVEL IS WITHIN YOUR CONTROL.

MR. DIGGS: THANK YOU.

THE COURT: AND YOU KNOW, I'M GOING TO MAKE A COMMENT AND I HOPE THAT YOU TAKE IT TO HEART. I KNOW THE TEMPERS ARE RUNNING HIGH. I KNOW THAT YOU ALL FEEL YOU HAVE A LOT AT STAKE IN THIS TRIAL. I'M EXTREMELY ACCOMMODATING. PLEASE DON'T TEST IT. OKAY?

SO WHY DON'T WE TAKE A FEW MINUTES, YOU COLLECT YOURSELF, STEP BACK, GET A LITTLE PERSPECTIVE, AND THEN WE'LL CONTINUE.

AND IN THE MEANTIME, IF THE STATE WOULD CHECK TO SEE IF THEY HAVE RECEIVED THE INFORMATION FROM THE DOCTOR OR IF YOU COULD CALL HIS OFFICE AND SEE WHAT THE TIMING WILL BE ON THE RECEIPT OF THAT INFORMATION.

AND FOR THE RECORD, THE COURT IS MAKING AN AFFIRMATIVE FINDING THAT THE STATE HAS NOT IN ANY WAY ACTED DILATORY IN TURNING THE INFORMATION OVER TO THE

DEFENSE, THAT THEY ACTED TIMELY IN RESPONSE TO THE DEFENSE'S REQUEST.

AND THE COURT HAS FOUND NO -- NO REASON TO QUESTION WHAT'S BEEN REPRESENTED BY THE STATE. AND THE FACT THAT EVERYONE HAS HAD SORT OR A HINDSIGHT DECISION TO GET THIS INFORMATION DOES NOT IN ANY WAY MAKE THE STATE'S RESPONSE UNTIMELY.

MR. HEMBREE: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME. WE WILL BE AT EASE FOR A FEW MOMENTS. DR. WU, YOU MAY STEP DOWN. DON'T DISCUSS YOUR TESTIMONY. THANK YOU, SIR.

(WITNESS LEFT THE STAND.)

(WHEREUPON A RECESS WAS HAD.)

THE COURT: IS THE STATE READY TO PROCEED?

MR. HEMBREE: YES.

THE COURT: IS THE DEFENSE READY? IS AVAILABILITY--

MR. DIGGS: YOUR HONOR, WE LEFT A MESSAGE. WEREN'T ABLE TO GET A TELEPHONE ANSWER BY HIM, BUT WE LEFT--

THE COURT: WELL, YEAH. IT'S 5:00. I FIGURE IT'S A STATE INSTITUTION. THEY'VE PROBABLY GONE HOME.

MR. HUMPHRIES: WE LOCATED DR. SPICER'S HOME PHONE NUMBER AS WELL AS THE CELLPHONE NUMBER AS WELL

AS PROVIDED BOTH TO THE DEFENSE.

THE COURT: PERFECT. LET'S TRY TO SEE WHAT DR. SPICER'S SCHEDULE IS. I SUSPECT HE'LL ACCOMMODATE US WITHOUT A SUBPOENA.

(JURY ENTERED THE COURTROOM AT 5:00 PM.)

THE COURT: LADIES AND GENTLEMEN, YOU MAY BE SEATED. WE APPRECIATE YOUR PATIENCE. WE WILL NOW RESUME WITH THE TESTIMONY OF DR. WU. YOU MAY PROCEED WHEN YOU'RE READY.

MR. DIGGS: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME.

BY MR. DIGGS:

Q DR. WU, HOW DOES ONE GO ABOUT READING THE PET SCAN DATA ONCE THAT DATA HAS BEEN GATHERED BY THE PET SCAN?

A WELL, THERE ARE SEVERAL WAYS THAT ONE CAN REVIEW A SCAN. ONE OF THEM IS -- WHICH IS THE MOST COMMON WAY -- IS TO RELY ON CLINICAL EXPERIENCE WITH SPECIFIC IMAGING OR BALANCING QUESTION.

SO, FOR EXAMPLE, I HAVE REVIEW 5000 PET SCANS OF NEUROPSYCHIATRIC INDIVIDUALS DOING THE CPT OR THE ACTIVATION TASK, SO I HAVE, YOU KNOW, OVER A DOZEN YEARS OF EXPERIENCE LOOKING AT THAT SPECIFIC TYPE.

Q ALL RIGHT. NOW, YOU'RE ASKING ABOUT -- YOU MENTIONED THE CPT.

A YES.

Q WHAT DO YOU MEAN BY THAT?
A WELL, THE CPT TASK -- THERE ARE TWO BASIC WAYS THAT THE SCAN CAN BE DONE.
Q OKAY.
A ONE OF THEM IS A RESTING STATE WHERE THE SUBJECT IS JUST RESTING WITHOUT ANY TASK, AND THE OTHER IS WHEN THEY'RE ASKED TO DO SOME TYPE OF ACTIVATION TASK. AND THIS IS KIND OF LIKE A DIFFERENCE BETWEEN A RESTING EKG AND A TREADMILL STRESS TEST.
Q OKAY. NOW, IN MR. STANKO'S CASE, WHEN HE WENT DOWN AND HAD HIS PET SCAN DONE, WHAT STATE WAS HE IN?
A HE WAS IN AN ACTIVATED STATE WHICH WOULD BE LIKE A TREADMILL STRESS TEST.
Q ALL RIGHT. AND OF COURSE, THAT WAS DONE -- TELL US AGAIN, REFRESH OUR MEMORIES IF YOU WOULD WHAT WE DID IN THIS CASE, IF YOU KNOW, OR WHAT WAS DONE WITH MR. STANKO TO PRODUCE THAT ACTIVATED STATE.
A WELL, I HAVE ON THE SCREEN HERE AN EXAMPLE OF WHAT WE DID DURING AN ACTIVATION--
Q OKAY.
A -- FOR THE JURORS, AND SO BASICALLY DURING THIS ACTIVATED -- ACTIVATION TASK THE CLINICAL SUBJECT IS ASKED TO PRESS A BUTTON WHENEVER A ZERO COMES ON THE SCREEN. AND THIS IS ONE VARIATION OF DOING PET SCANS AS OPPOSED TO ANOTHER VARIATION WHICH IS JUST TO HAVE THE SUBJECTS LYING

DOWN IN A DARK ROOM WITHOUT DOING ANY TASK.

Q WHY WOULD IT MATTER? WHY WOULD YOU WANT TO HAVE A PET SCAN DONE WITH AN ACTIVATION PROCESS OCCURRING?

A WELL, THE REASON WHY AN ACTIVATION PROCESS WOULD BE SUPERIOR TO A RESTING PROCESS ACCORDING TO THE LITERATURE IS THAT DURING A RESTING STATE, WHICH IS THE WAY MOST CENTERS IN THE COUNTRY DO IT, AND -- IT -- YOU HAVE WHAT WE CALL GREATER VARIABILITY, THAT IS MORE NOISE, BECAUSE DURING A RESTING STATE THERE'S NO ASSIGNED TASK THAT THE BRAIN HAS TO THINK ABOUT.

AND SO THE BRAIN CAN'T THINK OF NOTHING. THE BRAIN HAS TO THINK OF SOMETHING. AND SO IF YOU'RE NOT ASKED TO DO A SPECIFIC TASK BY THE DOCTOR, YOUR BRAIN WILL LAST -- WHATEVER TASK YOU THOUGHT ABOUT WILL BE IMPORTANT, AND SO YOU WANT TO HAVE A LOT OF VARIATION IN WHAT PEOPLE THINK ABOUT.

AND SO THIS CREATES WHAT WE CALL A LOT OF NOISE WHICH MAKES IT HARDER TO DETECT CLINICAL DIFFERENCES.

AND THERE ARE A LOT OF LEARNED TREATISES AND PEER REVIEWED MEDICAL ARTICLES WHICH SHOW THAT AN ACTIVATION TASK WHERE YOU HAVE AN ASSIGNED TASK ACTUALLY HAS A LOT LESS NOISE THAN A -- A RESTING TASK WHICH IS -- AND SO THAT -- THIS WOULD BE -- RESULT IN A BETTER SCAN.

AND SO THERE ARE ACTUALLY STUDIES THAT HAVE BEEN PUBLISHED, FOR EXAMPLE IN 1993 WHICH SHOW THAT AN

ACTIVATION SCAN HAS IMPROVED RELIABILITY OVER RESTING SCAN, AND THIS STUDY IN 2003 BY CHAN (SIC) IN WHICH IT'S SHOWN THAT AN ACTIVATION SCAN IS MORE ACCURATE AT DETECTING BRAIN ABNORMALITIES THAN A RESTING SCAN.

SO FOR EXAMPLE, WHEN IT IS DIFFICULT TO DETECT A DIFFERENCE WITH SUBJECTS AT REST, ONE CAN DETECT A DIFFERENCE BECAUSE IT'S LESS NOISE. AND SO IT'S KIND OF LIKE IF YOU'RE TRYING TO SEE A PICTURE OR LISTEN TO A RADIO SOUND, IF THERE'S A LOT OF STATIC IN THE BACKGROUND, IT MAY BE HARD TO IDENTIFY THE TUNE.

BUT IF THERE'S LESS STATIC IN THE BACKGROUND, IT MAY BE EASIER TO IDENTIFY THE TUNE OR TO HEAR WHAT THE ANNOUNCER IS SAYING.

AND SO THE SAME THING IS TRUE WITH BRAIN SCANS. AND SO IF YOU USE AN ACTIVATION TASK, IT'S KIND OF LIKE REDUCING THE STATIC ON A RADIO SO THAT YOU CAN GET A CLEARER SIGNAL.

Q ALL RIGHT. NOW, IN MR. STANKO'S CASE, DR. EINHORN WENT DOWN AND ACCOMPANIED MR. STANKO DURING THAT EXAM. AND TELL US ONCE AGAIN WHAT HIS ROLE WAS IN THAT PROCEDURE.

A DR. EINHORN'S ROLE WAS TO ADMINISTER THE ACTIVATION TASK TO MR. STANKO DURING THE PET SCAN. AND SO DR. EINHORN RAN THIS BASIC TASK, THIS BASIC ACTIVATION TASK WHERE THE SUBJECT HAD TO PRESS A SPECIFIC KEY OR BUTTON

WHENEVER THE SPECIFIC SIGNAL APPEARED.

AND SO THAT WAS DR. EINHORN'S ASSIGNED RESPONSIBILITY DURING THE PET SCAN.

Q OKAY. SO -- AND THAT TEST WAS NOT A TEST THAT'S SIMPLY ARBITRARILY MADE UP. TELL US HOW THAT TEST WAS DEVISED AND HOW IT WAS TESTED AND ACCEPTED INTO THE PRACTICE OF YOUR AREA OF EXPERTISE.

A WELL, THIS IS A TEST THAT'S BEEN USED MOSTLY BY IMAGING CENTERS THAT HAVE A LOT OF EXPERIENCE WITH NEUROPSYCHIATRIC PATIENTS. AND SO, FOR EXAMPLE, IRVINE AND MT. SINAI SCHOOL OF MEDICINE IN NEW YORK AND WAKE FOREST UNIVERSITY AND OTHERS WITH DR. FRANK WOODS HAD USED THIS KIND OF CPT OR CONTINUANCE PERFORMANCE TEST TASK BECAUSE IT'S BEEN FOUND TO BE ESPECIALLY USEFUL FOR LOOKING AT PATIENTS WITH NEUROPSYCHIATRIC DISORDERS SUCH AS DEVELOPMENTAL BRAIN PROBLEMS, BRAIN INJURY, AND SO THIS HAS BEEN SOMETHING THAT HAS BEEN DEVELOPED IN THE FIELD OF BRAIN IMAGING WITH SPECIALISTS IN THE AREA OF NEUROPSYCHIATRY.

NOW, OTHER TYPES OF PET IMAGERS WHO DON'T HAVE A LOT OF EXPERIENCE WITH NEUROPSYCHIATRY GENERALLY DON'T USE THE ACTIVATION TASK. THEY GENERALLY JUST HAVE THE SUBJECT LYING AT REST BECAUSE IT'S EASIER AND BECAUSE FOR THINGS LIKE BRAIN TUMORS YOU DON'T REALLY NEED AN ACTIVATION TASK.

IT'S ONLY WHEN YOU'RE DEALING WITH NEUROPSYCHIATRIC PROBLEMS THAT REQUIRE THE ABILITY TO HAVE A GREATER SIGNAL DETECTION CAPABILITY THAT YOU NEED THE SUPERIOR PERFORMANCE THAT AN ACTIVATED TASK PROVIDES IN TERMS OF DETECTING BRAIN ABNORMALITIES.

Q ALL RIGHT. NOW, LET ME GO BACK AND ASK YOU, CAN YOU SHOW US WHAT THE DATA LOOKED LIKE FROM MUSC?

A YES. WELL, THE DATA FROM MUSC WAS IN WHAT WE CALL A DICOM IMAGE FILE AND--

Q DICOM IMAGE FILE?

A YES, A DICOM IMAGE FILE. AND SO BASICALLY IT LOOK -- LET'S SEE HERE... SO IT LOOKS LIKE THIS. SO THIS IS A WAY THAT IMAGE LOOKS. IT'S A SERIES OF NUMERICAL FILES.

Q AND IF YOU OPEN ONE OF THOSE FILES, WHAT DOES IT LOOK LIKE?

A NOW, IN ORDER TO OPEN THAT FILE ONE NEEDS WHAT WE CALL A DICOM VIEWER. AND SO -- HERE. SO THIS IS WHAT HIS IMAGE LOOKS LIKE WITH A DICOM VIEWER. WE'RE ABLE TO TAKE THOSE MATHEMATICAL IMAGE FILES AND LOOK IN IT WITH THIS TYPE OF SOFTWARE.

Q NOW, IN THIS SOFTWARE CAN YOU MOVE THAT AND GO THROUGH THE ENTIRE SCAN?

A YES. SO WHAT WE CAN DO IS THAT I -- YOU CAN MANIPULATE THE SOFTWARE BY SLICING THROUGH LIKE THIS OR WE CAN SLICE SO -- SO WHAT I'M DOING HERE IS I AM MOVING DOWN

TRANSAXIALLY LIKE THIS SO THAT IF YOU LOOK ON THE LEFT HAND COLUMN YOU WILL NOTICE YOU'RE LOOKING AT SLICES AT DIFFERENT LEVELS.

AND SO -- AND THEN WE CAN ALSO MOVE ACROSS WHAT WE CALL SAGGITAL. SO THIS IS ANOTHER WAY OF LOOKING AT IT. SO IF YOU LOOK AT THE RIGHT HAND COLUMN, YOU'RE SEEING DIFFERENT SAGGITAL VIEWS. AND THEN YOU CAN ALSO MOVE WHAT WE CALL CHROMALLY (SIC) WHICH IS MOVING THIS WAY, SO THAT WE'RE GOING FROM FRONT TO BACK. SO THESE ARE MULTIPLE WAYS OF LOOKING AT THE DATA.

Q OKAY. NOW, CAN YOU LOOK AT -- WHEN YOU LOOKED AT THIS DATA -- AND DID YOU LOOK AT THIS TYPE OF IMAGE WHEN YOU INITIALLY CAME ON TO THIS CASE?

A YES. I LOOKED AT THE DICOM IMAGE FILE--

Q AND SO YOU BASICALLY LOOKED AT THESE IMAGES?

A YES, THAT'S CORRECT.

Q NOW, AT THAT TIME YOU KNEW THAT MR. STANKO HAD BEEN ENGAGED IN A CONTINUANCE PERFORMANCE TEST AT THE TIME OF THE SCAN; IS THAT CORRECT?

A YES. I WAS FULLY AWARE OF THAT BECAUSE THAT HAS BEEN THE -- THE STANDARD TASK THAT I AS A NEUROPSYCHIATRIST WHO SPECIALIZE IN BRAIN IMAGING HAVE USED FOR ALMOST 20 YEARS, AND SO I HAVE EXTENSIVE EXPERIENCE LOOKING AT THIS WITH NORMAL CONTROLS, WITH SCHIZOPHRENICS, WITH TRAUMATIC BRAIN INJURY, ALL POINT TO THIS ACTIVATION TASK.

Q OKAY. AND THIS IS ALL INVOLVED WITH NEUROPSYCHIATRIC CASES; IS THAT CORRECT?

A YES. AND AS A NEUROPSYCHIATRIST AND -- WHO SPECIALIZES IN TRYING TO UNDERSTAND WHAT HAPPENED IN THE BRAIN OF PEOPLE WITH SCHIZOPHRENIA, WITH TRAUMATIC BRAIN INJURY, WE FEEL THAT THIS PROVIDES US WITH A SUPERIOR ABILITY TO LOOK INSIDE THE LIVING BRAIN AND TO REDUCE THE STATIC, SO TO SPEAK, THAT THE BRAIN HAS IN TERMS OF VIEWING.

Q NOW, WHEN YOU LOOK AT THAT WITH YOUR EXPERIENCE -- WHEN I SAY THAT, I MEAN MR. STANKO'S SCAN UNDER THIS PARTICULAR VIEWER -- AND THIS IS CALLED A DICOM VIEWER?

A THIS IS A DICOM VIEWER WHICH IS A -- A DIGITAL IMAGE FILE VIEWER.

Q DO YOU SEE ANYTHING ABNORMAL ABOUT THIS SCAN?

A YES. IF I LOOK AT THIS WITH A DICOM VIEWER, I NOTE THAT IF WE LOOK HERE THAT THE FRONTAL LOBE METABOLISM IN MR. STANKO ON THE LOWER SLICES IS UNUSUALLY LOW COMPARED TO REFERENCE REGIONS SUCH AS THE BACK OF HIS HEAD.

AND SO IF WE LOOK IN THIS AREA HERE, THIS AREA HERE HAS A VALUE OF ROUGHLY -- AND IF YOU WILL NOTICE THERE'S A NUMERICAL VALUE RIGHT OVER HERE. SO AS WE GO OVER HERE, YOU WILL NOTICE THERE'S A NUMERICAL VALUE SAY 19,948 HERE WHEREAS OVER HERE WE'RE SEEING THE NUMERICAL VALUE OF 32,000.

SO IF YOU DIVIDE 19 BY 32, YOU ARE GETTING ROUGHLY A -- AROUND -- A RATIO OF AROUND SLIGHTLY MORE THAN HALF. SO THE FRONTAL LOBE OF MR. STANKO'S BRAIN IS ROUGHLY HALF THE VALUE OR THE BACK OF HIS BRAIN HERE, AND SO THAT'S A KIND OF INFORMATION THAT I LOOK AT WHEN I'M LOOKING AT THIS BRAIN DOING THIS SPECIFIC KIND OF TASK.

Q ALL RIGHT. AND AGAIN, EXPLAIN TO US SPECIFICALLY HOW THESE NUMBERS PLAY INTO THE ANALYSIS THAT YOU INITIALLY MADE.

A WELL--

Q PLAY INTO IT.

A WELL, WHEN I'M LOOKING AT THE BRAIN, I LOOK AT THIS BRAIN WITH ALMOST 20 YEARS OF LOOKING AT THOUSANDS OF BRAINS USING THIS SPECIFIC TASK, SO I HAVE SOME IDEA OF WHAT NORMAL BRAINS LOOK LIKE WITH THIS SPECIFIC TASK.

AND GENERALLY SPEAKING, THE FRONTAL LOBE ACTIVITY IN THIS AREA HERE IS MORE ACTIVE THAN IN THIS AREA HERE, AND THAT WAS SOMETHING THAT WE WEREN'T SHOWING ON THE -- THE AMPAC (SIC) VIDEO EARLIER.

Q ALL RIGHT. WE WILL COME BACK TO THAT IN A SECOND. GO BACK UP TO THE FRONTAL LOBE AREA WITH YOUR CURSOR, IF YOU WOULD.

A YES.

Q AND YOU'RE READING, FOR EXAMPLE, THERE'S 21,203--

A YES, 20,000 -- YES. UH-HUH.

Q ARE YOU SAYING THAT YOU CAN TELL THAT NUMBER IS LOWER THAN IT SHOULD BE OR WHAT ARE YOU SAYING?
A YES. WE'RE LOOKING AT THE RATIO OF THE FRONT TO THE BACK. THAT'S ONE OF WHAT WE CALL THE METRICS OR ONE OF THE PARAMETERS THAT WE USE WHEN COMPARING THINGS. SO FOR EXAMPLE, WHEN YOU'RE LOOKING AT STOCKS, YOU LOOK AT A METRICS LIKE PRICE TO EARNING RATIO OR PE RATIO.

YOU DON'T JUST LOOK AT THE PRICE OR THE EARNING BY ITSELF, YOU LOOK AT THE PRICE OF EARNING RATIO WHEN YOU EVALUATE STOCKS.

AND THE SAME THING WITH THE BRAIN. BRAIN IS KIND OF LIKE LOOKING AT A RATIO OF DIFFERENT NUMBERS LIKE THE FRONT TO THE BACK, THE SLICE TO EARNING RATIO IN THIS CASE AND -- AND WOULD BE COMPARABLE IN STOCKS.
Q WHAT -- CAN YOU TELL US WHAT A HEALTHY RATIO SHOULD BE OR WHAT A HEALTHY NUMBER SHOULD BE?
A WELL, A HEALTHY NUMBER WOULD BE A VALUE THAT WILL BE GREATER THAN ONE. SO TYPICALLY AT THIS KIND OF LEVEL THE FRONTAL LOBE WOULD BE EQUAL TO OR GREATER IN ACTIVITY THAN THE BACK.

AND SO FOR THIS CPT TASK, THAT WOULD BE -- A TYPICAL NORMAL VALUE WOULD BE ONE OR GREATER. AND IT'S NOT UNCOMMON TO HAVE NORMAL VALUES THAT CAN HAVE A RATIO THAT IS TO SAY 1.4 VERSUS IN THIS CASE A RATIO OF ALMOST HALF.
Q ALL RIGHT. EXPLAIN TO US WHAT YOU JUST SAID--

A OKAY. SO--
Q -- WITH RESPECT TO THE HEALTHY -- WHAT THE RATIO WOULD BE OF A HEALTHY BRAIN AS OPPOSED TO WHAT THE RATIO WAS IN MR. STANKO'S BRAIN.
A IT WOULD BE EASIER IF I COULD PULL UP THE PART WHICH SHOWS THE NORMAL CONTROL AND STANKO SIDE BY SIDE.
Q ALL RIGHT. DO THAT FOR US, THEN.
A OKAY. SO IN THIS CASE HERE WE'RE LOOKING AT STANKO'S BRAIN VALUES HERE COMPARED TO A NORMAL CONTROL AVERAGE HERE. AND SO IF YOU WERE TO LOOK AT HOW ACTIVE THIS AREA IS HERE, YOU WOULD SEE THAT IT'S MUCH LOWER IN THIS SPECIFIC AREA THAN A NORMAL CONTROL AVERAGE. AND IF WE GO BACK TO OTHER SLICES HERE...
Q OKAY.
A IF YOU LOOK HERE AT THIS SLICE, FOR EXAMPLE, AND YOU LOOK AT THE NORMAL CONTROL AVERAGE HERE, YOU'LL SEE THAT THE NORMAL CONTROL HAS A VALUE HERE. AND IF YOU LOOK DOWN HERE -- LET'S SAY THAT YOU CALL -- THAT THIS RATIO HERE, ROUGHLY ABOUT .9 HERE, AND THIS BACK HERE WILL BE ROUGHLY SAY .8, SO THIS RATIO OF .9 FROM A .8.
Q ALL RIGHT. BY THAT YOU MEAN YOU'RE -- LET'S TAKE ONE OF THESE RED AREAS.
A YES.
Q AND THEN YOU'RE COMPARING IT TO ONE OF THE RED AREAS ON THE SCALE?

A YES.
Q ALL RIGHT. I'M SORRY. I INTERRUPTED YOU. GO AHEAD AND CONTINUE ON.
A YES. SO YOU WOULD SEE THAT THE NORMAL CONTROL SHOWS MORE ACTIVITY IN THE FRONT COMPARED TO THE BACK WHEREAS IN MR. STANKO'S BRAIN YOU'RE SEEING THAT HE ACTUALLY SHOWS IN SOME AREAS MORE ACTIVITY IN THE BACK THAN HE DOES IN THE FRONT.
Q NOW, TALK TO ME ABOUT THIS COLOR SCALE. HOW DO YOU DETERMINE HOW THAT SCALE FIGURES INTO YOUR ANALYSIS?
A WELL, THE WAY THIS COLOR SCALE WORKS -- LET'S SEE HERE -- IS THAT WE HAVE THIS COLOR SCALE AND THERE ARE BASICALLY 255 GRADATIONS. IT'S GOES FROM ZERO TO 256.
Q 255 COLORS?
A YES, UH-HUH, YES. AND SO, FOR EXAMPLE--
Q GOING FROM BLUE TO RED?
A YEAH, FROM BLUE TO RED. SO WITH THE COLOR SCAN BY 256 GRADATIONS. AND THEN WHAT WE DO IS THAT WE TAKE THE MINIMUM AND THE MAXIMUM OF A GIVEN PATIENT LIKE MR. STANKO'S BRAIN AND WE WOULD SAY THAT THE HIGH VALUE, THE MAXIMUM, WOULD BE ASSIGNED 255 OR THE RED, AND THE LOW VALUE OR THE MINIMUM IN MR. STANKO'S BRAIN WOULD BE ASSIGNED THE BLUE VALUE, OR ZERO.
Q ALL RIGHT. SO IN EFFECT YOU'RE SAYING IN YOUR MIND 255 UP HERE AT THE END OF THE RED?

A YES.
Q AND A ZERO DOWN HERE AT THE END OF THE BLUE?
A YES.
Q SO THAT YOU'RE USING ALL OF THE COLORS IN THE SCALE?
A YES. THIS WOULD BE A FULL WINDOW.
Q ALL RIGHT. NOW, IS THAT WHAT WAS DONE IN THIS CASE?
A YES. WE USE THE SAME METHOD FOR BOTH THE CONTROL AVERAGE AND MR. STANKO. THEY WERE BOTH FULLY WINDOWED SO THAT THEY COULD BE EQUALLY COMPARABLE SO THAT THE MAXIMUM VALUE IN THE CONTROL AND THE MAXIMUM VALUE IN STANKO BOTH ASSIGNED A 255 OR RED.
Q OKAY. I WAS JUST GOING TO ASK YOU ABOUT THAT. SAY IF WE GET THE REDDEST AREA ON MR. STANKO'S IMAGE.
A YES, FOR EXAMPLE, THIS AREA RIGHT THERE.
Q AND THAT WOULD BE A 255--
A YES.
Q -- IF MY EYES ARE ACCURATE.
A YES.
Q AND IF WE FOUND A SIMILARLY RED AREA OVER HERE?
A YES, SAY THIS AREA HERE.
Q IT WOULD LIKEWISE BE A 255?
A YES.
Q ALL RIGHT. AND WAS THAT DONE IN MR. STANKO'S CASE WHEN THIS PARTICULAR PET VISUAL -- PET SCAN WAS DONE BY YOURSELF?

A YES. SO THAT WE FULLY WINDOWED BOTH STANKO AND THE CONTROL AVERAGE DOING THE EXACT SAME PARAMETERS. THE MAXIMUM ON STANKO AND THE MAXIMUM ON A CONTROL WERE BOTH SET TO 255 AND THE MINIMUM ON STANKO AND THE MINIMUM ON THE CONTROL WERE BOTH SET TO ZERO SO THAT THE MAXIMUM WAS RED AND THE MINIMUM WAS BLUE.

AND SO THERE WAS NO DIFFERENCE IN HOW WE APPLIED THE COLOR SCALE TO MR. STANKO'S BRAIN. AND YOU CAN SEE, AS A MATTER OF FACT, THAT MOST OF MR. STANKO'S BRAIN, ESPECIALLY HERE, YOU GO HIGHER UP, YOU CAN SEE THAT THERE'S VERY LITTLE DIFFERENCE BETWEEN THE DISTRIBUTION OF THE RED AND BLUES BETWEEN MR. STANKO'S BRAIN AND THE NORMAL CONTROL AVERAGE BRAIN AT THE HIGHER LEVELS HERE.

IT'S ONLY WHEN WE GET DOWN TO THE LOWER LEVELS THAT WE SEE THAT THERE IS THIS ABNORMAL DECREASE. AND SO MR. STANKO HAS AN ABNORMAL DECREASE IN THE BASE OF HIS FRONTAL LOBE WHEREAS THE REST OF HIS BRAIN IS ESSENTIALLY PERFECTLY NORMAL AS FAR AS WE CAN TELL BY THE BRAIN SCAN.

SO WE DID SELECTIVELY APPLY A WINDOW DIFFERENT TO THAT -- THIS PARTICULAR AREA HERE DOWN HERE THAN WE DID TO THE REST OF THE BRAIN. IT'S THE SAME WINDOW APPLIED TO THE ENTIRE BRAIN FROM TOP TO BOTTOM.

IT'S JUST THAT YOU CAN SEE HERE, THIS PARTICULAR AREA IS MUCH BLUER ON THAN THIS PARTICULAR AREA BECAUSE THAT'S THE WAY MR. STANKO'S BRAIN IS. THIS PART OF HIS BRAIN IS

SIGNIFICANTLY LOWER.

AND IF YOU LOOK AT THE COLOR SCALE HERE YOU WILL SEE THAT THE COLOR SCALE HERE SHOWS THAT THE BLUER IS MUCH LOWER THAN THE FORCE ON THE RED OR YELLOW HERE. AND SO WE'RE SEEING THAT THE BLUE IS ROUGHLY HALF AS -- AS LOW AS CORRESPONDING RED OR YELLOW IN THIS PARTICULAR AREA.

AND SO WE USE THE SAME KIND OF WINDOWING ON BOTH BRAINS. AND YOU SEE THAT MOST OF THE BRAIN IS VERY SIMILAR. IT'S JUST THIS PARTICULAR AREA HERE, THE LOWER PART OF THE FRONTAL LOBE WHICH IS ABNORMALLY LOW.

Q ALL RIGHT. IF YOU ASSIGNED INCONSISTENT NUMBERS WITH THE COLOR SCALE, WOULD THAT BE SOMETHING THAT WOULD BE ACCEPTED WITHIN THE SCIENCE OF YOUR EXPERTISE, WITH THE PET SCAN?

A NO. YOU WOULD NEVER DISTORT THE SCAN BY SELECTIVELY LOWERING THE VALUE FROM ONE PARTICULAR AREA SUCH AS THIS AREA AND COMPARED TO OTHER AREAS IN ORDER TO FUDGE THE DATA. WE WOULD NEVER DO ANYTHING LIKE THAT.

Q AND THAT'S WHY YOU HAVE THE NUMERICAL SCALE THAT YOU CAN LOOK AT BY NUMBERS AND SEE THAT THEY'RE THE SAME; IS THAT CORRECT?

A YES. SO WHAT WE DID, WE APPLY THE SAME WINDOWING EQUALLY TO THE ENTIRETY OF MR. STANKO'S BRAIN AND ENTIRETY OF THE NORMAL CONTROL AVERAGE, AND WE CAN SEE THAT MR. STANKO'S BRAIN IS ENTIRELY NORMAL EXCEPT FOR THIS LOW

PART OF THE FRONTAL LOBE AREA RIGHT THERE.

Q NOW, LET ME ASK YOU ABOUT THIS DATABASE. THE NORMAL CONTROL AVERAGE, EXPLAIN TO US WHAT THIS IS AND HOW YOU ARRIVED AT THAT.

A WELL, THIS NORMAL CONTROL AVERAGE I'M COMPARING IS A NORMAL CONTROL AVERAGE OF SUBJECTS DOING THE CPT TASK WHICH WOULD BE THEIR APPROPRIATE COMPARISON FOR MR. STANKO.

THERE ARE OTHER DATABASES OUT THERE WHICH HAVE NORMAL CONTROLS WHICH ARE NOT DOING THE CPT TASK WHICH ARE DOING THE REST TASK, AND THAT WILL BE THE WRONG TYPE OF DATABASE COMPARED TO -- MR. STANKO'S BRAIN TO.

Q ALL RIGHT. HOW DID YOU GET THIS PARTICULAR DATABASE?

A THIS DATABASE WAS ACQUIRED BY SCREENING AND RECRUITING 56 NORMALS, AND THIS DATABASE -- AND HAVING ALL THESE NORMALS RUN THE CPT TASK DURING THEIR PET SCAN.

AND THIS IS SOMETHING THAT HAS BEEN SUBJECTED TO INDEPENDENT SCIENTIFIC PEER REVIEW IN A NUMBER OF ARTICLES WHICH I HAVE PUBLISHED WHICH ARE LISTED IN MY CV.

AND SO THIS IS A NORMAL DATABASE WITH THE APPROPRIATE CONDITION, CPT TASK, THAT -- WHICH IS THE SAME CONDITION THAT MR. STANKO IS -- WAS DOING AT THE TIME OF HIS SCAN.

Q ALL RIGHT. WOULD IT -- WOULD THIS BE ACCURATE? AND I'M NOT TRYING TO LEAD YOU HERE. I'M TRYING TO SEE IF I UNDERSTAND WHAT YOU'RE SAYING.

THIS COLOR SCALE RIGHT HERE REPRESENTS THE AVERAGE OF THE HEALTHY BRAINS DOING THE SAME TASK THAT MR. STANKO WAS ASSIGNED TO DO DURING HIS SCAN?

A YES.

Q AND THESE WERE OBTAINED IN THE NORMAL CONTROL AVERAGE VIA THE PET SCAN PROCESS?

A YES. THAT'S CORRECT. SO THAT WE USE THE RIGHT NORMAL CONTROL DATABASE TO COMPARE MR. STANKO'S TO. THE RIGHT ONE WOULD BE THE ONE IN WHICH THE CONTROLS ARE DOING THE SAME TASK AS MR. STANKO.

Q ARE THERE ANY COMMERCIALLY AVAILABLE SOFTWARE PRODUCTS THAT ARE AVAILABLE TO HELP READ PET SCAN DATA?

A THERE ARE COMMERCIALLY AVAILABLE SOFTWARE SUCH AS THE HERMES BRASS SOFTWARE WHICH CAN BE BOUGHT OFF THE SHELF WHICH HAVE THEIR OWN NORMAL CONTROL DATABASE.

Q ALL RIGHT. WHO IS A LIKELY CUSTOMER FOR THIS PARTICULAR MANUFACTURER?

A WELL, THESE WOULD BE LIKELY -- CUSTOMERS WOULD BE CENTERS THAT GENERALLY DON'T HAVE THEIR OWN DATABASE, NORMAL CONTROL DATABASE.

Q YOU'RE TALKING ABOUT MEDICAL CENTERS?

A MEDICAL CENTERS WOULD BE ONE SUCH FACILITY, AND GENERALLY CENTERS THAT DON'T HAVE AS MUCH EXPERIENCE WITH NEUROPSYCHIATRIC STUDIES.

Q NEUROPSYCHIATRIC STUDIES.

A YES.
Q YOU'RE NOT SAYING THEY ARE NOT EXPERIENCED, BUT SIMPLY IN THAT ONE AREA?
A YES. AND SO PLACES THAT HAVE MORE EXPERIENCE GENERALLY HAVE ACQUIRED THEIR OWN NORMAL CONTROL AND THEY GENERALLY HAVE THEIR NORMAL CONTROL DOING SOME TYPE OF TASK SO THAT THEY CAN REDUCE THE -- THE BACKGROUND HISS OR STATIC IN THE BRAIN.
Q ALL RIGHT. IF I WERE TO GO OUT AND PURCHASE THIS PARTICULAR SOFTWARE, FOR EXAMPLE, DID YOU -- DID I HEAR YOU SAY A DATABASE WOULD COME WITH IT?
A YES. THIS SOFTWARE COMES WITH A DATABASE OF SUBJECTS AT REST. AND THIS IS -- AND SO IF YOU WANTED TO USE A SOFTWARE. YOU WOULD HAVE TO MAKE SURE THAT THE SUBJECT THAT YOU'RE COMPARING THIS SOFTWARE WITH AN AT REST DATABASE IS ALSO AT REST.
Q WHAT WOULD WE GET -- WHAT WOULD HAPPEN IF YOU WERE TO COMPARE MR. STANKO'S PET RESULTS WITH THE DATABASE THAT WAS ACCOMPANYING COMMERCIALLY SOFTWARE -- COMMERCIALLY AVAILABLE SOFTWARE OF PEOPLE AT REST, THAT CONTAINED A DATABASE OF PEOPLE AT REST?
A WELL, IF ONE WERE TO TAKE A DATABASE OF PEOPLE AT REST AND COMPARE IT WITH A SUBJECT WHO WAS NOT AT REST BUT ACTIVATED, IT WOULD BE LIKE COMPARING APPLES WITH ORANGES.
YOU WOULD BE -- IT WOULD -- IT WOULD HAVE TO -- IT

WOULD RESULT IN PROBLEMS WITH MAKING SURE THAT ONE IS USING THE RIGHT COMPARISON AND ONE WOULD BE AT RISK FOR HAVING MORE STATIC OR NOISE WHICH WOULD OBSCURE THE SIGNAL.

AND SO IT WOULD RESULT IN AN INABILITY TO DETECT DIFFERENCES WHICH ARE PRESENT.

Q WOULD -- WOULD YOU USE IN YOUR PRACTICE AN AT REST DATABASE TO RENDER AN OPINION ON MR. STANKO'S SCAN?

A NO. IN MY PRACTICE I WOULD NEVER USE A DATABASE OF INDIVIDUALS AT REST TO COMPARE AN INDIVIDUAL IN AN ACTIVATED STATE BECAUSE IT WOULD IN MY OPINION NOT BE THE APPROPRIATE COMPARISON.

Q NOW, WOULD THAT BE IN ANY CASE OR IN CASES LIMITED TO THAT NEUROPSYCHIATRIC AREA THAT YOU SPOKE OF EARLIER?

A WELL, THIS WOULD BE CUSTOMARY PRACTICE FOR AN INDIVIDUAL WHO IS AWARE OF THESE ISSUES AND IS SOPHISTICATED IN TERMS OF THINKING ABOUT HOW TO TRY TO MAXIMIZE THE ABILITY TO SUPPRESS BACKGROUND NOISE AND BE ABLE TO LOOK AT THE KIND OF DIFFERENCES THAT WE SEE IN NEUROPSYCHIATRIC PATIENTS.

Q ALL RIGHT. DR. WU, I WANT YOU TO GO BACK TO THAT IMAGE OF MR. STANKO, THAT SCAN WHERE WE'RE LOOKING BACK UP INTO THE TOP OF THE -- THERE. AND I WANT YOU TO -- AND BASED ON THE NUMBERS, COULD YOU GIVE US AN ESTIMATE OF THE PERCENTAGE OF DECREASED ACTIVITY IN THE FRONTAL LOBE

FUNCTION AS SHOWN BY THAT SCAN?

A WELL, I WOULD SAY THAT MR. STANKO SHOWS APPROXIMATELY A 50 PERCENT DECREASE COMPARED TO A NORMAL SUBJECT IN THIS SPECIFIC AREA RIGHT HERE WHICH IS WHAT WE CALL THE FLOOR OF THE FRONTAL LOBE.

Q LET ME ASK YOU WHAT THAT AREA OF THE BRAIN IS RESPONSIBLE FOR DOING.

A WELL, THE FLOOR IN THE FRONTAL LOBE IS SOMETHING A -- THAT NEUROPSYCHIATRISTS LEARN ABOUT FROM THE FAMOUS PHINEAS GAGE CASE. IN THE PHINEAS GAGE CASE -- THIS IS A RECONSTRUCTION -- IN SEPTEMBER OF 1848 A RAILROAD WENT TO WORK IN -- RAILROAD AT THAT TIME WAS CHANTING DYNAMITE WHEN IT INADVERTENTLY WENT OFF AND WENT THROUGH THE VERY AREA THAT IS ABNORMAL IN MR. STANKO'S BRAIN, WHICH IS THE FLOOR OF THE FRONTAL LOBE AREA.

NOW, MR. GAGE SURPRISINGLY SHOWED NO OTHER CHANGE. HE WAS ABLE TO TALK, WALK, FEED HIMSELF. THE ONLY CHANGE THAT OCCURRED TO MR. GAGE AS A RESULT OF THIS -- BLOCK FLYING THROUGH HIS -- WHAT WAS THE FLOOR OF HIS FRONTAL LOBE IS THAT HE CHANGED HIS PERSONALITY FROM A DILIGENT AND RESPONSIBLE INDIVIDUAL TO SOMEONE WHO IS A FOUL-MOUTHED LIAR AND SOMEONE WHO IS VERY AGGRESSIVE AND INAPPROPRIATE.

AND THIS WAS ONE OF THE MOST FAMOUS CASES IN THE STUDY OF THE BRAIN BECAUSE IT HELPED TO SHOW THAT THIS --

THAT THE BRAIN HAD A SIGNIFICANT AFFECT ON REGULATING CERTAIN PARTS OF PEOPLE'S PERSONALITY AND THEIR BEHAVIOR. AND THIS WAS JUST A FIRST OF MANY SUCH STUDIES.

Q ALL RIGHT. NOT ONLY THE BRAIN, BUT SPECIFIC AREA OF THE BRAIN. WOULDN'T THAT BE CORRECT?

A YES, SPECIFIC AREA OF THE BRAIN. THE FRONTAL LOBE AREA OF THE BRAIN.

Q ALL RIGHT. LET'S GO BACK TO MR. STANKO'S. NOW, DO YOU HAVE ANY -- FIRST OF ALL, HAVE YOU SEEN THIS TYPE OF LIMITED FUNCTION BEFORE?

A YES, I HAVE.

Q AND ON HOW MANY OCCASIONS? HOW MANY OF THE 5000, FOR EXAMPLE, THAT YOU LOOKED AT, HOW MANY PEOPLE HAD YOU SEEN WITH THIS TYPE OF LIMITED FUNCTION?

A WELL, THIS LOW--

Q THIS DEGREE.

A -- THIS DEGREE WOULD BE RELATIVELY RARE. I WOULD SAY I HAVE SEEN THIS PRIMARILY IN INDIVIDUALS WITH SOME TYPE OF BRAIN INJURY OR SOME TYPE OF DEVELOPMENTAL BRAIN ABNORMALITY, I WOULD SAY PROBABLY LESS THAN A SMALL PERCENTAGE OF CASES.

Q I WAS GOING TO ASK YOU HOW, HOW THIS COULD HAPPEN, HOW COULD ONE ARRIVE AT THIS STAGE OF LIFE AS MR. STANKO IS IN AND HAVE THAT KIND OF FRONTAL -- DECREASE IN FUNCTIONALITY OF THAT AREA?

A WELL, THERE ARE SEVERAL POSSIBLE CAUSES FOR THIS KIND OF ABNORMAL DECREASE IN THIS PARTICULAR PART OF THE BRAIN. ONE A -- POSSIBLE CAUSE IS TRAUMATIC BRAIN INJURY.

AND THERE IS A HISTORY IN MR. STANKO'S CASE OF HIS HAVING SUFFERED AN INCIDENT IN WHICH -- IN HIS SENIOR YEAR OF HIGH SCHOOL HE WAS STRUCK IN THE BACK OF HIS HEAD AND WAS NAUSEOUS AND HAD SOME ALTERNATE OF CONSCIOUS. SO TRAUMATIC BRAIN INJURY CAN BE ONE FACTOR.

OTHER FACTORS CAN INCLUDE DEVELOPMENTAL BRAIN ABNORMALITIES. AND SO IN SOME INDIVIDUALS, THE WIRING OF THE BRAIN IN THE WOMB DOES NOT PROPERLY CONNECT AND SO WHAT HAPPENS IS THAT WHEN THE CHILD IS BORN, THE CHILD CAN HAVE ABNORMALITIES SUCH AS ABNORMAL REFLEXES SUCH AS A MORO REFLEX OR OTHER--

Q WHAT IS THAT?

A THE MORO REFLEX IS A REFLEX IN WHICH YOU TAKE A BABY AND YOU CRADLE IT IN YOUR HANDS AND THEN YOU SUDDENLY DROP THE BABY, OF COURSE, WHILE YOU'RE CRADLING IT, AND TYPICALLY THE BABY WILL THROW THEIR HAND OUT AND THEN BRING THEIR HAND TOGETHER. THIS IS CALLED A MORO REFLEX. AND IT'S A NORMAL REFLEX.

AND INDIVIDUALS WITH AN ABNORMAL BRAIN WIRING WOULD HAVE SOME KIND OF IMPEDIMENT IN SOME OF THESE NATURAL REFLEXES. THESE ARE VERY CRUDE TESTS, BUT NEVERTHELESS THEY DO PROVIDE THE DOCTOR OR CLINICIAN WITH SOME INSIGHT

INTO WHETHER OR NOT THERE'S SOME KIND OF ABNORMAL WIRING THAT DEVELOPED IN THE WOMB.

Q WELL, DR. WU, LET'S -- WE DON'T KNOW HOW THIS HAPPENED TO MR. STANKO?

A WE DON'T KNOW SPECIFICALLY. THERE ARE SEVERAL POSSIBILITIES INCLUDING THE POSSIBILITY OF TRAUMATIC BRAIN INJURY, INCLUDING THE POSSIBILITY OF DEVELOPMENTAL BRAIN ABNORMALITIES. I DON'T KNOW SPECIFICALLY FOR -- WITH A CERTAINTY EXACTLY WHICH SPECIFIC CAUSES RESULTED IN THIS KIND OF ABNORMALITY.

Q BUT IS THERE ANY DOUBT IN YOUR MIND THAT THE ABNORMALITY IS THERE?

A NO, THERE'S NO DOUBT THAT THIS IS DEFINITELY AN ABNORMALLY FUNCTIONING FLOOR OF THE FRONTAL LOBE.

Q IS HE'S HAD IT ALL HIS LIFE, AND I'M -- I DON'T KNOW THAT HE HAS, OKAY, BECAUSE WE DON'T KNOW AS YOU JUST SAID WHEN THIS HAPPENED.

A YES.

Q OR HOW IT HAPPENED.

A IT COULD BE A COMBINATION OF SEVERAL FACTORS.

Q WELL, IF IT HAPPENED AT BIRTH--

A YES.

Q -- WHY -- OR WHEN IS IT LIKELY TO MANIFEST ITSELF?

A WELL, ABNORMALITIES THAT ARE DEVELOPMENTAL SOMETIMES DON'T MANIFEST UNTIL EARLY ADULTHOOD.

Q WHY? WHY IS THAT?

A THE REASON WHY THIS OCCURS IS BECAUSE, FOR EXAMPLE, IF YOU HAVE AN ABNORMALITY IN THE FRONTAL LOBE, THE FRONTAL LOBE IS NOT REALLY CONNECTED TO REST OF THE BRAIN UNTIL LATE ADOLESCENCE OR EARLY ADULTHOOD.

THERE IS A PROCESS CALLED MIONIZATION (SIC). THAT IS, THESE ARE -- ARE TRACKS OR NERVE WIRING THAT IS -- CONNECT DIFFERENT PARTS OF THE BRAIN. AND THE FRONTAL LOBE IS NOT FULLY CONNECTED THROUGHOUT THEIR BRAIN UNTIL LATE ADOLESCENCE.

SO THAT'S WHY YOU CAN HAVE PEOPLE WHO HAVE ALMOST LIKE A LITTLE TIMEBOMB IN THEIR HEAD THAT'S TICKING AWAY AND DOESN'T BLOW UP UNTIL THE WIRING IS FULLY CONNECTED.

AND THERE ARE A NUMBER OF CONDITIONS. FOR EXAMPLE, WE KNOW THAT CERTAIN FORMS OF SCHIZOPHRENIA, PEOPLE CAN LOOK PERFECTLY NORMAL IN CHILDHOOD AND EARLY ADOLESCENCE AND NOT UNTIL LATE ADOLESCENCE THAT ONE STARTS TO HEAR VOICES.

AND WE KNOW THAT THERE'S ABNORMALITIES IN THE MIGRATION OR CONNECTION THAT THE NERVE CELLS MAKE IN THE WOMB.

FOR EXAMPLE, WE KNOW THAT IF YOU ARE PREGNANT AND YOU HAVE A BAD FLU DURING YOUR SECOND TRIMESTER OF PREGNANCY, YOU'RE MUCH MORE LIKELY TO HAVE SCHIZOPHRENIC OFFSPRING BECAUSE DURING THAT SECOND TRIMESTER, THERE'S CERTAIN

KINDS OF CONNECTIONS THAT ARE FORMING.

AND SO IF THE CONNECTIONS THAT ARE -- ARE SCREWED UP BY, FOR EXAMPLE, A BAD FLU -- AND THIS HAS BEEN SOMETHING THAT'S BEEN SHOWN PROBABLY 20, 30 STUDIES ALL AROUND THE WORLD -- THAT IT CAN SIGNIFICANTLY INCREASE YOUR RISK.

AND SO -- AND YET IF YOU LOOK AT THESE KIDS DURING EARLY CHILDHOOD OR EARLY HIGH SCHOOL, THEY LOOK PERFECTLY NORMAL. IT'S NOT UNTIL LATE ADOLESCENCE THAT THEY START TO BREAK DOWN, THEY START TO HEAR VOICES.

YET THEY HAVE HAD THIS PROBLEM ALL THEIR LIFE BECAUSE THIS PROBLEM OCCURRED IN THE WOMB DURING THE SECOND TRIMESTER OF BIRTH.

THERE ARE OTHER EXAMPLES OF THIS. FOR EXAMPLE, WE KNOW THAT UNINTENSE PARENIA (SIC) IS A GENETIC ABNORMALITY THAT DOESN'T MANIFEST UNTIL 40 OR 50. SO THERE'S MANY EXAMPLES OF DEVELOPMENTAL ABNORMALITIES THAT ARE NOT APPARENT UNTIL SOMETHING TRIGGERS IT AND -- AND IT CAN BE TWO, THREE, FOUR, FIVE DECADES LATER IN LIFE.

Q TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, IS THAT A POSSIBILITY WITH MR. STANKO?

A YES.

Q IN THIS TYPE OF DECREASED FUNCTION IN THE -- IN THE FRONTAL LOBE?

A YES, IT IS.

Q ALL RIGHT. DR. WU, THANK YOU VERY MUCH. THAT'S ALL

I HAVE AT THIS TIME.

THE COURT: DO YOU HAVE ANY QUESTIONS FOR WITNESS?

MR. HEMBREE: I DO, YOUR HONOR.

THE COURT: YOU MAY PROCEED.

MR. HEMBREE: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME.

CROSS-EXAMINATION

BY MR. HEMBREE:

Q DR. WU, WOULD YOU BRING BACK UP THE -- I BELIEVE YOU CALLED IT THE DICOM SLIDES THAT YOU -- THAT YOU WERE SENT.

A YES.

Q ALL RIGHT, DR. WU. FIRST LET ME ASK YOU ABOUT THIS CONTINUANCE PERFORMANCE TEST. I BELIEVE YOU TESTIFIED -- TELL ME IF I UNDERSTAND YOUR TESTIMONY ACCURATELY -- THAT -- THAT AN ACTIVE PET SCAN OR A PET SCAN THAT IS CONDUCTED AFTER DOING A CONTINUANCE PERFORMANCE TEST IN YOUR JUDGMENT OR YOUR OPINION IS -- IS A BETTER PET SCAN, IT IS -- IT GIVES YOU A MORE ACCURATE READING OF THE HEALTH OF THAT BRAIN OR THE -- OR MORE LIKELY TO SHOW ABNORMALITIES THAT EXIST.

A WELL, THE PEER REVIEWED LITERATURE SUCH AS CHAN PUBLISHED IN 2003 AND OTHERS, SUCH AS HOLCOMBE, SHOW THAT THERE IS WHAT WE CALL REDUCED STATIC NOISE WITH A CPT TASK.

AND SO IF YOU HAVE LESS STATIC OR NOISE, YOU'RE MORE LIKELY TO DETECT AN ABNORMALITY THAN IF THERE'S A LOT OF LIKE HISS IN THE BACKGROUND.

Q OKAY. THAT'S WHAT -- THAT'S MY QUESTION TO YOU. LET ME CLARIFY IT AGAIN. I JUST -- I DON'T NEED THE -- I'M NOT ASKING FOR THE REASONING BEHIND IT. I JUST NEED TO KNOW IF I UNDERSTAND IT CORRECTLY -- THAT AN ACTIVE -- WHAT I'M CALLING AN ACTIVE PET SCAN OR A PET SCAN THAT HAS BEEN CONDUCTED AFTER A SUBJECT HAS PERFORMED THIS CONTINUANCE PERFORMANCE TEST IS GOING TO BE A MORE ACCURATE PET SCAN FOR DETECTING ABNORMALITIES?

A THAT'S -- THE PEER REVIEWED LITERATURE SHOWS, YES.

Q AND THAT'S YOUR OPINION AS WELL?

A THAT'S MY OPINION AS WELL, YES.

Q OKAY. VERY GOOD. SO ANYONE WHO READS THAT PET SCAN, NO MATTER WHO THEY ARE, ANYONE WHO READS THAT PET SCAN WILL BE READING A HIGHER QUALITY PET SCAN THAN A RESTING PET SCAN; CORRECT?

A THE PET SCAN ITSELF WILL BE A HIGHER QUALITY, BUT I THINK WHAT WILL VARY WILL BE THE EXPERIENCE THAT THE READER HAS IN SEEING SUCH SCANS.

Q WELL, BUT THERE -- REGARDLESS, IT'S A BETTER PET SCAN?

A YES.

Q SO WHOEVER READS A BETTER PET SCAN HAS A BETTER

PRODUCT TO EVALUATE; CORRECT?

A YES, THERE'S GOING TO BE LESS NOISE.

Q FAIR ENOUGH. NOW, THE PET SCAN THAT -- OR THE DATABASE THAT YOU'RE USING FOR THIS EXPERIMENT WITH THIS SUBJECT AND YOUR OPINION REGARDING HIS ABNORMALITY IS BASED ON A DATABASE THAT WAS DEVELOPED AT THE UNIVERSITY OF CALIFORNIA IRVINE.

A YES.

Q SO IT'S -- IT'S -- IT IS KIND OF IN-HOUSE?

A YES.

Q AND IT WAS USING 56 SUBJECTS?

A YES.

Q AND THESE 56 SUBJECTS YOU DESCRIBE AS HAVING NORMAL BRAINS.

A YES.

Q AND PLEASE TELL ME, HOW DO YOU DEFINE NORMAL BRAIN IN DETERMINING WHICH 56 YOU'RE GOING TO USE?

A WELL, WE SCREEN THEM USING WHAT WE CALL A DIAGNOSTIC INSTRUMENT CALLED A STRUCTURED CLINICAL INTERVIEW FOR DIAGNOSIS.

Q OKAY. SO YOU TALKED TO THESE FOLKS. LET ME SEE IF I UNDERSTAND THAT. YOU BASICALLY DID A -- A PSYCHIATRIC, PSYCHOLOGICAL DIAGNOSIS OF THESE FOLKS TO MAKE A JUDGMENT OR DETERMINATION WHETHER OR NOT THEY HAD SOME PSYCHIATRIC CONDITION.

A OR NEUROLOGIC.

Q OR NEUROLOGICAL CONDITION THAT WOULD -- THAT WOULD QUALIFY THEM FOR SOME SORT OF A DIAGNOSIS UNDER THE DSM4 OR OTHERWISE.

A YES.

Q OKAY. AND SO YOU TALKED TO THEM. AND AFTER TALKING TO THEM OR GETTING -- MAYBE GIVING THEM SOME PSYCHOLOGICAL TESTING, YOU DECIDED THEY -- THEY SEEMED NORMAL TO US.

A YES.

Q ALL RIGHT. NOW, ISN'T IT TRUE THAT THERE ARE FOLKS THAT CAN HAVE ABNORMAL BRAINS OR THEY CAN -- THERE CAN BE AN ABNORMALITY THAT IS REFLECTED IN THE BRAIN IN A PET SCAN YET THEY ARE NOT DIAGNOSED WITH ANY PSYCHIATRIC CONDITION?

A WELL, I WOULD SAY THAT THERE'S A TREMENDOUS WHAT WE CALL VARIATION IN NORMALS. AND SO THE QUESTION BECOMES, WELL, FOR EXAMPLE, IF YOU'RE LOOKING AT HEMATOCRIT OR RED BLOOD CELL OR HEMOGLOBIN, YOU KNOW, THAT NORMAL HEMOGLOBIN IS LIKE 15 OR SO IS THE NORMAL RANGE, AND YOU CAN USE A CUT-OFF LIKE A CERTAIN VALUE IN ORDER TO SAY SOMEONE HAS ANEMIA, BUT YOU MIGHT HAVE -- AN OCCASIONAL NORMAL MIGHT HAVE VALUE BELOW THAT, BUT STILL YOU WOULD HAVE TO HAVE SOME KIND OF CUT-OFF SO THAT MOST NORMALS WOULD BE ABOVE THIS AND MOST PATIENTS WITH ANEMIA WOULD BE BELOW THIS.

AND THAT'S THE SAME THING WITH PET SCANS. THERE'S NO

ABSOLUTE PERFECT THRESHOLD. WHAT YOU DO IS YOU TRY TO FIND A THRESHOLD WHERE MOST NORMALS WOULD BE ABOVE IT AND MOST PATIENTS WITH SOME KIND OF ABNORMALITY WOULD BE BELOW IT, BUT IT'S NOT GOING TO BE PERFECTLY SEPARATED.

Q BECAUSE EVERYBODY IS DIFFERENT.

A THERE IS A TREMENDOUS AMOUNT OF VARIATION.

Q TREMENDOUS AMOUNT OF VARIATION FROM BRAIN TO BRAIN TO BRAIN.

A YES. AND--

Q YEAH. THAT'S NOT YOUR--

A -- THE QUESTION IS DOES THIS FALL OUTSIDE OF THAT RANGE OF NORMAL VARIATION, AND -- AND IN MY OPINION THIS FALLS OUTSIDE THAT TREMENDOUS VARIATION.

Q AND SO IT'S THEORETICALLY POSSIBLE THAT SOMEONE THAT WAS PERFECTLY NORMAL BASED ON -- BASED ON THE DIAGNOSIS, THE TESTING THAT YOU DID, THE DIAGNOSIS THAT YOU DID, THEY DON'T SEEM TO HAVE ANY PSYCHIATRIC PROBLEMS, THEY SEEM FINE, YOU PUT THEM IN THE NORMAL GROUP, YET -- YET THEIR FRONTAL LOBE FUNCTION IS A LITTLE DIFFERENT THAN THIS ONE'S, BUT IT'S LESS THAN THIS ONE'S FRONTAL LOBE FUNCTION; CORRECT?

A WELL, WHAT WAS--

Q ISN'T THAT POSSIBLE, DOCTOR?

A WELL, THE WAY I WOULD ANSWER IT IS THAT WE WOULD LOOK AT THE RELATIVE PROBABILITY SO THAT THE RELATIVE

PROBABILITY OF A NORMAL HAVING A VALUE THIS LOW WOULD BE VERY LOW WHEREAS A RELATIVE PROBABILITY OF SOMEONE WITH A BRAIN ABNORMALITY IS VERY HIGH, BUT IS NOT GOING TO BE BLACK OR WHITE OR HUNDRED AND ZERO.

AND SO I WOULD SAY THERE WOULD BE A SMALL PERCENTAGE OF NORMALS WHO MIGHT HAVE A VALUE THIS LOW, BUT IT WOULD BE VERY SMALL, VERSUS A HIGH PERCENTAGE OF PEOPLE WITH A BRAIN ABNORMALITY JUST LIKE YOU WOULD HAVE WITH TRYING TO SEE IF SOMEONE IS ANEMIC.

WHEN YOU HAVE ANEMIA, YOU DRAW A CUT-OFF, AND THERE MIGHT BE ONE OR TWO NORMALS THAT MIGHT HAVE A VALUE BELOW THAT THAT WOULDN'T BE ANEMIC OR GOING TO HAVE A VALUE IN THE SAME RANGE.

Q OKAY. LET ME TALK TO YOU ABOUT THE BRAINS, THOUGH, NOT ABOUT ANEMIA.

A YES.

Q ISN'T IT TRUE, DOCTOR, THAT -- THAT A PERSON'S BRAIN AND BRAIN FUNCTION AND EVEN BRAIN SIZE WILL CHANGE OVER THE COURSE OF TIME?

A THERE IS A NORMAL VARIATION DUE TO AGING. WE KNOW THAT AS PEOPLE GROW OLDER, THAT THERE IS A NORMAL DECREASE IN FRONTAL LOBE ACTIVITY. SO BY THE TIME YOU'RE 50 OR 60, YOUR FRONTAL LOBE IS NOT GOING TO BE AS HOT AS SOMEONE WHO IS IN THEIR TWENTIES OR 30'S.

Q OH, SO FRONTAL LOBE ACTIVITY DECREASES WITH AGE?

A YES.
Q SO YOU WOULD EXPECT TO FIND UNDER -- UNDER YOUR -- THE PHINEAS GAGE THEORY THAT YOU'VE ADVANCED HERE TODAY THAT MOST VIOLENT PEOPLE SHOULD BE OVER THE AGE OF 50 OR 60?
A WHAT I'M SAYING IS THAT WITH VIOLENCE, THAT THERE IS A AREA IN THE BRAIN, THE FRONTAL LOBE, WHICH HAS BEEN SHOWN TO BE ABNORMALLY PRESENT IN -- TO A MUCH HIGHER DEGREE IN VIOLENT PEOPLE THAN IN NORMAL INDIVIDUALS.
Q UNDERSTOOD. SO BASED ON THAN THEORY, BASED ON WHAT YOU'RE PRESENTING TO THIS JURY, AS FRONTAL LOBE FUNCTION DECREASES WITH AGE, YOU WOULD EXPECT OLDER PEOPLE TO BE MUCH MORE VIOLENT THAN YOUNGER PEOPLE.
A WELL, THAT WOULD BE A OBSERVED SIMPLIFICATION BECAUSE THE BRAIN ISN'T -- CAN'T BE SIMPLIFIED TO THAT DEGREE.
Q WELL, YOU CERTAINLY SIMPLIFIED -- WOULDN'T YOU SAY YOU SIMPLIFIED IT TO THAT DEGREE TODAY FOR THIS JURY REGARDING MR. STANKO'S BRAIN?
A NO, I WOULDN'T. I WOULD SAY THAT I'M TRYING TO PRESENT RESEARCH WHICH SHOWS THAT THE FRONTAL LOBE IS IMPLICATED IN REGULATING BEHAVIOR BUT THAT WHAT I'M LOOKING AT THE VARIATION IN THE NORMAL POPULATION, I AM TAKING INTO ACCOUNT DIFFERENCES DUE TO AGING.
Q AND WHEN YOU'RE LOOKING AT -- WHEN YOU'RE DOING A BRAIN SCAN OR WHEN YOU'RE DOING A PET SCAN, ISN'T IT TRUE

THAT ONE OF THE REASONS THAT THEY TURN THE LIGHTS OFF AND THEY PUT THE SUBJECT IN A DARKENED ROOM IS TO SLOW DOWN OR DECREASE OR SORT OF EVEN OUT THE ACTIVITY OF THE OCCIPITAL LOBE WHICH IS IN THIS -- THIS SECTION HERE OF STATE'S EXHIBIT 10, THIS IS THE OCCIPITAL LOBE, CORRECT?

THIS AREA IN THIS -- LET ME -- I WILL REFER TO THE DIAGRAM YOU'VE GOT ON THE SCREEN. THIS AREA HERE IS THE OCCIPITAL LOBE; CORRECT?

A YEAH, THAT'S CORRECT.

Q OKAY. SO IF -- ISN'T IT TRUE, DOCTOR, THAT ONE OF THE REASONS THAT WHEN SUBJECTS ARE GIVEN A PET SCAN, THEY TURN THE LIGHTS DOWN, THEY CAN BE -- CALM ROOM IS BECAUSE THEY WANT TO BRING THAT -- THE ACTIVITY IN THAT OCCIPITAL LOBE DOWN, DECREASE THE ACTIVITY OF THE EYES AND THE WORK THAT THE EYES ARE DOING TO EVEN IT OUT WITH THE REST OF THE BRAIN; TRUE?

A WELL, THE RESEARCH INDICATES THAT THE REST STATE ACTUALLY HAS GREATER VARIABILITY THAN THE ACTIVATION STATE AND SO--

Q NO, SIR. THAT'S NOT MY QUESTION.

A BUT MY--

Q I WILL LET YOU EXPLAIN YOUR ANSWER. MY QUESTION TO YOU IS THIS. ISN'T IT TRUE THAT THE REASON THAT -- THAT MEDICAL PROFESSIONALS USE THAT APPROACH IS TO SLOW DOWN THE ACTIVITY IN THE OCCIPITAL LOBE. YES OR NO?

A NO.
Q OKAY. WHY DO THEY DO IT THEN?
A WELL, I -- THE REASON WHY MANY SAY REDUCE BECAUSE THERE -- IS THE WAY THEY WERE TAUGHT TO DO IT. IT'S SORT OF TRADITION. AND SO PEOPLE DO WHAT THEY WERE TAUGHT. AND -- AND BECAUSE IT'S -- IT'S EASIER.
AND SO ESPECIALLY IF YOU'RE NOT A CENTER THAT HAS A SPECIAL INTEREST IN NEUROPSYCHIATRIC DISORDERS AND YOU'RE TRYING TO RUN A BUSY PET CENTER, THE SIMPLEST WAY OF GETTING A PET SCAN IS TO HAVE THE SUBJECTS DOING NOTHING, SO IT'S LOGISTICALLY MUCH EASIER.
Q NOW, THE -- GO BACK -- THIS IS THE POWERPOINT. GO BACK TO THE SLIDE THAT YOU WERE USING.
A SURE.
Q AND I'M REALLY CURIOUS ABOUT THIS BECAUSE I'M LOOKING AT THIS PET SCAN HERE.
A YES.
Q AND IT LOOKS TO ME LIKE THIS OCCIPITAL LOBE IS HOT, WHAT I WOULD CALL HOT.
A YES.
Q IS THAT FAIR TO SAY?
A YES.
Q ALL RIGHT. BUT THEN I LOOK AT THE VERSION THAT YOU PUT INTO YOUR SOFTWARE AND THE VINCI SOFTWARE AND MR. STANKO'S OCCIPITAL LOBE LOOKS COLDS; CORRECT?

A WELL, NO. IF YOU'LL LOOK, YOU WILL NOTICE THAT THERE IS SOME RED IN MR. STANKO.

Q RIGHT. THIS IS MR. STANKO AND THIS IS ALSO MR. STANKO; ISN'T IT?

A THAT'S CORRECT. AND -- BUT THESE ARE DIFFERING ANGLES AND DIFFERING CUTS.

Q WELL, THIS IS THE SAME -- I MEAN, THIS IS THE -- WHAT IS THE CUT THIS WAY CALLED?

A WELL, IT'S -- I MEAN, IT WOULD BE THE Z AXIS ON POWER--

Q SO THIS IS THE Z AXIS AND THIS IS THE Z AXIS; CORRECT?

A WELL, IT'S A -- DIFFERING VALUES IN THE Z AXIS.

Q DIFFERENT VALUES IN THE Z AXIS?

A YES. SO YOU CAN HAVE HIGH OR LOW Z AXIS VALUES SINCE THESE ARE NOT THE IDENTICAL ORIENTATION OR CUT.

Q WHY DON'T YOU SCAN UP. SCAN -- GO UP THE BRAIN A BIT THROUGH THIS -- WITH THIS PET SCAN. WHOA, WHOA, WHOA. SLOW IT DOWN. SO WE SEE HERE THAT THE ACTIVITY IN THE OCCIPITAL LOBE HERE IN THE FRONTAL LOBES ARE PRETTY MUCH IDENTICAL.

A YES.

Q OKAY.

A AS I HAVE MENTIONED EARLIER, THE HIGHER VALUES OR HIGHER SLICES IN MR. STANKO'S BRAIN ARE VERY SIMILAR TO

THAT OF THE NORMALS. AND SO IT'S NOT AN ISSUE OF DIFFERENCES IN WINDOWING BECAUSE IF THAT WERE THE CASE, YOU WOULD SEE DIFFERENCES IN ALL SLICES.

Q LET ME ASK YOU THIS, DOCTOR, AND I'M NOT GOING TO -- I WANT TO BE VERY CAREFUL HOW I ASK THIS BECAUSE I DO NOT -- I DON'T KNOW YOU WELL ENOUGH TO ASSAULT YOUR INTEGRITY AND I'M NOT GOING TO DO THAT WITH THIS QUESTION.

HOWEVER -- BECAUSE YOU'VE ANSWERED IT IN ONE FORM. IF YOU CHOSE, IF SOMEONE -- NOT YOU -- IF SOMEONE WERE SO MOTIVATED, COULD THEY ADJUST THESE COLOR SCHEMES BY MANIPULATING THIS COLOR BAR?

A THE WAY THIS SOFTWARE WORKS, IF YOU MANIPULATE THE COLOR BAR, YOU WOULD BE ADJUSTING THE LEVEL FOR ALL SLICES, NOT JUST FOR THIS SPECIFIC AREA OF THE FRONTAL LOBE.

Q BUT YOU COULD PICK ONE SLICE, AND DOCTOR -- COULD YOU WORK ON ONE SLICE AND MAKE A LITTLE ADJUSTMENT THERE AND THEN TAKE ANOTHER SLICE AND MAKE A LITTLE ADJUSTMENT THERE, MAKE ANOTHER SLICE -- IS THAT POSSIBLE?

A I MEAN, YOU COULD WRITE SOFTWARE SO THAT YOU CAN SEPARATE--

Q GOT YA--

A -- THIS OUT, BUT IF YOU USE THIS SOFTWARE OR INTEGRATE IT SO THAT WHEN YOU'RE CHANGING THE LEVEL FOR THE BRAIN -- IS USING ALL SLICES. NOW, YOU CAN WRITE

SOFTWARE TO DO ANYTHING AND YOU COULD WRITE SOFTWARE THAT CAN DELIBERATELY DISTORT THE IMAGE BY DELIBERATELY PICKING DIFFERENT VALUES FOR DIFFERENT AREAS, BUT YOU CAN DO THAT WITH A PAINTBRUSH.

I MEAN USE, YOU KNOW, A PAINTBRUSH OR A DOBY AND, YOU KNOW, JUST PAINT IT IF YOU WANT TO TO DISTORT THE IMAGE.

Q AND DR. WU, HAVE YOU BEEN CONSULTED ON OTHER CRIMINAL CASES OTHER THAN THIS ONE?

A YES, SIR.

Q HOW MANY OCCASIONS?

A I'M NOT SURE THE PRECISE AMOUNT. I WOULD SAY MORE THAN 20.

Q MORE THAN 20?

A YES.

Q HAVE YOU ALWAYS BEEN CONSULTED BY THE DEFENSE?

A I WOULD SAY THAT -- YES.

Q OKAY. AND HAVE OFFERED THIS SIMILAR THEORY AND TESTIMONY IN THOSE CASES AS WELL OR AT LEAST EVALUATION IN THOSE CASES?

A WELL, I WOULD SAY THAT DIFFERENT CASES HAVE DIFFERING PET SCAN, AND SO IT DEPENDS ON THE SPECIFICS OF THE CASE.

Q UNDERSTOOD. NOW, LET ME ASK YOU, DOCTOR, YOU HAVE BEEN PAID -- OBVIOUSLY HAVE BEEN PAID FOR YOUR SERVICES IN THIS CASE.

A WELL, I'M A SALARIED EMPLOYEE. ALL OF THE FEES THAT

THE CASE GENERATES GOES TO THE REGIANCE AT THE UNIVERSITY OF CALIFORNIA.

Q OKAY. BUT YOU ARE PAID FOR YOUR SERVICE. SOMEONE IS PAID FOR YOUR SERVICE.

A WELL, THE REGIANCE OF THE UNIVERSITY OF CALIFORNIA ARE PAID. NOW, I'M A SALARY PROFESSOR, SO ALL OF THAT MONEY GOES TO THE UNIVERSITY OF CALIFORNIA.

Q ALL RIGHT. WILL YOU RECEIVE ANY BENEFIT WHATSOEVER FROM THAT -- FROM THOSE FUNDS, FROM THE INCOME THAT YOU'VE GENERATED ON BEHALF OF THE UNIVERSITY OF CALIFORNIA?

A WELL, I WOULD SAY THAT THE INCOME DOES HELP TO SUPPORT THE BRAIN IMAGING CENTER. IT HELPS TO PROVIDE FUNDING FOR STAFF SALARY AND--

Q SO PERHAPS--

A -- SO THERE IS SOME INDIRECT BENEFIT.

Q CORRECT. AND WHAT ARE YOU CHARGING PER HOUR FOR YOUR WORK ON THIS CASE?

A 200 PER HOUR.

Q $200 PER HOUR?

A YES, SIR.

Q AND HOW MUCH MONEY IS BUDGETED FOR YOU TO CONCLUDE YOUR WORK HERE?

A I BELIEVE IT WAS APPROXIMATELY 9000.

Q $9000?

A YES, UH-HUH.

Q HAVE YOU -- HAVE YOU REACHED THAT AMOUNT OF--
A YES.
Q -- HAS YOUR BILL REACHED $9000?
A YES, I BELIEVE IT HAS.
Q ALL RIGHT. HAS IT EXCEEDED $9000?
A IT MAY. I DON'T KNOW.
Q OKAY. DO YOU THINK PROBABLY IT HAS?
A I THINK THAT IT LIKELY WILL EXCEED THAT AT -- BUT I'M NOT A HUNDRED PERCENT SURE.
Q OKAY. AND WHAT DO YOU EXPECT YOUR BILL TO BE?
A I'M NOT SURE TO SAY THAT. I WOULD HAVE TO SIT DOWN AND TRY TO FIGURE IT OUT.
Q THANK YOU, DR. WU.

THE COURT: ANY REDIRECT OF THE WITNESS?

MR. DIGGS: JUST VERY BRIEFLY.

THE COURT: YOU MAY PROCEED WHEN YOU'RE READY.

REDIRECT EXAMINATION

BY MR. DIGGS:
Q DR. WU, IF YOU FUDGED THE NUMBERS OR FUDGED THE COLORS, WOULD THE NATIONAL INSTITUTE OF HEALTH DO BUSINESS WITH YOU?
A NO. THE NATIONAL INSTITUTE OF HEALTH WOULD NOT WANT ME TO BE ON A SCIENTIFIC REVIEW COMMITTEE REVIEWING HOW FEDERAL FUNDS ARE DISTRIBUTED--
Q HOW ABOUT THE UNIVERSITY?

A NOR WOULD THE UNIVERSITY. I MEAN, THEY'RE -- THE UNIVERSITY WOULD NOT WANT TO KEEP ME ON AS AN ACADEMIC.

Q THAT'S ALL I HAVE. THANK YOU VERY MUCH, DOCTOR.

THE COURT: ANY OBJECTION TO THE WITNESS BEING EXCUSED FROM THE STATE?

MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

THE COURT: FROM THE DEFENSE? DO YOU WANT TO KEEP HIM SUBJECT TO RECALL, MR. DIGGS?

MR. DIGGS: YOUR HONOR, WE -- WE DON'T HAVE ANY OBJECTION, BUT I'LL -- IN THE EVENT THAT CHANGES, I'LL TAKE HIM.

THE COURT: THEN I WON'T EXCUSE HIM. I WILL EXCUSE HIM SUBJECT TO BEING RECALLED FOR YOUR BENEFIT.

MR. KELLY: THANK YOU.

THE COURT: DR. WU, YOU MAY STEP DOWN.

THE WITNESS: THANK YOU, YOUR HONOR.

THE COURT: YOU MAY PROCEED. WELL ACTUALLY, COULD YOU ALL APPROACH FOR ME?

(WITNESS LEFT THE STAND.)

THE COURT: MR. DIGGS, YOU MAY PROCEED.

MR. DIGGS: YOUR HONOR, WE'D CALL SANFORD GRAVES.

SANFORD GRAVES, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE WITNESS: SANFORD COX GRAVES, G-R-A-V-E-S.

THE COURT: YOU MAY PROCEED.

DIRECT EXAMINATION

BY MR. KELLY:

Q MR. GRAVES, MY NAME IS GERALD KELLY. YOU AND I HAVE NEVER MET; HAVE WE?

A NO, SIR. NO, SIR.

Q OKAY. BUT I BELIEVE YOU HAVE TALKED TO MY INVESTIGATOR VICKY CHILDS OR DALE DAVIS?

A I BELIEVE I'VE SPOKEN TO VICKY CHILDS.

Q I WANT TO HAVE YOU TAKE A LOOK AT EXHIBIT NUMBER 36, PLEASE.

A YES, SIR.

Q YOU RECOGNIZE WHAT THIS IS?

A IT APPEARS TO BE A -- WHAT I WOULD CALL AN ON CALL LIST.

Q AND THAT'S THE LIST OF THE SOLICITORS WHO ARE ON CALL IN THE FIRST 10 MONTHS OF 2005?

A BY ROLE CALL, WHAT DO YOU MEAN?

Q I SAID ON CALL.

A ON CALL, YES, SIR, THAT IS CORRECT.

Q AND YOU WERE ON CALL IN APRIL 1ST THROUGH APRIL THE SEVENTH OF THAT YEAR; CORRECT?

A YES, SIR.

Q AND THEN ALSO LATER IN THE YEAR IN JUNE; CORRECT?

A YES, SIR.
Q DO YOU REMEMBER TALKING WITH A CITIZEN WHOSE NAME IS CONNIE PRICE?
A I REMEMBER RECEIVING A NOTE THAT A CITIZEN HAD CALLED AND I REMEMBER ATTEMPTING TO SPEAK TO THAT INDIVIDUAL AS WELL. I DO NOT RECALL -- I MOST CERTAINLY TALKED TO HER, BUT I DON'T RECALL ANYTHING THAT I SAID.
Q DID YOU TALK WITH CONNIE PRICE YOURSELF FACE TO FACE?
A I BELIEVE THAT I TALKED TO HER ON THE PHONE, SIR.
Q AND DO YOU REMEMBER WHEN YOU TALKED WITH HER?
A IT MUST HAVE BEEN DURING THAT WEEK, SIR, THAT I WAS ON CALL.
Q OKAY. SO IT WOULD BE IN THE WEEK OF LAURA LING'S MURDER; CORRECT?
A I BELIEVE THAT MS. LING WAS MURDERED ON THE EIGHTH IF I'M NOT MISTAKEN, AND I WENT OFF CALL ON THE SEVENTH.
Q BUT YOU WERE THERE FROM THE FIRST THROUGH THE SEVENTH?
A CORRECT, YOUR HONOR. WE DO -- EXCUSE ME. CORRECT, WE SWITCH ON THURSDAYS.
Q AND THE FOURTH WOULD HAVE BEEN A MONDAY?
A I BELIEVE SO.
Q THE FOURTH WOULD HAVE BEEN MONDAY; CORRECT?
A I -- I BELIEVE SO, YES, SIR.
Q AND THEN THE SEVENTH WOULD HAVE BEEN THE DAY YOU CAME

OFF. THAT WOULD HAVE BEEN THURSDAY; CORRECT?
A YES, SIR.
Q THAT WOULD HAVE BEEN THE DAY BEFORE THE MURDER OF LAURA LING; CORRECT?
A YES, SIR.
Q AND SHE TALKED TO YOU -- AND YOU WERE A SOLICITOR AT THE TIME, ASSISTANT SOLICITOR?
A YES, SIR.
Q ARE YOU STILL AN ASSISTANT SOLICITOR?
A YES, SIR.
Q HOW LONG HAVE YOU BEEN AN ASSISTANT SOLICITOR?
A LITTLE OVER THREE YEARS.
Q DO YOU RECALL SPEAKING WITH CONNIE PRICE?
A I BELIEVE THAT I SPOKE WITH HER BASED ON A CONVERSATION I HAD LATER ON WITH ANOTHER INDIVIDUAL. I HAD RECEIVED A NOTE TO CALL HER. I BELIEVE THAT I CALLED HER, YES, SIR.
Q WELL NOW, DO YOU REMEMBER THAT CONNIE PRICE WAS COMPLAINING TO YOU ABOUT A MAN NAMED STEPHEN STANKO?
A I DON'T RECALL A CERTAIN INDIVIDUAL'S NAME AT ALL THAT SHE SPOKE TO ME ABOUT.
Q DO YOU HAVE ANY IDEA WHAT SHE WAS TALKING TO YOU ABOUT?
A UNAUTHORIZED PRACTICE OF LAW COMPLAINT.
Q AND WHAT WOULD THAT BE?

A THAT IS WHEN SOMEONE WHO IS NOT A LAWYER ACTS AS A LAWYER.
Q WELL, DOES THAT SURPRISE YOU THAT THAT WOULD PROBABLY HAVE BEEN STEPHEN STANKO?
A NOW OR THEN? WHEN? NOW?
Q YEAH, NOW.
A I DON'T UNDERSTAND THE QUESTION.
Q WELL, AT THE TIME SHE WAS TALKING TO YOU, YOU DIDN'T HAVE ANY IDEA WHO STEPHEN STANKO WAS; CORRECT?
A NO, SIR. I HAD NO IDEA.
Q BECAUSE STEPHEN STANKO REALLY WASN'T KNOWN TO YOU AT THAT TIME, CORRECT, UNLESS SHE TOLD YOU?
A WELL, I DON'T RECALL HER EVER TELLING ME WHAT -- ANY NAME AT ALL, SO THE FACT THAT IF IT WAS A STEPHEN STANKO OR ANYONE ELSE, SIR, I COULDN'T TELL YOU.
Q WELL SIR, DO YOU REMEMBER HOW LONG YOU TALKED WITH HER?
A NO, SIR, I DO NOT KNOW.
Q DO YOU REMEMBER WHETHER IT WAS IN THE MORNING OR THE AFTERNOON?
A I DO NOT KNOW, SIR.
Q DO YOU REMEMBER WHETHER IT WAS A MONDAY OR A TUESDAY OR A WEDNESDAY OR A THURSDAY?
A NO, SIR, I DO NOT.
Q OR THE PREVIOUS FRIDAY?

A NO, SIR. I CANNOT TELL YOU WHEN I TALKED TO HER.
Q WHO WAS YOUR PARALEGAL?
A I HAVE AN ASSISTANT NAMED SARAH HOLMES.
Q HAVE YOU CHECKED WITH SARAH TO SEE IF YOU HAVE ANY NOTES FROM BACK THEN WHEN CONNIE PRICE TALKED WITH YOU?
A SIR, WHEN I RECEIVED YOUR SUBPOENA, I ASKED MISS HOLMES FOR ANY NOTES THAT SHE WOULD HAVE REGARDING ANY PHONE LOGS AND I ALSO SEARCHED MY OWN OFFICE FOR ANY OF THE -- BECAUSE YOU HAD SPECIFICALLY REQUESTED DOCUMENTS RELATED TO THAT CONNIE PRICE PHONECALL, I WENT THROUGH MY OLD CALENDARS, I WENT THROUGH ALL MY OLD PAPERS SEARCHING TO SEE IF I HAD ANYTHING TO PROVIDE TO YOU. I FOUND NOTHING.
Q WELL SIR, LONG ABOUT FRIDAY MORNING THE DEATH OF LAURA LING AND THE INJURY TO HER DAUGHTER WERE WIDELY PUBLISHED HERE IN THIS COUNTY; WAS IT NOT?
A YES, SIR.
Q AND DID YOU NOT SAY TO YOURSELF, ISN'T THAT THE GUY THAT SHE TOLD ME ABOUT?
A NO, SIR, I DID NOT.
Q SHE DIDN'T TELL YOU THE NAME?
A I DON'T RECALL HER TELLING ME THE NAME IF SHE DID.
Q HOW LONG DID YOU TALK TO HER?
A YOU ASKED ME THAT, SIR. I DON'T RECALL.
Q YOU DON'T RECALL?

A NO, SIR.
Q WELL NOW, WHAT DID SHE TELL YOU ABOUT THE UNAUTHORIZED PRACTICE OF THE LAW?
A I BELIEVE THAT SOMEONE HAD PREPARED DOCUMENTS THAT -- AND THEY WEREN'T -- SHE FOUND OUT THEY WEREN'T A LAWYER.
Q DID SHE ALSO TELL YOU THAT THE PERSON WHO WAS DOING THIS WAS EXHIBITING UNUSUAL AND IN HER WORDS OFTEN BIZARRE BEHAVIOR?
A NOT THAT I RECALL, SIR.
Q YOU MEAN SHE TALKED TO YOU ABOUT THE PERSON WHO WAS, AS YOU SAY, WAS PRACTICING THE LAW UNAUTHORIZED AND SHE DIDN'T MENTION THAT TO YOU?
A I BELIEVE YOU SAID THAT, SIR.
Q I SAID WHAT, SIR?
A THE UNAUTHORIZED PRACTICE OF LAW. YOU SAID--
Q DIDN'T YOU SAY THAT SHE GAVE YOU FACTS WHICH YOU INTERPRETED TO BE THE UNAUTHORIZED PRACTICE OF THE LAW?
A NO, SIR.
Q YOU DIDN'T SAY THAT?
A NO, SIR. WHAT I RECEIVED WAS A PINK NOTE THAT SAID CALL CONNIE PRICE AT A CERTAIN NUMBER REGARDING UPL, UNAUTHORIZED PRACTICE OF LAW, IS WHAT I UNDERSTOOD THAT TO MEAN.
Q AND DID YOU CALL HER?
A I BELIEVE I DID.

Q AND DID YOU TALK WITH HER?
A I BELIEVE I DID.
Q AND YOU DON'T REMEMBER WHAT YOU SAID?
A NO, SIR.
Q AND YOU DON'T REMEMBER THAT SHE SAID TO YOU THE MAN'S NAME WAS STEPHEN STANKO?
A NO, SIR.
Q DIDN'T YOU ASK HER -- WOULD YOU AS AN ATTORNEY, IF I CALLED YOU AND I'M A COMMON CITIZEN AND TOLD YOU THAT SOMEONE WAS PREPARING PAPERS FOR ME AND NOT DELIVERING THEM AND I WAS PAYING MONEY TO THEM AND THERE -- WHAT WOULD YOU TELL THEM?
A WELL, IN THE PAST I HAVE REFERRED PEOPLE TO THE BAR. I HAVE ALSO REFERRED PEOPLE TO DISCIPLINARY COUNSEL. AND I HAVE ALSO REFERRED PEOPLE TO POLICE ON OCCASION.
Q WELL, IF THEY WERE A LAWYER, YOU'D SEND THEM TO THE BAR; WOULDN'T YOU?
A ABSOLUTELY.
Q AND IF THEY WERE AN ATTORNEY, YOU WOULD SEND THEM TO THE DISCIPLINARY COUNSEL; WOULDN'T YOU?
A MOST CERTAINLY.
Q BUT IF THEY WERE NOT A LAWYER, PRETENDING TO BE A LAWYER, THEN IT WOULD HAVE TO GO TO THE LOCAL POLICE; WOULD IT NOT?
A PERHAPS, SIR, IT SHOULD.

Q OR THE SHERIFF'S DEPARTMENT DEPENDING ON WHETHER IT'S INSIDE THE MUNICIPALITY OF THE COUNTY; CORRECT?
A IF YOU SAY SO, SIR, YES, SIR.
Q I'M ASKING YOU, SIR. YOU PRACTICE LAW IN GENERAL SESSIONS COURT?
A YES, SIR, I DO.
Q AND HAVE YOU PRACTICED FELONIES IN THAT COURT?
A YES, SIR, I HAVE.
Q OKAY. THEN WHAT DO YOU DO WHEN THERE'S A CRIME? WHERE DO YOU SEND IT?
A THEY SHOULD REPORT TO THE POLICE.
Q IF IT'S IN THE MUNICIPALITY, YOU DO; DON'T YOU?
A WHAT DO YOU--
Q IN HORRY COUNTY YOU HAVE A HORRY COUNTY PD; CORRECT?
A YES, SIR, WE DO.
Q OKAY. SO THAT YOU CAN SEND THEM TO THE POLICE DEPARTMENT BECAUSE THAT'S HORRY COUNTY PEOPLE; RIGHT?
A YES, SIR.
Q OKAY. WHERE DID YOU SEND IT?
A I DON'T RECALL SENDING HER ANYWHERE, SIR.
Q WHY NOT?
A I DON'T KNOW, SIR.
Q WELL, DO YOU DO THAT WITH HER OR WITH EVERYBODY?
A DO WHAT?
Q WHEN A CITIZEN COMPLAINS TO YOU THAT SOMEBODY IS

PRETENDING TO BE A LAWYER, DO YOU NOT SEND THEM ANYWHERE?
A TYPICALLY -- IF YOU'RE ASKING ME GENERAL QUESTION AS TO WHAT I DO WHEN I GET AN UNAUTHORIZED PRACTICE OF LAW COMPLAINT, I TYPICALLY ASK FOR MORE INFORMATION. I DO NOT RECALL WHETHER OR NOT I ASKED MS. PRICE FOR MORE INFORMATION. I SIMPLY DON'T REMEMBER.

BUT IN THE END OF MY EXPERIENCE, THE TIMES THAT I HAVE REQUESTED MORE INFORMATION, I HAVE NEVER GOTTEN ANYTHING. I DON'T KNOW IF I ASKED HER FOR ANYTHING IN THIS SPECIFIC INSTANCE, BUT I KNOW I NEVER RECEIVED ANYTHING.

Q AND YOU DIDN'T FOLLOW UP ON IT; DID YOU?
A NO, SIR.
Q DID YOU TAKE DOWN HER NAME AND A TELEPHONE NUMBER?
A I HAD IT ON A PINK SHEET OF PAPER.
Q YOU WHAT?
A I HAD IT ON A PINK SLIP AS A PHONECALL TO RETURN. I RETURNED THAT CALL.
Q NO, I MEAN WHEN YOU TALKED WITH HER. IF I'M A CITIZEN AND I CALL YOU AND I'M REPORTING A CRIME, WHAT INFORMATION DID YOU TAKE FROM ME?
A TYPICALLY I WOULD TAKE YOUR NAME AND PHONE NUMBER.
Q AND WHAT WOULD YOU DO WITH IT?
A I WOULD -- WELL, THE CITIZEN THEIRSELF, WOULD -- I WOULD INSTRUCT THEM TO CALL THE POLICE TYPICALLY.

Q WHAT WOULD YOU DO WITH THE INFORMATION YOU TOOK FROM ME?

A FROM YOU?

Q YOU ASKED ME FOR MY NAME?

A HYPOTHETICALLY?

Q AND YOU WROTE MY NAME DOWN?

A YES, SIR.

Q AND YOU ASKED ME FOR MY TELEPHONE NUMBER AND YOU WROTE IT DOWN, AND THAT'S ALL YOU ASKED ME ABOUT. WHAT WOULD YOU DO WITH THE INFORMATION, TRASH IT?

A I IMAGINE I WOULD KEEP IT FOR SOME TIME. I DON'T KNOW HOW LONG, BUT...

Q WELL, LAURA LING IS MURDERED WITHIN A WEEK. WOULD YOU KEEP IT THAT LONG?

A I HAVE NO IDEA, SIR.

Q WHY DON'T YOU HAVE SOME IDEA?

A PARDON ME? WELL, I -- IF YOU WOULD LIKE TO KNOW HOW I FOUND OUT THAT STEPHEN STANKO WAS INVOLVED IN THIS, INVESTIGATOR BROWN CAME BY MY OFFICE, I DON'T KNOW, WITHIN -- WITHIN TWO WEEKS AFTER MR. STANKO MURDERED THOSE FOLKS, AND HE TOLD ME THAT, DID YOU TALK TO CONNIE PRICE? AND I SAID, YES, SIR, I DID.

AND HE SAID, DID YOU KNOW THAT IT WAS STEPHEN STANKO? AND I HAD A MOMENT WHERE I PAUSED AND I DID NOT KNOW THAT IT WAS STEPHEN STANKO UNTIL INVESTIGATOR BROWN TOLD ME SO.

Q WELL, LET ME ASK YOU SOMETHING. WHAT'S THE OFFICE POLICY IN THE SOLICITOR'S OFFICE WHEN A CITIZEN CALLS AND IS PUT THROUGH TO YOU AND REPORTS A CRIME. WHAT'S THE OFFICE POLICY?

A I DON'T KNOW A STATED POLICY, BUT COMMON SENSE WOULD SAY TO ASSESS THEIR PROBLEM AND -- AND ADVISE THEM.

Q IS THERE NO OFFICE POLICY?

A NOT THAT I HAVE BEEN INSTRUCTED AS TO THOSE CALLS.

Q WELL, YOU KNOW, SIR, YOU'RE AN ATTORNEY; CORRECT?

A I AM AN ATTORNEY.

Q IT'S A LITTLE BIT BEYOND COMMON SENSE, ISN'T IT? AREN'T ATTORNEYS GOING TO FOLLOW RULES, SO TO SPEAK, WITHIN THE PROFESSION?

A YES, SIR.

Q OKAY. NOW, I'M ASKING YOU THIS QUESTION. WAS THERE AN OFFICE POLICY THAT YOU WERE TO FOLLOW WHEN A CITIZEN REPORTED A CRIME TO YOU?

A NO, SIR.

Q IS THERE ONE THERE NOW?

A NOT TO MY KNOWLEDGE.

Q ALL RIGHT. IF IT'S NOT AN OFFICE POLICY THERE, THEN WHAT DOES A TRAINED ATTORNEY DO WHEN A CITIZEN CALLS THEM AND REPORTS A CRIME?

A WHAT -- COULD YOU REPEAT THE QUESTION, PLEASE.

Q SIR, AS AN ATTORNEY, ARE YOU AN OFFICER OF THE COURT?

A YES, SIR.
Q WHAT DO YOU DO AS AN OFFICER OF THE COURT AND A MEMBER OF THE SOLICITOR'S OFFICE WHEN A CITIZEN CALLS YOU AND REPORTS CRIMES?
A TYPICALLY I WOULD REFER THEM TO THE POLICE BECAUSE THERE'S OFTEN MORE BEHIND IT THAN I AM ABLE TO DO. SIR, THE SOLICITOR'S OFFICE RECEIVES FILES FROM POLICE AGENCIES.

I HAVE INVESTIGATORS THAT WILL ASSIST ME IN FILLING THE GAPS ON FILES FOR CASES THAT ARE ALREADY MADE. TYPICALLY WE DO NOT DEVELOP OUR OWN FILES. TYPICALLY WE DO NOT INVESTIGATE OUR OWN CASES.

WE RECEIVE CASE FILES AND WE PROSECUTE THEM WITH THE INFORMATION WE HAVE. IF THERE IS INFORMATION LACKING, WE SEND FOLKS OUT TO FIND OUT THAT INFORMATION.

Q WELL, YOU DO GET CALLS FROM CITIZENS; DO YOU NOT?
A YES, SIR.
Q ALL RIGHT. IN FACT, HAVEN'T EVEN YOUR OWN NEIGHBORS ASKED YOU FOR ADVICE OVER THE YEARS THAT YOU HAVE BEEN AN ATTORNEY?
A YES, SIR.
Q HAVE -- PEOPLE DON'T JUST CALL YOU, DO THEY? THEY WOULD MEET WITH YOU JUST BY HAPPENSTANCE AND ASK YOU FOR ADVICE ON HOW TO PROCEED IN A CRIMINAL MATTER THAT THEY'RE INVOLVED IN. DON'T THEY DO THAT?

A PEOPLE ASK ALL KINDS OF QUESTIONS.
Q DO THEY OR DO THEY NOT OVER YOUR CAREER PERIOD OF TIME?
A YES.
Q OKAY. BUT WHEN THEY DO THAT OUT IN YOUR BACK YARD OR THEY DO IT OUT IN YOUR COMMUNITY, THAT'S A DIFFERENT PLACE THAN IN YOUR OFFICE. IS THAT NOT CORRECT?
A ALMOST BY DEFINITION.
Q WELL, BY DEFINITION OR OTHERWISE WHEN YOU'RE ON THE JOB YOU'RE DEALING WITH THE PUBLIC AND THEY'RE MAKING COMPLAINTS; RIGHT?
A NOT EVERYONE COMPLAINS.
Q SOME DO, DON'T THEY?
A WELL--
Q WELL, DID CONNIE?
A PARDON?
Q DID CONNIE COMPLAIN TO YOU?
A CONNIE HAD APPROACHED ME WITH A QUESTION.
Q CONNIE PRICE APPROACHED YOU WITH A QUESTION?
A SHE ASKED A -- SHE HAD A COMMENT ABOUT UNAUTHORIZED PRACTICE OF LAW.
Q AND THAT DIDN'T -- AND YOU DIDN'T SAY, WELL, WHO IS IT? WHAT'S THE NAME OF THIS PERSON?
A I DON'T RECALL ASKING THAT QUESTION.
Q WELL, YOU DIDN'T SAY, UM, WHERE DO YOU LIVE, MA'AM,

WHAT COUNTY?

A NO, SIR. I DON'T RECALL. I MIGHT HAVE. SIR, I MIGHT HAVE. IF I DID, I DON'T RECALL.

Q WELL SIR, IF A CITIZEN FROM AROUND HERE CALLS YOU AND YOU WERE GOING TO SUGGEST THAT THEY WENT TO GO TO A LAW ENFORCEMENT AGENCY, YOU WOULD NEED TO KNOW WHAT COUNTY THEY WERE IN; WOULDN'T YOU?

A YES, SIR.

Q BECAUSE YOU CAN'T BRING THE CHARGE UNLESS YOU BRING IT IN THE COUNTY WHERE IT TAKES PLACE. IS THAT NOT RIGHT?

A YES, SIR.

Q SO YOU WOULD ASK THEM THAT; WOULDN'T YOU?

A SIR, I DON'T KNOW. IF YOU'RE ASKING ME SPECIFICALLY AS TO CONNIE PRICE, I DON'T RECALL WHETHER I ASKED HER ANYTHING.

Q WELL SIR, IF YOU'RE NOT GOING TO GIVE THEM ANY LEGAL ADVICE, YOU SURE AIN'T GOING TO ASK THEM ABOUT THE COUNTY, ARE YOU? ARE YOU?

A IF I'M NOT GOING TO GIVE--

Q IF I CALL YOU AND I'M A CITIZEN AND I'M REPORTING A CRIME TO YOU AND YOU'RE NOT GOING TO GIVE ME ANY ADVICE AS TO WHERE I SHOULD GO, YOU'RE CERTAINLY NOT GOING TO ASK ME WHAT COUNTY I'M IN; RIGHT?

A I DON'T UNDERSTAND THE QUESTION.

Q WELL, IF YOU GO TO GIVE ADVICE TO SOMEBODY AS TO

WHERE TO FILE A CHARGE, YOU HAVE TO KNOW WHAT COUNTY; DON'T YOU?

A YOU SHOULD KNOW THE COUNTY.

Q SIR, YOU ARE AN ATTORNEY; ARE YOU NOT?

A AS ARE YOU, SIR.

Q ALL RIGHT. AND SO YOU WOULD HAVE TO TELL THEM, ASK THEM WHAT COUNTY THEY ARE IN IN ORDER TO TELL THEM WHERE TO GO; ISN'T THAT RIGHT?

A WELL, ACTUALLY YOU COULD SAY, CALL THE POLICE. I WOULD ASSUME THAT THE PERSON CALLING WOULD KNOW WHERE THEY ARE.

Q WELL, LET'S FOLLOW UP ON THAT. YOU COULD ALWAYS SAY TO THEM, WELL, CALL YOUR LOCAL POLICE STATION; RIGHT?

A YOU COULD SAY THAT, SIR, AND THAT WOULD PROBABLY BE GOOD ADVICE.

Q DID YOU DO THAT?

A I DON'T RECALL WHETHER I DID OR NOT.

Q AND THAT'S BECAUSE YOU CAN'T REMEMBER; ISN'T IT?

A IF I CAN'T RECALL, SIR, I CAN'T REMEMBER.

Q AND YOU ALSO DON'T HAVE ANY NOTES ON IT EITHER; DO YOU?

A NO, SIR. I DO -- I DO NOT HAVE ANY NOTES.

Q IS THAT THE WAY YOU'RE GOING TO CONDUCT BUSINESS OVER AT THE SOLICITOR'S OFFICE FROM NOW ON? YOU -- IS THAT THE WAY YOU'RE GOING TO TREAT YOUR CITIZENS FROM NOW ON OUT?

IS THAT THE WAY TO DO IT?
A I DON'T KNOW WHAT YOU'RE IMPLYING, SIR.
Q HOW MANY LAURA LINGS DO YOU WANT TO FIND?
MR. HUMPHRIES: I OBJECT, YOUR HONOR.
THE COURT: SUSTAINED.
MR. HUMPHRIES: THANK YOU.
THE COURT: THE JURY WILL DISREGARD THE LAST QUESTION OF COUNSEL AND GIVE IT ABSOLUTELY NO CONSIDERATION IN ITS DELIBERATIONS. YOU MAY REPHRASE, MR. KELLY.
BY MR. KELLY:
Q AS AN ATTORNEY, IS THAT A PROPER WAY TO CONDUCT YOUR BUSINESS WHEN A CITIZEN CALLS YOU?
A WELL, I HAVE BEEN WAITING HERE ALL DAY AND THERE'S PROBABLY -- IT'S POSSIBLE THAT THE NEXT STEPHEN STANKO IS ON MY VOICEMAIL AT THE OFFICE AND I HAVEN'T BEEN THERE TO ANSWER THE CALL, SO...
Q BUT IF YOU DO, IS THAT THE PROPER WAY TO DO IT?
A SIR, I WILL TAKE EACH CALL AS THEY COME.
Q EXCUSE ME?
A I WILL TAKE EACH CALL AS THEY COME.
Q THANK YOU SO MUCH.
A THANK YOU, SIR.
MR. KELLY: APPRECIATE IT. YOUR WITNESS.
THE COURT: ANY QUESTIONS FOR THE WITNESS?

MR. HUMPHRIES: JUST A COUPLE.

THE COURT: YOU MAY PROCEED.

CROSS-EXAMINATION

BY MR. HUMPHRIES:

Q SAM, WE HAVE BEEN TALKING ABOUT A LOT OF HYPOTHETICALS HERE TODAY. YOU HAVE TESTIFIED THAT YOU DON'T RECALL THE SUBSTANCE OF THAT CALL FROM CONNIE. IS THAT FAIR TO SAY?

A YES, SIR.

Q BUT IF, AS SUGGESTED BY THE DEFENSE, CONNIE PRICE HAD TOLD YOU THAT THERE WAS SOMEONE THAT SHE SUSPECTED WAS PRACTICING LAW WITHOUT A LICENSE, IF THAT WERE TRUE, WHAT WOULD YOU HAVE DONE IN TERMS OF ASSISTING HER?

A TYPICALLY I WOULD HAVE REFERRED HER TO THE BAR OR THE POLICE OR DISCIPLINARY COUNSEL.

Q OKAY. LET'S TALK JUST A BIT ABOUT ON CALL SERVICE. WHAT ARE THE DUTIES OF AN ON CALL SOLICITOR FOR THE PERIOD OF TIME THAT YOU'RE ON CALL?

A IT'S -- WE CALL IT ON CALL SOLICITOR. I BELIEVE THAT THE TERM THAT WE USE IS ELA WHICH IS EARLY LEGAL ASSISTANCE. TYPICALLY IT INVOLVES CALLS FROM POLICE OFFICERS WHO HAVE QUESTIONS ABOUT CASES THAT THEY'RE WORKING ON THE STREET AT THE TIME AND THEY WANT TO KNOW CHARGING QUESTIONS. THAT IS PART OF IT.

AND THERE'S ALSO FOLKS THAT COME AND VISIT THE OFFICE

AS WELL AS -- CITIZENS THAT VISIT THE OFFICE AS WELL AS CITIZENS THAT REACH US BY TELEPHONE. WHEN A PERSON SUCH AS THAT CALLS, IT'S DIRECTED TO THE ON CALL SOLICITOR.

Q SO YOU GET EVERYBODY THAT WALKS IN THE DOOR OR CALLS THAT ISN'T OTHERWISE ASSIGNED TO ANOTHER PROSECUTOR?

A YES, SIR.

Q ANY FORWARNING ABOUT THESE CALLS BEFORE THEY COME IN?

A NO, SIR. AND OFTEN TIMES WE'RE DOING OUR REGULAR JOB DUTIES WHILE WE'RE DOING -- WE'RE CARRYING THE TELEPHONE OR ANSWERING THE PINK PIECES OF PAPER WE GET, ET CETERA.

Q DO YOU GET JUST A FEW OF THEM OR A LOT OF THEM DURING THE WEEK?

A I WOULD SAY TYPICALLY MORE THAN 20 IN A WEEK'S TIME.

Q AND LET ME ASK YOU IN GENERAL, SAM. WHEN A CITIZEN CALLS YOU REGARDING A COMPLAINT, DO YOU GIVE THEM AN OPPORTUNITY TO TELL YOU WHAT THE COMPLAINT IS?

A ABSOLUTELY.

Q AND DO YOU TRY TO THE BEST OF YOUR ABILITY TO ASSIST THEM?

A YES, SIR.

Q INCLUDING REFERRING TO LAW ENFORCEMENT IF YOU DEEM IT APPROPRIATE?

A YES, SIR.

Q AND LET'S SAY THAT JUST FOR INSTANCE CONNIE PRICE ALLEGES THIS UNLAWFUL PRACTICE OF LAW IN HORRY COUNTY. TO

WHOM WOULD SHE HAVE BEEN REFERRED?

A AS I STATED, EITHER THE HORRY COUNTY POLICE -- I DON'T RECALL WHAT I TOLD HER.

Q CERTAINLY.

A BUT TYPICALLY I WOULD REFER HER TO EITHER DISCIPLINARY COUNSEL OF THE BAR OR THE BAR ITSELF OR THE POLICE.

Q WOULD IT SURPRISE YOU THAT CONNIE PRICE IN FACT DID ULTIMATELY CALL THE HORRY COUNTY POLICE DEPARTMENT?

A IF SHE HAD A COMPLAINT, THAT WAS THE PROPER PARTY TO -- TO ASK.

Q THANK YOU SO MUCH.

THE COURT: ANY QUESTIONS IN REDIRECT?

MR. KELLY: NO, MA'AM.

THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE STATE?

MR. HUMPHRIES: NONE FROM THE STATE.

THE COURT: FROM THE DEFENSE?

MR. KELLY: NO, MA'AM.

THE COURT: SIR, YOU'RE EXCUSED.

THE WITNESS: THANK YOU.

THE COURT: YOU'RE WELCOME.

(WITNESS LEFT THE STAND).

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, IT'S 6:21. WE ARE GOING TO TAKE ADVANTAGE

OF THIS BREAK IN TESTIMONY TO TAKE OUR EVENING RECESS.

DURING THE BREAK PLEASE HAVE NO DISCUSSION ABOUT THIS CASE AMONG YOURSELVES. PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. I HOPE THAT YOU ALL HAVE A RESTFUL AND ENJOYABLE EVENING. WE WILL SEE YOU IN THE MORNING AT 9:30. IF YOU WOULD GO WITH YOUR CUSTODIANS.

(JURY LEFT THE COURTROOM AT 6:21 PM.)

THE COURT: YOU MAY BE SEATED. IS THERE ANYTHING THAT WE NEED TO TAKE UP THIS EVENING BEFORE WE ADJOURN?

MR. HEMBREE: NO, YOUR HONOR, JUST DON'T KNOW -- NO REASON TO DO IT TONIGHT, BUT MAY WANT TO THINK ABOUT. IT LOOKS LIKE WE MAY WRAP UP THE DEFENSE CASE TOMORROW, AND I KNOW THE -- MAY WANT TO QUERY.

THE COURT: YOU INDICATED THAT -- OH, I'VE ALREADY HAD THAT PLANNED INTO MY STRUCTURE.

MR. HEMBREE: SOMETHING ON MY MIND.

THE COURT: IT'S ALWAYS GOOD TO REMIND ME. NOT A PROBLEM. AS I UNDERSTAND IT, YOU ALL HAVE -- AND I'M REFERRING TO THE DEFENSE -- ABOUT MAYBE NINE MORE WITNESSES TOMORROW? ONE FAIRLY LENGTHY. THE REST IS FAIRLY QUICK?

MR. KELLY: YES, MA'AM.

THE COURT: IS THAT AN ACCURATE ESTIMATE?

MR. KELLY: YES, MA'AM. THAT'S ACCURATE.

THE COURT: THE STATE HAS ESTIMATED THAT THEY MAY HAVE ONE REBUTTAL WITNESS. I ASSUME BASED ON THAT SCHEDULE THAT WE SHOULD CONCLUDE TESTIMONY TOMORROW.

I PLAN TO HAVE A CHARGE CONFERENCE AT THE CONCLUSION OF THAT TESTIMONY. I HAVE BEEN WORKING ON MY CHARGE AS WE HAVE BEEN LISTENING TO THIS LAST BIT OF TESTIMONY.

AND I WILL ALSO HAVE ALREADY PREPARED THE APPROPRIATE VERDICT FORMS THAT WILL GO TO THE JURY, THAT BEING THE STATUTORY INSTRUCTIONS DOCUMENT, THE RECOMMENDATION OF LIFE IMPRISONMENT, NO FINDING OF AGGRAVATING CIRCUMSTANCES, THE RECOMMENDATION OF DEATH DOCUMENT, AS WELL AS AGGRAVATING CIRCUMSTANCES DOCUMENT.

AND I WILL HAVE COPIES -- IF YOU ALL WOULD BEAR WITH ME -- I'M GOING TO HAVE MY CLERK MAKE COPIES OF EACH OF THESE FOR ME SO THAT YOU WILL HAVE THEM AVAILABLE TO YOU THIS EVENING TO REVIEW.

AND DR. SPICER, IS THAT HIS NAME? BECAUSE DURING CHAMBERS -- AND I APOLOGIZE WE DIDN'T PUT THIS ON THE RECORD. I TOLD YOU ALL THAT I WOULD DO ANYTHING THAT WAS NECESSARY TO EXPEDITE HIM BEING

HERE IF THAT WERE NECESSARY.

MR. DIGGS: YOUR HONOR, WE ARE NOT GOING TO CALL HIM. THANK YOU VERY MUCH.

THE COURT: OKAY. I JUST WANTED TO MAKE SURE THAT THAT IS CLEAR THAT IF HE NEEDED MY ASSISTANCE, THAT I STOOD READY TO ASSIST YOU AS WELL AS THE STATE INDICATED A WILLINGNESS TO PROVIDE YOU WITH ADDITIONAL PHONE NUMBERS OR OTHERWISE TO ASSURE HIS APPEARANCE.

AND ACTUALLY WHAT I INDICATED TO YOU IS I THOUGHT HE WAS VERY ACCOMMODATING AND I FIGURED IF YOU JUST CALLED HIM, HE'D COME, AND YOU WOULDN'T HAVE TO GO THROUGH THE NECESSITY OF SUBPOENA OR OTHERWISE.

MR. DIGGS: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME. OKAY. IS THERE ANYTHING ELSE WE NEED TO TAKE UP BEFORE WE ADJOURN?

MR. HEMBREE: NOTHING FROM THE STATE, YOUR HONOR.

THE COURT: ANYTHING FROM THE DEFENSE?

MR. DIGGS: NO, YOUR HONOR.

THE COURT: OKAY. Y'ALL JUST BEAR WITH SUMMER, SHE'LL GET YOU COPIES OF EACH OF THOSE SO YOU CAN HAVE THEM AND I WILL ALSO GIVE YOU ALL A COPY OF MY CHARGE. I MAY SIT HERE AND FINISH IT, AND SO I COULD GET A COPY IN THE MORNING.

DO YOU ALL HAVE ANY PROPOSED CHARGES YOU ALL WANT ME TO CONSIDER OR DO Y'ALL WANT TO FOLLOW THE SAME PROCEDURE THAT WE DID THE LAST TIME WHICH IS TO GO OVER IT AND THEN IF THERE IS ANYTHING Y'ALL WANT TO GIVE ME...

MR. DIGGS: YOUR HONOR, I THOUGHT THAT WORKED VERY WELL.

THE COURT: I JUST DON'T WANT Y'ALL TO GO TO EXTRA WORK IF YOU DON'T HAVE TO.

MR. DIGGS: THANK YOU VERY MUCH.

THE COURT: YOU HAVE GOT ENOUGH ON YOUR PLATE. AND IF WE CAN ELIMINATE THAT, I CERTAINLY WANT TO MAKE GOOD USE. Y'ALL HAVE A GOOD EVENING. GET SOME REST.

MR. HEMBREE: THANK YOU, JUDGE.

THE COURT: MR. KELLY, DO YOU NEED US TO HELP YOU WITH ANYTHING OR ARE YOU STRAIGHT?

MR. KELLY: I THINK I'M STRAIGHT. THANK YOU.

THE COURT: YOU'RE WELCOME.

(COURT IN RECESS FOR EVENING.)

***** AUGUST 17, 2006 *****

THE COURT: IS EVERYBODY READY?

MR. HEMBREE: STATE'S READY, YOUR HONOR.

THE COURT: IS THE DEFENSE READY?

MR. KELLY: YES, MA'AM.

THE COURT: ALL RIGHT. LET'S BRING IN THE DEFENDANT. OH, WE NEED MR. STANKO. I THOUGHT WE ALREADY BROUGHT HIM IN. I'M SORRY. I APOLOGIZE.

(DEFENDANT ENTERED THE COURTROOM.)

THE COURT: WE ALL SITUATED? IS THE STATE READY TO PROCEED?

MR. HEMBREE: YES, YOUR HONOR.

THE COURT: THE DEFENSE READY TO PROCEED?

MR. DIGGS: YES, YOUR HONOR.

THE COURT: PLEASE BRING IN THE JURY.

(JURY ENTERED THE COURTROOM AT 9:45 AM.)

THE COURT: YOU MAY BE SEATED. LADIES AND GENTLEMEN, I HOPE THAT YOU ALL HAD A RESTFUL EVENING. WE APOLOGIZE FOR ANY DELAY. WE NEEDED TO GET OUR TECHNOLOGY SET UP SO THAT WE COULD RUN WITHOUT INTERRUPTION.

SO AGAIN, WE APPRECIATE YOUR TIME AND YOUR PATIENCE. WE WILL NOW RESUME WITH THE TRIAL. MR. DIGGS, MR. KELLY, YOU MAY PROCEED.

MR. DIGGS: CALL LOUIS MURDEN.

THE COURT: OH, YOU NEED YOUR PADS; DON'T YOU? DID THE CLERK GO GET THEM?

LOUIS MURDEN, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE WITNESS: MY NAME IS LOUIS MURDEN,

M-U-R-D-E-N.

THE COURT: WAIT FOR A MOMENT FOR ME, MR. KELLY, SO WE CAN PASS OUT THE NOTEPADS. EVERYBODY SITUATED? SIR, IF YOU COULD PLEASE REPEAT YOUR NAME FOR US AND SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: MY NAME IS LOUIS MURDEN, AND IT'S SPELLED M-U-R-D-E-N.

THE COURT: AND SIR, WOULD YOU SCOOT YOUR CHAIR A LITTLE CLOSER TO THE MICROPHONE FOR US AND SPEAK DIRECTLY INTO IT? THANK YOU. MR. KELLY, YOU MAY PROCEED.

MR. KELLY: THANK YOU, MA'AM.

THE COURT: YOU'RE WELCOME.

DIRECT EXAMINATION

BY MR. KELLY:

Q MR. MURDEN, THANK YOU FOR COMING THIS MORNING. TELL THE JURY WHERE DO YOU WORK OR WHERE ARE YOU EMPLOYED?

A I'M A PSYCHOTHERAPIST IN PRIVATE PRACTICE AND I'M EMPLOYED BY PROFESSIONAL COUNSELING ASSOCIATES INCORPORATED.

Q AND DO YOU HOLD ANY DEGREES IN YOUR FIELD OF SCIENCE?

A YES. I HAVE A MASTER'S DEGREE IN SOCIAL WORK AND I'M LICENSED AS A CLINICAL SOCIAL WORKER IN SOUTH CAROLINA.

Q AND MR. MURDEN, HOW LONG HAVE YOU BEEN INVOLVED IN THIS TYPE OF PROFESSION?

A SINCE 1994.
Q AND MR. MURDEN, DO YOU KNOW OR ARE YOU FAMILIAR WITH STEPHEN STANKO?
A YES, I AM.
Q AND TELL THE JURY HOW YOU ARE FAMILIAR WITH HIM.
A WELL, IN TWO WAYS. FROM THE PRESS, OF COURSE, AND FROM -- FROM A TELEPHONE CALL THAT I RECEIVED AT -- WHERE THE CALLER IDENTIFIED HIMSELF AS MR. STANKO.
Q AND WHEN WAS THIS THAT YOU RECEIVED THIS CALL?
A IT WAS ON APRIL THE FIFTH OF LAST YEAR.
Q APRIL THE FIFTH?
A YES, SIR.
Q ARE YOU LOOKING AT--
A APRIL 5TH, 2005.
Q ARE YOU LOOKING AT RECORDS TO REMIND YOU OF WHEN THE CALL CAME IN?
A YES, SIR, A PAGE OF MY DAYTIMER IN WHICH I MADE A NOTE OF THE CALL.
Q OKAY. AND SO YOU HAVE A WRITTEN RECORD OF THE CALL COMING IN?
A YES, SIR.
Q AND DID YOU -- DO YOU HAVE A RECORD OR DO YOU REMEMBER WHAT WAS THE CONTENT OF THE -- OF THE CALL?
MR. HEMBREE: YOUR HONOR, I MUST OBJECT. THE OBJECTION IS HEARSAY.

THE COURT: PLEASE REPEAT THE QUESTION.

BY MR. KELLY:

Q DO YOU HAVE A RECOLLECTION OR A REPORT BEFORE YOU THAT TELLS YOU THE CONTENT OF THE CALL?

THE COURT: PLEASE APPROACH. WELL... BEAR WITH ME ONE MOMENT.

(WHEREUPON THERE WAS A BENCH CONFERENCE.)

THE COURT: THE OBJECTION IS SUSTAINED. HEARSAY. THE WITNESS MAY SAY WHAT HE DID AS A RESULT OF THE PHONECALL.

BY MR. KELLY:

Q DID YOU RECEIVE THIS CALL AT YOUR BUSINESS NUMBER?

A YES, SIR.

Q WAS THIS -- CONTENT OF THIS CALL HAVING TO DO WITH YOUR BUSINESS WORK?

A YES, SIR.

Q DID IT HAVE ANYTHING TO DO WITH ANY PERSONAL MATTER OF YOUR OWN OR ANYONE ELSE?

A NO.

Q AS A RESULT OF THIS CALL -- OR WHAT DID YOU DO?

A A TELEPHONE NUMBER WAS LEFT FOR A RETURN CALL AND I DID CALL THAT NUMBER, BUT I DID NOT REACH ANYONE AT THAT NUMBER.

Q DID YOU LEAVE ANY MESSAGE AT THAT NUMBER?

A I DON'T RECALL.

Q DO YOU -- YOU DON'T HAVE ANY NOTES OR RECORDS TO REFLECT WHETHER YOU DID OR YOU DID NOT?
A NO, I DON'T.
Q AND WERE -- WERE YOU RETURNING THE CALL IN YOUR -- IN YOUR PROFESSIONAL CAPACITY AS -- AND I WILL JUST REFER TO IT AS A SOCIAL WORKER PROFESSIONAL?
A YES, SIR.
Q THANK YOU, SIR. YOUR WITNESS.

THE COURT: YOU MAY PROCEED.

MR. HEMBREE: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME.

CROSS-EXAMINATION

BY MR. HEMBREE:
Q MR. MURDEN, YOU DO SOCIAL WORK IN FAMILY -- FAMILY COUNSELING?
A YES, SIR.
Q OKAY. I HAVE NO FURTHER QUESTIONS. THANKS.

THE COURT: ANY REDIRECT OF THE WITNESS?

MR. KELLY: NO, MA'AM. THANK YOU FOR COMING, SIR.

THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED BY THE STATE?

MR. HEMBREE: NONE FROM THE STATE.

THE COURT: BY THE DEFENSE?

MR. KELLY: NONE, MA'AM.

THE COURT: OKAY. SIR, YOU'RE EXCUSED.

(WITNESS LEFT THE STAND.)

THE COURT: YOU MAY PROCEED.

MR. DIGGS: YOUR HONOR, THE DEFENSE WOULD CALL DR. JAMES THRASHER.

DR. JAMES THRASHER, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. DIGGS:

Q DR. THRASHER, I WANT TO ASK YOU KIND OF TO GO OVER AGAIN YOUR EDUCATION AND TRAINING.

A YES.

Q CAN YOU GIVE US THE BENEFIT OF ANY DEGREES YOU HOLD IN YOUR AREA OF SPECIALTY OR IN YOUR PROFESSION?

A I HOLD A BACHELOR OF SCIENCE DEGREE FROM MY UNDERGRADUATE SCHOOL TRAINING AND I HAVE A MEDICAL DEGREE FROM MY MEDICAL SCHOOL TRAINING AND I HAVE A JURIS DOCTORATE DEGREE FROM MY LAW SCHOOL TRAINING.

Q NOW, LET ME ASK YOU, HAVE YOU EVER PRACTICED MEDICINE?

A EVER? YES.

Q AS A GENERAL PHYSICIAN?

A YES, I HAVE.

Q AND FOR HOW MANY YEARS?

A WELL, I GRADUATED IN 1965 AND I SPENT -- I WAS

LICENSED AT THAT TIME, WAS A LICENSED PHYSICIAN. SPENT THE NEXT YEAR ON A GENERAL ROTATING INTERNSHIP WHERE I DID GENERAL MEDICINE IN ALL AREAS.

Q ALL RIGHT. AND DID YOU EVER HAVE OCCASION TO DELIVER A BABY?

A YES, I DID.

Q AND ON HOW MANY OCCASIONS?

A I THINK I ACCUMULATED A TOTAL OF ABOUT 350 DELIVERIES TO MY EXPERIENCE.

MR. DIGGS: ALL RIGHT. YOUR HONOR, WE WOULD OFFER THE WITNESS AS AN EXPERT IN GENERAL -- AS A GENERAL PHYSICIAN.

THE COURT: ANY OBJECTIONS OR -- ANY QUESTIONS OR OBJECTIONS?

MR. HEMBREE: NO QUESTIONS, NO OBJECTIONS, YOUR HONOR.

THE COURT: SO ADMITTED. YOU MAY PROCEED.

BY MR. DIGGS:

Q DR. THRASHER, I WANT TO FOCUS YOUR ATTENTION NOW ON THE MEDICAL RECORDS THAT HAVE BEEN INTRODUCED INTO EVIDENCE IN THIS CASE. AND I WANT TO ASK -- WOULD YOU COME UP AND HELP RE-ESTABLISH THIS CONNECTION FOR ME? ALL RIGHT. AND GO PULL UP THOSE RECORDS, PLEASE MA'AM.

A WHICH ONE WOULD YOU LIKE?

Q CAN YOU PULL THEM UP? THEY ARE RUNNING? YOU SEE

THOSE?

A OVER--

Q YEAH, OKAY. NOW, YOU HAVE OPENED UP THE BABY'S RECORDS, THE BIRTH RECORDS; CORRECT?

A I DID.

Q NOW, BEFORE WE GET TO THAT, LET ME ASK YOU, DID YOU EVER HAVE OCCASION TO WORK IN A NAVAL HOSPITAL FACILITY?

A MANY TIMES.

Q AND IN WHAT CAPACITY?

A WELL, I WAS A -- I WAS A GENERAL STAFF PHYSICIAN AND I WAS A PSYCHIATRIST IN TRAINING AND A GRADUATE PSYCHIATRIST AND I BECAME A MEMBER OF EVERY MAJOR COMMITTEE IN A MAJOR HOSPITAL AND I BECAME THE MEDICAL DIRECTOR OF TWO LARGE NAVY HOSPITALS.

Q ALL RIGHT. MEDICAL DIRECTOR -- AS A MEDICAL DIRECTOR OF A NAVAL HOSPITAL FACILITY, WHAT ARE YOUR RESPONSIBILITIES?

A RESPONSIBLE FOR THE OVERALL DETAIL, GENERAL QUALITY OF CARE THROUGHOUT THE WHOLE FACILITY.

Q QUALITY ASSURANCE?

A YES, QUALITY ASSURANCE.

Q WHAT WE WOULD KNOW AS QUALITY ASSURANCE?

A I WAS -- YES, QUALITY ASSURANCE WAS UNDER MY AUSPICES. I RUN THE QUALITY ASSURANCE COMMITTEE IN A 2000 BED HOSPITAL. I -- I'M IN CHARGE OF IT IN FOUR HOSPITALS.

Q OKAY. AND THAT WOULD BE TWO IN THE NAVY AND TWO WHERE?
A TWO IN CIVILIAN--
Q OKAY. ARE YOU FAMILIAR WITH NAVAL MEDICAL RECORDS THAT RELATE TO NEWBORNS AND THEIR MOTHERS?
A YES.
Q HAVE YOU EVER FILLED THEM OUT?
A MANY TIMES.
Q HAVE YOU EVER REVIEWED THEM?
A MANY TIMES.
Q AND FOR WHAT PURPOSES?
A WELL, IF I DELIVERED AN INFANT, I HAD TO FILL THEM OUT MYSELF AND SIGN THEM AND AUTHENTICATE THEM. AND THEN IN QUALITY ASSURANCE I HAD TO REVIEW THEM FOR THE -- FOR -- IN -- FOR THEIR STATEMENT OF THE QUALITY OF CARE GIVEN FOR ANY PARTICULAR CASE.
Q WHAT DID YOU LOOK FOR WHEN YOU WERE MAKING A DETERMINATION OF QUALITY OF CARE?
A ACCURACY WITH A FINE TOOTH COMB, YOU KNOW, WHETHER THEY INITIALED HERE OR DATED THIS OR CROSSED OUT WHAT NEEDED TO BE CROSSED OUT AND FILLED IT BACK IN APPROPRIATELY, EVERYTHING, AND IT HAD TO DO WITH THE -- THE ACTUAL DELIVERY OF CARE.
Q ALL RIGHT. LET'S GO THROUGH MR. STANKO'S RECORDS. AND LET ME ASK YOU BEFORE WE -- ONE MORE QUESTION BEFORE

WE ACTUALLY LOOK AT THOSE. DID YOU CONDUCT THAT TYPE OF REVIEW WITH RESPECT TO MR. STANKO'S BIRTH RECORDS AND THE RECORDS OF HIS MOTHER?

A YES. I WENT OVER THEM QUITE THOROUGHLY.

Q ALL RIGHT. AND I WANT TO GET YOUR OPINION ON SOME OF THE ENTRIES THAT ARE MADE THERE.

A SURE.

Q SO, WHAT DO WE HAVE HERE? LET'S LOOK AT WHAT WE HAVE ON THE SCREEN. THIS IS THE FIRST PAGE OF THE -- OF THE BABY'S BIRTH RECORDS?

A IT APPEARS TO BE, YES.

Q ALL RIGHT. AS YOU GO THROUGH, YOU CAN SCROLL DOWN. AND WHEN WE GET TO A POINT THAT IS SPECIAL INTEREST TO YOU, I WANT YOU TO COMMENT ON IT. AND OTHERWISE I'M GOING TO ASK YOU TO COMMENT ON SOME THINGS THAT -- THAT I WANTED TO BRING TO THE COURT'S ATTENTION.

A WELL, WHEN YOU ASKED ME TO -- TO SPOT SOMETHING THAT'S OF SIGNIFICANCE TO ME, MAY BE EVERY SINGLE LINE. MAY NOT BE PERTINENT TO WHAT YOUR POINT IS HERE. LIKE TERM BIRTH OF A LIVING CHILD, HYPERBILIRUBINEMIA MEANING JAUNDICE, AND PHYSIOLOGIC AND EXAGGERATED, AND HAD A CIRCUMCISION, THOSE ARE ALL NORMAL, SIGNIFICANT BECAUSE THEY'RE -- NOT ONLY A DELIVERY BUT A SURGICAL PROCEDURE WAS PERFORMED.

Q OKAY. CONTINUE ON DOWN. AND IF YOU DON'T STOP

BEFORE, I'M GOING TO ASK YOU TO STOP ON PAGE FOUR THAT'S INDICATED -- YOU SEE THE PAGES DOWN THERE? THAT'S PAGE THREE OF 14?

A I DO.

Q ALL RIGHT. IF THERE'S ANYTHING PRIOR TO THAT THAT YOU WANT TO COMMENT ON THAT YOU FEEL IS PERTINENT TO THIS CASE, TO MR. STANKO'S CASE, PLEASE DO SO.

A WELL, OF COURSE, WE WANT TO MAKE SURE THAT WE HAVE THE RIGHT PATIENT AND THE RIGHT RECORDS, SO THIS PAGE IS CERTAINLY SIGNIFICANT. AND THE MOTHER'S SIGN THAT SHE TOOK HER BABY, IDENTIFIED IT.

AND THIS IS PAGE FOUR OF 14. AND IT SAYS, KEEP THE BABY ON D/W, THAT'S DEXTROSE AND WATER FEEDINGS THAT'S -- THAT'S NOURISHMENT THAT THEY GIVE A CHILD, AND THEY DID IT BEFORE THE FORMULA WAS SPECIFICALLY ORDERED.

AND IT SAYS, KEEP BABY NEAR THE WINDOW OF THE NURSERY, JUSTIFICATION TO FACILITATE CLOSE OBSERVATION, AND CLOSE HAS BEEN EMPHASIZED.

Q ALL RIGHT. AND WHAT WINDOW ARE WE TALKING ABOUT THERE?

A WELL--

Q WE'RE TALKING ABOUT WINDOW WHERE THE SUNLIGHT CAN COME IN?

A NO, NOT AT ALL.

Q ALL RIGHT. EXPLAIN TO US WHAT'S MEANT BY THE WINDOW

IN THAT CONTEXT.
A NURSERIES ARE SET UP SO THAT THE NURSING STATION IS SEPARATE AND APART FROM THE -- THE NURSERY ITSELF BECAUSE THERE IS PHONES RINGING ALL DAY AND ALL NIGHT LONG, PEOPLE COMING AND GOING, THE CLATTER OF CHARTS BEING PULLED OUT AND SLAPPED DOWN AND OPENED UP, TALK AMONG THE STAFF GOING ON.

AND THIS IS SET UP IN AN AREA THAT'S OUTSIDE THE NURSERY ITSELF WHERE THE WINDOW -- SET UP TO BE ABLE TO LOOK DIRECTLY INTO THE NURSERY TO SEE THE CHILDREN. AND THAT ALLOWS THE NURSERY ITSELF TO MAINTAIN AN AIR OF CALMNESS AND QUIETNESS FOR -- IN THE INTEREST OF THE -- OF THOSE INFANTS. THEY FEED BETTER. THEY DO BETTER.
Q OKAY. AND SO THIS NOTE NUMBER TWO IS AN INSTRUCTION TO KEEP THE BABY NEAR THE OBSERVATION ROOM?
A WELL, THEY -- OBVIOUSLY TO ME THEY WANTED IT NEAR THE WINDOW BECAUSE THERE ARE COREMEN INSIDE HELPING TAKE CARE OF THE CHILDREN AND IF THE COREMEN IS OUT OF THE NURSERY, THEY WANT THAT BABY NEXT TO THE WINDOW SO THAT PEOPLE CAN SEE IT SITTING IN THEIR SEATS.
Q WHY WOULD THEY DO THAT?
A BECAUSE THEY WANTED TO WATCH IT. THERE WAS SOMETHING AMISS.
Q DO THEY DO EVERY BABY THAT WAY?
A NO.

Q ALL RIGHT. WHAT -- WHAT WOULD CAUSE THAT KIND OF ENTRY INTO THE CHART?
A A PHYSICIAN'S CONCERN ABOUT THE -- THE CONDITION OF THAT INFANT. THEY'RE WORRIED THAT SOMETHING MIGHT HAPPEN.
Q ALL RIGHT. CONTINUE ON AND LET'S REVIEW THROUGH THESE RECORDS.
A OKAY.
Q HOLD IT THERE.
A SURELY.
Q WHAT ARE WE LOOKING AT ON THIS SCREEN?
A THIS IS A GRID THAT FORCES THE PHYSICIAN TO MAKE SPECIFIC STATEMENTS ABOUT IMPORTANT THINGS CONCERNING THE CONDITION OF AN INFANT IN THE PHYSICAL SENSE. AND THIS -- THIS WHOLE DISPLAY, YOU SEE A BUNCH OF -- WELL, THEY DIDN'T PUT THE BIRTH WEIGHT, TEMPERATURE, CHARACTER OF CRY AND OTHER MEASUREMENTS, THEY DIDN'T PUT THAT IN THERE. THAT SHOULD BE THERE, BUT WE DON'T HAVE IT. THE OTHERS ARE FILLED OUT.
Q ALL RIGHT. WHAT ARE THESE N'S AND O'S?
A WELL, THIS IS A PARTICULAR NOTATION THAT THIS PHYSICIAN USED N MEANING--
Q HAVE YOU SEEN THIS BEFORE?
A YES.
Q AND WHAT DOES IT MEAN?
A N MEANING NORMAL AND O MEANING OBSERVED. IN OTHER

WORDS, THEY SAW THAT.

Q OKAY. SO IT DOESN'T MEAN ZERO IN TERMS OF NOTHING THERE?

A NO.

Q JUST OBSERVED?

A NO. SOMETIMES IT'S A PLUS OR A MINUS AND THAT COULD BE INTERPRETED THE SAME WAY.

Q OKAY.

A NEGATIVE -- MINUS MEANS NOT OBSERVED. PLUS WOULD MEAN SEEN.

Q ALL RIGHT. SO N WOULD BE NORMAL, OR NOT OBSERVED. IS THAT YOUR TESTIMONY?

A YES.

Q AND THE O WOULD BE OBSERVED?

A YES.

Q SO LET'S LOOK AT WHAT -- WHAT WAS OBSERVED ON MR. STANKO'S BIRTH RECORDS AT THE TIME OF HIS BIRTH.

A CYANOSIS MEANS THAT--

Q OKAY. WHAT IS CYANOSIS?

A MEANS THAT HE WAS BLUE IN -- IN GENERAL COLOR.

Q WHY ARE BABIES BLUE?

A WELL, BABIES ARE BLUE FOR THE SAME REASONS ADULTS ARE BLUE, THEY ARE LACKING OXYGEN.

Q ALL RIGHT.

A IN THEIR BLOODSTREAM.

Q WOULD THAT BE FOR -- OVER WHAT PERIOD OF TIME?
A IT DOESN'T -- IT DOESN'T GIVE THE TIME. IT DOESN'T GIVE A TIME HERE.
Q WHAT WOULD BE YOUR EXPERIENCE TO MAKE THAT KIND OF OBSERVATION?
A WELL--
Q HOW LONG DOES IT TAKE FOR A BABY TO TURN BLUE?
A OH, JUST TAKES A FEW MINUTES TO TURN BLUE.
Q WHAT--
A ANYBODY -- I MEAN, WITHOUT OXYGEN YOU CAN ONLY SURVIVE FOR FOUR MINUTES. I MEAN, GO FIGURE.
Q ALL RIGHT. IS THAT A SIGNIFICANT OBSERVATION?
A YES.
Q AND WHY IS THAT?
A BECAUSE IT IMPLIES THE BABY IS SHORT OF OXYGEN.
Q AND THE IMMEDIATE -- IS THERE IMMEDIATE DANGER OR RESULT THAT CAN OCCUR BECAUSE OF THE SHORTAGE OF OXYGEN?
A DEATH.
Q DEATH? AND PRIOR TO THAT, WHAT PARTS OF THE BODY WOULD IT AFFECT?
A IT EFFECTS THE BRAIN FIRST.
Q OKAY. AND YOU WANT TO GO DOWN OR ACROSS?
A IT DOESN'T MATTER.
Q ALL RIGHT. LET'S GO ACROSS TO PALLOR.
A YES.

Q THIS PHYSICIAN OBSERVED PALLOR WITH MR. STANKO AT THAT TIME. WHAT DOES THAT MEAN?

A WELL, SOME OF THESE MAY LOOK LIKE THEY ARE CONTRADICTORY, BUT THEY ARE NOT. PALLOR WOULD MEAN PALENESS. THIS BABY WOULD BE PALE AND BLUE.

Q WHY WOULD THAT NOT BE CONTRADICTORY WITH THE CYANOSIS?

A WELL, BECAUSE IF IT WAS PINK, IF THE BABY WAS PINK, WHICH WE EXPECT IN A NORMAL DELIVERY, THE PALLOR WOULD BE NOT OBSERVED OR -- AND THE BLUENESS WOULD NOT BE OBSERVED.

Q IS THERE ANY SIGNIFICANCE TO THE FACT THAT HE'S OBSERVING -- THE PHYSICIAN IS OBSERVING CYANOSIS AND PALLOR AT THE SAME TIME?

A WELL, PALLOR COULD BE RELATED TO THE AUTONOMIC NERVOUS SYSTEM THAT HAS TO DO WITH DILATING THE BLOOD VESSELS ON THE SURFACE ON THE SKIN USUALLY MAKING THEM PINK. IF THEY ARE PALE AND CYANOTIC, THEY ARE NOT EXCHANGING -- THEY ARE NOT -- THEY ARE NOT GETTING ENOUGH OXYGEN.

Q ALL RIGHT.

A AND ALSO THERE'S SOME QUESTION OF THE FUNCTION OF THE AUTONOMIC NERVOUS SYSTEM.

Q ALL RIGHT. AND THAT IS CONTROLLED ULTIMATELY BY WHAT?

A THE BRAIN.

Q ALL RIGHT. AND SO THESE ARE TWO OBSERVATIONS THAT ARE MADE THAT CAUSE -- THAT CALL INTO QUESTION A PROBLEM WITH THE BRAIN?

A YES, RAISES THE QUESTION CERTAINLY.

Q ALL RIGHT. AND HOW ABOUT ICTERUS? AM I PRONOUNCING THAT CORRECTLY?

A YEAH, ICTERUS IS A -- IS A STATEMENT ABOUT THE YELLOW COLOR TO THE SKIN TISSUE.

Q ALL RIGHT. SO IT'S ABOUT -- IT'S ANOTHER OBSERVATION ABOUT HIS COLOR AND THE WAY HE APPEARED?

A YEAH, BUT IT'S USUALLY RELATED TO SOMETHING ELSE WHICH WOULD BE A HIGH LEVEL OF BILIRUBIN WHICH IS A BREAKDOWN COMPONENT OF THE HEMOGLOBIN THAT COLLECTS IN A PERSON'S BLOODSTREAM.

WE SEE A LOT OF IT WITH HEPATITIS BECAUSE THE LIVER IS SUPPOSED TO CLEAR IT AND PEOPLE WILL TURN AS YELLOW AS YOUR YELLOW PAD THERE.

Q OKAY.

A THAT'S PROFOUND ICTERUS. NOW, INFANTS MAY HAVE PHYSIOLOGIC ICTERUS AT BIRTH, AND IT'S PARTICULARLY WORRISOME WHEN THERE'S AN RH INCOMPATIBILITY BETWEEN THE MOTHER AND THE BABY.

Q WE DON'T HAVE THAT IN THIS CASE?

A THE MOTHER'S RH POSITIVE. I DON'T -- I DIDN'T SEE A ENTRY ABOUT THE RH FACTOR IN THE BABY'S BLOODSTREAM.

Q BUT WHEN WOULD IT -- WHEN WOULD IT BE A PROBLEM POSSIBLY, POTENTIALLY?

A AT OR BEFORE BIRTH AND AFTER BIRTH.

Q OKAY. AND AGAIN, WHAT ARE THE CONDITIONS THAT ARE REQUIRED?

A INCOMPATIBILITY BETWEEN THE RH FACTOR IN THE MOTHER'S BLOODSTREAM AND THE RH FACTOR IN THE BABY'S BLOOD.

Q ALL RIGHT. YOU CAN'T RULE THAT OUT HERE, BUT YOU CAN'T RULE IT IN EITHER?

A YEAH, THERE'S NO STATEMENT AS--

Q OKAY.

A -- I DIDN'T FIND ANY STATEMENT AS TO THE RH IN THE BABY'S BLOODSTREAM.

Q ALL RIGHT. LET'S GO DOWN TO THE NEXT -- WE HAVE OBSERVED O ON MURMURS. WHAT DO YOU GATHER FROM THAT?

A THE HEART -- THE ONE BEFORE THAT, HEART WAS DESCRIBED AS NORMAL. AND MURMURS ARE A DESCRIPTION OF HEART FUNCTION USUALLY. AND WE LISTEN FOR A MURMUR IN A -- IN A BABY'S HEART.

AND ONE WAS OBSERVED, BUT I'M NOT SURE THAT THERE -- THAT ONE WOULD BE PATHOLOGICAL, BE WORRISOME. THERE ARE PHYSIOLOGIC MURMURS AS HUMAN BEINGS HAVE. ATHLETES HAVE THEM ALL THE TIME --

Q IS--

A -- PHYSIOLOGIC HEART. BABIES CAN HAVE THEM IF THEIR

HEARTBEAT IS REALLY PICKED UP.

Q WHAT WOULD CAUSE THAT? DO YOU HAVE ANY IDEA?

A LACK OF OXYGEN, SHOCK.

Q SO THIS MURMUR OBSERVATION COULD BE DIRECTLY RELATED TO THE CYANOSIS?

A IT COULD BE, YES.

Q AND THE LACK OF OXYGEN?

A IT COULD BE.

Q ALL RIGHT. LET'S GO DOWN TO THE NEXT OBSERVATION, THE PARALYSIS.

A YES.

Q WHY WOULD PARALYSIS BE OBSERVED?

A WELL, PARALYSIS -- PARALYSIS OBSERVED IN AN INFANT IS VERY WORRISOME. SOMETIMES THE MECHANICS OF DELIVERY CAN RESULT IN A PARALYZED ARM OR LEG, THINGS LIKE THAT, AND IT'S REALLY A DISASTER, SOMETIMES UNAVOIDABLE AND VERY UNFORTUNATE.

SO YOU WOULD WANT -- WE WOULD WANT TO HAVE A STATE -- WAS ALREADY PARALYSIS--

Q AND WE DON'T HAVE ANY NOTATIONS IN HERE ABOUT ANY KIND OF COMPLICATIONS WITH THE DELIVERY, THOUGH; DO WE?

A WELL, UP AT THE TOP OF THIS IT SAYS, INITIAL PHYSICAL EXAMINATION. THE VERY LAST LINE SAYS, USE PROGRESS SHEET TO -- FOR -- FOR ABNORMALITIES, DESCRIPTIONS, AND ELABORATION. AND THESE SHOULD HAVE BEEN FOLLOWED UP--

Q TALKING ABOUT THIS LINE UP HERE, THE TOP?
A YES. YES. THE VERY LAST LINE, HARD TO READ, VERY SMALL. BUT THE INSTRUCTIONS ARE TO USE A PROGRESS SHEET TO EXPAND OR FOLLOW UP AND DESCRIBE THESE OBSERVATIONS THAT ARE OF NOTE.
Q WAS THAT DONE IN THIS CASE?
A THERE WAS A PROGRESS SHEET THAT FOLLOWED, AND WE CAN GET TO IT.
Q WE'LL GET TO IT IN A MINUTE. I WANT TO GO THROUGH IN SEQUENCE. DO YOU RECALL IF IT WAS COMPREHENSIVE OR NOT?
A IT WAS NOT.
Q OKAY. NOW, LET'S LOOK AT THE NOTATIONS THAT ARE DOWN HERE UNDER THE HEADING, ABNORMAL FINDINGS ON PHYSICAL EXAMINATION.
A YES.
Q WHAT DO WE HAVE HERE?
A BABY HAS EXCESSIVE MUCUS AND HAS BEEN VOMITING INTERMITTENTLY, HAS BEEN FORCEFUL VOMITING OF CLEAR FLUID AND MUCUS DURING THE EXAMINATION. A FEEDING TUBE WAS PASSED INTO THE STOMACH WITH -- WITHOUT DIFFICULTY AND THREE CUBIC SONOMETERS OF FLUID WERE REMOVED AFTER WHICH THE STOMACH WAS WASHED, LAVAGED.
Q ALL RIGHT. AS A PHYSICIAN, DOES THAT TELL YOU ANYTHING?
A WELL, YES, PARTICULARLY THE FORCEFUL VOMITING.

Q WHY IS THAT?
A FORCEFUL PROJECTILE, SUDDEN VOMITING WITHOUT WARNING IS OFTEN TIMES ASSOCIATED WITH INTRACRANIAL HEMORRHAGE. IT'S A -- IT'S A WARNING THAT -- SOMEBODY'S JUST SUDDENLY THROWS UP AND THEY PROJECT IT SEVERAL FEET OUT WITH LIKE A SPASMODIC VOMITING, IT'S A WORRISOME SIGN.
Q OKAY. INTRA -- INTRACRANIAL HEMORRHAGE.
A YEAH, INTRA MEANING INSIDE, CRANIAL, INSIDE THE HEAD.
Q OKAY. DOES THAT HAVE ANY RELATION TO THE CYANOSIS, TO THE BLUE COLOR OR IS IT COINCIDENTAL?
A WELL, IT COULD HAVE.
Q COULD BE?
A COULD BE, YES.
Q OKAY. LET'S CONTINUE ON.
A SURE. WELL, HERE'S A CONDITION AT DISCHARGE. LOOKS LIKE IT'S JUMPING AHEAD A LOT HERE. BUT SEEMS CLINICALLY WELL, BILIRUBIN WAS DOWN TO AN ACCEPTABLE LEVEL OF 19.1 MILLIGRAMS PERCENT. AND THE NEXT DAY IT WAS DOWN TO 17.8.
Q WHAT IS THE BILIRUBIN?
A THAT'S THE -- THIS STATEMENT IS A MEASURE OF THE CONCENTRATION OF BILIRUBIN IN THE BLOODSTREAM.
Q WHICH IS RELATED TO WHAT? WHAT DOES THAT TELL US?
A IT'S A BREAKDOWN PRODUCT OF HEMOGLOBIN.
Q OKAY. IS THAT RELATED TO THE JAUNDICE?

A YES. IT'S AN EXPRESSION OF THE ACCUMULATION OF THAT. AND IF IT GETS HIGH ENOUGH, YOUR SKIN WILL TURN YELLOW, THE WHITES OF YOUR EYES WILL TURN YELLOW, ET CETERA.

Q AND CAN THAT BE RELATED IN ANY WAY TO A HEMORRHAGE OR IS THAT SOMETHING DIFFERENT?

A I SUSPECT THAT'S SOMETHING DIFFERENT.

Q OKAY. LET'S CONTINUE ON AND KEEP -- KEEP UP WITH THE REVIEW.

A HERE'S THE PROGRESS NOTES SHEET.

Q ALL RIGHT. CAN YOU READ THAT? HAVE YOU BEEN ABLE TO MAKE OUT WHAT'S BEING SAID THERE?

A YES. IT'S...

Q READ IT FOR US.

A I WILL TRY. IT'S ONE 14, EXCESSIVE--

Q THE DAY AFTER -- THE DAY AFTER HIS BIRTH?

A YES. EXCESSIVE MUCUS AND INTERMITTENT VOMITING. ON EXAM, BOWEL SOUND -- BOWEL SOUNDS ARE ACTIVE. NO PERISTALSIS VISIBLE, NO...

Q IS THAT ABDOMINAL?

A NO ABDOMINAL MASSES, YEAH, NO ABDOMINAL MASSES, CHEST IS CLEAR. AND -- I CAN'T MAKE OUT THE NEXT ONE.

Q SOMETHING WAS NORMAL?

A LET'S -- MAYBE I CAN INTERPRET IT LATER. LARGE AMOUNT OF MUCUS PASSED DURING THE EXAM.

Q WHAT IS THAT? DOES THAT HAVE ANY SIGNIFICANCE?

A WELL, THE BABY STILL HAS INTERMITTENT VOMITING. THE BOWEL SOUNDS ARE ACTIVE WHICH MEANS THAT, YOU KNOW, THE INTESTINES ARE FUNCTIONAL AND THIS SAYS NO PERISTALSIS IS VISIBLE.

AND PERISTALSIS IS THE MUSCULAR ACTION OF THE INTESTINES TO PASS ITS CONTENTS DOWN THE LINE. AND IF IT'S VISIBLE, IT MEANS THERE'S TROUBLE GOING ON IN THE TUMMY, AND IT SAID THERE WAS NONE OBSERVED, SO THAT WAS GOOD.

AND THERE WERE NO ABNORMAL MASSES. IN OTHER WORDS, THERE WERE NO TUMORS OR GROWTHS IN THE -- THE LIVER WAS NOT ENLARGED, AND THE CHEST WAS CLEAR. STILL CAN'T MAKE OUT THAT NEXT WORD. LARGE AMOUNT OF MUCUS, WELL, YEAH.

Q LET ME ASK YOU IF -- AGAIN, IF THAT HAS ANY SIGNIFICANCE OR COULD IT HAVE ANY SIGNIFICANCE, THAT MUCUS IS CONTINUING?

A JUST THAT -- I -- IT DOESN'T SAY IT WAS VOMITED. IT SAID IT WAS PASSED, SO THINGS ARE GOING THROUGH THE INTESTINAL TRACT SUCCESSFULLY.

Q COULD IT HAVE ANY INFLUENCE OR AFFECT ON THE ABILITY TO BREATHE?

A NOT WHILE IT'S IN THE INTESTINAL TRACT.

Q OKAY. BUT PRIOR TO THAT?

A COULD HAVE.

Q AND THIS MUCUS WAS IN THE INTESTINES?

A YES.
Q IS THAT WHAT YOU'RE SAYING?
A YES.
Q WHERE WOULD IT HAVE HAD TO START OUT?
A WELL, PROBABLY IN THE UPPER RESPIRATORY TRACT IN THE SINUSES, NOSE, THROAT, CHEST.
Q OKAY. SO IT HAD BEEN THERE LONG ENOUGH TO PASS THROUGH THAT AREA INTO THE INTESTINES?
A YES.
Q OKAY. NOW, LET'S GO THROUGH THE NEXT NOTE. CAN YOU TELL US WHAT IS WRITTEN THERE?
A YEAH, THE BABY HAS A POOR MORO BUT FAIR SPONTANEOUS MOVEMENT.
Q ALL RIGHT. WHERE IS THAT?
A SORRY? WHERE IS IT?
Q YEAH. WHEN YOU JUST READ, POOR MORO, CAN YOU POINT THAT OUT AND TELL US WHAT LINE IT IS?
A WELL, IF YOU START THE TOP WRITTEN LINE, ONE, TWO -- THIRD LINE DOWN, THE LAST THREE WORDS, BABY HAS A POOR MORO, DOWN ON THE SECOND TO THE NEXT LINE, BUT FAIR SPONTANEOUS MOVEMENT AND DECREASED TRUNCAL RECURVATION (SIC) REFLUX.
Q OKAY. I SEE, BABY HAS POOR MORO, BUT FAIR...
A SPONTANEOUS MOVEMENT.
Q ALL RIGHT. WHAT IS MORO?

A MORO IS A -- IT'S A -- FOR -- SHORTENED WORD FOR A REFLEX THAT'S NORMALLY FOUND IN INFANTS. IT'S CALLED -- IN THE -- AND THE REAL NAME OF IT IS MORO ANDEMRONS, OKAY. AND IT'S A REFLEX THAT'S MANIFEST BY A GRASPING, SUDDEN DISPLAYING OF THE ARMS AND A REFLEX GRASPING, AND IT'S -- IT'S NORMAL IN NEWBORN INFANTS.

Q WHY WOULD AN INFANT HAVE A POOR MORO REFLEX?

A WELL, IT IMPLIES, IF IT'S NOT VERY GOOD, THEN THERE MAY BE SOMETHING NEUROLOGICALLY GOING ON WITH THE BABY WHEN THEY DON'T DO THAT.

Q ALL RIGHT.

A THEY JUST KIND OF FLOP.

Q OKAY. WOULD THERE BE ANY OTHER CAUSE OR IS IT NEUROLOGICALLY RELATED?

A NO, IT'S A NEUROLOGICAL SIGN, CLEARLY.

Q AND COULD THAT BE CONSISTENT WITH WHATEVER CAUSED THE BLUENESS IN THE COLOR?

A COULD BE, YES.

Q SO THAT COULD BE RELATED TO THE SAME POOR MORO REFLEX?

A I THINK THEY ALL CAN BE INTERCONNECTED, YES.

Q ALL BE RELATED?

A YES.

Q OKAY. CONTINUE ON.

A AND DECREASED -- IT'S MORO, IT'S A -- HAS POOR MORO

BUT FAIR SPONTANEOUS MOVEMENTS. IN OTHER WORDS, THE REFLEXES BROADEN -- THE MORO REFLEX IS BROUGHT ABOUT BY POSITIONING AND MOVEMENT OF THE CHILD ITSELF.

THEN THEY GO ON TO SAY, OR WHOEVER IS WRITING IT, WENT ON TO SAY THAT LEFT ALONE THE BABY HAS SPONTANEOUS MOVEMENTS OF ITS OWN.

Q OKAY.

A WITHOUT BEING STIMULATED. THEN IT SAYS A DECREASED TRUNCAL RECURVATION REFLEX.

Q DECREASED WHAT?

A TRUNK (SIC) RECURVATION REFLEX.

Q WHAT DOES THAT MEAN?

A WELL, THAT'S ANOTHER REFLEX THAT CAN BE BROUGHT ABOUT DURING AN EXAMINATION OF AN INFANT. IT'S DONE BY HOLDING OR PLACING THE BABY ON THE STOMACH AND, AND STIMULATING THE MUSCLE AREA ON THE SKIN WITH A GENTLE SWEEPING MOTION DOWN ALONGSIDE THE SPINAL CORD, DOWN ALONGSIDE THE SPINE, AND WOULD -- IF IT'S NORMAL, IF THEY'RE INTACT AND THINGS ARE WORKING RIGHT, THE INFANT WILL BEND ITS TRUNK IN THAT DIRECTION AND DO IT LEFT AND RIGHT AND THEN IT WILL BEND ONE WAY OR THE OTHER.

IT'S A -- THERE'S A MORE COMMON NAME FOR THIS REFLEX CALLED THE SWIMMER'S REFLEX. BUT IT'S A -- ONE OF THE MANY REFLEX -- EXAMINATIONS OF A BABY'S REFLEXES TO ASCERTAIN WHETHER IT'S NORMAL OR NOT.

Q NORMAL ULTIMATELY WHERE?
A IN THE BRAIN.
Q OKAY. SO WE GOT THE POOR MORO AND A DECREASED -- WHAT DID YOU CALL IT?
A TRUNCAL RECURVATION REFLEX.
Q ALL RIGHT.
A IT'S THE SWIMMER'S REFLEX.
Q OKAY. LET'S CONTINUE ON.
A IT SAYS IMPRESSION -- IMP MEANS IMPRESSION. VOMITING -- THE TWO WITH A LITTLE ZERO MEANS SECONDARY TO.
Q ALL RIGHT. THIS -- THIS WORD RIGHT HERE, THIS IS A...
A I CAN'T SEE WHAT YOU'RE POINTING AT.
Q A SYMBOL, IT'S THE IMP UNDERLINED.
A YES.
Q AND YOU READ THAT AS IMPRESSION?
A YES, IT IS.
Q THE PHYSICIAN'S IMPRESSION WHO IS WRITING THIS CHART?
A AT THE TIME, YES.
Q ALL RIGHT. WHAT IS THE IMPRESSION THERE THAT'S WRITTEN?
A THE VOMITING SECONDARY TO -- OR BECAUSE OF, QUESTION MARK, MEANING POSSIBLE CEREBAL (SIC) DAMAGE I THINK IT SAYS.
Q IS THAT EDEMA?

A THAT'S RIGHT. IT IS, YOU'RE RIGHT.
Q WHAT IS CEREBRAL EDEMA?
A SAYS POSSIBLE CEREBRAL EDEMA. THAT'S SWELLING OF THE BRAIN.
Q OKAY.
A AND THEN THE NEXT ONE IS QUESTION MARK MEANING POSSIBLE INTRACRANIAL HEMORRHAGE, MEANING BLEEDING INTO THE BRAIN.
Q ALL RIGHT.
A AND THEN QUESTIONABLE ABDOMINAL PATHOLOGY.
Q ALL RIGHT. NOW, WOULD ABDOMINAL -- WHAT IS ABDOMINAL PATHOLOGY?
A WELL, THEY ARE TALKING ABOUT SOMETHING WRONG IN THE TUMMY.
Q OKAY.
A NOT SPECIFICALLY.
Q NOW, PRIOR TO THIS, ANY INDICATION THAT THERE'S SOMETHING WRONG IN THE STOMACH AREA?
A THE VOMITING.
Q BUT -- THE PROJECTILE VOMITING?
A IS LESS LIKELY IT'S ABDOMINAL.
Q OKAY.
A IF THE BABY IS -- IF THE BABY HAS AN OBSTRUCTED ABDOMINAL TRACT, THEN IT WILL FILL UP FAST AND THEY WILL VOMIT A LOT, BUT IT'S A DIFFERENT CHARACTER OF VOMITING.

THEY SPIT UP AND SPIT UP AND SPIT UP BECAUSE IT CAN'T -- IT WON'T GO THROUGH.

Q ALL RIGHT. IF WE HAD ABDOMINAL PATHOLOGY HERE, WOULD WE HAVE A BLUE -- A BLUE BABY?

A APPARENTLY.

Q I MEAN, COULD THAT -- IS THAT A LIKELY CAUSE FOR THE BLUENESS?

A FOR THE--

Q WAS THE BLUE CAUSED BY LACK OF OXYGEN?

A I -- IT'S MORE LIKELY DUE TO A LACK OF OXYGEN.

Q ALL RIGHT. SO ON THE -- THIS PHYSICIAN GIVES US THREE GUESSES ABOUT WHAT'S WRONG.

A THESE ARE HIS THREE IMPRESSIONS, AND IT'S--

Q THREE IMPRESSIONS, TWO OF WHICH RELATE TO THE BRAIN?

A YES.

Q ALL RIGHT. AND ONE THAT RELATES TO POSSIBLY THE STOMACH.

A YES.

Q OKAY. OVERALL WHAT WOULD BE YOUR OPINION WITHIN A REASONABLE DEGREE OF MEDICAL CERTAINTY ABOUT WHAT THE LIKELY CAUSE WOULD BE?

A WELL, I -- THE CONCLUSION THAT THIS BABY'S IN TROUBLE. TWO -- TWO OUT OF THREE IT'S SOMETHING WRONG IN THE BRAIN.

Q AND GIVEN THE REFLEX OR THE POOR REFLEX--

A THEY'RE--
Q -- DOES THAT CORROBORATE YOUR OPINION?
A YEAH, THEY ARE INDICATORS OF PROBLEMS. YOU BET.
Q OKAY. LET'S CONTINUE ON.
A SURE. WELL, ON THE RIGHT HAND SIDE SAYS SILVER NITRATE WAS ADMINISTERED. THEY PUT DROPS IN THE BABY'S EYES TO -- TO AVOID INFECTIONS THAT ARE COMMON FROM DELIVERY.

AND THEN IT SAYS, PLACED IN TRENDELENBERG POSITION, WHICH IS A -- A HEAD DOWN FOOT UP POSITION THAT'S OFTEN TIMES USED FOR FOLKS THAT ARE IN SHOCK SO THAT THE PREFERENTIAL CIRCULATION WILL BE TO THE HEAD TO PRESERVE FUNCTION OF THE BRAIN.

Q IS -- DOES THAT HAVE ANY SIGNIFICANCE TO YOU?
A YES, THEY -- THIS IS A BLUE, PALE BABY WITH BAD REFLEXES AND THEY -- IF IT'S A CIRCULATORY PROBLEM, THEY WANT IT -- THEY WANT TO COMPENSATE FOR IT AS MUCH AS THEY CAN AND MAKE SURE THE -- PREFERENTIALLY GOES WITH THE BRAIN, SO THEY PUT THE HEAD DOWN, FEET UP.
Q SO BLOOD WILL GO TO HIS HEAD, HIS BRAIN?
A EXACTLY.
Q AND THAT WAS THE PURPOSE?
A YES.
Q ALL RIGHT. AND THAT'S THE TRENDELENBERG POSITION. THEY'VE NOTED THAT RIGHT HERE?

A YES.
Q COLOR. WHAT DOES IT SAY ABOUT COLOR?
A COLOR AND CRY IS GOOD.
Q OKAY.
A THEN AT THE BOTTOM IT SAYS...
Q CALL TO CHECK COREMEN -- LET ME--
A YEAH, CALL TO THE NURSERY BY THE COREMEN TO CHECK RESPIRATIONS. SOUNDING AS IF NASALLY CONGESTED. SUCTION NEGATIVE FOR MUCUS, ET CETERA.
Q ALL RIGHT.
A THEY TRIED TO CLEAR OUT THE NOSE AND NOTHING CAME OUT.
Q ALL RIGHT. WHAT'S GOING ON HERE? WHERE ARE THOSE SOUNDS COMING FROM, THESE RESPIRATIONS?
A PROBABLY FROM THE THROAT OR FROM THE CHEST.
Q PARDON?
A PROBABLY FROM THE THROAT OR THE CHEST.
Q ALL RIGHT. AND COULD THAT INTERFERE WITH HIS ABILITY TO BREATHE OR TAKE IN OXYGEN?
A WELL, YES.
Q COULD IT MAKE HIM BLUE?
A YES.
Q ALL RIGHT. SO THAT'S CONSISTENT WITH THE LACK OF OXYGEN?
A IT COULD BE, YES.

Q AND BLUE COLOR?
A COULD BE, YES.
Q OKAY. BUT -- BUT EVEN THOUGH THEY TRIED TO GET THE MUCUS, WHATEVER IT WAS CAUSING -- BACK UP JUST A LITTLE BIT. RIGHT THERE. ALL RIGHT. THEY TRIED TO REMOVE MUCUS BUT THEY WEREN'T ABLE TO.
A WELL, WAS NEGATIVE. THEY DIDN'T GET ANYTHING.
Q BUT THE SOUNDS -- THE SOUNDS CONTINUED AND THE OXYGEN -- POTENTIAL OXYGEN DEPRIVATION CONTINUED; CORRECT? IS THAT WHAT THEY ARE TELLING US THERE?
A APPARENTLY THEY TRIED TO GET SOME -- TO CLEAR THE AIRWAY BUT NOTHING CAME OUT, SO THE PROBLEM MORE THAN LIKELY DID CONTINUE.
Q OKAY. NOW LET'S KEEP GOING. HE VOMITED?
A YEAH. THE INFANT VOMITED APPROXIMATELY 20 CUBIC SONOMETERS OF CLOUDY FLUID WHICH HAD THE APPEARANCE OF AMNIOTIC FLUID WHICH THE BABY WOULD BE -- WOULD HAVE, YOU KNOW, THEY SWALLOWED THAT THROUGHOUT THEIR WHOLE DEVELOPMENT IN THE WOMB.
Q OKAY.
A SO THAT -- THAT'S NOT ABNORMAL. NO APPARENT ASPIRATION. THE WORRY WOULD BE WITH VOMITING THAT THE CHILD OR ANY -- ANYBODY, IF THEY VOMITED, THEY MIGHT REFLEXLY INHALE AND GET THAT INTO THEIR LUNGS WHICH IS A CRISIS.

Q OKAY. NOW, THIS IS AN INFANT AND HE'S REPEATEDLY VOMITING; CORRECT?
A YEAH.
Q AND THAT INTRODUCES THE POSSIBILITY OF WHAT?
A ASPIRATION MEANING THAT HE SUCKED SOME OF THAT DOWN INTO HIS AIRWAY AND INTO THE LUNGS WHICH IS A -- IT'S A REAL CRISIS.
Q A REAL CRISIS?
A CRISIS, YES, IF THEY DO THAT, YEAH, IF ANYBODY DOES THAT.
Q COULD MAKE YOU TURN BLUE?
A YES. YES, IT CAN. IF YOU -- IF YOU HAVE EVER TAKEN A DRINK OF SOMETHING AND IT WENT THE WRONG DIRECTION, YOU GET A SOLID EXAMPLE OF WHAT ASPIRATION IS LIKE. AND IF IT HAPPENS TO BE THE STOMACH CONTENTS WHICH IS LOADED WITH ACID, IT IS REALLY SERIOUS. IT CAN CAUSE SERIOUS LUNG PROBLEMS, RESPIRATORY FAILURE AND DEATH.
Q RESPIRATORY -- SAY AGAIN?
A IT COULD CAUSE RESPIRATORY FAILURE AND DEATH.
Q OKAY. LET ME ASK YOU, THIS NEXT NOTE ON -- STILL HEARING THOSE CONGESTION SOUNDS.
A YES, THAT WAS--
Q HOW LONG -- HOW LONG HAD IT BEEN NOW THAT HE'S BEEN HAVING THESE CONGESTION SOUNDS INDICATING A LIKELIHOOD OF A PROBLEM BREATHING?

A FROM -- FROM FIVE, 10:00, 10 MINUTES AFTER FIVE IN THE MORNING TO APPROXIMATELY 7:00 IN THE MORNING.

Q SO FOR A COUPLE OF HOURS?

A YES.

Q LONG ENOUGH TO CAUSE BRAIN DAMAGE?

A CERTAINLY IF IT WAS SEVERE, YES.

Q COULD IT BE SEVERE IF HE'S TURNING BLUE?

A YES.

Q ALL RIGHT. KEEP GOING.

A HE WAS TAKEN OUT FROM TRENDELENBERG POSITION.

Q SO THAT--

A AND THAT STATEMENT IS NOW AT THE TOP OF THE PAGE.

Q OKAY. AND THEY TOOK HIM -- SO ABOUT HOW LONG DID THEY HAVE HIM SO -- POSITIONED SO THE BLOOD WAS GOING TO HIS HEAD?

A MAYBE AS MUCH AS 24 HOUR -- I DON'T REMEMBER. I DIDN'T CALCULATE THE TOTAL HOURS HERE. THAT WAS AT 2:00 ON A PARTICULAR DATE, 1:14, 2:00.

Q WAS TAKEN OUT OF TRENDELENBERG...

A AT 11:00, I'M SORRY.

Q 11?

A YEAH.

Q SO HOW LONG WAS THAT?

A I DON'T KNOW. I DON'T REMEMBER WHEN HE WAS PUT INTO TRENDELENBERG, HAVE TO RUN IT ALL THE WAY BACK UP.

Q ALL RIGHT. BUT FOR A NUMBER OF HOURS.
A YES.
Q OKAY. LET'S CONTINUE ON. OKAY. WHAT'S GOING ON HERE?
A WELL, DOCTOR EXAMINED BABY, DECIDED TO CONTINUE DEXTROSE AND WATER, CLOSER OBSERVATION, ET CETERA, UNTIL FURTHER NOTICE.
Q AND AGAIN, WHY ARE THEY DOING CLOSE OBSERVATION WITH THIS CHILD AS OPPOSED TO ANY OTHER?
A WELL, BECAUSE OF THE OBVIOUS WORRISOME SYMPTOMS.
Q OKAY.
A BUT HE DID -- THERE'S NO -- THERE'S NO EXPANSION OF WHAT HE FOUND ON THAT EXAMINATION, BUT SAYS WHAT HIS DECISION WAS.
Q ALL RIGHT.
A AND ON THIS ONE I THINK IT'S AT 10 MINUTES PAST MIDNIGHT, I THINK.
Q OKAY.
A WELL, WAIT A MINUTE. 1800... IF YOU SEE THAT 10 OUT THERE AT THE--
Q YES.
A -- I CAN'T READ THE NUMBER BEFORE THAT. IT MAY BE 2010 WHICH WOULD BE 10 MINUTES AFTER EIGHT AT NIGHT. TO THE RIGHT IT SAYS, MECONIUM STOOL TESTED FOR OCCULT BLOOD.
IN OTHER WORDS, THE BABY PASSED A BROWNISH LOOKING

MATERIAL ANALLY AND THEY TESTED IT FOR BLOOD.

Q WHAT DOES THAT MEAN?

A WELL, IT SHOULDN'T TEST POSITIVE FOR BLOOD. AND THEY'RE LOOKING FOR A PATHOLOGY AND MAYBE THERE'S SOME BLEEDING GOING ON INTERNALLY THAT'S CONTRIBUTING OR COMPLICATING THE PROBLEM.

Q GOING ON WHERE?

A IT WOULDN'T BE FROM THE BRAIN. IT WOULD BE FROM SOME OTHER PART OF THE -- YOU CAN'T -- DON'T FIND IT IN A STOOL SAMPLE IF HE'S BLEEDING INTO THE BRAIN. IT WOULD HAVE TO BE BELOW THE BRAIN AND IN THE RESPIRATORY OR ABDOMINAL TRACT SOMEWHERE.

Q OKAY.

A AND THEY HAD SAID ABDOMINAL PATHOLOGY. SO THEY ARE CHECKING TO SEE IF THERE'S SOMETHING GOING ON.

Q COULD IT HAVE BEEN IN THE LUNGS, RESPIRATORY AREA?

A YES. IT -- COUGHED UP AND SWALLOWED AND PASSED IN THE STOOL, YES.

Q AND COULD IT HAVE BEEN ASSOCIATED WITH THOSE SOUNDS THAT THEY HEARD INDICATING DIFFICULTY BREATHING?

A YES, IT COULD HAVE.

Q OKAY. ALL RIGHT.

A MOVING ON DOWN. IN THE SAME NOTE SAID THERE'S A BROWN SPECK OF VOMITUS ON THE BABY'S BLANKET THAT WAS PRESENT FROM THE 6:00 FEEDING, 1800, 6:00 FEEDING, 6:00 IN

THE EVENING. TESTED FOR OCCULT BLOOD AND IT'S POSITIVE AFTER 40 SECONDS.

IN OTHER WORDS, BECAME A DARK AQUA BLUE COLOR. THAT'S A CHEMICAL TEST THAT THEY JUST DROP IT ON THE MATERIAL AND IT TELLS WHETHER THERE'S OCCULT BLOOD THERE. OCCULT MEANING IT DOESN'T LOOK LIKE BLOOD.

Q MEANING WHAT?

A DOESN'T HAVE THE APPEARANCE TO THE EYEBALL OF IT BEING BLOOD.

Q OKAY.

A IT WOULD TAKE A -- IT WOULD TAKE A MICROSCOPE TO IDENTIFY IT OR A CHEMICAL TEST TO IDENTIFY IT, AND IT WAS POSITIVE.

Q ALL RIGHT. SO HE'S GOT BLOOD IN HIS -- HE'S VOMITING?

A VOMITUS, YES.

Q OKAY.

A SAYS 2330, THAT WOULD BE 11:30 AT NIGHT, SAYS CRY LUSTY, INFANT ACTIVE, COLOR GOOD, WILL CLOSELY OBSERVE. HMM. SIGNED BY THE PHYSICIAN. SO THEY'RE GOING TO CONTINUE. IN SPITE OF THE CHILD'S BETTER APPEARANCE, THEY'RE GOING TO BE CAUTIOUS AND WATCH.

Q OKAY.

A ATE WELL AND VOMITED. ATE WELL AND RETAINED ALL. AND IT SAYS, TEMPERATURE IS NOW STABILIZING. WELL, AN

INFANT'S TEMPERATURE IS USUALLY TAKEN WITH A RECTAL THERMOMETER AND THEY USUALLY RUN ABOUT 98.6 OR APPROXIMATELY ABOUT THAT, MAYBE 99.

ADULTS WILL RUN 99 ROUTINELY. BUT INFANTS MIGHT RUN A LITTLE BIT LOWER. AND I WENT BACK THROUGH THOSE, THOSE TEMPERATURE RECORDS, AND YOU CAN SEE IT WAS DOWN TO -- AT THE FAR LEFT NEAR THE BOTTOM AT 5:45 IN THE MORNING 96.4, LITTLE LOW. LITTLE LOW.

Q OKAY.

A AND BACK DOWN TO 97, 97 EIGHT, AGAIN, AT 8:00 AND AT 8:30, SO STABILIZING. THERE'S A -- IF YOU LOOK AT THE 0200, 2:00 IN THE MORNING, WE'RE STARTING AT THE LEFT. IT'S ABOUT FOUR LINES UP FROM THE BOTTOM AND OVER TO THE RIGHT IT SAYS, ATE WELL.

THERE'S A C WITH A BAR ACROSS THE TOP OF THAT. THAT'S THE -- THAT'S SCIENTIFIC OR MEDICAL NOTATION FOR THE WORD WITH, W-I-T-H.

Q WITH PROBLEMS--

A WHAT IT SAYS LITERALLY IS ATE WELL WITH PROBLEMS RETAINING ALL WITHOUT FURTHER EXPANSION.

Q WHAT ARE THEY DESCRIBING THERE TO YOU?

A WELL, THERE WAS SOME PROBLEMS WITH THE CHILD EATING. AND UP AT THE TOP IT'S -- AT 1845, THE SECOND, THIRD LINE DOWN, GO TO THE -- GO ACROSS YOU SEE, ATE WELL WITH NO PROBLEMS.

SO -- AND THEN DOWN -- DOWN AT THREE LINE -- DOWN TWO LINES IT SAYS, ATE WELL WITH PROBLEMS. SO IT LOOKS AS IF THE CHILD IS HAVING PROBLEMS FROM TIME TO TIME FEEDING.

Q I SEE UP HERE YOU...

A SORRY.

Q ATE WELL WITH NO PROBLEMS.

A THEN UNDERNEATH IT--

Q ATE WELL WITH NO PROBLEM.

A OH, I'M SORRY. YEAH. IT DOES SAY, ATE WELL WITH NO PROBLEM. I'M SORRY.

Q OKAY. THEN DOWN HERE IT SAYS, ATE WELL WITH PROBLEMS?

A YES, EXACTLY.

Q ALL RIGHT.

A AND THEN YOU SEE FOUR LINES FURTHER, QUIET NIGHT WITH PROBLEMS.

Q OKAY.

A BUT THEY'RE NOT FURTHER EXPLAINED. THEN AT 1400 ON THIS PAGE, WHICH IS 2:00 IN THE AFTERNOON, TO THE FAR RIGHT IT SAYS, ATE WELL WITH S WITH A BAR ACROSS THE TOP MEANS WITHOUT.

Q ALL RIGHT. AND C WITH A BAR MEANS?

A WITH.

Q WITH? ALL RIGHT. SO THERE -- SOMETIMES HE DOESN'T HAVE ANY PROBLEMS AND SOMETIMES HE DOES?

A APPARENTLY.

Q AND AT THIS -- DURING THIS PERIOD OF TIME ABDOMINALLY HAVING PROBLEM HOLDING THAT--

A NONE DESCRIBED.

Q NONE DESCRIBED. OKAY.

A THEN YOU GO DOWN A FEW MORE LINES FROM THAT ONE, FIVE LINES DOWN IT SAYS, ATE WELL WITH PROBLEM. 1400 NO PROBLEMS. 1800 -- WELL, 2:00 AND THEN 6:00, IT -- 2:00 NO PROBLEMS AND 6:00 SOME PROBLEM. THEN AGAIN IT -- IT'S EITHER 9:00 OR 10:00. CAN'T TELL.

Q OKAY.

A TWENTY-ONE OR 22, ATE WELL WITH PROBLEMS AGAIN, AND AGAIN AFTER THAT.

Q SO HE'S SHOWING PROBLEM WITH EVERY FEEDING EXCEPT THAT ONE.

A ACCORDING TO THE RECORD, YES.

Q OKAY.

A THEN AT 2:00 IN THE MORNING UP IN THE MIDDLE OF THE PAGE, ATE WELL WITHOUT PROBLEM.

Q OKAY. BECAUSE WE HAVE A SLASH AND AN S.

A YES.

Q AS OPPOSED TO A C.

A YES, IT LOOKS TO BE THAT -- SAYS WITHOUT.

Q OKAY.

A AGAIN AT THE BOTTOM OF THE PAGE, QUIET NIGHT WITHOUT

PROBLEMS, ATE WELL WITHOUT -- QUIET MORNING WITHOUT -- SEEMS LIKE THINGS WERE PRETTY STABLE AT THAT POINT ON DOWN TO THE BOTTOM OF THE PAGE. EATING A GOOD AMOUNT.

Q OKAY.

A AND 1800 ON THAT DAY, 6:00 IN THE AFTERNOON WAS DISCHARGED TO THE MOTHER.

Q ALL RIGHT. LET'S GO OVER TO THE MOTHER'S RECORDS FOR A SECOND.

A SURE.

Q THAT'S -- THAT IS THE END OF HIS RECORDS.

A YES.

Q CORRECT?

A YES, THAT'S ALL -- THAT'S ALL WE HAVE.

Q LOOK OVER HERE ON THE MOTHER'S RECORD. OPEN UP THAT BOX.

A I NEED TO EXPAND, YEAH. THERE WE GO.

Q THERE YOU GO.

A OKAY.

Q ALL RIGHT. NOW, YOU SERVED AT GUANTANAMO BAY YOURSELF; DIDN'T YOU?

A YES, I DID, A LONG TIME AGO, YEAH, BUT NOT AS A PHYSICIAN.

Q BUT NOT AS A PHYSICIAN. WHAT WAS YOUR ROLE IN THE NAVY WHEN YOU WERE AT GUANTANAMO?

A I WAS A -- I HAD BEEN TRAINED IN ELECTRONICS AND I

WORKED ON ALL SORTS OF ELECTRONIC -- AVIATION ELECTRONIC EQUIPMENT, RADAR EQUIPMENT AND ALTIMINARS (SIC) AND COMMUNICATIONS GEAR AND MAGNETIC DETENTION EQUIPMENT.

AND I WAS TRAINED TO BECOME A COMBATOR CREWMAN AND I FLEW IN THE BACK SEAT OF AIRCRAFT -- OFF OF AIRCRAFT CARRIERS. OUR JOB WAS TO CHASE AND CATCH AND DEAL WITH SUBMARINES.

Q OKAY. THAT'S INTERESTING.

A IT WAS VERY INTERESTING.

Q WELL, LET'S GO BACK TO THE MOM'S RECORDS NOW AND I WANT YOU TO COMMENT ON HER RECORD FOR US, TOO.

A SURE.

Q AS IT RELATES TO STEPHEN.

A CERTAINLY.

Q ALL RIGHT.

A I WILL DO -- I'LL DO WHAT I CAN. CHART STARTS OUT WITH A DIAGNOSTIC SUMMARY, THEN GIVES CLINICAL DIAGNOSIS SINCE PREGNANCY, UTERINE DELIVERED.

Q OKAY.

A AND GRAND MULTIPARITY. THAT MEANS SHE HAS HAD IN THE RANGE OF FIVE CHILDREN. WOMEN WITH GRAND MULTIPARITY ARE WORRISOME TO PHYSICIANS WHO ARE IN LINE TO DELIVER BECAUSE THEY CAN DELIVER IN AN INSTANT.

Q OKAY.

A THEY CAN HAVE PRECIPITOUS DELIVERIES WHICH CAN BE

INJURIOUS TO THE BABIES.
Q LET ME ASK YOU -- YOU MAY WANT TO COMMENT ON THIS YOURSELF, BUT THERE'S NOTHING OUT OF THE ORDINARY WITH THIS DELIVERY, SPONTANEOUS.
A NO.
Q HOW ABOUT THIS NEXT ENTRY?
A AMNIOTOMY. THAT MEANS THEY -- THEY BROKE HER WATER IS WHAT IT SAYS.
Q THEY DID?
A THEY BROKE HER WATER.
Q OKAY.
A YEAH. HER -- HER MEMBRANES HADN'T RUPTURED WHEN SHE GOT THERE, AND THE OPERATION WAS THAT THEY BROKE THEM. AND THEN THIS SALPINGOTOMY, PARTIAL BILATERAL. SALPINGOTOMY IS A -- IS A TUBE TYING TECHNIQUE FOR STERILIZATION, AND IT'S CROSSED OUT.
Q WHY DID THEY CROSS IT OUT?
A WELL, DOESN'T SAY HERE.
Q ALL RIGHT. LET'S LOOK--
A IT WASN'T -- IT WASN'T CODED OUT. YOU SEE THE NUMBERS TO THE RIGHT? THAT'S THE CODE THAT'S BEEN DONE, AND THE SALPINGOTOMY WAS NOT PERFORMED, BUT IT DOESN'T EXPLAIN IT HERE.
Q AND IS THAT WHAT WE CALL -- REFER TO AS A TUBAL LIGATION?

A YES.
Q ALL RIGHT. NOW, THEY DIDN'T DO -- IT SAYS, APPROVED FOR POSTPARTUM TUBAL BUT NOT DONE.
A YES, IT DOES.
Q AND WHY DID THEY NOT DO IT?
A IT SAYS, IN VIEW OF THE INFANT'S PROGNOSIS OF THE -- I'M SORRY -- IT SAYS, IN VIEW OF THE UNCERTAIN PROGNOSIS IN THE BABY.
Q IT SAYS, SEE THE BABY CHART.
A YEAH.
Q ALL RIGHT. AND WE JUST LOOKED AT THAT.
A WE DID.
Q SO ALL OF THE THINGS THAT YOU HAVE NOTED FOR US WENT INTO THE DECISION THAT THEY RECOMMEND NOT A -- NOT TO HAVE THE TUBAL?
A IT APPEARS THAT WAY, YES. THAT SHE WANTED TO HAVE MORE CHILDREN, THEN SHE OUGHT NOT TO HAVE HER TUBES TIED. IT WAS A CHOICE TO MAKE.
Q NOW DR. THRASHER, DID YOU -- ARE THERE OTHER THINGS IN THIS CHART, IN THE MOTHER'S CHART, THAT ARE IMPORTANT TO YOU WITH RESPECT TO STEPHEN'S CASE OTHER THAN THINGS THAT THEY WOULD HAVE JUST PUT IN THERE THAT WERE LIFTED OUT OF THE BABY'S CHART?
A WELL, TO ME THE WHOLE CHART IS SIGNIFICANT.
Q ALL RIGHT. LET'S GO THROUGH IT.

A BUT YOU KNOW, AS IT RELATES TO THE MOTHER'S HEALTH AND--

Q RIGHT.

A -- CARE DURING DELIVERY.

Q WE WANT TO FOCUS ON STEPHEN'S HEALTH--

A YEAH.

Q -- TODAY. IS THERE ANYTHING ELSE OF SUBSTANCE IN HER CHART THAT WE CAN GET THAT'S IN ADDITION TO THE MATERIAL OR INFORMATION THAT WE HAVE ALREADY GOTTEN FROM STEPHEN'S RECORDS?

A WELL, THERE'S CONFIRMATION OF THE -- CANCELLING OF THE EARLY APPROVAL, AND THEN THE CANCELLATION OF THE TUBAL LIGATION.

Q ALL RIGHT.

A AND THEN DOWN BELOW THAT IT SAYS, EARLY VOMITING AND POOR MORO.

Q ALL RIGHT. THAT'S AGAIN A REFERENCE TO THE--

A REFLEX.

Q -- REACTION -- REFLEX.

A REFLEX PROBLEM. AND IT'S FOLLOWED ON THE THIRD DAY BY THE DEVELOPMENT OF JAUNDICE.

Q ALL RIGHT. SO THE MORO HAS NOTHING TO DO WITH THE JAUNDICE UNLESS -- IN OTHER WORDS, JAUNDICE DID NOT CAUSE THE MORO?

A WELL, IT COULD, BUT IN THIS CASE I DON'T THINK IT

DID. IT WOULD HAVE TO BE AN ENORMOUSLY HIGH LEVEL OF BILIRUBIN FOR A LONG PERIOD OF TIME SO IT INVADED AND IMPAIRED THE BRAIN.

Q ALL RIGHT.

A SO I DON'T THINK IT--

Q AND THE BILIRUBIN WOULDN'T HAVE BEEN THAT HIGH, THOUGH, WITHOUT HIM HAVING JAUNDICE AT THAT TIME; CORRECT?

A NO. THAT'S CORRECT.

Q SO THE SEQUENCE HERE, THE POOR MORO AND THEN FOLLOWED THE NEXT DAY BY JAUNDICE.

A THREE DAYS LATER.

Q THREE DAYS SHOWS HE HAD SOME KIND OF NEUROLOGICAL PROBLEM BEFORE -- THREE DAYS BEFORE THE JAUNDICE?

A YES.

Q OKAY.

A YEAH, ON THAT TIME RECORD HERE, YEAH. THE REST IS -- SAYS CANCEL SURGERY IN THE MORNING. THAT'S -- THEY CANCELED THE -- THE--

Q TUBAL--

A -- TUBAL LIGATION, AND THEN DOWN TO DISCHARGE. AND I DON'T THINK THAT'S THE END OF IT. THIS GIVES SOME -- HER HISTORY, HER ADMISSION, HER CONDITION, THAT SHE WAS PUSHING, OBVIOUSLY IN LABOR.

ON THIS PAGE WHERE IT SAYS, LATE ENTRY, FHT IS FETAL HEART TONES, AND THEY ARE 128. THEY ARE LISTENING TO THE

BABY'S HEARTBEAT. AND THAT'S A GOOD RANGE. AT -- 136 IS NOT BAD.

THEN SOME MEDICINE SHE WAS ADMINISTERED TO MAKE HER COMFORTABLE. HER BLOOD PRESSURE, CRUCIAL, SHE WAS HYPERTENSIVE -- REALLY COMPLICATE THINGS. AND THIS IS MANAGEMENT OF HER CONDITION AFTER DELIVERY.

FUNDUS IS FIRM, THE REASON, THE UTERUS IS SHRINKING DOWN AS IT SHOULD. SHE'S SLEEPING, DOING OKAY. I'M JUST GOING TO ROLL DOWN ON THROUGH THIS QUICKLY.

Q OKAY.

A AGAIN, 2000, 10:00 AT NIGHT SURGERY WAS CANCELED FOR THE MORNING. AND AT SOME POINT HERE SHE STATED THAT SHE WAS CONCERNED ABOUT THE CONDITION OF THE BABY. IT WAS PUT IN A NOTE HERE, BUT I CAN'T SEE IT.

THERE IT IS. AT 2000, WHICH WAS 10:00 AT NIGHT, PATIENT'S UP AND ABOUT THE WARD. SEE IT THERE?

Q YES.

A ONE, TWO, THREE -- FOUR LINES DOWN.

Q YES.

A APPREHENSIVE ABOUT THE BABY'S CONDITION. SHE WAS NATURALLY WORRIED ABOUT HIM.

Q OKAY.

A LET'S SEE, WHAT ELSE HERE. THAT WAS THE DESCRIPTION OF THE LABOR. IT WAS VERY QUICK. AGAIN, PROGRESS NOTE 1 15 08 (SIC).

Q NOW, THIS IS TWO DAYS AFTER THE BIRTH?
A YES. POSTPONE -- TUBAL LIGATION POSTPONED.
Q NOW, LET ME ASK YOU BEFORE YOU GO. THEY DESCRIBE HIS STATE AS PRECARIOUS. DO YOU SEE THAT?
A YEAH. 115 IT SAYS, WILL POSTPONE PLANNED TUBAL LIGATION IN VIEW OF PRECARIOUS STATE OF THE BABY WITH VOMITING AND POSSIBLE INTRACRANIAL DAMAGE.
Q ALL RIGHT. WHAT DO YOU GATHER FROM THAT ABOUT THE BABY'S STATE ON THAT DAY, TWO DAYS AFTER THE BIRTH?
A WELL, THEY WERE STILL WORRIED THAT THERE WAS SOMETHING GOING ON IN THE BABY'S HEAD THAT COULD BE OF MAJOR CONSEQUENCE FOR HIS SURVIVAL.
Q HOW OFTEN WOULD YOU SEE THE WORD PRECARIOUS USED TO DESCRIBE THE STATE OF AN INFANT 48 HOURS AFTER BIRTH?
A WELL, CAN'T STATE THE FREQUENCY OF THE USE OF THE WORD, BUT THE SIGNIFICANCE OF THE WORD IS RATHER NOTABLE TO SAY THE LEAST.
Q SAY THAT AGAIN FOR US.
A I CAN'T -- I CAN'T TELL WHAT THE FREQUENCY OF THE USE OF THE WORD PRECARIOUS MIGHT BE, BUT WHEN IT'S USED IN THIS CONTEXT, IT IS OF SIGNIFICANT...
Q OKAY. THEY WERE--
A MEANING BECAUSE IT'S IMPLYING THIS BABY'S AT RISK FOR DEATH.
Q AND BASED ON YOUR REVIEW OF THE RECORDS, THAT'S IN

CONJECTION (SIC) WITH WHAT KIND OF PROBLEM?
A WELL...
Q NEUROLOGICAL?
A PROBABLY BRAIN DAMAGE, YES.
Q ALL RIGHT. AND IN FACT, THEY SAY THAT, DON'T THEY? POSSIBLE INTRACRANIAL DAMAGE?
A YES.
Q RIGHT HERE?
A YES, THEY DO, AT THE FAR RIGHT ON THAT PAGE.
Q OKAY.
A THE TOP.
Q ALL RIGHT. CONTINUE ON.
A WAS DISCHARGED. GOT BETTER AND DISCHARGED.
Q ALL RIGHT.
A DELIVERY NOTE. SEEMS THAT THINGS WENT WELL. THIS IS A -- A CHART OF HER TEMPERATURE AND OTHER THINGS DURING THE -- FROM THE DATE OF ADMISSION TO THE DATE OF DELIVERY IN THE FIRST, SECOND, THIRD, FOURTH DAYS AFTER.
Q NOW, IS THIS MOM'S?
A THIS IS MOM.
Q OKAY. GO ON.
A AND IT SEEMS THINGS WERE FINE. AS KIND OF LIKE A SUMMARY SHEET, A HOSPITAL SUMMARY OF WHAT WENT -- MAY HAVE WENT ON. AND STATEMENT OF PROGRESS, THERE'S AN ANESTHESIA NOTE THERE FROM THE MIDDLE OF THE PAGE AT 114 UNDER

DISCHARGE NOTE. AND IT SAYS, ON 1 17 SAYS DISCHARGED, MEANING THE MOTHER--

Q YES.

A -- WITHOUT STERILIZATION PROCEDURE DUE TO UNCERTAIN PROGNOSIS OF BABY.

Q ALL RIGHT. SO HIS PROGNOSIS -- ALL RIGHT. THAT'S THE STATEMENT WITH RESPECT TO THE DECISION TO CANCEL THE TUBAL LIGATION?

A NO. IT SAYS DISCHARGE WITHOUT STERILIZATION PROCEDURE DUE TO THE UNCERTAIN PROGNOSIS OF THE BABY WOULD MEAN TO ME THAT THE UNCERTAINTY PERSISTS.

Q OKAY. SO UNCERTAINTY NOT PAST BUT PRESENT?

A ON-GOING.

Q AT THE TIME OF MOM'S DISCHARGE?

A ON-GOING, YES.

Q OKAY.

A AND SHE WAS SCHEDULED FOR A FOLLOW-UP, CLOSE ON AFTER THAT IN THE OUTPATIENT CLINIC. THIS IS A STATEMENT OF HER PRIOR LABORS AND DELIVERIES.

Q OKAY.

A SHE HAD FOUR PRIOR CHILDREN, AND THE ANESTHESIA THAT WAS USED, ET CETERA, AND THE -- THE TYPE OF DELIVERY -- THE FIRST ONE WAS A BREACH DELIVERY. THAT'S, YOU KNOW, A STATEMENT OF HER CONDITION.

UM -- THE BABY WAS CONCEIVED WITH AN IUD ENTRY --

INTRAUTERINE DEVICE CALLED A LIPPES LOOP WHICH IS A MECHANICAL BIRTH CONTROL PHYSICAL DEVICE THAT WAS PLACED IN THE UTERUS THAT WOULD -- SUPPOSED TO HINDER IMPLANTATION OF THE EGG, THE FERTILIZED EGG, INTO THE WALL OF THE UTERUS.

AND SOMETIMES IT DOESN'T WORK. AND IT DIDN'T WORK IN THIS CASE. IT SAYS, CONCEIVED WITH IUD LIPPES LOOP WHICH WAS REMOVED FIVE WEEKS AFTER THE LAST MENSTRUAL PERIOD.

Q OKAY.

A SO...

Q ALL RIGHT. WE'RE ALMOST THROUGH. CONTINUE ON IF YOU WOULD, PLEASE SIR.

A YES. THESE ARE HER PRENATAL VISITS. AND THIS IS A STATEMENT OF HER TEMPERATURE AND PULSE RATE.

Q OKAY.

A AND THIS IS A MORE PHYSICAL, GRAPHICAL STATEMENT OF SAME AND SIMILAR THINGS.

Q OF MOM'S...

A MOTHER. AND THESE ARE CONSENTS TO HAVE SURGERY.

Q PULL -- OKAY. THAT WAS A STATEMENT OF MOM'S TEMPERATURE AND RESPIRATORY RATE?

A YES. THAT--

Q OKAY.

A -- THAT'S JUST ANOTHER WAY--

Q DOESN'T HAVE ANY RELATION TO STEPHEN?

A NO. SHOWS HIGHS AND THE LOWS. THEY WERE NOT OUT OF RANGE, SO IT WOULDN'T BE ANTICIPATED THEY WOULD HAVE AN AFFECT ON THE INFANT. IF THEY WERE WAY OUT OF RANGE, YES, YOU BET, THEY MAY HAVE TO -- THEY MAY HAVE TO RUSH TO DELIVER THE BABY BY CESAREAN OR WHATEVER, YEAH.

Q I SEE. ALL RIGHT. BUT THAT DIDN'T HAPPEN HERE?

A NO. NO, IT DID NOT.

Q ALL RIGHT. KEEP GOING.

A AND THIS -- THESE ARE -- THIS IS A PERMIT FOR HER TO HAVE THE BILATERAL TUBAL LIGATION OF -- THE STERILIZATION PROCEDURE. AND THIS IS AN AUTHORIZATION FOR DELIVERY AND REPAIR.

REPAIR WOULD MEAN FOR A REPAIR OF A -- AN EPISIOTOMY, WHICH IS AN INCISION SOMETIMES MADE AT THE DELIVERY TO PREVENT UNDUE RIPPING AND TEARING OF MOTHER'S ANATOMY.

Q NOW, EVENTUALLY EVERYBODY WENT HOME. MOM WENT HOME AND STEPHEN WENT HOME.

A YES.

Q A -- SIGNED OFF AND SAID, HE LOOKS OKAY TO US AT THIS POINT, SO HE WAS READY TO GO?

A LOOKED WELL ENOUGH.

Q WHAT -- CAN WE GLEAM ANYTHING FROM THAT ACT, THE ACT OF MERELY SENDING HIM HOME SAYING, OKAY, LOOKS FINE NOW, DOES THAT UNDERMINE THE SEVERITY OF THE PRIOR CONCERN ABOUT HIS HEALTH AND THE INDICATIONS OF INTRACRANIAL

DAMAGE OR NEUROLOGICAL DAMAGE?

A NO, NOT AT ALL, BECAUSE SUCH THINGS MAY OR MAY NOT BECOME APPARENT FOR UP TO YEARS LATER.

Q OKAY.

A AND THEY GAVE HER A FOLLOW-UP APPOINTMENT IN THE CLINIC TO FOLLOW THAT CHILD, WHICH IS ROUTINE ANY WAY. AND THEY WOULD HAVE THESE NOTES TO REFER TO AND TO DO WHATEVER EXAM--

Q I SEE.

A -- THEY NEEDED TO DO.

Q I SEE. LIKE EVEN NOW?

A EVEN NOW IT'S A -- A SIGNIFICANT INTEREST, OF COURSE.

Q OKAY.

A WE'RE TRYING TO -- WE'RE TRYING TO EXPLAIN SOMETHING THAT'S GOING ON THESE DAYS, AND IT'S IMPORTANT TO LOOK BACK THAT FAR AND KEEP THOSE THINGS IN MIND AS A POSSIBLE SOURCE OR CAUSE OR INITIATING EVENT.

Q WOULD IT BE FAIR TO SAY THAT'S WHY THESE RECORDS WERE KEPT IN THE FIRST INSTANCE?

A YES. RECORDS ARE REQUIRED TO BE KEPT STATUTORILY. EACH JURISDICTION HAS ITS -- ITS MINIMUM. AND CHILDREN'S RECORDS ARE -- HAVE AN EXTENDED -- USUALLY STATUTORILY, AND IF THERE'S SOMETHING ABNORMAL, THEY ARE KEPT FOREVER.

Q DR. THRASHER, I APPRECIATE YOUR PATIENCE. I THANK YOU FOR LISTENING. AND THAT'S ALL I HAVE AT THIS TIME.

THE COURT: ANY QUESTIONS FOR THE WITNESS?

MR. HEMBREE: YES, YOUR HONOR.

THE COURT: YOU MAY PROCEED.

CROSS-EXAMINATION

BY MR. HEMBREE:

Q DR. THRASHER, YOU TESTIFIED ON WEDNESDAY?

A I DID.

Q QUITE A WHILE?

A I'M SORRY?

Q FOR WHITE A WHILE, FOR A LONG PERIOD OF TIME.

A INDEED, ABOUT THREE AND A HALF HOURS.

Q YES, SIR. AND I THOROUGHLY CROSS-EXAMINED YOU AFTER MR. DIGGS EXAMINED YOU.

A CERTAINLY DID.

Q AND ESSENTIALLY YOU'VE TESTIFIED TO THE SAME THINGS TODAY THAT YOU TESTIFIED TO ON WEDNESDAY. IS THAT FAIR TO SAY?

A WITH SOME EXCEPTION.

Q MINOR EXCEPTIONS, BUT ESSENTIALLY IN LARGE PART.

A SIGNIFICANT EXCEPTION, BUT IT'S NOT PERTINENT TODAY.

Q VERY GOOD. RIGHT. THERE WERE SOME ADDITIONAL THINGS YOU TESTIFIED TO ON WEDNESDAY THAT YOU DIDN'T TESTIFY TO TODAY.

A YES, OF COURSE, BECAUSE THEY DON'T PERTAIN TO TODAY.

Q AND DR. THRASHER, I'M GOING TO TRY TO -- I'M GOING TO

TRY TO BE VERY BRIEF BECAUSE I DID -- WE DID HAVE VERY THOROUGH CROSS-EXAMINATION, SPENT A LOT OF TIME TOGETHER.

A YES, WE DID.

Q SO JUST SORT OF BEAR WITH ME FOR A MOMENT HERE.

A I WILL DO MY BEST.

Q THE FIRST THING I WANT TO TAKE YOU TO, AND I'M NOT GOING TO BELABOR THESE RECORDS MUCH, BUT I'M GOING TO TAKE YOU TO THE CLINICAL DIAGNOSIS FOR THE BIRTH RECORDS OF STEPHEN STANKO. YOU'RE FAMILIAR WITH THOSE?

A YES, I HAVE BEEN OVER THEM.

Q IF YOU NEED TO LOOK AT THEM TO ASSIST IN YOUR TESTIMONY, FEEL FREE TO DO THAT. BUT THE CLINICAL DIAGNOSIS IS -- ISN'T IT TRUE IT SAYS, TERM BIRTH LIVING CHILD. WOULD YOU LIKE TO TAKE A LOOK AT THEM?

A THAT'S ON HIS RECORD?

Q THAT'S IN HIS RECORD, YES, SIR.

A HANG ON A SECOND.

Q SURE.

MR. DIGGS: DOCTOR, DO YOU NEED US TO HELP YOU PULL THAT UP?

THE WITNESS: I WILL FIGURE IT OUT. THAT DIDN'T WORK. WELL, I CAN'T GET UP HERE.

BY MR. HEMBREE:

Q THERE YOU GO. IT'S ON THE LEFT.

A BIRTH.

Q THERE YOU GO.
A STORE...
Q LET'S GO TO THE TOP. SCROLL UP TO THE TOP. LET'S START FROM THERE.
A AND THERE IT IS.
Q OKAY. NOW SCROLL DOWN UNTIL YOU GET TO, CLINICAL DIAGNOSIS. THERE WE GO.
A YES.
Q RIGHT THERE. DIAGNOSTIC SUMMARY. CLINICAL DIAGNOSIS. AND THIS IS DONE BY THE DOCTOR; CORRECT?
A YES.
Q TERM BIRTH LIVING CHILD?
A TRUE.
Q JAUNDICED?
A YES.
Q PHYSIOLOGICAL MAY BE EXAGGERATED?
A YES.
Q THERE'S NO DIAGNOSIS HERE OF ANY SORT OF BRAIN INJURY; IS THERE?
A HE DID NOT PUT IT ON THERE.
Q THERE IS NO CLINICAL DIAGNOSIS OF A BRAIN INJURY?
A HE DID NOT PUT IT ON HERE.
Q WELL, NOW DOCTOR, LET ME ASK YOU THIS. IF YOU FOUND A BRAIN INJURY AND YOU HAD DIAGNOSED THAT, WOULDN'T YOU PUT IT IN THAT DIAGNOSIS?

A I WOULD TRY TO MAKE IT AS ACCURATE AS I COULD.
Q CERTAINLY YOU WOULD. AND--
A AND--
Q -- AND DO YOU HAVE ANY REASON TO BELIEVE, DOCTOR, THAT THIS DOCTOR--
A EXCUSE ME--

MR. DIGGS: OBJECTION. HE'S TRYING TO ANSWER, YOUR HONOR.

THE COURT: OVERRULED WITH THIS INSTRUCTION. DOCTOR, PLEASE ANSWER THE QUESTION YES OR NO AND THEN YOU MAY FULLY EXPLAIN YOUR ANSWER. DO YOU NEED THE QUESTION REPEATED?

THE WITNESS: YES, PLEASE.

THE COURT: PLEASE REPEAT THE QUESTION.

BY MR. HEMBREE:
Q DOCTOR, IF YOU WERE THE TREATING PHYSICIAN OF THE 350 BABIES THAT YOU'VE TESTIFIED YOU HAVE DELIVERED, IF YOU WERE THE TREATING PHYSICIAN AND YOU FOUND THAT THIS BABY HAD BRAIN DAMAGE, YOU'D PUT IT IN THE CLINICAL DIAGNOSIS; WOULDN'T YOU?
A YES, BUT--
Q AND IT'S NOT THERE; IS IT?
A NO, BUT -- CAN I FINISH?
Q PLEASE DO.

THE COURT: YOU MAY EXPLAIN YOUR ANSWER.

THE WITNESS: THANK YOU. IN THE CASE WHERE IT IS NOT DEFINITIVELY DIAGNOSABLE AS A IDENTIFIED PATHOLOGY, YOU COULD PUT IT IN HERE AS SUSPECTED.

BY MR. HEMBREE:

Q AND THERE WAS A -- THERE WAS A PLAN, WASN'T THERE, DOCTOR, WHEN IT WAS SUSPECTED?

A SORRY?

Q WASN'T THERE A PLAN? DIDN'T THE DOCTOR HAVE A COURSE OF -- A PLAN MADE IF THE PROBLEM PERSISTED IN THIS CASE?

A YES, HE DID.

Q HE DID. HE WAS GOING TO TAKE AN X-RAY IF THE PROBLEMS PERSISTED; WASN'T HE?

A HE INTENDED TO.

Q HE DID. BUT HE DID NOT TAKE THAT X-RAY; DID HE?

A THERE IS NO INDICATION THAT HE DID.

Q CORRECT. BECAUSE THE BABY INDICATED THAT HE WAS FINE. THE MORO REFLEXES GOT BETTER; CORRECT?

A IT DIDN'T SAY THAT.

Q YOU DIDN'T SAY THAT BECAUSE MR. DIGGS SKIPPED THAT PART OF THE REPORT, BUT IT'S IN THE REPORT; ISN'T IT, DOCTOR?

A THE MORO GOT BETTER? I DON'T SEE IT.

Q I'M GOING TO TAKE YOU THERE.

A OKAY.

Q WE ARE GOING TO TALK ABOUT IT. DOCTOR, THERE'S

FOLLOW-UP CARE FOR BABIES; ISN'T THERE?
A YES.
Q AS A MATTER OF FACT, NEWBORN BABIES GO TO THE DOCTOR A LOT WHEN THEY ARE FIRST BORN. TRUE?
A USUALLY, YES.
Q YEAH, SURE.
A SOMETIME--
Q IT'S KIND OF THE COURSE OF -- THE STANDARD OF CARE IS YOU GO TO THE DOCTOR LIKE ONCE A WEEK FOR A WHILE, THEN YOU KIND OF GO TO ONCE A MONTH FOR A WHILE, AND THEN, YOU KNOW, THEN IT SORT OF STRETCHES OUT AS THE BABY GETS BIGGER AND STRONGER. TRUE?
A USUALLY, YES.
Q RIGHT. DO YOU HAVE ANY EVIDENCE, ANY EVIDENCE ON A FOLLOW-UP VISIT THAT THIS BABY WAS IN ANY WAY SICK OR HAD A BRAIN DEFECT?
A NO.
Q DOCTOR, YOU JUST TESTIFIED THAT IF THERE WERE ABNORMALITIES IN THE FOLLOW-UP CARE, THOSE RECORDS WOULD BE KEPT FOREVER.
A USUALLY, YES. DOESN'T MEAN THEY DID, BUT THEY -- USUALLY, YES.
Q BUT THAT'S THE STANDARD OF CARE?
A I WOULD EXPECT THAT.
Q THEY KEPT THE BIRTH RECORDS FOREVER. TRUE?

A YES.
Q THEY KEPT THE MOTHER'S RECORDS FOREVER. TRUE?
A YES.
Q SO WOULDN'T YOU HAVE EXPECTED IF THERE WERE ABNORMALITIES DISCOVERED IN THE FOLLOW-UP CARE THAT THOSE WOULD HAVE BEEN KEPT AS WELL?
A I WOULD HOPE THEY WOULD BE, YES.
Q AND YOU HAVE NO RECORD OF THAT?
A DIDN'T PROVIDE ANYTHING.
Q YOU DON'T HAVE A RECORD OF THAT -- WHEN THIS DEFENDANT WAS A BABY, A SMALL CHILD, OR A LARGE CHILD; DO YOU?
A RECORD OF WHAT?
Q RECORD OF BRAIN ABNORMALITIES. DO YOU HAVE A RECORD OF BRAIN ABNORMALITIES WHEN THIS DEFENDANT WAS -- UNTIL HIS 18TH BIRTHDAY?
A DIDN'T COME TO LIGHT UNTIL ABOUT THAT TIME, RIGHT.
Q BUT DO YOU HAVE EVIDENCE OF BRAIN ABNORMALITIES, BRAIN ABNORMALITIES, PHYSIOLOGICAL BRAIN ABNORMALITIES WHEN HE'S 18?
A ONLY A SUSPICION.
Q AND YOUR SUSPICION IS BASED ON WHAT, DOCTOR?
A HISTORY.
Q AND THAT'S THIS HISTORY THAT WE'RE LOOKING AT NOW?
A PARTLY.

Q NOW, I WANT TO TALK TO YOU ABOUT THESE N'S AND O'S.
A I'M SORRY?
Q I WANT TO TALK TO YOU TO ABOUT THE N'S AND THE O'S.
A ALL RIGHT.
Q SCROLL UP TO THAT SECTION. I THINK IT'S PAGE FOUR. THERE WE GO. THERE WE GO. NOW DOCTOR, YOU'VE TESTIFIED THAT IN YOUR OPINION, IN YOUR JUDGMENT, THE O MEANS OBSERVED; CORRECT?
A YES.
Q NOW, YOU HAVE NOT CONSULTED WITH DR. MASON ON THIS CASE; HAVE YOU?
A NO.
Q AND HE WAS THE DOCTOR THAT FILLED OUT THESE RECORDS, I BELIEVE; CORRECT?
A YES.
Q NOW, I -- IT STRIKES ME AS CURIOUS THAT IN ALL THE CATEGORIES WHERE YOU WERE LOOKING, IT'S A CHARACTERISTIC OF THE CHILD WE SEE AN N, BUT IN ALL THE CATEGORIES THAT ARE A PROBLEM, OKAY, A PROBLEM, NOT A CHARACTERISTIC, BUT A PROBLEM, WE SEE THE O'S.

HYPOTHETICALLY, DOCTOR, IS IT -- LET'S JUST SAY THAT I USE O TO DESIGNATE ZERO OR NOTHING. I WOULDN'T SAY MURMURS WERE NORMAL; WOULD I? IT WOULDN'T MAKE SENSE TO SAY MURMURS, NORMAL. IT WOULD SAY MURMURS ARE NEGATIVE, MURMURS ARE NOT PRESENT IF THERE WERE NO MURMURS.

WOULDN'T YOU SAY THAT'S A FAIR WAY TO USE TO BE -- TO COMMUNICATE MORE CLEARLY?

A THERE ARE PHYSIOLOGIC MURMURS WHICH ARE NORMAL.

Q THERE ARE MURMURS THAT ARE NORMAL, I UNDERSTAND THAT. BUT IF YOU'RE -- IF YOU'RE CHECKING A BABY OUT ON THE INITIAL EXAMINATION AND YOU'RE LISTENING FOR MURMURS, YOU'RE LISTENING FOR A PROBLEM, AND YOU HEAR A PROBLEM, YOU'RE NOT GOING TO SAY, THE PROBLEM IS NORMAL.

YOU'RE GOING TO SAY, YOU KNOW, HE EITHER HAS THEM OR HE DOESN'T; RIGHT?

A YES.

Q AND IT'S YOUR TESTIMONY THAT YOU HAVE INTERPRETED THESE ZEROS TO MEAN THAT THESE WERE OBSERVED?

A YES.

Q NOW, IT'S ALSO CURIOUS -- WELL, IT'S CURIOUS TO ME THIS -- THAT RIGHT NOW BASED ON YOUR TESTIMONY, IF WE -- IF WE INTERPRET THOSE ZEROS AS OBSERVED AS OPPOSED TO NEGATIVE, THIS BABY IS BLUE, YELLOW AND GRAY.

A BE -- YEAH, BE A MIXTURE OF BLUE, PALE AND YELLOW, MAYBE GRAY, BLUISH GRAY, YELLOW PERHAPS.

Q THIS IS A RAINBOW CHILD; ISN'T IT, DOCTOR?

A I'M SORRY?

Q A RAINBOW CHILD, MANY COLORS?

A NO, THIS IS A SICK CHILD.

Q HE'S SICK IN HIS STOMACH; ISN'T HE?

A OH, YES.
Q OH, YEAH. IT'S SICK. IT'S VOMITED. AND IT'S GOT SOME CONGESTION. AND HE GETS A LITTLE JAUNDICE WHICH GOES DOWN IN A COUPLE OF DAYS. TRUE?
A TRUE.
Q TRUE. WOULDN'T YOU EXPECT, DOCTOR, THAT IF YOU HAD HEART MURMURS IN THIS CHILD, THERE'S GOING TO BE SOMETHING WRITTEN SOMEWHERE IN THAT REPORT THAT THIS BABY HAS HEART MURMURS, THAT THEY ARE CONCERNED ABOUT IT. TRUE?
A YES. AND BY THE INSTRUCTIONS ON THIS PAGE IT'S SUPPOSED TO BE ADDRESSED LATER. WASN'T ADDRESSED.
Q IT'S -- ACTUALLY IT'S NOT LISTED AT ALL. THERE IS NO REFERENCE TO HEART MURMURS ANYWHERE IN THAT REPORT OR ANY PROBLEM WITH THE HEART EXCEPT--
A EXCEPT FOR THIS--
Q -- ON THAT ZERO?
A THAT'S RIGHT.
Q OKAY. AND YOU KNOW, DOCTOR, THERE'S NO REFERENCE -- CYANOSIS, THE BABY TURNING BLUE, THAT'S PRETTY SERIOUS STUFF; ISN'T IT?
A THAT'S VERY WORRISOME.
Q THAT'S SERIOUS STUFF. WE DON'T WANT THAT. IS THERE ANY REFERENCE AT ALL IN THAT REPORT, ANY REFERENCE AT ALL, TO THIS BABY HAVING CYANOSIS EXCEPT FOR THAT ZERO?
A NOT THAT I RECALL.

Q OKAY. AND PARALYSIS. NOW PARALYSIS, THAT'S REALLY BAD; ISN'T IT?
A THAT'S...
Q VERY SERIOUS.
A SIGNIFICANT, YES, SIR.
Q IT'D GIVE YOU CONCERN IF YOU WERE THE TREATING PHYSICIAN ON THIS BABY.
A INDEED I WOULD BE.
Q AND IF YOU SAY ZERO, AND THAT MEANS OBSERVED, THEN DOCTOR, WOULDN'T YOU EXPECT THAT THERE WOULD BE SOME NOTATIONS IN THE DIAGNOSIS OR -- OR IN THE NURSES' NOTES OR IN THE DOCTORS' ORDERS SOMEWHERE ABOUT THIS BABY HAVING PARALYSIS?
A I WOULD HOPE SO.
Q YOU WOULD HOPE SO, BUT THEY WEREN'T LISTED; WERE THEY?
A NO.
Q NO.
A WELL, THE MORO WAS ADDRESSED IN OTHER LINES.
Q I AM SO GLAD YOU REMINDED ME ABOUT THAT. WE HAD SOME POOR MORO ON THE 14TH; CORRECT?
A YES.
Q AND DOCTOR, I WANT TO TAKE YOU TO THE 15TH. YOU DIDN'T -- MR. DIGGS DIDN'T ASK YOU ABOUT THE 15TH OR THE 16TH OR THE 17TH OR THE 18TH. LET ME TAKE YOU TO THOSE

DAYS.

IF YOU WILL, SCROLL DOWN TO THE DOCTOR'S NOTES ON THOSE FOUR DAYS. THERE'S THE 17TH AND THE 18TH. LET'S START WITH THE 15TH. HERE WE GO.

A WHAT PAGE ARE YOU LOOKING FOR?

Q THAT'S RIGHT. YOU'RE RIGHT ON IT. YOU'RE RIGHT ON IT. RIGHT THERE. LET'S LOOK AT THE 15TH, JANUARY THE 15TH. DOCTOR COMES IN, CHECKS THE BABY. SAYS, BABY LOOKS BETTER NOW; CORRECT?

A DOES.

Q GOOD SPONTANEOUS MOVEMENTS?

A AS BEFORE.

Q RIGHT. AND IT SAYS, MORO FAIRLY GOOD. LOOK AT IT HARD, DOCTOR.

A I SEE IT.

Q IT SAYS, MORO FAIRLY GOOD; DOESN'T IT?

A YES, IT DOES.

Q YES, IT DOES. IT IMPROVED THE NEXT DAY.

A YES.

Q WHICH WOULD LEAD ONE -- LEAD A DOCTOR TO SAY, WELL, MAYBE I DON'T NEED TO DO THIS X-RAY AFTER ALL, MAYBE THE BABY JUST HAD A SICK STOMACH.

A THAT'S POSSIBLE, BUT IT DOESN'T SAY SO.

Q CERTAINLY. BUT HE DIDN'T DO THE X-RAY?

A NO RECORD OF IT.

Q AND THAT WOULD HAVE BEEN THE APPROPRIATE COURSE OF ACTION IF THE BABY HAD ANY BRAIN DAMAGE?
A BACK THEN, YES.
Q RIGHT. NOW, NO VOMITING TODAY EXCEPT FOR MINIMAL REGURGITATION?
A YES.
Q BABY'S TUMMY IS GETTING BETTER, TOO; RIGHT?
A HOPEFULLY, YES.
Q WELL, I MEAN, ACCORDING TO THE RECORDS. I'M NOT TALKING ABOUT HOPEFULLY. ACCORDING TO THE RECORDS, IT APPEARS THAT THE BABY IS GETTING BETTER.
A IT APPEARS THAT WAY.
Q THAT ISSUE IS RESOLVING ITSELF. MODERATE JAUNDICE ON THE 16TH; RIGHT?
A RIGHT.
Q TAKING FEEDING WITHOUT DIFFICULTY; CORRECT?
A NO VOMITING.
Q NO VOMITING; CORRECT?
A YES.
Q BILIRUBIN DOWN?
A YES.
Q NEUROLOGICAL OKAY?
A YUP.
Q YOU DIDN'T GO OVER THAT WITH MR. DIGGS; DID YOU?
A NOPE.

Q NO. LET'S TAKE A LOOK AT THE 17TH, KIND OF AT THE TOP OF THE PAGE. CLINICALLY DOING WELL; CORRECT?
A WHERE?
Q ON THE -- ON THE 17TH, AT THE TOP OF THAT SAME PAGE. GO UP A LITTLE BIT. SCROLL UP IF YOU WOULD, DOCTOR.
A THAT'S WHERE WE WERE.
Q YEAH.
A THIS IS THE NEXT PAGE.
Q WELL, NO, SIR. YOU HAVE TO GO TO THE TOP OF THE PAGE BECAUSE FOR WHATEVER REASON THEY LISTED THE 17 AND 18TH AT THE TOP OF THE PAGE. THERE WE GO. SEE WHERE IT SAYS 17?
A YUP.
Q CLINICALLY DOING WELL?
A YES.
Q BILIRUBIN 19.1 PERCENT; RIGHT?
A YES.
Q ON THE 18TH BILIRUBIN DOWN TO 17.8 PERCENT. THAT'S A GOOD THING; ISN'T IT?
A YES.
Q THAT'S AN ACCEPTABLE LEVEL; ISN'T IT?
A YES.
Q THE JAUNDICE IS RESOLVED?
A GETTING BETTER.
Q THE VOMITING HAS RESOLVED ACCORDING TO OTHER RECORDS.
A YES.

Q RIGHT? SOMETHING NO ABNORMALITIES ON THE PHYSICAL EXAM?
A RIGHT, EXCEPT...
Q STILL SOME CONCERN ABOUT THE JAUNDICE; RIGHT?
A YES.
Q AND GOING TO GO BACK AND GET SOME MORE BILIRUBIN LATER. AND THE BABY WAS LET -- WAS DISCHARGED ON THE 18TH. ISN'T THAT CORRECT, DOCTOR?
A TRUE.
Q THAT'S RIGHT. I WON'T TAKE YOU THROUGH THE REST OF IT, DOCTOR. LET ME ASK YOU -- I'VE ASKED OTHER FOLKS THIS. HOW MUCH ARE YOU BEING PAID PER HOUR FOR YOUR TESTIMONY?
A I GET $150 AN HOUR. I'M SORRY. YOU ASKED ME WHAT?
Q HOW MUCH ARE YOU BEING PAID?
A FOR...
Q THIS -- YOUR -- YOUR ASSISTANCE IN THIS CASE, YOUR WORK--
A YOU DIDN'T SAY THAT.
Q WELL, YOUR -- FOR YOUR TESTIMONY, FOR IN COURT TESTIMONY.
A YOU'RE ASKING ME HOW MUCH I'M PAID FOR MY TESTIMONY; IS THAT CORRECT?
Q YES, SIR.
A NOTHING.

Q OKAY. YOU'RE WORKING--
A NOT A CENT. NOT A CENT.
Q -- YOU'RE WORKING FOR FREE?
A I DON'T GET PAID FOR MY TESTIMONY AT ALL.
Q OKAY. WELL, LET ME ASK YOU. YOU'RE BEING PAID FOR YOUR TIME; CORRECT?
A EXACTLY.
Q OKAY. AND YOUR TIME IN COURT YOU'RE BEING PAID HOW MUCH, DR. THRASHER?
A IT'S $150 AN HOUR.
Q OKAY. HOW ABOUT YOUR TIME OUT OF COURT?
A SAME.
Q $150 AN HOUR. AND HOW MUCH MONEY IS BUDGETED FOR YOUR ASSISTANCE WITH THIS CASE?
A I HAVE NO IDEA.
Q HOW MUCH MONEY HAVE YOU -- HOW MUCH TIME HAVE YOU SPENT WORKING ON THIS CASE?
A ALL DAY YESTERDAY AND PART OF TODAY AND THE PRIOR SESSION.
Q PLUS YOU'VE DEVELOPED -- YOU HAVE INTERVIEWED THE DEFENDANT?
A YEAH.
Q YOU HAVE DONE A REPORT, YOU'VE DONE AN EVALUATION.
A YES.
Q FOUND THAT HE WAS ANTISOCIAL?

A AMONG OTHER THINGS.
Q ALL RIGHT. SO HOW MUCH TIME TOTAL, DOCTOR? HOW MUCH IS YOUR BILL IN THIS CASE?
A I DON'T KNOW.
Q WOULD YOU SAY -- HAVE YOU SPENT 10 HOURS ON THE CASE?
A YES.
Q MORE THAN 10?
A YES.
Q SIGNIFICANTLY MORE THAN 10?
A DON'T KNOW.
Q ALL RIGHT. I WON'T ASK -- THAT'S FINE, DR. THRASHER. I DON'T HAVE ANY FURTHER QUESTIONS FOR YOU.

THE COURT: ANY REDIRECT?

MR. DIGGS: JUST A COUPLE ON FOLLOW-UP, YOUR HONOR.

THE COURT: YOU MAY PROCEED.

REDIRECT EXAMINATION

BY MR. DIGGS:
Q DR. THRASHER, I'M SORRY. HOW MUCH ARE YOU BEING PAID FOR YOUR TIME?
A 150 AN HOUR IS -- USUALLY.
Q ALL RIGHT. AND RIGHT NOW YOU HAVE AN OFFICE IN MYRTLE BEACH; CORRECT?
A YES. I DO.
Q YOU HAVE AN OFFICE. YOU ARE PAYING OFFICE OVERHEAD

RIGHT NOW AS YOU SIT HERE; CORRECT?
A I DO.
Q HOW MUCH AN HOUR IS YOUR OFFICE OVERHEAD? DO YOU KNOW?
A OH, AT THE OFFICE COST FOR A YEAR'S FUNCTION INCLUDING SALARIES, ET CETERA, IS IN THE RANGE OF 72 TO $80,000 A YEAR.
Q ALL RIGHT. AND SO TRUTH BE KNOWN, YOU'RE -- IT'S COSTING YOU INCOME TO BE HERE; IS THAT CORRECT?
A WELL, IF I'M NOT AT MY OFFICE AND SEEING PATIENTS, I HAVE NO INCOME, SO...
Q OTHER THAN WHAT -- OTHER THAN THE $150 WE ARE PAYING YOU.
A BUT THE OFFICE GOES ON.
Q RIGHT.
A STAFF IS AT WORK AND--
Q ALL RIGHT. AND SO YOU HAVE THOSE EXPENSES. THEY CONTINUE ON THROUGHOUT THE DAY REGARDLESS OF WHETHER YOU'RE THERE PRODUCING INCOME FROM PATIENTS OR NOT?
A YEAH.
Q HOW MUCH INCOME CAN YOU EARN PER HOUR SEEING PATIENTS?
A 150 AN HOUR.
Q OKAY. SO YOU BENEFIT NOTHING BY TAKING THIS CASE IN TERMS OF YOUR INCOME IN FINANCIAL GAIN?

A NO, THERE'S NO INCREASE IN INCOME.
Q ALL RIGHT. NOW--
A IF I GET PAID.
Q ALL RIGHT. IF -- MR. HEMBREE POINTED OUT AND STATED IN A LOUD TONE OF VOICE THAT THE NEUROLOGICAL WAS OKAY ON THE 17TH.
A THAT WAS HIS TESTIMONY.
Q ALL RIGHT. DO THE RECORDS EVER SAY THAT THE REFLEX, MORO REFLEX, AND THE OTHER -- WHAT WERE THE OTHER REFLEX DEFICIENCIES THE BABY HAD?
A HAD THE TRUNCAL REFLEX--
Q OKAY.
A -- WAS ABNORMAL.
Q DOES IT EVER SAY THOSE REFLEXES ARE NORMAL?
A DOESN'T SAY NORMAL.
Q NEVER SAYS NORMAL; DOES IT?
A SAYS DECREASING, YEAH.
Q YEAH. AND IF -- WAS OBSERVED ON ONE DAY TO HAVE SOME PERCEIVED IMPROVEMENT, BUT THEY NEVER SAID IT WAS NORMAL; DID THEY?
A NO.
Q ALL RIGHT. AND--
A WELL, NOW, WAIT A MINUTE. A MORO WOULDN'T BE NORMAL IN AN INFANT. WHAT THEY SAID WAS IT'S IMPROVING, IT WAS AB -- IT WAS--

Q CORRECT.
A -- WITH ITS ABSENCE OR DECREASE IN THE PRESENCE OF IT.
Q RIGHT.
A -- THAT'S -- ABNORMAL PART.
Q SO STEPHEN WAS NEVER -- THEY NEVER WROTE IN HIS CHART THAT HIS MORO REFLEX AND THIS OTHER REFLEX, THAT THOSE REFLEXES WERE NORMAL.
A NO, THEY DIDN'T.
Q WE NEVER SEE THAT IN THE RECORDS; CORRECT?
A DIDN'T SEE IT, NO.
Q NOW, AT THE SAME TIME THAT THE DOCTOR -- ONE DOCTOR IS SAYING NEUROLOGICAL OKAY, WE HAVE ANOTHER DOCTOR DESCRIBING STEPHEN'S CONDITION AS PRECARIOUS; ISN'T THAT TRUE?
A YES.
Q ALL RIGHT. AND WE HAVE GOT THE MOM MAKING A DECISION NOT TO HAVE THE TUBAL; ISN'T THAT TRUE?
A TRUE.
Q NOW, THAT'S THE STATE OF THE RECORDS; CORRECT?
A YES.
Q AND THAT'S ALL THAT WE CAN GLEAM, ALL WE CAN TELL FROM THESE RECORDS?
A YEAH, DIRECTLY AND INFERENTIALLY.
Q LET ME ASK YOU, DR. THRASHER. DO YOU KNOW IF WE MADE

ANY EFFORT TO GET THE ADDITIONAL FOLLOW-UP RECORDS ON STEPHEN STANKO?

A DO I KNOW IF YOU DID THAT?

Q DO YOU KNOW IF -- IF THE DEFENSE IN THIS CASE MADE ANY EFFORT TO LOCATE THE FOLLOW-UP MEDICAL RECORDS FOR STEPHEN STANKO AFTER HE WAS DISCHARGED FROM THE HOSPITAL?

A WELL, I DON'T KNOW DIRECTLY.

Q ALL RIGHT. YOU DON'T KNOW; DO YOU?

A NO.

Q NOW, THE FACT THAT THEY DON'T EXIST HERE IN THE COURTROOM DOESN'T GIVE YOU ANY INFORMATION ABOUT WHETHER AN EFFORT WAS MADE; DOES IT?

A NO.

Q ALL RIGHT. NOW, DO YOU KNOW ANYTHING ABOUT WHERE MEDICAL RECORDS ARE STORED IN THE NAVY?

A THEY USED TO BE OUT IN ST. LOUIS, MISSOURI.

Q ALL RIGHT. ARE HOSPITAL RECORDS STORED AT THE SAME PLACE OUTPATIENT RECORDS ARE STORED?

A THAT I DON'T KNOW.

Q ALL RIGHT.

A BUT IT WOULD BE -- IT WOULD MAKE SENSE THAT THEY WOULD BE CONNECTED THAT WAY, YES.

Q ALL RIGHT. BUT YOU DON'T KNOW FOR SURE; DO YOU?

A NO, I DON'T.

Q ALL RIGHT. AND SO YOU -- YOU DON'T HAVE ANY OPINION

ABOUT WHETHER THERE ARE FOLLOW-UP RECORDS AND WHETHER THEY'RE JUST OUT THERE TO BE GATHERED OR NOT; DO YOU?

A WELL, I DON'T, BUT I DO KNOW ONE THING. THEY HAD A -- THEY HAD A HUGE FIRE OUT IN ST. LOUIS AND IT -- IT BURNED UP A GOOD NUMBER OF MILITARY RECORDS INCLUDING NAVY RECORDS. I DON'T KNOW WHETHER THE MEDICAL RECORDS WERE INCLUDED IN THAT BATCH OF FILES THAT WERE LOST OR NOT.

Q WHEN WAS THAT?

A YEARS AGO. YEARS AGO.

Q AFTER MR. STANKO'S BIRTH?

A YES.

Q ALL RIGHT. THAT'S ALL I HAVE. THANK YOU.

RECROSS-EXAMINATION

BY MR. HEMBREE:

Q I GUESS WE'RE LUCKY TO HAVE THESE RECORDS; RIGHT, DOCTOR?

A I HAVE NO IDEA.

Q WELL, A BIG FIRE, YOU KNOW, JUST DON'T KNOW. LET ME ASK YOU ABOUT THIS, DOCTOR. I'VE JUST GOT ONE QUESTION. WELL, ONLY ONE MORE QUESTION. YOU JUST TESTIFIED, I BELIEVE, THAT THERE WAS NO INDICATION--

A I'D RATHER THE -- I'D RATHER HE WOULDN'T TOUCH ME. WOULD THAT BE...

Q I'M SORRY. I WILL BE GLAD TO MOVE OVER HERE, DOCTOR.

THE COURT: I'M CERTAIN IT WAS INADVERTENT, BUT

I WILL MAKE SURE IT DOESN'T HAPPEN AGAIN.

MR. HEMBREE: IT WAS. I APOLOGIZE, DR. THRASHER.

BY MR. HEMBREE:

Q DR. THRASHER, I HAD -- I UNDERSTAND YOUR TESTIMONY JUST NOW WAS THAT THERE WAS NOTHING IN THIS RECORD THAT INDICATED THAT THE MORO REFLEXES OF STEPHEN STANKO WERE NORMAL; CORRECT?

A I SAID A MORO REFLEX IS NORMAL, THE DEFICIENCY OF THE MORO REFLEX IS WHAT'S ABNORMAL.

Q CORRECT. AND THEN I BELIEVE THAT MR. DIGGS ASKED YOU, THERE IS NEVER ANY INDICATION IN THIS RECORD THAT THE MORO REFLEX WAS NORMAL. IS THAT CORRECT? IS THAT YOUR TESTIMONY? LET ME ASK YOU THAT.

IS THERE ANY INDICATION IN THIS RECORD THAT THE MORO REFLEXES ARE NORMAL?

A THERE ARE REFERENCES THAT IT'S ABNORMAL.

Q OKAY. IS THERE ANY INDICATION THAT THE MORO REFLEXES ARE NORMAL?

A NOT TO MY RECOLLECTION.

Q ALL RIGHT. LET ME TAKE YOU BACK TO THE N AND O CHART. THINK THAT'S ON PAGE FOUR. THERE WE GO. RIGHT THERE. STOP RIGHT THERE. I WANT YOU TO LOOK ON THE LAST LINE, SECOND TO THE END. WHAT'S THAT SAY, DOCTOR?

A MORO.

Q MORO. AND WHAT'S IT SAY? WHAT DOES IT INDICATE, DOCTOR?

A NORMAL.

Q THANK YOU, DOCTOR.

THE COURT: ANYTHING FURTHER?

MR. DIGGS: I DON'T HAVE ANYTHING FURTHER.

THE COURT: ANY EXCEPTION TO THE DOCTOR BEING EXCUSED FROM THE STATE?

MR. HEMBREE: NO, YOUR HONOR.

THE COURT: FROM THE DEFENSE?

MR. DIGGS: NO, YOUR HONOR.

THE COURT: DOCTOR, YOU'RE EXCUSED.

THE WITNESS: THANK YOU.

THE COURT: YOU'RE WELCOME.

(WITNESS LEFT THE STAND.)

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, YOU ALL HAVE BEEN SITTING OVER AN HOUR AND A HALF. I'M GOING TO GIVE YOU A BRIEF MORNING BREAK TO REFRESH YOURSELVES.

DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE. PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. WE WILL BE ABOUT 10 MINUTES. I HOPE YOU ENJOY YOUR BREAK.

(JURY LEFT THE COURTROOM AT 11:25 AM.)

THE COURT: ARE THEY IN THE ROOM? IS THE DOOR CLOSED? YOU MAY BE SEATED. IS THERE ANYTHING BEFORE

WE BREAK?

MR. HEMBREE: NOTHING FROM THE STATE, YOUR HONOR.

THE COURT: ANYTHING FROM THE DEFENSE?

MR. DIGGS: NO, YOUR HONOR.

THE COURT: HAVE A GOOD BREAK.

(WHEREUPON A RECESS WAS HAD.)

THE COURT: I HAD MY CLERK CHECK WITH YOU ALL. I MADE A TYPOGRAPHICAL ERROR IN MY HASTE LAST NIGHT TO GET THE FORMS TO YOU. AND THE RECOMMENDATION OF LIFE IMPRISONMENT HAD A PLACE FOR ALL 12 JURORS TO SIGN.

OF COURSE, THAT IS NOT SUPPORTED BY STATUTE. AND I THINK QUITE FRANKLY IT WAS JUST A SCRIVENER'S ERROR WHEN MY SECRETARY WAS TRANSPOSING THOSE FORMS FOR ME.

AND I HAVE PRINTED THE ACCURATE FORM AND HAD SUMMER GIVE EACH OF YOU A COPY, AND YOU ALL CAN JUST DESTROY THAT OTHER ONE.

MR. HUMPHRIES: WE TURNED OURS BACK INTO THE COURT.

THE COURT: WELL, WE WILL... I KNOW, ANOTHER TREE DEAD; RIGHT? AND SO -- AND ALSO AFTER THE LUNCHEON RECESS I ANTICIPATE THAT I WILL BE GIVING YOU ALL A COPY OF THE PROPOSED CHARGE. I'M JUST

DOING SOME FINE TUNING ON IT AS WE LISTEN TO THIS -- TO THE REMAINING TESTIMONY, TRYING TO CLEAN IT UP JUST A LITTLE BIT AND TWEAKING IT.

SO -- AND THEN, OF COURSE, AT THE CONCLUSION OF TESTIMONY TODAY, IF WE CONCLUDE TESTIMONY TODAY, WE WILL HAVE, OF COURSE, THE CHARGE CONFERENCE PRIOR TO ANY ARGUMENT.

AND IS THERE ANYTHING WE NEED TO TAKE UP BEFORE WE PROCEED WITH THE TESTIMONY?

MR. DIGGS: NOT FROM US.

MR. HEMBREE: NOTHING FROM THE STATE, YOUR HONOR.

THE COURT: OKAY. THE NEXT QUESTION WAS, WHO IS YOUR NEXT WITNESS?

MR. DIGGS: DALE DAVIS.

THE COURT: HOW LONG WILL THAT BE?

MR. DIGGS: SHORT.

THE COURT: OKAY. THE REASON I'M ASKING IS FOR SCHEDULING FOR LUNCH BECAUSE THE LUNCH WILL BE IN FOR THE JURY AT 12:30. AND I FIND WHEN WE BREAK AT 12:30, WE GET FAR MORE USE OUT OF THE AFTERNOON THAN WHEN WE HAVE LATER BREAKS. SO I WANT TO TRY TO BREAK AS CLOSE TO 12:30 AS POSSIBLE.

MR. KELLY: MA'AM, THERE MIGHT BE ONE SHORT WITNESS THAT YOU MIGHT BE ABLE TO SQUEEZE IN AFTER

DALE DAVIS.

THE COURT: OKAY. FINE.

MR. KELLY: IS THIS -- WHAT, 12 NOW?

THE COURT: IT'S 12.

MR. KELLY: AND THEN AFTER THAT WILL BE A MORE EXTENDED WITNESS.

THE COURT: OKAY. ALL RIGHT. WHY DON'T WE PLAN TO PROCEED THAT WAY? PLEASE BRING IN THE JURY.

(JURY ENTERED THE COURTROOM AT 12:02 PM.)

THE COURT: YOU MAY BE SEATED. LADIES AND GENTLEMEN, WE APPRECIATE YOUR PATIENCE. I HOPE THAT YOU ALL HAD A RESTFUL BREAK. WE WILL NOW RESUME WITH TESTIMONY. YOU MAY PROCEED, MR. KELLY.

MR. KELLY: CALL DALE DAVIS.

DALE DAVIS, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: YOU MAY PROCEED.

DIRECT EXAMINATION

BY MR. KELLY:

Q MRS. DAVIS, YOU ARE THE MITIGATION INVESTIGATOR FOR THE DEFENSE?

A YES, SIR.

Q AND WHERE DO YOU LIVE, MA'AM?

A NORTH CHARLESTON.

Q AND ARE YOU MARRIED?

A YES.
Q AND DO YOU HAVE CHILDREN?
A I HAVE TWO SONS THAT ARE GROWN AND MARRIED.
Q AND HOW ARE YOU EMPLOYED AT THIS TIME?
A I WORK PRIVATELY AS A CAPITAL MITIGATION INVESTIGATOR OR SPECIALIST ON DEATH PENALTY CASES.
Q SPEAK INTO THE MICROPHONE, PLEASE MA'AM.
A OKAY.
Q AND WHEN YOU SAY -- ARE YOU SELF-EMPLOYED?
A YES, I AM SELF-EMPLOYED.
Q AND SO YOU RUN YOUR OWN BUSINESS; CORRECT?
A YES.
Q AND HOW LONG HAVE YOU BEEN DOING MITIGATION INVESTIGATION ON DEATH PENALTY CASES?
A SINCE 1998.
Q AND HOW MANY DEATH PENALTY CASES HAVE YOU WORKED ON DURING THAT TIME?
A IN EXCESS OF 25.
Q DID YOU SAY 25?
A YES.
Q IS PART OF YOUR JOB TO COLLECT RECORDS?
A YES, THAT'S A MAJOR PART OF MY JOB.
Q AND HOW LONG HAVE YOU BEEN COLLECTING RECORDS FOR DEATH PENALTY INVESTIGATIONS, DURING YOUR WHOLE CAREER?
A YES.

Q AND THAT WOULD BE HOW MANY YEARS?
A EIGHT YEARS.
Q AND HAVE YOUR RECORDS BEEN SUPPLIED TO BOTH THE PROSECUTION AND THE DEFENSE IN DEATH PENALTY MATTERS DURING THAT TIME?
A YES.
Q AND TO EXPERTS TO BOTH THE PROSECUTION AND THE DEFENSE DURING THAT TIME?
A YES, PRIMARILY FOR THE DEFENSE, BUT IF REQUESTED, THEY COULD ALSO BE SUPPLIED TO THE PROSECUTION.
Q YOU'RE MOST -- ARE YOU EVER EMPLOYED BY -- HAVE YOU BEEN EMPLOYED BY ANYBODY OTHER THAN DEFENDANTS, MA'AM?
A NO, CAPITAL MITIGATION INVESTIGATOR IS PART OF A DEFENSE TEAM.
Q AND THE RECORDS THAT YOU GENERATE ARE PRIMARILY DEVELOPED FOR THE DEFENSE; CORRECT?
A YES, FOR THE MITIGATION OF...
Q BUT AS PART OF YOUR JOB YOU SUPPLY RECORDS TO THE PROSECUTION THROUGH YOUR JOB; CORRECT?
A RIGHT, THROUGH THE ATTORNEY.
Q AND IN FACT YOU HAVE DONE THAT IN THIS CASE; IS THAT RIGHT?
A YES, I BELIEVE SO.
Q HAVE YOU EVER BEEN QUALIFIED AS A -- AN EXPERT IN RECORD KEEPING OR DISTRIBUTION?

A RECORD COLLECTION.
Q RECORD COLLECTION.
A COLLECTION.
Q YOU HAVE?
A YES.
Q HOW MANY TIMES?
A ONLY ONCE BY -- ONE OTHER TIME.
Q AND WHAT COURT WOULD THAT BE?
A IT WAS IN CHARLESTON COURT, GENERAL SESSIONS.
Q IS IT NORMAL THAT A PERSON IN YOUR PROFESSION WOULD EVER BE CALLED AS A WITNESS IN A CASE?
A ONLY WHEN IT APPLIES TO RECORD GATHERING, THAT SORT OF THING TYPICALLY.
Q OKAY.

MR. KELLY: I WOULD OFFER HER AS AN EXPERT IN RECORDS COLLECTION.

THE COURT: ANY QUESTIONS OR OBJECTIONS?

MR. HUMPHRIES: NO, YOUR HONOR.

THE COURT: SO ADMITTED. YOU MAY PROCEED.

BY MR. KELLY:
Q NOW, DID YOU COLLECT RECORDS IN THIS CASE?
A YES, I DID.
Q DID YOU COLLECT BIRTH RECORDS IN THIS CASE?
A YES, I DID.
Q AND IN FACT, DID YOU COLLECT THE BIRTH RECORDS THAT

HAVE BEEN PUT INTO EVIDENCE IN THIS CASE?

A YES, I DID.

Q AND DID YOU ATTEMPT TO CORRECT -- COLLECT RECORDS OF STEPHEN STANKO'S MEDICAL HISTORY FOLLOWING HIS BIRTH RECORDS WHICH WOULD BE IN HIS EARLY CHILDHOOD?

A YES. AND IF I MIGHT EXPLAIN HOW THE MILITARY RECORD KEEPING SYSTEM WORKS. IT WOULD...

Q YES, MA'AM. IF YOU WOULD EXPLAIN TO THE JURY AS AN EXPERT HOW THE MILITARY RECORD KEEPING SYSTEM IS OPERATED.

A WHEN -- IN THE MILITARY RECORDS YOU HAVE TO GET A SPECIFIC RELEASE FOR MILITARY RECORDS, BUT THEIR RECORDS ARE MAINTAINED -- HOSPITAL RECORDS ARE MAINTAINED AT THE HOSPITAL IN THIS -- FOR INSTANCE, IN GUANTANAMO BAY, THAT'S WHERE HE WAS BORN, SO THAT HOSPITAL WOULD MAINTAIN THOSE RECORDS.

HOWEVER, HIS FATHER WAS IN THE MILITARY, SO AS YOU MOVE FROM BASE TO BASE, YOUR OUTPATIENT RECORDS WOULD FOLLOW YOU SO THAT YOUR DOCTORS AT THE NEXT BASE WOULD HAVE THE RECORDS, THE PRIOR RECORDS.

SO WHEN YOU COLLECT THOSE RECORDS, YOU HAVE TO DO TWO SEPARATE THINGS, ONE FOR ANY IN-PATIENT TREATMENT AND A SEPARATE FOR OUTPATIENT TREATMENT.

AND I GOT THE IN-PATIENT TREATMENT. I MADE MULTIPLE ATTEMPTS TO GET THE OTHER BECAUSE IN THE COURSE OF INTERVIEWING PEOPLE I HAD LEARNED OF A SIGNIFICANT HEAD

INJURY, AND I WAS TRYING VERY -- I GOT THOSE DATES, THE DIFFERENT ATTEMPTS I MADE TO COLLECT THEM BECAUSE I WANTED TO BE ABLE TO DOCUMENT THAT. BUT IN THE END, THEY COULD NOT LOCATE THEM.

Q THE RECORDS YOU -- COULD NOT BE LOCATED IN ORDER TO BE SUPPLIED TO YOU, MA'AM?

A NO, COULD NOT.

Q AND HAVE THE ATTORNEYS IN THIS MATTER SUPPLIED YOU WITH THE -- WITH THE SUBPOENAS IN ORDER TO COLLECT ANY RECORDS THAT WE WOULD THINK WOULD BE PART OF THE DEFENSE?

A YES, SUBPOENAS AND RELEASES OF YOUR CLIENT.

Q AND THE RECORDS THAT WERE REFERRED TO JUST RECENTLY AS THE FOLLOW-UP RECORDS OF POSSIBLE BRAIN DAMAGE OR ANY OTHER PHYSICAL INFORMATION OR HISTORY OF STEPHEN STANKO, YOU ATTEMPTED TO COLLECT, BUT WERE UNABLE TO?

A YES, THOSE ARE ALL OUTPATIENT RECORDS, ANY KIND OF FOLLOW-UP FOR BOTH HIS IN -- AS AN OUTPATIENT, AND I COULD NOT LOCATE THEM. AND I MADE SEVEN SEPARATE ATTEMPTS TO GET THEM.

Q MRS. DAVIS, ARE YOU BEING PAID FOR YOUR TIME IN THIS CASE?

A YES.

Q HOW MUCH ARE YOU PAID PER HOUR FOR YOUR TIME IN THIS CASE?

A I BELIEVE $50 AN HOUR.

Q AND HOW MUCH -- WERE YOU PAID FOR YOUR TRAVEL, FOR THE MILEAGE YOU TRAVELED?
A YES, SIR.
Q HOW MUCH YOU PAID FOR THE MILES THAT YOU TRAVELED?
A I BELIEVE INDIGENT DEFENSE PAYS THIRTY-FOUR AND A HALF CENTS A MILE.
Q AND ARE YOU PAID DURING THE TIME OF THE TRIAL TO -- TO HAVE ROOMS AVAILABLE TO YOU HERE IN THIS AREA, IT BEING AWAY FROM YOUR HOME?
A YES.
Q AND IS ALL OF THIS PAID BY COURT ORDER?
A YES, IT IS.
Q AND DO YOU PRESENT TO THE COURT ALL OF YOUR CREDENTIALS PREVIOUS TO THE ORDERS BEING ISSUED?
A YES, I SUBMIT A RESUME WITH THAT.
Q AND DO YOU ALSO PRESENT TO THE COURT WHAT YOU EXPECT THE NUMBER OF HOURS WILL BE ON THE CASE?
A YES.
Q AND DO YOU BASE THAT ESTIMATE ON YOUR PREVIOUS EXPERIENCE?
A YES.
Q AND IS EVERY DIME THAT YOU'RE PAID PAID BY APPROVAL OF THE COURT WITH THE APPROVAL OF THE CLERK OF COURT IN WHICH THE COUNTY THE CASE IS -- IS HAD BY VOUCHER?
A YES.

Q AND THEN SUBMITTED IN COLUMBIA TO THE SOUTH CAROLINA DEPARTMENT OF INDIGENT DEFENSE FOR PAYMENT?
A YES.
Q UNDER THOSE RULES, UNDER THEIR RULES, THAT'S HOW YOU'RE PAID; IS THAT RIGHT?
A YES, SIR.
Q ARE YOU BEING PAID FOR ANY TESTIMONY?
A NO.
Q ARE YOU BEING PAID TO TELL THIS JURY ANYTHING AT ALL BY ANYONE?
A NO. I HAD NOT EXPECTED TO TESTIFY.
Q SO THAT THE INFORMATION THAT YOU'RE GIVING TO THE JURY NOW IS NOT PAID FOR AS THOUGH WE'RE ACTUALLY PAYING YOU TO SAY SOME UNTRUTH. WE'RE NOT DOING THAT; ARE WE?
A NO.
Q I HAVE NO FURTHER QUESTIONS.

THE COURT: ANY QUESTIONS FOR THE WITNESS?

MR. HUMPHRIES: NO, YOUR HONOR. THANK YOU.

THE COURT: YOU MAY STEP DOWN.

(WITNESS LEFT THE STAND.)

THE COURT: YOU MAY PROCEED.

MR. KELLY: WE WOULD CALL PAM HARRELSON. OUT OF ORDER, MA'AM. WE WILL CALL KAREN...

KAREN HANEBRINK, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE WITNESS: MY NAME IS KAREN SALS HANEBRINK, H-A-N-E-B-R-I-N-K.

THE COURT: YOU MAY PROCEED.

MR. KELLY: THANK YOU, MA'AM.

THE COURT: YOU'RE WELCOME.

DIRECT EXAMINATION

BY MR. KELLY:

Q MRS. HANEBRINK -- IS IT MRS. HANEBRINK?

A YES.

Q MRS. HANEBRINK, HOW ARE YOU EMPLOYED?

A I'M AN ATTORNEY WITH JEFFCOAT, PIKE AND NAPPIER.

Q AND HOW LONG HAVE YOU BEEN WITH THEM, MA'AM?

A TWO MONTHS.

Q AND PREVIOUS TO THAT AND AT THE TIME OF 2005 WERE YOU EMPLOYED AT THE SOLICITOR'S OFFICE?

A YES, IN HORRY COUNTY.

Q MA'AM? HORRY?

A HORRY COUNTY.

Q AND WHAT WAS YOUR POSITION THERE?

A ASSISTANT SOLICITOR.

Q OKAY. MA'AM, I'D LIKE FOR YOU TO TAKE A LOOK AT EXHIBIT NUMBER 36. DO YOU RECOGNIZE WHAT THAT IS, MA'AM?

A I RECOGNIZE THIS AS A -- A SCHEDULE THAT WE TYPICALLY HAD IN THE SOLICITOR'S OFFICE OF OUR -- APPEARS TO BE OUR ON CALL SCHEDULE.

Q AND--
A NO, I'M SORRY. IT'S NOT ON CALL SCHEDULE. I DIDN'T LOOK CLOSE ENOUGH. I'M SORRY. THESE ARE COURT APPEARANCE DATES BASED ON WHEN WE WERE ON CALL.
Q AND IS YOUR NAME ON THAT SCHEDULE IN THE FRONT OF FEBRUARY, 2005?
A YES.
Q AND FROM THE 11TH TO THE 17TH OF FEBRUARY?
A CORRECT.
Q AND THEN NOT AGAIN UNTIL JUNE; CORRECT?
A LOOKS LIKE APRIL TO MAY, APRIL 29TH TO MAY 5TH.
Q I OVERLOOKED THAT. APRIL THE 29TH UNTIL MAY THE FIFTH. THAT'S THE NEXT TIME THAT YOU'RE LISTED HERE; CORRECT?
A CORRECT.
Q AND DO YOU -- DURING THAT TIME YOU WOULD BE SORT OF -- WOULD YOU BE THE SOLICITOR TO WHOM INQUIRY WOULD BE CHANNELED IN THE OFFICE? WAS THAT PART OF YOUR DUTIES?
A AS AN ON CALL PERSON TYPICALLY THEY WOULD COME TO THE PERSON ON CALL.
Q DO YOU REMEMBER A TELEPHONE CALL FROM A CITIZEN NAMED CONNIE PRICE?
A NOT SPECIFICALLY.
Q DO YOU REMEMBER ANY CONTACT WITH A CITIZEN NAMED CONNIE PRICE OTHER THAN A TELEPHONE CALL?

A NO.

Q OKAY. WHEN YOU SAY YOU DON'T SPECIFICALLY REMEMBER THE TELEPHONE CALL, DO YOU HAVE ANY RECOLLECTION OF A CALL FROM CONNIE PRICE TO YOU?

A NO. SOMEONE ON THE PHONE GAVE ME A FACT PATTERN, AND I VAGUELY RECALL A FACT PATTERN, AND I DON'T RECALL WHETHER THAT IS FROM A TELEPHONE CALL OR FROM TALK ABOUT THE OFFICE.

I DO NOT SPECIFICALLY RECALL THE SOURCE, BUT I DO RECALL THE FACTS, THE BASIC FACTS.

Q WHAT WERE THEY?

MR. HEMBREE: OBJECTION, YOUR HONOR. HEARSAY.

THE COURT: SUSTAINED. HEARSAY. YOU CAN SAY WHAT YOU DID AS A RESULT OF THE CONVERSATION.

BY MR. KELLY:

Q WELL, AS A RESULT OF THAT CONVERSATION AFTER HEARING WHAT THE FACT PATTERN WAS, DO YOU REMEMBER GIVING ANY ADVICE TO WHOEVER IT WAS THAT CALLED YOU?

A BECAUSE I DON'T SPECIFICALLY RECALL THAT PHONECALL, I CANNOT SPECIFICALLY TELL YOU WHAT I DID IN THAT SITUATION.

Q WAS IT A -- WAS IT A CALL, A COMPLAINT FROM A CITIZEN IN THE COMMUNITY?

MR. HEMBREE: OBJECTION. LEADING.

THE COURT: WHAT'S THE BASIS OF THE OBJECTION?

MR. HEMBREE: I WITHDRAW THE OBJECTION.

THE COURT: OBJECTION WITHDRAWN. YOU MAY CONTINUE WITH THE QUESTION.

BY MR. KELLY:

Q DO YOU REMEMBER IF IT WAS A CALL OR COMPLAINT FROM A CITIZEN IN YOUR COMMUNITY?

A BASED ON MY RECOLLECTION OR THE FACT PATTERN THAT WAS GIVEN TO ME?

Q EITHER ONE OF THEM.

A I DON'T KNOW THAT IT WAS A COMPLAINT MORE THAN AN INQUIRY.

Q AND DO YOU REMEMBER IN THE INQUIRY IF THE NAME STEPHEN STANKO WAS USED?

MR. HEMBREE: OBJECTION, YOUR HONOR. THAT CALLS FOR HEARSAY.

THE COURT: SUSTAINED. HEARSAY.

MR. HEMBREE: THANK YOU, MA'AM.

BY MR. KELLY:

Q WAS -- IF IT WERE AN INQUIRY OR A COMPLAINT, WHATEVER THE INQUIRY OR COMPLAINT WAS ABOUT, DO YOU REMEMBER TAKING ANY NAMES THAT YOU LATER CHECKED OR INVESTIGATED TO SEE WHAT HAPPENED?

A MY JOB IS AN ASSISTANT SOLICITOR, IT'S NOT AS AN INVESTIGATORY CAPACITY. THAT'S SOMETHING THAT THE POLICE TAKE CARE OF. IF SOMEONE HAS SOMETHING THAT NEEDS TO BE INVESTIGATED OR LOOKED INTO OR COMPLAINT OR A CRIME, THEN

THEY NEED TO GO TO THE POLICE DEPARTMENT TO DO THAT.

Q AND DID YOU -- YOU SAY THAT YOU HAVE SOME MEMORY OF RESPONDING TO THE INQUIRY OR COMPLAINT?

A I HAVE A VAGUE MEMORY OF THAT FACT PATTERN WHICH MEANS I MAY OR MAY NOT HAVE TAKEN A CALL ON THAT. IF -- IF I DID TAKE A CALL, IT WAS IN A LIMITED CAPACITY.

Q DO YOU HAVE ANY MEMORY OF WHAT THE INQUIRY OF THE LADY WAS?

A MY LIMITED -- I WAS GIVEN A VERY LONG FACT PATTERN, BUT MY MEMORY IS LIMITED TO WHETHER SOMEONE WAS OR WAS NOT AN ATTORNEY.

Q WELL--

MR. HEMBREE: OBJECTION, YOUR HONOR. THAT WAS -- THE QUESTION CALLED FOR HEARSAY AND THE RESPONSE WAS HEARSAY.

MR. KELLY: MA'AM, I DIDN'T ASK ANYTHING ABOUT HEARSAY--

THE COURT: I WILL GIVE HIM MORE LATITUDE. I WILL OVERRULE THE OBJECTION.

MR. KELLY: MA'AM?

THE COURT: I OVERRULED THE OBJECTION. I'M GOING TO GIVE YOU LATITUDE. PLEASE DON'T ELICIT HEARSAY.

MR. KELLY: YES, MA'AM.

BY MR. KELLY:

Q I WAS ASKING, I BELIEVE, JUST BASED ON YOUR RECOLLECTION WHETHER OR NOT YOU -- YOU RESPONDED TO IT IN SOME WAY. I WASN'T ASKING WHAT IT WAS.

A IF SOMEONE HAD ASKED ME -- AN INSTANCE I ALREADY SAID -- WHETHER OR NOT SOMEONE WAS AN ATTORNEY, I DON'T HAVE A WORKING KNOWLEDGE OF EVERY ATTORNEY IN THE SOUTH CAROLINA SYSTEM. I JUST DON'T. AND IT CHANGES EVERY SINGLE DAY.

SO I WOULD HAVE GIVEN THAT PERSON A TELEPHONE NUMBER TO THE BAR AND I WOULD HAVE NOT HAVE GOT OFF THE TELEPHONE CALL WITHOUT ME GIVING THEM THE DIRECT NUMBER FROM MY ROLODEX SO THAT THEY COULD CALL THE BAR AND ASK THEM DIRECTLY.

Q ALL RIGHT. IF A PERSON SUPPOSEDLY HAD CALLED YOUR OFFICE AT ANY TIME THAT YOU WERE EMPLOYED AT THE SOLICITOR'S OFFICE IN HORRY COUNTY, WAS THERE A PROTOCOL THAT YOU -- THE ATTORNEYS FOLLOWED OR -- OR A PROCEDURE IN ORDER TO RESPOND TO CITIZENS CALLING?

A TYPICALLY THE ON CALL SOLICITOR WOULD RESPOND TO THAT TELEPHONE CALL OR IF -- A PERSONAL VISIT OR WHATEVER. THE PERSON ON CALL IS CONTACTED. IF THAT PERSON IS IN COURT OR OTHERWISE OUT OF THE OFFICE MEETING WITH OFFICERS OR WHATEVER, THEN THEY'D FIND ANOTHER SOLICITOR IN THE OFFICE WHO CAN HELP OUT.

WE ESSENTIALLY WORK TOGETHER AND HELP EACH OTHER OUT

BECAUSE ON CALL YOU CAN'T DO YOUR NORMAL JOB AND DO EVERY SINGLE THING ON CALL. SOMETIMES WE HAVE TO WORK TOGETHER TO GET OUR JOBS DONE.

Q THANK YOU, MA'AM. I HAVE NO FURTHER QUESTIONS.

THE COURT: ANY QUESTIONS FOR THE WITNESS?

MR. HEMBREE: NO, YOUR HONOR.

THE COURT: ANY OBJECTION TO THE WITNESS BEING EXCUSED?

MR. HEMBREE: NOT FROM THE STATE, YOUR HONOR.

THE COURT: FROM THE DEFENSE?

MR. KELLY: NO, MA'AM.

(WITNESS LEFT THE STAND.)

THE COURT: MA'AM, YOU'RE EXCUSED. COUNSEL APPROACH FOR ME, PLEASE.

(WHEREUPON A BENCH CONFERENCE WAS HELD.)

MR. KELLY: WE WOULD CALL PAM HARRELSON.

GLORIA WILSON, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE WITNESS: MY NAME IS GLORIA A WILSON, W-I-L-S-O-N.

MR. KELLY: YOUR HONOR, I HAD CALLED PAM HARRELSON. MY INVESTIGATORS HAVE ASKED MS. WILSON TO COME FORWARD AND BE SWORN. HOWEVER, MS. WILSON WOULD BE A LONGER WITNESS, MORE THAN...

THE COURT: OKAY. IS MS. HARRELLSON PRESENT?

MR. KELLY: WE WOULD ASK THAT SHE BE SET ASIDE UNTIL WE...

THE COURT: MS. WILSON, WE APOLOGIZE FOR INCONVENIENTLY -- NEED YOU TO STEP DOWN FOR US. THANK YOU. AND IF THE BAILIFFS CAN PLEASE LOCATE PAM HARRELSON.

(WITNESS LEFT THE STAND.)

PAM HARRELSON, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE WITNESS: MY NAME IS PAMELA W HARRELSON.

THE COURT: YOU MAY PROCEED. WELL, IF YOU COULD SPELL YOUR LAST NAME.

THE WITNESS: H-A-R-R-E-L-S-O-N.

THE COURT: YOU MAY PROCEED.

DIRECT EXAMINATION

BY MR. KELLY:

Q IS IT MRS. HARRELSON, MA'AM, OR MS. HARRELSON?

A MRS.

Q MRS.?

A UH-HUH.

Q MRS. HARRELSON, MY NAME IS GERALD KELLY. YOU AND I HAVE NEVER MET; HAVE WE?

A NO.

Q BUT YOU TALKED WITH MY INVESTIGATORS, EITHER DALE DAVIS OR VICKY JOHN?

A I TALKED WITH VICKY.
Q OKAY. WHERE ARE YOU NOW EMPLOYED?
A THE HORRY COUNTY SCHOOL DISTRICT.
Q HOW LONG HAVE YOU BEEN THERE?
A SINCE THE END OF NOVEMBER OF LAST YEAR.
Q AND PREVIOUS TO THAT WHERE DID YOU WORK?
A THE SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES, HORRY COUNTY OFFICE.
Q HOW LONG WERE YOU AT THE HORRY COUNTY OFFICE?
A I STARTED IN THE HORRY COUNTY OFFICE IN NOVEMBER THE FIRST OF 1995.
Q SO YOU WERE THERE ABOUT, WHAT, 10 YEARS?
A ABOUT 10 YEARS.
Q OKAY.
A MAYBE A LITTLE MORE.
Q I WANT TO -- WHAT -- ASK ME -- LET ME ASK YOU, WHAT WERE YOUR DUTIES THERE DURING 2005?
A I WAS THE AGENT IN CHARGE OF THE COUNTY OPERATION. I COORDINATED ALL THE ACTIVITIES OF THE OFFICE AND OVERSAW ALL THE PERSONNEL THAT WORKED IN THE OFFICE.
Q WOULD YOU BE FAMILIAR WITH THE RECORDS ON FILES THAT WOULD BE KEPT IN INDIVIDUAL CASES?
A WITH SOME OF THEM, NOT WITH -- I MEAN, I DIDN'T HAVE A GOOD FAMILIARITY WITH ALL THEM, BUT WITH SOME OF THE CASES.

Q LET ME -- LET ME ASK YOU TO LOOK AT SOMETHING. TAKE A LOOK AT THIS DOCUMENT AND JUST TELL ME IF YOU RECOGNIZE IT OR CAN YOU IDENTIFY IT.

A OKAY. IS A SCHEDULER DOCUMENTATION. IT'S THE -- IT'S A COMPUTERIZED RECORD KEEPING. THAT'S ALL THE DOCUMENTATION ON A CASE. AS FAR AS FACE-TO-FACE VISITS WITH OFFENDERS, TELEPHONE CALLS, OFFICE VISITS, ALL OF THAT IS JUST THE DAY-TO-DAY ACTIVITIES OF SUPERVISING A CASE.

Q WOULD YOU BE ABLE TO AUTHENTICATE FOR US IF THAT WOULD BE AN OFFICIAL RECORD FROM YOUR OFFICE--

A YES, IT IS.

Q -- THAT YOU'RE LOOKING AT?

A YES.

MR. KELLY: I WOULD ASK TO ENTER IT INTO EVIDENCE.

MR. HEMBREE: WITHOUT OBJECTION, YOUR HONOR.

THE COURT: MARKED AND ADMITTED WITHOUT OBJECTION.

(WHEREUPON, DEFENDANT'S EXHIBIT 37 WAS ADMITTED INTO EVIDENCE.)

BY MR. KELLY:

Q MA'AM, DO YOU RECALL THE TELEPHONE CALL THAT CAME INTO THE PROBATION, PARDON, AND PAROLE OFFICE IN HORRY COUNTY ON OR ABOUT JANUARY THE 26TH I BELIEVE OR 27TH OR

EITHER 28TH OF 2005?

A ARE YOU REFERRING TO THE CALL FROM THE US MARSHAL'S OFFICE?

Q YES, MA'AM.

A I DO REMEMBER THAT COMING IN. I DON'T REMEMBER TAKING THAT CALL, BUT I REMEMBER BEING ADVISED OF IT.

Q AND WERE YOU ADVISED OF IT IN YOUR CAPACITY AS -- IN THE OFFICE?

A YEAH, I WAS ADVISED AS THE AGENT IN CHARGE.

Q BY THE AGENT IN CHARGE?

A NO, I WAS ADVISED AS MY JOB AS AGENT IN CHARGE.

Q AND WHO -- THIS IS A SCHEDULE THAT YOU'RE LOOKING AT OF A PARTICULAR CASE; IS IT NOT?

A YES.

Q AND WHOSE -- I WILL JUST CALL IT WHOSE CASE. WHOSE CASE WOULD THAT BE AS FAR AS THE PAROLEE?

A IT'S STEPHEN STANKO, BUT HE WAS NOT A PAROLEE. HE WAS ON A COMMUNITY SUPERVISION PROGRAM.

Q OH, HE WAS ON A COMMUNITY SUPERVISION PROGRAM?

A YES, SIR.

Q AND IS THAT THE SCHEDULE OF ACTIVITIES THAT WOULD BE LISTED BY THE SUPERVISING AGENT?

A IT WOULD BE BY THE SUPERVISING AGENT AND ANYBODY ELSE IN THE OFFICE, ANY OTHER AGENT OR SUPERVISOR THAT TOOK PHONECALLS AND THINGS ON HIS CASE.

Q AND THAT'S SO THAT THERE'S A -- A HISTORY OR A RECORD?
A RIGHT.
Q AND SO IT WOULDN'T JUST HAVE TO BE HIS SUPERVISING AGENT, IT COULD BE -- NORMALLY THAT MIGHT BE WHO THAT WOULD BE, BUT IT MIGHT BE ANY OTHER AGENT; CORRECT?
A RIGHT. IT COULD BE ANYBODY THAT DEALT WITH HIM OR SOMEBODY ELSE ABOUT HIS CASE.
Q IS THERE A WAY TO TELL BY LOOKING AT THE DOCUMENT IN FRONT OF YOU WHO WOULD HAVE MADE A PARTICULAR ENTRY?
A SOMETIMES YOU CAN -- ON THIS PARTICULAR REPORT THAT'S BEEN RUN, SOMETIMES YOU CAN TELL BECAUSE THE PERSON THAT MADE THE ENTRY WOULD PUT THEIR INITIALS AT THE BOTTOM. THAT'S NOT A REQUIREMENT, THOUGH, SO THAT DIDN'T ALWAYS OCCUR.

ON THE ACTUAL COMPUTER SYSTEM, WHEN YOU PULL UP AN ENTRY IT AUTOMATICALLY CLOCKS IN WHO MADE THE ENTRY UNDER THEIR LOG-IN. ON THIS PARTICULAR PHONECALL THERE'S NOT A WAY TO TELL OTHER THAN THERE IS AN AGENT'S INITIALS WRITTEN ON THIS PRINTOUT.

Q WHO WOULD THAT BE?
A THE INITIALS HERE ARE GLORIA WILSON. SHE'S A SUPERVISOR IN THE OFFICE.
Q AND WHO WOULD HAVE BEEN -- IS -- LET ME ASK IT THIS WAY. WAS THERE A SUPERVISING AGENT FOR THAT PARTICULAR

CASE AS WELL?

A THERE WAS. ON THIS DATE IN JANUARY GLORIA WILSON WAS ACTUALLY SUPERVISING THE CASE.

Q ALL RIGHT. AND WOULD THERE BE A PRIMARY SUPERVISING AGENT OR ON -- THAT WOULD TAKE CARE OF, SAY, STEPHEN STANKO'S CASE?

A YES, THERE WOULD.

Q AND WHO WOULD THAT HAVE BEEN?

A IT WAS GLORIA WILSON AT THAT TIME.

Q OKAY. SO YOU'RE AWARE THAT -- ON WHAT DATE DOES THAT REVEAL THAT THE -- THE CALL CAME IN FROM THE US MARSHAL'S OFFICE?

A IT WAS JANUARY 26TH, 2005.

Q DID YOU YOURSELF EVER MEET WITH STEPHEN STANKO?

A NOT THAT I REMEMBER. I CAN TAKE A FEW MINUTES AND LOOK THROUGH HERE AND TELL YOU, PROBABLY ANSWER THAT DEFINITIVELY.

Q JUST TO YOUR MEMORY, MA'AM, DO YOU?

A NOT THAT I RECALL. I RECALL SEEING HIM IN MS. WILSON'S OFFICE, BUT I DON'T RECALL HAVING ANY CONVERSATION OF ANY EXTENSIVE NATURE WITH HIM AND I DON'T REMEMBER TALKING WITH HIM IN MY OFFICE.

Q DID YOU EVER TAKE ANY TELEPHONE CALLS FROM STEPHEN STANKO OR ATTORNEY IRBY WALKER?

A I DID FROM IRBY WALKER.

Q AND WOULD THE TELEPHONE CALLS THAT YOU TOOK FROM IRBY WALKER BE LISTED IN THE SCHEDULE THAT YOU HAVE BEFORE YOU?
A UH-HUH, IT IS. IT'S LISTED HERE ON JANUARY 28TH, 2005.
Q THAT WOULD BE TWO DAYS AFTER THE MARSHAL'S OFFICE CALLED?
A UH-HUH.
Q AND YOU WOULD ACTUALLY HAVE TAKEN THAT CALL YOURSELF?
A I DID.
Q AND THAT ENTRY THAT WOULD BE THERE WOULD BE ONE YOU MADE?
A YES.
Q READ IT TO ME, PLEASE MA'AM.
A IRBY WALKER CALLED, STATES SUPERVISOR WILSON HAD CONTACTED SUBJECT AND HE WONDERED WHAT WAS GOING ON. ADVISED HIM IT APPEARS SUBJECT -- IT APPEARS SHE HAD CONTACTED SUBJECT ABOUT HIS FAILURE TO REPORT IN DECEMBER AND JANUARY AS WELL AS HIS SUPERVISION FEE ARREARS.
WALKER STATES SUBJECT HAS THE SUPERVISION ARREARS TO PAY TODAY AND HE WILL BRING HIM TO THE OFFICE. ADVISED HIM THIS WOULD BE FINE. PWH. THAT'S MY INITIALS AT THE END.
Q WHAT PAGE IS THAT ON, MA'AM?
A PAGE 14 OF 20.
Q SO THE ENTRY YOU MADE WAS THAT ATTORNEY WALKER

CALLED; IS THAT CORRECT?

A THAT'S CORRECT.

Q AND THAT HE SPOKE TO YOU ABOUT THE SUPERVISOR, MS. WILSON?

A RIGHT, ABOUT A -- YEAH.

Q HAVING CONTACTED STEPHEN STANKO?

A RIGHT.

Q AND THAT -- WHO -- IT SAYS THAT HE WONDERED WHAT WAS GOING ON. WHO IS, WOULD THAT BE IRBY WALKER?

A YES, SIR. I WAS REFERRING TO MR. WALKER THERE.

Q AND THEN YOU ADVISED HIM THAT IT APPEARED THAT WILSON HAD CONTACTED -- SAYS, SHE HAD CONTACTED.

A RIGHT. THAT'S AGENT WILSON HAD CONTACTED MR. STANKO ABOUT--

Q ABOUT WHAT?

A -- ABOUT NOT -- AGENT WILSON HAD CONTACTED MR. STANKO ABOUT NOT REPORTING IN DECEMBER AND DURING HIS REPORT WEEK IN JANUARY AND THAT HE WAS BEHIND ON HIS SUPERVISION FEE.

Q ALL RIGHT. NOW, THIS CAME IN ON THE 28TH OF JANUARY.

A RIGHT.

Q SO THIS IS -- DOES THIS SAY THAT STEPHEN STANKO DID NOT REPORT AS ORDERED ON -- IN DECEMBER AND JANUARY? IS THAT WHAT THAT MEANS?

A UH-HUH. HE DID NOT REPORT IN DECEMBER AND HE MISSED EVERY -- EVERY OFFENDER HAS A SPECIFIED WEEK DURING THE

MONTH THAT THEY ARE TO REPORT, AND HE MISSED HIS WEEK DURING JANUARY.

Q SO HE HAS -- HE HAD A PARTICULAR APPOINTMENT THAT HE SHOULD HAVE KEPT, AND HE DIDN'T KEEP THAT ONE?

A HE HAD A SPECIFIC WEEK, YES, SIR.

Q CAN YOU TELL US WHAT THAT WOULD HAVE BEEN, WHAT WEEK THAT WOULD HAVE BEEN HE SHOULD HAVE COME DOWN?

A I BELIEVE IT WAS -- I THINK THAT MS. WILSON'S TEAM WAS THE FIRST FULL WEEK OF THE MONTH, SO IT WOULD HAVE BEEN THE FIRST FULL WEEK OF JANUARY.

Q AND THEN DID -- DID YOU REPORT HERE THAT ATTORNEY WALKER STATED THAT STANKO WOULD PAY HIS ARREARS ON THAT DAY; CORRECT?

A YES.

Q AND THAT ATTORNEY WALKER WOULD BRING STEPHEN STANKO INTO THE OFFICE.

A RIGHT.

Q DO YOU HAVE ANY RECOLLECTION OF WHEN HE WOULD HAVE BRING (SIC) HIM INTO THE OFFICE?

A HE WAS GOING TO BRING HIM THAT DAY.

Q THAT DAY?

A YES, SIR.

Q DID YOU SEE THEM THAT DAY?

A I DON'T REMEMBER SEEING HIM THAT DAY, BUT I REMEMBER HIM COMING IN.

Q YOU REMEMBER WHO COMING IN, IRBY WALKER?
A MR. STANKO WITH MR. WALKER.
Q TOGETHER?
A UH-HUH.
Q DID YOU SEE THEM IN YOUR OFFICE TOGETHER?
A I REALLY DON'T REMEMBER IF I SAW THEM IN THE OFFICE. I JUST REMEMBER THAT THEY WERE DUE TO COME IN AND THAT THEY DID COME IN AND SEE A -- DUTY AGENTS.
Q I'M SORRY. I MISSED THE LAST PART.
A THEY CAME IN AND SAW A DUTY AGENT. THERE'S AN AGENT THAT HAS DUTY EVERY DAY THAT SEES PEOPLE WHO COME IN IF THEIR PARTICULAR AGENT IS NOT IN THE OFFICE.
Q IS THAT REFLECTED HERE WHO THAT DUTY AGENT WOULD HAVE BEEN?
A IT'S -- IT'S ON THE NEXT PAGE ON PAGE 15. IT SHOWS 128, 2005, OFFICE VISIT PROGRESS REPORT. IT DOESN'T REFLECT ON HERE WHO THE AGENT WAS THAT SAW HIM THAT DAY.
Q NOW, IF -- TELL US AGAIN THE PROGRAM MR. STANKO WAS ON.
A HE WAS ON COMMUNITY SUPERVISION PROGRAM.
Q WHAT DOES THAT MEAN, COMMUNITY SUPERVISION?
A COMMUNITY SUPERVISION PROGRAM IS A SPECIFIC PROGRAM THAT THE LEGISLATORS PASSED THAT AN OFFENDER WHO HAS SERVED TIME FOR AN OFFENSE WHICH IS NORMALLY VIOLENT BY WHICH HE IS NOT ELIGIBLE FOR PAROLE WILL SERVE 85 PERCENT

OF HIS ACTIVE SENTENCE AND THEN HE IS RELEASED ON TWO YEARS OF COMMUNITY SUPERVISION.

HE SUCCESSFULLY COMPLETES THE TWO YEARS OF SUPERVISION, HE'S DISCHARGED FROM THE COMMUNITY SUPERVISION PROGRAM AND HAS SATISFIED HIS ENTIRE SENTENCE.

IF HE DOES NOT SUCCESSFULLY COMPLETE IT, THEN HE CAN BE VIOLATED AND A JUDGE CAN REVOKE UP TO ONE YEAR SERVICE TIME ON THE COMMUNITY SUPERVISION CASE AFTER WHICH HE WOULD BE RE-RELEASED AGAIN ON COMMUNITY SUPERVISION FOR A TWO YEAR PERIOD.

Q NOW, YOU SAID THAT IF HE DIDN'T SUCCESSFULLY COMPLETE THIS PROGRAM HE WAS ON--

A RIGHT.

Q -- A JUDGE COULD REVOKE HIS STATUS AND HE COULD GO BACK TO PRISON?

A FOR UP TO ONE YEAR.

Q UP TO ONE YEAR?

A RIGHT.

Q AND HOW WOULD -- HOW WOULD MR. STANKO -- WHAT WOULD THE PROCESS BE, MR. STANKO GOING IN FRONT OF THE JUDGE?

A A WARRANT OR A CITATION WOULD HAVE TO BE ISSUED STATING SPECIFIC VIOLATIONS OF HIS SUPERVISION. THAT WOULD BE SERVED ON HIM. IF IT WAS A WARRANT, HE WOULD BE GIVEN A BOND BY A MAGISTRATE AND WE WOULD SET HIM A COURT DATE.

DEPENDING ON THE VIOLATIONS, WHAT THEY WERE, HE WOULD EITHER HAVE A PRELIMINARY HEARING IN FRONT OF A DEPARTMENT HEARING OFFICER OR HE COULD GO TO -- DIRECTLY TO GENERAL SESSIONS COURT AND HAVE A HEARING IN FRONT OF THE JUDGE.

Q AND WHO WOULD ISSUE THAT WARRANT IN ORDER TO START THE PROCESS?

A SOMEONE IN OUR OFFICE, AN AGENT OR SUPERVISOR IN THE PROBATION OFFICE.

Q WOULD IT NORMALLY BE WHOEVER WAS SUPERVISING HIS CASE?

A IT COULD BE. NORMALLY IT WOULD.

Q HE WAS THERE -- IF THERE WERE -- AT THE TIME YOU WERE THERE, IF SOMEONE WANT -- IF, FOR INSTANCE, AGENT GLORIA WILSON WANTED TO ISSUE A WARRANT TO START THIS PROCESS, WOULD SHE CLEAR THAT WITH YOU?

A SHE WOULD, AND THEN SHE WOULD ISSUE THE WARRANT.

Q OKAY. HAD AGENT WILSON BY THIS DATE ISSUED ANY KIND OF A WARNING TO AGENT STANKO?

A SHE HAD SENT HIM A LETTER ADVISING HIM THAT HE WAS IN VIOLATION BY MISSING THE REPORTS AND BEING DELINQUENT ON HIS FEES AND HAD ADVISED HIM IN THAT LETTER TO REPORT BY JANUARY THE 31ST.

Q AND CAN YOU TELL ME FROM THE RECORD IN FRONT OF YOU WHEN THAT WOULD HAVE BEEN THAT THE--

A THAT WAS JANUARY THE 21ST.

Q JANUARY THE 21ST.
A UH-HUH.
Q AND I'D LIKE FOR YOU TO TAKE A LOOK AT THIS DOCUMENT AND TELL ME IF YOU RECOGNIZE IT.
A THIS IS A WARRANT THAT I ISSUED ON STEPHEN STANKO BASED ON THE PROBABLE CAUSE THAT HE HAD COMMITTED THE NEW CRIMES THAT HE WAS FOUND GUILTY OF LAST WEEK.
Q AND WHAT'S THE DATE THAT YOU ISSUED THAT?
A I ISSUED IT APRIL THE 13TH, 2005.
Q THAT WOULD BE FIVE DAYS AFTER LAURA LING'S MURDER?
A RIGHT.
Q OKAY. WAS THERE ANY WARRANT EVER ISSUED BEFORE THAT?
A NOT THAT I REMEMBER.

MR. KELLY: WE ASK TO ENTER...

MR. HEMBREE: WITHOUT OBJECTION, YOUR HONOR.

THE COURT: MARKED AND ADMITTED WITHOUT OBJECTION.

(WHEREUPON, DEFENDANT'S EXHIBIT 38 WAS ADMITTED INTO EVIDENCE.)

BY MR. KELLY:
Q AND WHILE THAT'S BEING MARKED, LET ME ASK YOU A QUESTION. WOULD NOT REPORTING FOR TWO MONTHS AND NOT BEING PAID FEES, WOULD A WARRANT BE ISSUED FOR HIM?
A IT WOULD BE A VERY RARE CIRCUMSTANCE THAT THAT WOULD HAPPEN. THOSE ARE ALL TECHNICAL VIOLATIONS. NONE ARE

LISTED AS COMMUNITY SAFETY VIOLATIONS IN THE DEPARTMENT POLICY.

Q SO WE -- WHAT WOULD BE LOOKING FOR FOR A WARRANT TO BE ISSUED WOULD BE A COMMUNITY SAFETY VIOLATION?

A UH-HUH, OR A PATTERN OF NOT REPORTING, CHANGING RESIDENCE, ABSCONDING SUPERVISION, THINGS LIKE THAT.

Q AND WHAT -- GIVE US AN EXAMPLE OF A COMMUNITY SAFETY VIOLATION.

A WELL, COMMUNITY SAFETY VIOLATION IS WHAT'S ACTUALLY STATED IN THIS WARRANT, PROBABLE CAUSE TO BELIEVE THAT HE COMMITTED THOSE CRIMES. THE FACT THAT HE -- WE CHARGED HIM WITH BEING IN POSSESSION OF A FIREARM.

OTHER COMMUNITY SAFETY VIOLATIONS ARE -- CRIMINAL DOMESTIC VIOLENCE IS CONSIDERED A COMMUNITY SAFETY VIOLATION. THINGS LIKE ABSCONDING SUPERVISION, WHICH MEANS THAT EMPLOYMENT AND RESIDENCE HAS BEEN CHANGED SO THAT BASICALLY THE OFFENDER'S WHEREABOUTS ARE CONSIDERED UNKNOWN MEANING HE'S FLED THE JURISDICTION OF THE DEPARTMENT.

MR. KELLY: IF IT PLEASE THE COURT. YOUR HONOR, I THOUGHT THAT THE WITNESS WOULD BE SHORTER THAN SHE IS, BUT IT'S GOING TO BE MORE PROLONGED. IF YOU WANT TO INTERRUPT--

THE COURT: LET'S PRESS AHEAD. I PREFER TO FINISH THE WITNESS BEFORE LUNCH.

MR. KELLY: ALL RIGHT.

BY MR. KELLY:

Q DO YOU -- DURING THE TIME THAT YOU WERE AT THE PROBATION, PARDON, AND PAROLE OFFICE IN CONWAY, DID YOU EVER GET CALLS FROM CITIZENS COMPLAINING ABOUT PERSONS UNDER SUPERVISION OF YOUR OFFICE?

A YES, SIR.

Q AND WHAT WAS THE NORMAL PROCEDURE IF SOMEONE DID COMPLAIN? WHAT WOULD -- WHAT WOULD HAPPEN?

A IT WOULD -- IT'S ALL BASED ON THE TYPE OF COMPLAINT, WHAT WAS STATED IN THE COMPLAINT. OFTEN TIMES WE WOULD, YOU KNOW, YOU WOULD GIVE SOMEONE ADVICE ON WHAT STEPS THEY SHOULD TAKE.

A LOT OF TIMES WE WOULD RECEIVE CALLS THAT NEEDED TO BE DIRECTED TO THE POLICE AND WE WOULD, YOU KNOW, ADVISE PEOPLE OF THAT. YOU KNOW, IF SOMEBODY -- I MEAN, DO YOU WANT ME TO GIVE YOU EXAMPLES? I MEAN, I CAN'T THINK OF ANOTHER WAY TO EXPLAIN IT.

Q WELL, GIVE ME ONE EXAMPLE.

A IF SOMEBODY CALLED AND REPORTED THAT SOMEBODY WAS USING DRUGS, THEN THAT PERSON WOULD BE CALLED IN AND GIVEN A DRUG TEST.

Q WHAT IF SOMEBODY -- SOMEBODY COMPLAINED THAT THEIR BEHAVIOR IN THE COMMUNITY WAS APPARENTLY ABNORMAL, NOT -- NOT A CRIME, JUST STRANGE BEHAVIOR?

A THEN THEY -- PROBABLY THE OFFENDER WOULD BE CALLED IN AND BE TALKED TO AND COUNSELED REGARDING THE COMPLAINT AND CHANGES NEEDED IN THE BEHAVIOR.

Q IF -- IF THERE WERE A COMPLAINT AGAINST ONE OF YOUR SUPERVISED PERSONS AND IT APPEARED THAT IT MIGHT BE SOME TYPE OF CRIMINAL BEHAVIOR, WOULD THE SUPERVISING AGENT THEMSELVES EVER CHECK IT OUT TO SEE -- WHEN I SAY CHECK IT OUT, I MEAN INVESTIGATE IT IN SOME WAY -- TO DETERMINE IF THE -- IF IT WERE FOUND?

A THEY WOULD PROBABLY TALK WITH THE OFFENDER ABOUT THE BEHAVIOR, AND IF IT APPEARED FROM TALKING WITH THE PERSON FILING THE COMPLAINT THAT THERE WAS CRIMINAL ACTIVITY GOING ON, THEN THEY WOULD BE -- THAT PERSON WOULD BE REFERRED TO CONTACT THE POLICE DEPARTMENT THAT HAD JURISDICTION FOR A NEW CRIME SO THEY COULD INVESTIGATE A POTENTIAL NEW CRIME.

Q SO THEY WOULD TALK WITH -- IF THERE WERE A COMPLAINT ABOUT STANKO, THEY WOULD NORMALLY TALK WITH HIM. BUT YOU SAID -- YOU SAY COMPLAINT, IS THERE EVER A WRITTEN -- YOU ASK SOMEONE, COME TO THE OFFICE AND MAKE A WRITTEN STATEMENT. IS THAT -- WAS THAT SOMETHING THAT WAS NORMALLY DONE?

A THAT CAN BE DONE. IT'S NOT ALWAYS.

Q WHEN WOULD THAT BE DONE?

A DEPENDING ON THE NATURE OF THE COMPLAINT, THAT'S DONE

OFTEN TIMES IN CRIMINAL DOMESTIC VIOLENCE SITUATIONS. SOMEONE CALLS AND COMPLAINS THAT THEY'RE BEING ASSAULTED BY SOMEONE UNDER SUPERVISION, THEY MAY BE ASKED TO COME INTO THE OFFICE AND MAKE AN AFFIDAVIT UNDER OATH BY, YOU KNOW, IN FRONT OF A NOTARY SO THAT WILL GIVE THE AGENT SOMETHING TO PRESENT IN COURT, SOME TYPE OF EVIDENCE.

Q WHAT IF YOU -- WHAT IF ONE OF YOUR SUPERVISING AGENTS OR YOURSELF RECEIVED A CALL FROM A PERSON EMPLOYED IN A LAW ENFORCEMENT AGENCY, NOT YOUR OWN, BUT ANOTHER LAW ENFORCEMENT AGENCY, ADVISING YOU OF WHAT THEY CONSIDERED TO BE SERIOUS BEHAVIOR AND A DANGER IN THE COMMUNITY? WHAT WOULD BE THE NORMAL PROCESS THEN?

A IT WOULD DEPEND ON THE CIRCUMSTANCES.

Q WELL, LET'S SAY, FOR INSTANCE, THAT YOU -- YOU YOURSELF KIND OF WORK THERE, RECEIVE A CALL FROM THE UNITED STATES MARSHAL'S OFFICE AND THEY SAID WE HAVE COMPLAINTS OF PEOPLE THAT THEY'RE BEING CONNED BY STEPHEN STANKO AND THEY ARE SO AFRAID OF HIM THAT THEY CANNOT -- I CAN'T CALM THEIR FEARS OF HIM?

WHAT WOULD -- WHAT KIND OF -- WHAT SHOULD BE DONE IN A CASE LIKE THAT?

A I DON'T REMEMBER THAT HAPPENING.

Q IF IT DID HAPPEN, WHAT -- WHAT WOULD BE THE PROPER PROTOCOL OR PROCEDURE?

A PROBABLY IF THOSE PEOPLE THEMSELVES CONTACTED THE

OFFICE, THEN THEY WOULD HAVE PROBABLY BEEN ADVISED THAT THEY NEEDED TO AVOID CONTACT WITH THAT PERSON AND THAT THEY ALSO NEED TO REPORT THE INCIDENTS TO THE POLICE DEPARTMENT.

Q WELL, IF IT WERE SOMEONE FROM THE UNITED STATES MARSHAL'S OFFICE SAYING THEY HAD RECEIVED A COMPLAINT AND THEY HAD DETERMINED -- THEY HAD DISCOVERED THAT YOU WERE SUPERVISING STEPHEN STANKO OR ANYBODY AT THE OFFICE, AND THEY TOLD YOU THAT PEOPLE IN THE COMMUNITY SHOWED THAT HE'S A -- A PHYSICALLY DOMINATING INDIVIDUAL AND THAT THEY -- THAT THEY BELIEVED -- THEY BELIEVED THAT HE MAY BE A DANGER TO THE COMMUNITY BASED ON THE REPORT, WHAT -- WHAT WOULD YOUR OFFICE DO?

WOULD YOU TELL THE MARSHAL, CALL YOUR -- CALL THAT LADY OR THAT PERSON BACK AND TELL THEM TO GO SOMEPLACE, OR WOULD YOU TAKE ACTION?

A WELL, I MEAN, I DON'T REMEMBER ANYBODY'S REPORTING THAT STEPHEN STANKO WAS A DANGER TO THE COMMUNITY, THAT THAT WAS REPORTED TO -- THROUGH THE US MARSHALS.

Q I'M NOT SAYING THAT, MA'AM. I'M ASKING THAT WHETHER STEPHEN STANKO OR ANYBODY ELSE AND UNDER THOSE CIRCUMSTANCES, WHAT SHOULD PROPERLY BE DONE? IT COULD HAPPEN TODAY.

A WELL, WE -- THEY WOULD TRY TO FIND OUT THE PERSON'S NAME THAT HAD CALLED AND A CONTACT NUMBER TO CONTACT THE

PERSON AND GET ADDITIONAL INFORMATION. THEY WOULD HAVE BEEN REFERRED TO THE POLICE.

Q YOUR OFFICE WOULD HAVE REFERRED IT TO THE POLICE?

A WE WOULD HAVE HAD THE PERSON CONTACT THE POLICE.

Q WELL, WHAT IF THE NAME OF THE PERSON CALLING WERE NOT AVAILABLE TO YOU, YOU -- IF THE -- THAT YOU WERE INFORMED BY WHATEVER AGENCY CALLED YOU, I CAN'T GIVE YOU THAT NAME.

LET'S SAY THAT THEY SAID THAT TO YOU AND YOU'RE TALKING TO A LEGITIMATE LAW ENFORCEMENT OFFICER. AND SO NOW YOU'RE FACED WITH THIS COMPLAINT BUT YOU DON'T KNOW WHO TO GET IN TOUCH WITH BECAUSE THEY WILL NOT SUPPLY IT TO YOU.

A RIGHT.

Q WHAT WOULD YOU DO?

A PROBABLY CALL THE OFFENDER IN AND QUESTION HIM ABOUT WHAT WE HAD HEARD, WHAT WE HAD BEEN TOLD.

Q WELL, IF YOU CALLED THEM IN AND THEY -- AND THEY DENIED THEY -- STEP WAS?

A I DON'T KNOW WHAT OTHER STEPS COULD BE TAKEN IF YOU DON'T HAVE ANYONE TO GO TO TO GAIN MORE INFORMATION.

Q WELL, DO YOUR AGENTS GO TO THE HOMES OF THE PERSONS THAT THEY SUPERVISE?

A YES, THEY DO.

Q AND DO THEY ASK IF THEY ARE RENTING FROM SOMEONE WHO THEY -- CONTACT THE PERSON WHO IS RENTING TO DETERMINE

THAT THEY ACTUALLY ARE RENTING?

A NOT ALWAYS. NOT IF THEY CAN VERIFY THE PERSON IS LIVING THERE SOMEWHAT WITH ANOTHER WAY.

Q IF THEY CAN DO IT BY TELEPHONE, DO THEY DO IT BY TELEPHONE?

A THEY CAN VERIFY BY TELEPHONE, BUT THEY DO MAKE PERSONAL VISITS AT THE HOME ON A CERTAIN SCHEDULE THAT THEY ARE REQUIRED TO MAKE THEM EVERY SO OFTEN.

Q THERE'S NOTHING -- THERE'S CERTAINLY NOTHING TO STOP AN AGENT WHO IS SUPERVISING FROM GOING TO THE HOME OF A PERSON SUPERVISED; CORRECT?

A RIGHT.

Q AND IN FACT, DON'T THEY SIGN SOME SORT OF PAPER TO THE SUPERVISOR SAYING, I'M GOING TO COOPERATE AND YOU CAN CHECK ON ANYTHING YOU WANT TO. DON'T THEY DO THAT?

A THEY SIGN SOMETHING -- THEY SIGN CONDITIONS, AND ONE OF THE CONDITIONS IS THAT THEY WILL ALLOW VISITS FROM THE AGENT AT THEIR HOME AND I THINK IT SAYS PLACE OF EMPLOYMENT OR OTHER PLACES IN THE COMMUNITY.

Q SO FOR INSTANCE, IF SOMEONE SAID, I'M EMPLOYED AT TARGET, THE AGENT, IF THEY JUST WANTED TO CHECK, COULD GO TO TARGET AND CHECK JUST TO CHECK; CORRECT?

A THEY -- THEY COULD, BUT THE MORE NORMAL WAY EMPLOYMENT IS VERIFIED IS BY SOMEBODY BRINGING A CHECK STUB IN WHEN THEY COME MAKE THEIR ROUTINE OFFICE VISITS.

THAT'S NORM FOR VERIFYING EMPLOYMENT.
Q DO YOU NORMALLY JUST TAKE THE -- WAS IT A NORMAL PRACTICE WHEN YOU WERE THERE TO JUST -- IF YOU GOT A COMPLAINT FROM LAW ENFORCEMENT, YOU CALL THE SUPERVISED PERSON IN, ASK THEM WHAT WAS GOING ON, AND IF THEY GAVE YOU A REASONABLE EXPLANATION OR IF THEY WERE REPRESENTED BY A ATTORNEY, AN ATTORNEY GAVE A REASONABLE EXPLANATION, THAT WOULD BE THE END OF IT?
A IN YOUR SCENARIO WHERE WE HAD NO ONE ELSE TO GO TO FOR ADDITIONAL INFORMATION, THAT'S ALL THAT COULD BE DONE.
Q WELL, WHAT ABOUT CALLING THE US ATTORNEY'S OFFICE BACK AND TELLING THEM, HOW ABOUT GIVING US MORE INFORMATION?
A THE US MARSHALS?
Q YES. IF THEY HAD CALLED AND TOLD YOU, WE BELIEVE WE'VE GOT A SERIOUS MATTER HERE AND IT NEEDS PERHAPS YOUR SPECIAL ATTENTION AND -- AND YOU HAD CHECKED WITH THE PERSON SUPERVISED AND MAYBE EVEN AN ATTORNEY WHO ACCOMPANIED THEM, WOULD THAT -- I'M JUST ASKING WOULD THAT BE THE END OF IT OR WOULD YOU CALL BACK AND ASK FOR MORE INFORMATION?
WOULD YOU DIG DOWN DEEPER OR WOULD YOU JUST LEAVE IT THERE? WHAT WOULD YOU DO?
A I THINK IN THIS SCENARIO THAT OCCURRED WITH THE US MARSHALS CALLING ABOUT MR. STANKO, THE INFORMATION WAS

RELAYED THAT THEY WERE JUST PROVIDING THAT INFORMATION FOR -- JUST TO LET US KNOW OF THOSE, YOU KNOW, JUST TO PROVIDE US THE INFORMATION.

I DON'T REMEMBER THEM SAYING -- MAKING ANY STATEMENTS THAT HE WAS DANGEROUS OR IT WAS A REALLY SERIOUS SITUATION. THEY JUST WANTED THE OFFICE TO BE AWARE THAT THEY HAD RECEIVED PHONECALLS.

Q WELL, WASN'T -- IT WASN'T REPORTED TO YOU THAT THERE WAS ANY DANGER; CORRECT?

A RIGHT.

Q AND -- AND YOU DIDN'T KNOW OF ANY BECAUSE YOU DIDN'T TAKE THE CALL EITHER; CORRECT?

A RIGHT.

Q OKAY.

A I'M JUST LOOKING AT WHAT THE PERSON THAT TOOK THE CALL DOCUMENTED--

Q I WAS JUST ASKING YOU HYPOTHETICALLY--

A RIGHT.

Q -- NOT ANYTHING ELSE. BUT LET ME ASK YOU THIS. IF THE US MARSHAL'S OFFICE OR ANY OTHER LEGITIMATE AGENCY OR PERSON REPRESENTING THAT AGENCY CALLED AND GAVE YOU A PLACE WHERE THE COMPLAINING PARTY ALLEGED THAT THESE ACTIVITIES WERE TAKING -- TAKING PLACE OR HAD TAKEN PLACE, DID Y'ALL EVER CHECK THAT OUT YOURSELVES OR GO TO THAT PLACE?

A I DON'T REMEMBER AN AGENT EVER GOING TO THE LIBRARY.
Q WELL, IN FACT, IN THIS PARTICULAR CASE THE -- IT'S IN THE RECORDS THAT THE MARSHAL'S OFFICE REPRESENTED, TOLD THEM, ALL YOU'VE GOT TO DO IS GO TO THE LIBRARY AND CHECK. DID YOU -- YOU DIDN'T KNOW THAT THOUGH, DID YOU, THAT HE HAD -- THAT THAT HAD BEEN SAID?
A NO.
Q HOW FAR WAS THE SOCASTEE LIBRARY FROM YOUR OFFICE?
A I DO NOT KNOW.
Q DO YOU KNOW WHERE THE SOCASTEE LIBRARY IS?
A I HAVE A GENERAL IDEA.
Q OKAY. GIVE ME THE GENERAL IDEA ABOUT HOW FAR IT WAS FROM YOUR OFFICE.
A FROM CONWAY TO SOCASTEE, I REALLY DON'T KNOW. I MEAN, IT MAY BE 20 MILES. I DON'T KNOW.
Q IT'S IN -- IS SOCASTEE IN HORRY COUNTY?
A YES. IT'S IN THE SOUTHERN END OF HORRY COUNTY.
Q WOULD IT DEPEND ON HOW SERIOUS THE SUPERVISING AGENT TOOK THE INFORMATION AS TO WHAT WOULD HAPPEN?
A NO, I DON'T BELIEVE SO.
Q WHAT IF SOMEBODY CALLED UP AND SAID, I'M BEING BEATEN BY ONE OF YOUR PEOPLE YOU'RE SUPERVISING, WHAT WOULD HAPPEN THEN?
A THAT AGENT WOULD GO OUT TO THE HOME AND SEE WHAT WAS GOING ON.

Q OR PICK UP THE TELEPHONE AND CALL THE LOCAL WHOEVER NEAREST POLICE PEOPLE WERE; RIGHT?

A RIGHT.

Q OKAY. BUT IF THEY DIDN'T CALL AND SAY, I'M ACTUALLY BEING HURT OR INJURED, BUT MERELY THAT I FEEL THREATENED AND I -- I'M VERY SERIOUSLY WORRIED, THEN THAT'S SORT OF THE NEXT THING; ISN'T IT?

WHAT WOULD BE YOUR NEXT THING TO DO BESIDES EITHER GOING THERE OR PICKING UP THE TELEPHONE?

A IN THIS CASE THE -- I GUESS WHAT YOU CONSIDER A NEXT STEP HAD ALREADY BEEN TAKEN WAS OUR UNDERSTANDING.

Q SO IT DIDN'T -- I KNOW--

A THAT THE LIBRARY -- OUR UNDERSTANDING WAS THE LIBRARY PERSONNEL HAD ALREADY BEEN INFORMED OF THE CONCERNS OF WHAT WAS GOING ON. AND THE PUBLIC LIBRARIES ARE NOT UNDER OUR JURISDICTION TO DECIDE WHO CAN GO IN AND WHO CANNOT.

Q WELL, LET ME ASK YOU SPECIFICALLY. DID GLORIA WILSON COME TO YOU AND REPORT TO YOU FACE TO FACE THE CONTENT OF THE MARSHAL'S OFFICE CALL?

A I THINK THAT SHE DID. I REMEMBER BEING MADE AWARE OF THE FACT THAT THE MARSHALS HAD CALLED ABOUT MR. STANKO. I DON'T REMEMBER IF MS. WILSON TOLD ME THAT OR HOW I BECAME AWARE OF THAT FACT.

Q AND YOU ALSO -- BUT YOU DO RECALL THAT WHEN SHE DID MAKE HER REPORT TO YOU, YOU DIDN'T CONSIDER THAT THERE WAS

ANY DANGEROUSNESS TO THE COMMUNITY BY WHAT SHE SAID; CORRECT?

A NO, BECAUSE THE CONCERN THAT WAS PORTRAYED TO US WAS THAT HE WAS SPENDING A LOT OF TIME IN THE LIBRARY AND THAT HE MIGHT BE PORTRAYING HIMSELF AS SOMETHING OTHER THAN JUST THE AVERAGE CITIZEN.

Q DID...

A THAT HE MIGHT BE GIVING OUT LEGAL ADVICE.

Q DID MS. WILSON TELL YOU THAT SHE HAD BEEN TOLD THAT THE MARSHAL'S OFFICE REPRESENTATIVE THOUGHT THAT MR. STANKO SHOULD BE CAREFULLY SCRUTINIZED?

A NO, I DON'T REMEMBER THAT.

Q DID SHE TELL YOU THAT THE REPRESENTATIVE OF THE MARSHAL'S OFFICE SAID THAT SPECIAL ATTENTION SHOULD BE PAID TO STANKO TO SEE IF HE IN FACT DID REPRESENT A DANGER TO THE COMMUNITY?

A NO, I DON'T REMEMBER THAT.

Q WAS THERE EVER A WRITTEN REPORT TO YOU RATHER THAN JUST THIS FACE-TO-FACE MEETING THAT YOU HAD?

A YOU MEAN A WRITTEN REPORT FROM MS. WILSON OR FROM--

Q YES, MA'AM. WRITTEN REPORT FROM MS. WILSON.

A NO.

Q DID SHE TELL -- SAY TO YOU THAT -- DID MS. WILSON SAY TO YOU THAT A REPRESENTATIVE OF THE MARSHAL'S OFFICE TRIED TO CONVEY TO HER THAT THIS PERSON, STANKO, WAS A DANGER TO

THE COMMUNITY?

A NO.

Q ARE YOU AWARE OF -- WELL, LET ME ASK IT THIS WAY. STEPHEN STANKO'S RECORD WAS KNOWN TO YOUR OFFICE AT THAT TIME, WHAT HE WAS THERE FOR OR BEING SUPERVISED BY?

A CORRECT.

Q AND DID YOU TAKE SPECIAL ATTENTION WHEN THE CHARGES THAT THEY'RE BEING SUPERVISED ON ARE CHARGES OF VIOLENT CRIMES?

A HE WAS ON COMMUNITY SUPERVISION AND THOSE CASES ARE SUPERVISED CLOSELY.

Q EXCUSE ME?

A BEING ON COMMUNITY SUPERVISION, HIS CASE WHEN HE WAS FIRST RELEASED FROM PRISON WAS SUPERVISED EXTREMELY CLOSELY.

Q WELL, HE WAS FIRST RELEASED -- WHEN DO THE RECORDS SHOW HE CAME TO YOU?

A AUGUST, 2004.

Q AUGUST OF 2004.

A UH-HUH.

Q ALL RIGHT. THEN HE -- HE HAD TO REPORT PERHAPS IN AUGUST; CORRECT?

A UH-HUH.

Q SEPTEMBER; CORRECT?

A NO, SIR. WHEN HE WAS INITIALLY RELEASED, HE WAS

REPORTING EITHER EVERY WEEK OR EVERY TWO WEEKS.
Q DID -- WHEN DID HE ACTUALLY BECOME SUPERVISED BY YOUR OFFICE IN HORRY?
A AUGUST THE SECOND, 2004 IS WHEN WE HAD OUR INITIAL CONTACT WITH HIM.
Q ALL RIGHT. SO SEPTEMBER, OCTOBER, NOVEMBER HE WOULD -- SHOULD HAVE COME TO THE OFFICE AND THERE'S NO RECORD THAT HE DID; CORRECT?
A WELL, HE MISSED DECEMBER.
Q WELL, THAT WAS DECEMBER AND JANUARY.
A RIGHT, BUT IT WAS DURING JANUARY.
Q EXCUSE ME?
A IT WAS STILL DURING THE MONTH OF JANUARY WHEN HE DID COME IN.
Q WHAT DATE DID THE US MARSHAL CALL IN JANUARY?
A JANUARY THE 26TH.
Q AND DIDN'T YOU SAY THAT YOU BELIEVED THAT MS. WILSON'S SUPERVISEES NORMALLY CAME IN THE FIRST WEEK OF THE MONTH?
A RIGHT.
Q SO HE MISSED THOSE TWO?
A RIGHT. HE HAD MISSED HIS SCHEDULED WEEK IN JANUARY.
Q OKAY.
A BUT SHE HAD ALREADY CONTACTED HIM ABOUT THAT IN THE WAY OF A LETTER.

Q IS THAT A RED FLAG WHEN YOUR SUPERVISEE DOESN'T COME, DOESN'T REPORT AS THEY ARE ORDERED TO DO?
A WELL, THE AGENT INITIATES CONTACT WITH THEM TO FIND OUT WHY THEY DID NOT COME IN.
Q WELL, ISN'T IT A RED FLAG? IS IT SOMETHING YOU HAVE TO LOOK AT?
A WHEN THEY MISS ONE REPORT, YES, IT'S LOOKED AT, BUT THEY ARE CONTACTED AND TOLD TO COME IN.
Q WELL, IN STANKO'S CASE NOT ONLY DID HE MISS -- HIS UNDERLYING OFFENSES WERE VIOLENT, KIDNAPPING, AND A CONVICTION OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE THAT WAS REDUCED FROM ASSAULT AND BATTERY WITH INTENT TO KILL; CORRECT? THAT WAS IN YOUR RECORD?
A OKAY.
Q AND IN YOUR RECORDS ALSO AREN'T THE DEPARTMENT -- LINED -- WARRANTS THAT WERE ISSUED OR EITHER THE INDICTMENTS IN HIS FILE?
A THEY'RE NOT ALWAYS. I DON'T KNOW IF THEY WERE IN HIS CASE OR NOT.
Q ON TOP OF THAT, HE WAS -- HIS OTHER OFFENSES HAD TO DO WITH CONNING PEOPLE OR DEFRAUDING PEOPLE. ISN'T THAT CORRECT?
A I DON'T REMEMBER THAT. I WOULD HAVE TO LOOK AT HIS FILE.
Q DO YOU HAVE HIS FILE WITH YOU?

A NO, I DON'T. I DON'T WORK FOR THE DEPARTMENT ANY LONGER.

Q I FORGOT. BUT IF I WERE TO TELL YOU THAT IT'S IN THIS RECORD THAT THERE WERE A NUMBER OF BREACHES OF TRUST ON PROPERTY AND DEFRAUDING AT THE SAME TIME -- AROSE IN THE SAME TIMEFRAME AS THE KIDNAPPING AND THE ORIGINAL CHARGE OF ASSAULT AND BATTERY WITH INTENT TO KILL, IF I TOLD YOU THAT, THEN DOES THAT CHANGE THE IDEA OF YOUR COMING IN AND EXPLAINING IT AWAY?

A DON'T KNOW THAT IT CHANGES IT THAT MUCH SIMPLY BECAUSE A SUPERVISING AGENT ON A DAY TO DAY BASIS DOES NOT KNOW THE ENTIRE PRIOR RECORD OF EVERY OFFENDER ON THEIR CASE LOAD. SUPERVISING AGENTS DEAL WITH WELL OVER A HUNDRED DIFFERENT OFFENDERS ALL AT ONE TIME.

SO IT'S NOT HUMANLY POSSIBLE TO REMEMBER EVERYBODY'S PRIOR RECORD THAT YOU SUPERVISE. AND THAT INFORMATION IS NOT AVAILABLE ON THE COMPUTER WHICH IS WHERE ALL OTHER DOCUMENTATION IS BEING MADE.

Q WELL, LETS SAY FOR INSTANCE YOU GET A CALL FROM THE UNITED STATES MARSHAL'S OFFICE THAT'S -- THAT THIS ACTIVITY IS GOING ON AND YOU JUST HAPPEN TO CHECK YOUR FILE OR THE INFORMATION AVAILABLE TO YOU AND YOU FIND THAT THE PREVIOUS OFFENSES MATCH--

MR. HUMPHRIES: OBJECTION. LEADING.

THE COURT: SUSTAINED. LEADING.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

BY MR. KELLY:

Q YOUR -- YOUR SUPERVISING AGENT CAN ALWAYS CHECK--

MR. HUMPHRIES: OBJECTION. LEADING, YOUR HONOR.

THE COURT: SUSTAINED. LEADING.

BY MR. KELLY:

Q CAN -- CAN YOU -- WHEN YOU WERE THERE, DID YOU SUPERVISE PEOPLE?

A VERY RARELY DID I DIRECTLY SUPERVISE A CASE.

Q BUT YOU DID SUPERVISE CASES?

A SOME.

Q AND EVEN THOUGH YOU MIGHT HAVE A LARGE NUMBER OF CASES, TELL ME--

MR. HUMPHRIES: OBJECTION.

THE COURT: BASIS FOR THE OBJECTION?

MR. HUMPHRIES: LEADING. I'M SORRY, YOUR HONOR.

THE COURT: SUSTAINED.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

THE COURT: YOU MAY REPHRASE.

BY MR. KELLY:

Q WELL, IF THE COMPLAINT ARISES AND YOU FOCUS ON JUST A SQUEAKY WHEEL GETTING OIL OVER IN PROBATION--

MR. HUMPHRIES: OBJECTION, LEADING, YOUR HONOR.

THE COURT: SUSTAINED. LEADING.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

THE COURT: YOU MAY REPHRASE.

BY MR. KELLY:

Q IF THERE'S A COMPLAINT IN -- AT YOUR TIME IF YOU WERE WORKING THERE ABOUT SOMEBODY YOU WERE SUPERVISING, WOULD THAT FOCUS YOUR ATTENTION--

MR. HUMPHRIES: OBJECTION. LEADING, YOUR HONOR.

THE COURT: SUSTAINED. LEADING.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

THE COURT: YOU MAY REPHRASE.

BY MR. KELLY:

Q WHAT WOULD YOU DO IF THERE WERE A COMPLAINT ABOUT ONE OF THE PEOPLE THAT YOU SUPERVISED WHILE YOU WERE THERE?

A DEPENDING ON WHAT OTHER CASES I HAD ALSO RECEIVED COMPLAINTS ON AND WHAT ELSE WAS GOING ON IN THE REST OF MY CASE LOAD, I WOULD INVESTIGATE THE CASE.

BUT A -- DEPENDING ON THE COMPLAINT, THAT COMPLAINT MAY NOT BE THE MOST SERIOUS COMPLAINT THAT HAD COME IN ABOUT AN OFFENDER AND IT MAY NOT BE A COMPLAINT THAT RED FLAGGED ME AS SOMETHING THAT NEEDED MY IMMEDIATE ATTENTION VERSUS SOMEONE ELSE.

I MEAN, YOU HAVE OVER A HUNDRED PEOPLE ON YOUR CASE LOAD. YOU GET COMPLAINTS AND OTHER PEOPLE HAVE ISSUES AND PROBLEMS COMING UP ALL THE TIME, OTHER CASES. YOU HAVE TO DETERMINE WHICH ONE NEEDS YOUR ATTENTION FIRST AND THE MOST.

Q AND YOU WOULD HAVE PRIORITIZE AND--

MR. HUMPHRIES: OBJECTION, YOUR HONOR. LEADING.

THE COURT: SUSTAINED. LEADING.

BY MR. KELLY:

Q DID YOU -- DID YOU SAY -- WELL, BASED ON WHAT YOU JUST TOLD ME, THAT -- DOES THAT -- WHAT DOES THAT MEAN, THAT IF YOU -- YOU WOULD CHECK ON IT AND MAKE A DECISION?

MR. HUMPHRIES: OBJECTION. LEADING, YOUR HONOR.

THE COURT: SUSTAINED. LEADING. YOU MAY REPHRASE.

BY MR. KELLY:

Q HOW DID YOU MAKE DECISIONS -- HOW DID YOU MAKE A DECISION ON WHAT TO DO IN THE PROBATION AND PAROLE OFFICE UPON A COMPLAINT?

A BASED ON THE NATURE OF THE COMPLAINT, THE INFORMATION GIVEN IN THE COMPLAINT AND HOW IT COULD BE VERIFIED OR WHETHER IT COULD NOT BE VERIFIED, BASED ON -- SOMETIMES THE INFORMATION IN THE COMPLAINT WOULD INDICATE THAT THE PERSON COMPLAINING HAD ALREADY TAKEN THE STEPS THEY NEEDED TO TAKE TO HAVE IT ADDRESSED IN OTHER AVENUES, AND BASED ON WHAT ELSE WAS GOING ON WITH YOUR CASE LOAD. YOU DO PRIORITIZE.

Q EXCUSE ME?

A YOU DO PRIORITIZE AND MAKE A DECISION IN YOUR BEST JUDGMENT AND THE INFORMATION AVAILABLE.

Q MA'AM, I APPRECIATE -- I -- WE ISSUED A SUBPOENA TO ASK YOU TO COME HERE TODAY; DIDN'T WE?
A RIGHT.
Q AND I WANT TO THANK YOU FOR RESPONDING TO THAT SUBPOENA. AND AT THIS TIME I DON'T HAVE ANY FURTHER QUESTIONS.

THE COURT: ANY QUESTIONS OF THE WITNESS?

MR. HUMPHRIES: NONE FROM THE STATE. THANK YOU.

THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE STATE?

MR. HUMPHRIES: NONE FROM THE STATE. THANK YOU.

THE COURT: FROM THE DEFENSE?

MR. KELLY: SUBJECT TO RECALL ONLY, MA'AM.

THE COURT: MA'AM, YOU'RE EXCUSED SUBJECT TO RECALL.

THE WITNESS: THANK YOU.

(WITNESS LEFT THE STAND.)

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS BREAK IN TESTIMONY TO TAKE OUR LUNCHEON RECESS. DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE IN ANY WAY. PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS.

AND AS ALWAYS, THE CLERK HAS BEEN EXTREMELY GENEROUS AND HAS PROVIDED FOR YOUR LUNCH WHICH I BELIEVE HAS ALREADY BEEN SET UP IN THE JURY ROOM FOR

YOU. WE HAD IT SCHEDULED TO ARRIVE AT 12:30.

IF YOU NEED ANYTHING, PLEASE LET THE BAILIFFS KNOW. AND I ANTICIPATE THAT THE LUNCH BREAK WILL BE ABOUT 45 MINUTES.

(WHEREUPON JURY LEFT THE COURTROOM AT 1:04 PM.)

THE COURT: IS THERE ANYTHING BEFORE WE BREAK FOR LUNCH?

MR. HUMPHRIES: YES, YOUR HONOR, JUST ONE SECOND.

THE COURT: OH, I'M SORRY. I DIDN'T REALIZE -- SORRY. I APOLOGIZE.

MR. HUMPHRIES: YOUR HONOR.

THE COURT: YES, SIR.

MR. HUMPHRIES: AS RELATES TO DEFENDANT'S EXHIBITS 37 AND 38, BOTH CONTAIN REFERENCES TO THE MURDER OF HENRY TURNER.

THE COURT: I GUESS WE NEED TO REDACT THAT.

MR. KELLY: YES, MA'AM. WE ASK IT BE REDACTED.

THE COURT: REMIND ME FOR THE RECORD WHAT 37 AND 38 ARE.

MR. HUMPHRIES: YES, MA'AM. THIRTY-SEVEN IS THE APPOINTMENT LEDGER REPORT FOR STEPHEN STANKO.

THE COURT: OKAY.

MR. HUMPHRIES: AND 38 IS THE ARREST WARRANT FOR STEPHEN STANKO.

THE COURT: OKAY.

MR. KELLY: I DON'T THINK IT'S BEEN PUBLISHED TO THE JURY.

THE COURT: WHAT WE WILL DO IS WE WILL HAVE 37 AND 38 MARKED AS COURT'S EXHIBITS AND THEY WILL BE SUBSTITUTED WITH REDACTED COPIES. AND IT WILL BE THE DEFENSE'S RESPONSIBILITY TO REDACT THOSE AND PROVIDE COPIES TO THE STATE.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

MR. HEMBREE: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME. ANYTHING FURTHER BEFORE WE BREAK FOR LUNCH?

MR. KELLY: NO, MA'AM.

MR. HUMPHRIES: NO. NOTHING FROM THE STATE.

MR. DIGGS: NO, YOUR HONOR.

THE COURT: OKAY. Y'ALL HAVE A GOOD LUNCH. WE WILL BE AT EASE FOR ABOUT 45 MINUTES.

(COURT WAS IN RECESS FOR LUNCH.)

THE COURT: IS THE STATE READY TO PROCEED?

MR. HEMBREE: YES, YOUR HONOR.

THE COURT: IS THE DEFENSE READY TO PROCEED?

MR. DIGGS: YES, YOUR HONOR.

THE COURT: BRING IN THE JURY.

(JURY ENTERED THE COURTROOM AT 2:12 PM.)

THE COURT: YOU MAY BE SEATED. LADIES AND

GENTLEMEN, I HOPE THAT YOU ALL HAD A RESTFUL LUNCH. WE WILL NOW RESUME WITH THE TRIAL. MR. KELLY OR MR. DIGGS, YOU MAY PROCEED.

MR. DIGGS: YOUR HONOR, WE'D CALL DR. THOMAS SACHY TO THE STAND.

DR. THOMAS SACHY, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: YOU MAY PROCEED WHEN YOU'RE READY.

DIRECT EXAMINATION

BY MR. DIGGS:

Q AND DR. SACHY, I JUST WANT TO BRIEFLY REVIEW WHAT YOUR EDUCATIONAL TRAINING AND WORK EXPERIENCE HAS BEEN IN THE FIELD OF PSYCHIATRY.

A I HAVE TWO BACHELOR'S DEGREES, ONE IN GENERAL STUDIES, ONE IN ELECTRICAL ENGINEERING WITH A MINOR IN COMPUTER ENGINEERING. I HAVE MASTER'S THERE FROM THE UNIVERSITY OF CALGARY IN CANADA.

I HAVE A MASTER'S DEGREE IN BIOLOGY FROM GEORGIA STATE UNIVERSITY IN ATLANTA. I HAVE A MEDICAL DEGREE FROM THE MEDICAL COLLEGE OF GEORGIA IN AUGUSTA. I HAVE MY PSYCHIATRY RESIDENCY TRAINING FROM THE MEDICAL UNIVERSITY OF SOUTH CAROLINA.

I HAVE A FELLOWSHIP IN BEHAVIORAL NEUROLOGY FROM THE MEDICAL UNIVERSITY OF SOUTH CAROLINA. AND I HAVE A FELLOWSHIP IN FORENSIC PSYCHIATRY FROM EMORY UNIVERSITY IN

ATLANTA. AND I HAVE BEEN IN PRIVATE PRACTICE NOW FOR APPROXIMATELY FIVE YEARS.

MR. DIGGS: AND, YOUR HONOR, WE WOULD OFFER DR. SACHY AS AN EXPERT IN PSYCHIATRY.

THE COURT: ANY OBJECTIONS OR QUESTIONS?

MR. HEMBREE: NO OBJECTION. NO QUESTIONS.

THE COURT: SO ADMITTED. YOU MAY PROCEED.

MR. DIGGS: THANK YOU.

BY MR. DIGGS:

Q DR. SACHY, THROUGHOUT THE COURSE OF THE TRIAL THE TERM NEUROPSYCHIATRIC PATIENT HAS BEEN USED. CAN YOU TELL US WHAT YOUR UNDERSTANDING OF WHAT THAT TERM MEANS?

A NEUROPSYCHIATRY IS REALLY WHAT PSYCHIATRY IS. ALL PSYCHIATRIC DISORDERS, EVERY ONE OF THEM, IS DUE TO A DYSFUNCTION IN THE BRAIN.

AND IF YOU LOOK AT IT FROM A LARGE OR A GROSS POINT OF VIEW, YOU COULD CALL IN A NEUROLOGIST. IF YOU WANT TO LOOK AT IT IN A FINE POINT OF VIEW, YOU CAN REFER TO A NEUROPSYCHIATRIST.

BUT A NEUROPSYCHIATRIST LOOKS AT IT FROM BOTH THE PSYCHIATRIC AND THE NEUROLOGICAL ASPECT.

Q ALL RIGHT. SO -- AND WHAT DO WE MEAN BY THE TERM NEURO?

A HAVING TO DO WITH THE BRAIN.

Q ALL RIGHT. SO ANY TIME WE HEAR NEUROPSYCHIATRIST OR

NEUROPSYCHOLOGIST, NEURO -- NEUROLOGY, WE'RE TALKING ABOUT STUDIES THAT DEAL WITH THE BRAIN?

A CORRECT.

Q AND SPECIFICALLY WHAT ABOUT THE BRAIN?

A ITS STRUCTURE, ITS FUNCTION.

Q OKAY. THE WAY IT'S SHAPED?

A THE WAY IT'S SHAPED, THE WAY IT WORKS.

Q OKAY. AND DO YOU TALK ABOUT OR LOOK INTO DIFFERENT AREAS OF THE BRAIN OR DO YOU JUST LOOK AT THE WHOLE BRAIN AND MAKE A DECISION OR USE THAT WHOLE STRUCTURE?

A THE BRAIN IS LIKE A VERY COMPLICATED COMPUTER THAT CALLS ON SUB-COMPUTERS TO HELP DO ITS WORK. SO OUR HUMAN BRAIN IS LIKE A CONGLOMERATION OF COMPUTERS WITH A MASTER COMPUTER THAT CONTROLS OTHER SUB-COMPUTERS, SO THAT'S THE BEST ANALOGY TO WHAT THE BRAIN IS.

Q HOW WELL -- HOW MUCH DO WE KNOW ABOUT HOW THE BRAIN WORKS?

A WE KNOW IT VERY WELL.

Q GIVE US AN OVERVIEW OF WHAT IS GENERALLY KNOWN IN THE SCIENCE TO ME OR MEDICAL...

A OUR BRAINS ARE A CONGLOMERATION OF PROTEIN, FAT AND WATER. AND THEY USE CHEMICAL AND ELECTRICAL SIGNALS. THERE ARE CELLS IN THE BRAIN THAT ARE MADE OF PROTEIN, FAT, AND WATER THAT USE ELECTRICAL AND CHEMICAL SIGNALS TO COMMUNICATE WITH EACH OTHER.

IN THAT WAY WE MEMORIZE THINGS, WE STORE THINGS, WE BEHAVE, WE THINK, WE FEEL. IT'S ALL DONE WITH THOSE NEURONS AND THE CHEMISTRY AND THEIR FUNCTION WITHIN THEM.

Q NOW, WHAT DO WE KNOW ABOUT HOW THE BRAIN RELATES TO CONDUCT AND BEHAVIOR?

A WELL, OUR CONDUCT AND BEHAVIOR ARE DUE TO OUR BRAIN FUNCTION.

Q AND WOULD IT BE FAIR TO SAY OUR CONDUCT AND BEHAVIOR IS TOTALLY DEPENDENT UPON THE BRAIN FUNCTION?

A YES.

Q FOR EXAMPLE, PEOPLE WHO ARE BRAIN-DEAD -- WHAT DOES BRAIN-DEAD MEAN AND WHAT EFFECT DOES THAT HAVE ON A PERSON?

A BRAIN DEATH IS ABSOLUTE DEATH. IF I COULD STOP ANYONE'S HEART IN THIS ROOM, THERE'S STILL A CHANCE OF LIFE AS LONG AS THEY ARE NOT BRAIN-DEAD. BRAIN-DEAD IS THE ABSENCE OF ALL ACTIVITY IN THE BRAIN.

I HAVE NOT HEARD OF CASES WHERE THAT HAS EVER BEEN REVERSIBLE. WHEN BRAIN DEATH OCCURS, IT'S PERMANENT.

Q ALL RIGHT. TELL US WHAT AFFECT THAT THE BRAIN FUNCTION AND THE BRAIN STRUCTURE CAN HAVE ON ONE'S BEHAVIOR AND SPECIFICALLY WITH RESPECT TO AGGRESSION OR CRIMINAL BEHAVIOR.

A OKAY. AS I SAID BEFORE, THERE ARE -- IT IS ACCEPTED OR UNDERSTOOD IN MEDICINE THAT THERE ARE PARTS OF THE

BRAIN THAT CONTROL AGGRESSIVE IMPULSES. THEY ARE THE SAME PARTS OF THE BRAIN THAT MODULATE OUR EMOTIONS, HELP US INTERACT IN SOCIETY, IN CULTURE, SOCIOLOGICALLY.

AND WE KNOW THIS BECAUSE WHEN YOU DAMAGE THOSE AREAS OF THE BRAIN, PEOPLE DON'T BEHAVE PROPERLY ANY MORE. THEY DON'T THINK THE SAME ANY MORE. THEY ARE NOT THE SAME.

Q OKAY. AND IS IT A FREE CHOICE THAT THEY HAVE JUST TO CHANGE THEIR BEHAVIOR OR IS THEIR BEHAVIOR A FUNCTION OF THAT CHANGE IN THE BRAIN?

A WE HAVE SOME MEASURE OF FREE CHOICE, BUT THE MORE DYSFUNCTIONAL OR ILL THE BRAIN IS, THE LESS CHOICE WE HAVE. FOR INSTANCE, SOMEONE WITH ALZHEIMERS DISEASE HAS ALMOST NO CHOICE IN THEIR BEHAVIOR.

SOMEONE WHO IS -- HAS A VERY HEALTHY BRAIN, THAT HAS NO DEFICITS IN BRAIN FUNCTION, THEY HAVE MUCH MORE CHOICE AVAILABLE TO THEM, BUT IT'S BECAUSE NATURE OR GOOD LUCK OR GOOD FORTUNE HAS ALLOWED THEM TO HAVE A HEALTHY BRAIN.

Q IS THERE A CORRELATION BETWEEN ABNORMAL BRAIN FUNCTION AND STRUCTURE TO ABNORMAL BEHAVIOR?

A I...

Q I THINK YOU KIND OF ANSWERED THAT QUESTION, BUT IS THERE A DIRECT CORRELATION?

A YES, AND THAT'S AN ABSOLUTE DIRECT CORRELATION.

Q AND IS THERE ANYTHING THAT INDIVIDUAL WITH THE ABNORMAL STRUCTURE OR ABNORMAL FUNCTION CAN DO TO STOP THE

BRAIN AND THOSE ABNORMALITIES FROM HAVING THAT TYPE OF IMPACT ON THE BEHAVIOR OF THAT PERSON?

A THEY CAN TRY. FOR INSTANCE, IF ANYONE KNOWS ANYONE WITH OBSESSIVE COMPULSIVE DISORDER, THEY HAVE THOUGHTS THAT COME IN THEIR BRAIN CONTINUALLY THAT ARE VERY UPSETTING TO THEM.

FOR INSTANCE, SOMEONE WITH OCD IN HERE MIGHT START COUNTING THE LIGHT BULBS IN ALL THESE LIGHTS AND THEY WOULD BE DRIVEN TO GREAT DISTRACTION COUNTING THEM OVER AND OVER AND OVER.

THEY ARE AWARE THAT THEY ARE COUNTING. THEY ARE AWARE THAT IT'S TAKING UP TIME AND ENERGY, AND IT BOTHERS THEM. AND THEY TRY TO STOP IT, BUT THEY CAN'T STOP THE THOUGHT TO COUNT.

NOW, THEY CAN SIT STILL AND QUIET AND PRETEND IT'S NOT OCCURRING, BUT IT'S STILL BOTHERING THEM. THAT'S ONE EXAMPLE.

Q WHAT ABOUT MR. STANKO'S BRAIN, FUNCTION, AND STRUCTURE. OKAY. LET'S TALK ABOUT THAT JUST VERY BRIEFLY BECAUSE WE HAVE SEEN MANY SCANS AND PICTURES AND THINGS LIKE THAT.

BUT WHAT CAN YOU TELL US AFTER YOUR REVIEW OF THE MATERIALS IN THE CASE -- TELL US AGAIN WHAT YOUR UNDERSTANDING IS OF MR. STANKO'S BRAIN FUNCTION AND STRUCTURE.

A WELL, I REVIEWED MR. STANKO'S MRI. AND IF WE HAD A SLIDE PROJECTOR IN HERE, I WOULD ABSOLUTELY SHOW WITHOUT QUESTION THAT HE HAS SHRINKAGE IN A PARTICULAR AREA OF HIS BRAIN. AND I'M CERTAIN THAT I COULD DEMONSTRATE THAT TO EVERYONE IN HERE.

I ALSO KNOW VIA PET SCANS AND BY VOLUMETRIC ANALYSIS OF HIS BRAIN THAT HE HAS ABNORMAL AREAS OF SHRINKAGE IN HIS BRAIN AND ABNORMAL AREAS OF FUNCTION.

Q NOW, YOU HAVE ALREADY TESTIFIED ABOUT THIS CHART, BUT IS THIS -- THIS SUMMARIZES BASICALLY WHAT YOU'RE TALKING ABOUT IN TERMS OF THE ABNORMAL STRUCTURE?

A IF WE TURN IT RIGHT SIDE UP.

Q VOLUMETRIC--

A YES.

Q -- ANALYSIS. AND AGAIN, WHAT'S MEANT BY THAT TERM?

A A COMPUTER USED STATISTICS TO LOOK AT HIS MRI, AND IN AN OBJECTIVE NON-BIASED WAY IT CALCULATED HOW BIG THE VARIOUS PORTIONS OF HIS BRAIN WERE.

AND IT PROVED MY VISUAL FINDINGS, BUT IT PROVED MUCH MORE THAN THAT, THAT MR. STANKO HAS A SHRUNKEN LEFT FRONTAL LOBE, SHRUNKEN SIDES OF HIS BRAIN, AND -- AND ENLARGED AREAS OF HIS BRAIN THAT HOLD FLUID.

NOW, WHEN WE LOSE OUR BRAIN, FLUID REPLACES IT, NOT AIR, NOT ANYTHING ELSE. FLUID.

Q WOULD IT HELP TO REFER TO THIS AT ALL?

A THE--

Q IF IT WOULDN'T, JUST TELL ME NO AND I'LL PULL IT DOWN.

A WELL, JUST VERY QUICK, WHERE THE TWO LINES COME TOGETHER ON THE FAR RIGHT, THAT ONE POINT IN THE TOP RIGHT OF THE SCREEN, TOP RIGHT OF THAT PICTURE, MR. STANKO'S GREATER -- THOSE ARE HIS VENTRICLES ON THESE FLUID FILLED SACKS ON THE LEFT AND THE RIGHT OF HIS BRAIN, AND HE IS GREATER THAN TWO STANDARD DEVIATIONS AWAY FROM NORMAL IN ENLARGEMENT.

IN OTHER WORDS, IT'S NOT A FLUKE. HE HAS SCIENTIFICALLY ACCURATELY DIAGNOSED VENTRICULAR OR FLUID FILLED SPACE ENLARGEMENT IN HIS BRAIN WHICH IS NOT NORMAL.

IF IT WERE NORMAL, THAT DOT OR THOSE TWO DOTS WOULD BE WITHIN THE BAND THAT WE SEE ON THAT DIAGRAM. THAT'S WHAT NORMAL MEANS, IF YOU'RE WITHIN THAT BAND.

Q AND AGAIN, WHAT DOES THE VOLUMETRIC ANALYSIS SHOW WITH RESPECT TO THESE LINES DOWN HERE IN THE MEDIAL AREA?

A WELL, MEDIAL JUST MEANS MIDDLE OR SIDE PORTIONS OF HIS BRAIN. HE IS GREATER THAN FOUR STANDARD DEVIATIONS -- HIS BRAIN IS FOUR STANDARD DEVIATIONS SMALLER THAN THE AVERAGE BRAIN ON THE SIDES HERE.

THAT MEANS ONE IN 10,000 PEOPLE HAVE -- HAVE SIDE PARTS OF THEIR BRAIN THAT SMALL. IT'S FAR BEYOND NORMAL ESPECIALLY FOR SOMEONE HIS AGE.

Q ALL RIGHT. AND AGAIN, THIS DOT RIGHT HERE, THIS -- THIS POINT REPRESENTS WHAT? AND AGAIN, IN -- AS SHOWN BY THIS VOLUMETRIC ANALYSIS THAT WAS DONE IN THIS CASE.

A THAT IS A GREEN -- I THINK IT'S GREEN. I'M HAVING A HARD TIME SEEING. THAT'S A GREEN LINE WHICH MEANS LEFT, AND THAT DOT ON THE FAR LEFT SIDE OF THAT PAGE MEANS THAT HIS LEFT FRONTAL LOBE RIGHT HERE IS SMALLER THAN NORMAL BY GREATER THAN TWO STANDARD DEVIATIONS, WE SEE MINUS TWO, IT'S BELOW THAT, WHICH MEANS IT'S NOT A FLUKE, IT'S NOT RANDOM, IT'S NOT ERROR. IT'S SCIENTIFICALLY VALID AND ACCURATE.

Q NOW, WITH RESPECT -- THAT YOU HAVE DONE -- YOU HAD THIS DONE WITH THE USE OF AN MRI DATA FROM MUSC. AND YOU ALSO HAD THE PET SCANS DONE FROM THAT SAME DATA BUT FROM THE PET SCAN.

A PET SCAN, A DIFFERENT STUDY.

Q YES, SIR. AND YOUR -- YOUR PET SCAN ANALYSIS -- AND WE HAVE HEARD DR. WU'S TESTIMONY YESTERDAY -- BUT HOW DOES THAT ANALYSIS FIGURE INTO YOUR ANALYSIS OF MR. STANKO?

A MR. STANKO'S BEHAVIOR AGAIN IS RIGHT OUT OF THE BOOK. IT'S RIGHT OUT OF THE TEXTBOOKS. AND IN THE LITERATURE IN TEXTBOOKS, HIS BEHAVIOR IS CONSISTENT WITH BRAIN DAMAGE IN THE BRAIN RIGHT ABOVE OUR EYEBALLS. THAT'S WHAT THE PET SCANS SHOWED IN MR. STANKO.

Q AND IN TERMS OF THE DEFICIENT FUNCTION, CAN YOU GIVE

US A PERCENTAGE IN YOUR OPINION OF HOW DEFICIENT THAT FUNCTION IS IN THAT AREA?

A JUST LOOKING AT IT AND IT ROTATED HERE IN THREE DIMENSIONS, BUT ALSO IN SLICES, IT APPEARS TO BE 50 PERCENT REDUCTION. IN A WAY, IT WOULDN'T MATTER HOW MUCH REDUCTION AS LONG AS THERE IS REDUCTION.

IT WOULD AFFECT US ALL DIFFERENTLY AND IT WOULD BE DIFFICULT TO PREDICT, BUT HIS AREA OF HIS EYEBALLS WAS VERY COLD LOOKING. AND THESE ARE IMAGES PRODUCED IN AN UNBIASED, SCIENTIFICALLY ACCURATE WAY BY COMPUTER.

NO ONE PICKED THE COLORS TO SIT THERE. NO ONE IN MY ESTIMATION ADJUSTED A WINDOW OR DID ANY KIND OF FUDGING TO GET THOSE IMAGES.

Q NOW, LET ME ASK YOU, WOULD IT BE FAIR TO SAY THAT IF YOU GOT A REDUCED -- YOU SAID IT WOULDN'T MATTER HOW MUCH OF A PERCENTAGE THERE IS IN REDUCTION. BUT IF THERE IS A REDUCTION BELOW NORMAL, WHAT WOULD BE CONSIDERED NORMAL, IS IT SURPRISING THAT THERE WOULD BE ABNORMAL BEHAVIOR?

A NO, BECAUSE WE KNOW FOR CERTAIN WHAT THAT PART OF THE BRAIN DOES AND WE KNOW IT BECAUSE WE HAVE HAD HUNDREDS OF YEARS OF SEEING PEOPLE INJURED IN THAT PART OF THE BRAIN.

Q ALL RIGHT. LET'S ASSUME FOR A MOMENT THAT YOU NEVER MET MR. STANKO AND NEVER INTERVIEWED HIM AND YOU KNEW NOTHING ABOUT HIM. OTHER THAN THIS CHART, THE VOLUMETRIC MRI ANALYSIS FROM DR. GUR AND -- UP IN PENNSYLVANIA AND

THE PET SCAN THAT WAS SUBMITTED BY DR. WU, AND YOU WERE ASKED TO PREDICT BASED ON THAT KNOWLEDGE THIS MAN'S BEHAVIOR. WHAT WOULD YOU SAY?

A PRONE TO EPISODES OF VIOLENCE, IMPULSIVITY, NOT ACTING SOCIALLY APPROPRIATE, AND NOT AT ALL TIMES, BUT AT TIMES, HE WOULD MEET THE -- I MEAN, ME KNOWING THAT INFORMATION, I WOULD SAY HE MEETS THE CRITERIA FOR BEING -- HAVING PSYCHOPATHY.

Q OKAY. AND ARE YOU SURPRISED NOW AFTER HAVING MET MR. STANKO AND LEARNED ABOUT HIM AND HIS HISTORY, ARE YOU SURPRISED AT HIS PAST BEHAVIOR?

A NO.

Q AND AGAIN, WHY IS THAT?

A A LIFE-LONG HISTORY, IT WOULD APPEAR, FROM RIGHT OUT OF HIGH SCHOOL OF MANIPULATIVE -- MANIPULATIVE BEHAVIOR, PATHOLOGICAL LYING. THAT'S DIFFICULT TO MAINTAIN I THINK FOR A NORMAL PERSON OR FOR ANYONE IN A LIFE-LONG FASHION.

YOU KNOW, WHEN PEOPLE LIE, THEY TEND TO GET NERVOUS, THEY BREAK OUT INTO A SWEAT. FOR INSTANCE, A -- JUST TRY TO GIVE YOU AN EXAMPLE. SALES PEOPLE. SALES PEOPLE CALL.

I MEAN, IT'S A TOUGH JOB. THEY HAVE TO SELL ME SOMETHING. THEY MAY NOT BELIEVE IN IT. BUT THEY ESSENTIALLY HAVE TO KIND OF PUT ON A SHOW. BEING A MANIPULATOR, AND A LIFE-LONG ONE, I THINK WOULD BE ACTUALLY VERY HARD WORK UNLESS YOU'RE WIRED THAT WAY.

Q OKAY. AND NOW WE KNOW WIRED THAT WAY MEANS THEY -- DECREASED FUNCTION IN THAT AREA OF THE BRAIN, THE FRONTAL LOBE BRAIN.

A IT'S BEEN SHOWN IN PEOPLE HURT THERE AND IT'S BEEN SHOWN IN PSYCHOPATHS WHO HAVE BEEN STUDIED WITH PET SCANS.

Q WHO WERE JUST BORN THAT WAY?

A CORRECT.

Q AND NO AMOUNT OF TRAINING OR DISCIPLINE OR ANYTHING ELSE IS GOING TO CHANGE THAT BRAIN FUNCTION. WOULD THAT BE FAIRLY ACCURATE?

A CORRECT.

Q OKAY.

A IT WOULD BE LIKE, HOW MUCH TRAINING CAN WE GIVE SOMEONE WITH ALZHEIMERS DISEASE OR PARKINSONS DISEASE OR MENTAL RETARDATION, ET CETERA? DO WE FIX -- DO WE SEE THEM CURED? WE DON'T.

Q ALL RIGHT. AND MR. STANKO'S BRAIN FUNCTION AND STRUCTURE WOULD FALL INTO THAT TYPE OF CATEGORY?

A IT WOULD.

Q NOW, WHAT IS EMPATHY?

A EMPATHY IS THE ABILITY TO SEE SOMEONE ELSE'S POINT OF VIEW AND TO ESSENTIALLY FEEL THEIR PAIN.

Q AND CAN -- DO -- DO WE KNOW -- DOES THE SCIENCE AND MEDICAL COMMUNITY KNOW WHERE EMPATHY ORIGINATES IN THE BRAIN?

A ABOVE YOUR EYEBALLS AND BEHIND YOUR NOSE. EXACTLY IN THAT AREA THAT'S DARK ON HIS PET SCAN.
Q WHERE MR. STANKO HAS A BRAIN DYSFUNCTION?
A YES.
Q AND COULD EMPATHY HAVE AN AFFECT ON ONE'S CHARACTER? AS YOU DEFINE GOOD CHARACTER OR BAD CHARACTER, WHAT ROLE COULD EMPATHY PLAY IN THAT?
A YOUR CHARACTER IS HOW OTHER PEOPLE SEE YOUR BEHAVIOR AND YOUR ATTITUDES. AND IF YOU LACK EMPATHY, YOU'RE GOING TO HAVE A BAD CHARACTER.
Q AND THAT'S GOING TO BE A WAY OF LIFE ALL THE TIME FOR THAT INDIVIDUAL. IS THAT TRUE?
A DEPENDING ON HOW MUCH LOSS OF FUNCTION THEY HAVE IN THAT AREA. MORE LOSS OF FUNCTION, WORSE CHARACTER.
Q ALL RIGHT. AND SO LET'S SAY WE HAVE SOMEONE WHO WANTED TO ASSESS THE CHARACTER OF AN INDIVIDUAL. WOULD IT BE IMPORTANT TO KNOW ABOUT BRAIN FUNCTION, DEFICITS, OR STRUCTURAL DEFICITS IN THAT BRAIN?
A WELL, IN THE YEAR 2006 IT IS, AND IT HAS BEEN PROBABLY FOR 15 YEARS SINCE WE HAVE BEEN DOING THESE, THIS -- THESE KINDS OF ANALYSIS ON PEOPLE LIKE MR. STANKO.
Q COULD ANYONE EVER MAKE A RELIABLE ASSESSMENT OF ANYBODY'S CHARACTER WITHOUT THIS TYPE OF KNOWLEDGE OR SCIENCE?
A WELL, THEY COULD MAKE A GUESS AT IT. BUT THE MORE

INFORMATION YOU HAVE, THE MORE POWER YOU HAVE TO MAKE PREDICTIONS AND TO UNDERSTAND WHAT'S GOING ON. IF YOU DON'T WANT TO KNOW THE TRUTH, IF YOU DON'T WANT TO SEE IT, THEN YOU JUST WON'T KNOW.

Q LET ME TALK TO YOU ABOUT STEPHEN IN THE EVENT HE WERE TO BE SENTENCED TO LIFE IMPRISONMENT.

A YES.

Q WOULD OTHER INMATES BE IN DANGER AROUND MR. STANKO?

A NOT TYPICALLY, NO.

Q WHY DO YOU SAY THAT?

A BECAUSE IN REVIEWING THIS -- THE LITERATURE, IT HAS TO DO WITH BEHAVIORAL DISORDERS THAT HE HAS, THE BEHAVIORAL DISORDER THAT HE HAS. IN PRISON THEY DON'T ACT VIOLENTLY OR DON'T TEND TO ACT VIOLENTLY.

THEY ARE MANIPULATIVE. THEY USE THE SYSTEM TO THEIR ADVANTAGE, BUT THEY DON'T GO AROUND SHANKING OTHER PRISONERS OR ATTACKING OTHER PRISONERS. THEY ACTUALLY SEEM TO BE WELL-BEHAVED.

BUT WHAT WE KNOW IS THIS. ONCE RELEASED FROM PRISON, THEIR CHANCE OF VIOLENT ACTIVITY IS THREE TO FOUR TIMES GREATER THAN IT WAS THAN WHILE THEY WERE IN PRISON. SO IN PRISON THOSE--

Q STRUCTURE?

A -- THAT STRUCTURE KEEPS THE PSYCHOPATH AT LEAST IN CONTROL. THE ONE WHO IT WOULDN'T KEEP IN CONTROL IS YOUR

MENTALLY RETARDED, VIOLENT INDIVIDUAL WHO HAS SUCH SEVERE GLOBAL BRAIN DAMAGE THAT THEY'RE GOING AROUND PUNCHING CONCRETE WALLS, ATTACKING GUARDS INCESSANTLY, FIGHTING WITH OTHER INMATES WITH COMPLETE DISREGARD FOR THEIR OWN HEALTH.

Q NOW, WE HAVE SEEN MR. STANKO. WE KNOW HE WAS IN PRISON FOR EIGHT AND A HALF YEARS AND HAD A RELATIVELY CLEAN RECORD THERE AS AN INMATE. AND THEN HE GETS OUT AND THIS HAPPENS WITHIN MONTHS.

DOES THAT CORROBORATE, DO YOU -- WOULD YOU PUT THAT FORWARD AS EVIDENCE TO SUPPORT YOUR CONCLUSIONS THAT YOU'RE STATING NOW OR OPINIONS?

A WELL, YES. AND AGAIN, THE LAST TIME I TESTIFIED ONE OF THE BOOKS I HAD SITTING IN FRONT OF ME, VIOLENCE AND PSYCHOPATHY BY ADRIAN RAINE, THAT DATA IS RIGHT OUT OF THAT TEXTBOOK. THAT IN JAIL, THESE PEOPLE, AS LONG AS THEY HAVE THAT STRUCTURE, THEY -- THEY DON'T DO HORRIBLE, TERRIBLE PREDATORY ACTS OF VIOLENCE.

Q JUST LIKE AT THE GEORGETOWN COUNTY DETENTION CENTER. I DON'T THINK YOU WERE HERE, BUT WE HAVE HAD CORRECTIONS -- OFFICERS COME IN FROM THE DETENTION CENTER WHO SPOKE FAVORABLY OF MR. STANKO.

WOULD THAT BE SOMETHING THAT WOULD BE REPLICATED, DUPLICATED IN PRISON, IN THE PRISON SETTING?

A I -- YES. I SUSPECT THE GUARDS IN PRISON WOULD END

UP HAVING A FAVORABLE, FRIENDLY WORKING RELATIONSHIP WITH HIM, BUT JUST THE SAME AS THEY DID HERE. AGAIN, PART OF HIS BRAIN DYSFUNCTION, IT ALLOWS HIM TO BE SUPERFICIALLY CHARMING. THAT'S RIGHT OUT OF THE TEXTBOOKS.

THAT'S -- THAT'S WHAT FRONTAL LOBE HELPS US NOT TO DO. IT'S GOOD TO BE CHARMING, BUT NOT IN A SUPERFICIAL WAY.

Q NOW, LET ME ASK YOU ABOUT YOUR PRACTICE OVER IN GEORGIA. WHAT -- WHAT IS THE NAME OF YOUR CLINIC?

A GEORGIA PAIN AND BEHAVIORAL MEDICINE.

Q BEHAVIORAL? AND HOW DOES -- HOW DO THOSE THINGS FIT TOGETHER, PAIN AND BEHAVIORAL...

A WELL, CHRONIC PAIN DISORDERS ARE ALL TREATED WITH MEDICATION AND OTHER PSYCHIATRIC MEDICATION, AND ANALGESIC MEDICATIONS, BUT PEOPLE MAY NOT REALIZE WHERE WE TREAT PAIN. WE APPRECIATE IT IN THE BRAIN.

IF YOU HAVE -- SOMEONE IN HERE HAS HAD BACK SURGERY AND IT HAS FAILED AND THEY HAD THREE NECK SURGERIES OR TWO BACK SURGERIES, WHEN WE USE MEDICATION TO EASE THAT PAIN OR TO MODULATE IT, IT'S NOT DOING ANYTHING IN YOUR BACK.

IT'S DOING IT IN THE BRAIN, IN A SPECIAL PART OF THE BRAIN CALLED THE THALAMUS AND THE BASAL GANGLIA. SO TREATING CHRONIC PAIN IS ESSENTIALLY -- IT'S A PSYCHIATRIC DISORDER.

Q OKAY. AND YOU HAVE A PRIVATE OFFICE?

A I DO. AND I--
Q YOU HAVE A STAFF?
A I HAVE A STAFF. AND I WOULD JUST LIKE TO ADD, THOUGH, 50 PERCENT OF MY PRACTICE IS PAIN MANAGEMENT. THE OTHER 50 PERCENT IS NEUROPSYCHIATRY, DEPRESSION, BIPOLAR, OCD, ADD, ATTENTION DEFICIT DISORDER, CHILDREN WITH MENTAL RETARDATION, CHILDREN WITH AUTISM, CHILDREN WITH ASPERGER'S DISORDER, ALZHEIMERS PATIENTS, PARKINSONS PATIENTS, DIFFUSE CORTICAL LEWY BODY DISORDER PATIENTS, FRONTAL TEMPORAL DEMENTIA PATIENTS, STROKE PATIENTS, EPILEPSY PATIENTS, HEAD INJURY PATIENTS.
Q HOW MANY PATIENTS DO YOU HAVE ACTIVELY IN YOUR PRACTICE?
A FIVE TO 600.
Q AND YOU HAVE A STAFF THERE THAT OPERATES THE CLINIC WHILE YOU'RE NOT THERE?
A I HAVE A STAFF OF THREE.
Q AND YOU HAVE HAD TO PAY YOUR OFFICE OVERHEAD CONTINUALLY ALL THE TIME YOU HAVE BEEN DEVOTING TIME TO THIS CASE. IS THAT--
A WHEN I'M NOT IN MY OFFICE, THERE IS NO INCOME BEING GENERATED.
Q ALL RIGHT. AND HOW MUCH PER HOUR DO YOU NORMALLY EARN IF YOU'RE SEEING A FULL SLATE OF PATIENTS WITHOUT INTERRUPTION FROM OTHER THINGS SUCH AS THIS TRIAL?

A IN -- MAYBE $200 AN HOUR IF I'M SEEING PATIENTS CONSTANTLY THROUGHOUT THE DAY FROM EIGHT TILL SIX, EIGHT TILL SEVEN.

Q ALL RIGHT. AND WHEN YOU DO FORENSIC WORK AWAY FROM YOUR PRACTICE, HOW MUCH DO YOU NORMALLY CHARGE IN THAT -- FOR THAT TYPE OF CONSULTATION?

A FOUR TO $500 AN HOUR BECAUSE THAT IS DONE ON MY EVENING TIME AND MY WEEKENDS. I VALUE THAT TIME, BUT -- I LOVE DOING FORENSICS. BUT THE PROBLEM WITH FORENSICS IS YOU DO IT ON YOUR OWN TIME.

SO ONE OF THE PROBLEMS WE TEND TO HAVE IS WE DON'T HAVE A LOT OF TIME JUST TO RELAX AND HAVE FUN.

Q HOW MUCH DOES IT COST YOU -- AND I UNDERSTAND THIS IS PRIVATE, BUT IT'S BEEN MADE AN ISSUE IN THIS CASE. HOW MUCH IS YOUR OFFICE OVERHEAD PER YEAR?

A ABOUT 100 TO $130,000 A YEAR.

Q OKAY. AND THAT'S FOR...

A ELECTRIC, WATER, GRASS CUTTING, MAINTENANCE, MY SALARIES -- MY STAFF'S SALARY, WHATEVER BENEFITS THEY GET, EQUIPMENT, PAPER.

Q ALL RIGHT. NOW, YOU HAVE AN INTEREST IN EVIL; IS THAT CORRECT? IS THAT ACCURATE?

A I'M FASCINATED BY IT AND IT IS ONE OF MY INTERESTS. I WANT TO KNOW WHY PEOPLE DO TERRIBLE THINGS.

Q AND YOU HAVE BEEN USED AS A CONSULTANT IN

BROADCAST -- IS THAT TRUE?

A IN 2003 I WAS CONTACTED BY THE DISCOVERY CHANNEL, THE LEARNING CHANNEL AND THE DISCOVERY CHANNEL. THEY WERE DOING A DOCUMENTARY ON THE TRUE STORY BEHIND THE BOOK AND MOVIE, THE EXORCIST.

Q OKAY.

A THEY -- I HAD AN INTEREST IN THE TRUE STORY BEHIND THAT. I TRIED TO CONTACT THE INDIVIDUAL WHO LIVES IN WASHINGTON DC WHO THAT STORY WAS BASED ON WHO LATER BECAME ACTUALLY A FAMOUS SCIENTIST AT NASA, AND I WANTED TO INTERVIEW HIM TO TRY TO FIND OUT WHAT PSYCHIATRIC OR NEUROPSYCHIATRIC CONDITION HE MIGHT HAVE HAD THAT WOULD HAVE MADE PEOPLE THINK HE WAS POSSESSED BY THE DEVIL.

Q OKAY.

A SO THE LEARNING CHANNEL SLASH DISCOVERY CHANNEL CONTACTED ME AND INTERVIEWED ME, AND I WAS ON A DOCUMENTARY ABOUT THAT STORY IN WHICH I DISCUSSED THE NEUROLOGICAL AND PSYCHIATRIC CONDITIONS THAT COULD MIMIC DEVIL POSSESSION OR MAKE SOMEONE THINK THEY WERE POSSESSED BY THE DEVIL.

Q IS YOUR APPROACH TO EVIL AND POSSESSION AND THAT KIND OF THING ONE WHERE YOU SEEK TO USE SCIENCE TO EXPLAIN THAT TYPE OF ODD OR BIZARRE BEHAVIOR?

A ABSOLUTELY.

Q AND IS THAT WHAT DROVE OR DRIVES YOUR INTEREST IN

EVIL AND POSSESSIONS AND THOSE KINDS OF THINGS?

A YES. I'D LIKE TO KNOW WHY PEOPLE DO THESE THINGS.

Q DO YOU HAVE A -- AN OPINION AS TO WHETHER THE BRAIN AND ITS FUNCTION AND STRUCTURE PLAYED A ROLE IN SO-CALLED POSSESSION CIRCUMSTANCES OR CASES?

A YES.

Q AND WHAT IS THAT?

A EPILEPSY, BIPOLAR DISORDER, SCHIZOPHRENIA. THOSE ARE PROBABLY THE THREE MAJOR MENTAL ILLNESSES THAT SOMEONE IF -- IS DELUSIONAL, THEY MAY BELIEVE THAT THEY ARE POSSESSED BY THE DEVIL.

IN FACT, I WILL JUST SAY THIS. THERE WAS A GREAT COURTROOM MOVIE THAT CAME OUT A YEAR OR TWO AGO, EXORCISM OF EMILY ROSE. THAT WAS BASED ON A TRUE STORY. AND THAT GIRL IN GERMANY HAD TEMPORAL LOBE SEIZURE, AND IT WAS THE CAUSE OF HER BELIEF IN HER POSSESSION.

Q DO YOU BELIEVE THAT STEPHEN STANKO COULD BE A CONTRIBUTING INDIVIDUAL TO THE INMATE POPULATION, TO THE CORRECTIONS SYSTEM, AND TO SCIENCE AT LARGE BASED ON THE UNIQUENESS OF HIS FUNCTION, BRAIN FUNCTION AND STRUCTURE--

A YES.

Q -- IF HE WERE TO BE SENTENCED TO PRISON?

A YES.

Q AND YOU BELIEVE HE COULD BE HOUSED IN THAT PRISON -- STRUCTURED PRISON ENVIRONMENT SO AS NOT TO BE AN

UNREASONABLE RISK TO ANY OTHER CORRECTIONS PERSONNEL OR INMATE?

A YES. AND IF I MIGHT ADD...

Q YES.

A THIS KIND OF STUDY, THE THREE -- THE TWO MAIN STUDIES THAT WE GOT HERE, FROM THIS WILL COME A TIME WHEN WE WILL BE ABLE TO FIND OR SEEK OUT THESE PEOPLE BEFORE THEY DO HARM AND WILL BE ABLE TO EFFECT SOME KIND OF TREATMENT OR SOME KIND OF INTERVENTION SO THAT THIS DOESN'T HAPPEN AGAIN, AND THAT TIME WILL COME.

Q IS ANY -- DOES -- IS ANYONE INVOLVED IN TRYING TO LEARN ABOUT TREATMENTS FOR THIS TYPE OF SITUATION THAT STEPHEN HAS AT THIS POINT?

A VIOLENCE IN GENERAL, YES. AND THERE PROBABLY -- THERE ARE MEDICATIONS THAT COULD DECREASE ANY VIOLENT IMPULSES THAT HE COULD HAVE OR ANY OF US WOULD HAVE. THEY DEFINITELY EXIST.

Q DO YOU RUN ACROSS ANY PREJUDICES IN SOCIETY THAT ARE AGAINST HELPING PEOPLE WHO DO VIOLENT ACTS AND HARM OTHER PEOPLE?

A MOST DEFINITELY. AND IN FACT, JUST AS SOME PEOPLE ARE WIRED TO DO WRONG, WE'RE KIND OF WIRED TO OSTRACIZE THEM, SEEK VENGEANCE, PUNISH. IT'S PART OF A NORMAL BRAIN'S WIRING AS WELL TO WANT TO DO THAT.

I GUESS WHAT WE STRIVE TO DO WHEN WE REALIZE WHAT'S

GOING ON IS GO ABOVE WHAT OUR WIRING IS AND TO ACT--

Q YOUR BELIEF IS--

A -- TURN--

Q I'M SORRY?

A TO TRY TO BE ABOVE WHAT OUR BASIC INSTINCTS DEMAND.

Q YOUR BELIEF IS THAT THIS TRAGIC CASE EFFECTUATED AN AWAKENING?

A I'M SORRY. COULD YOU SAY THAT AGAIN?

Q THIS TRAGIC CASE CAN EFFECTUATE AN AWAKENING OF SORTS?

A YES.

Q DR. SACHY, ANSWER ANY QUESTIONS THE SOLICITOR MAY HAVE. THANK YOU.

THE COURT: YOU MAY PROCEED.

MR. HEMBREE: THANK YOU.

CROSS-EXAMINATION

BY MR. HEMBREE:

Q GOOD AFTERNOON, DR. SACHY.

A HELLO.

Q DR. SACHY, YOU WERE HERE I BELIEVE A WEEK AGO TODAY, LAST THURSDAY, AND TESTIFIED FOR QUITE A PERIOD OF TIME.

A YES.

Q AND YOU HAVEN'T -- BASED ON WHAT I HAVE HEARD, YOU HAVEN'T CHANGED OR ALTERED YOUR TESTIMONY IN ANY WAY SINCE LAST THURSDAY.

A I DON'T BELIEVE SO.
Q I ONLY HAVE REALLY ONE QUESTION FOR YOU, AND IT INVOLVES SOMETHING THAT'S HAPPENED SINCE THAT TIME. DURING THE COURSE OF THE -- THE VICTIM IMPACT PORTION OF THE STATE'S CASE IN THE PENALTY PHASE, THE -- CHRISTINA LING WAS TESTIFYING.
A THAT'S THE YOUNG GIRL.
Q THE VICTIM, ONE OF THE VICTIMS. AND IN THE COURSE OF HER TESTIMONY I NOTICED THAT THE DEFENDANT WAS WIPING TEARS. NOW, WOULD ANYTHING -- TELL ME THIS, DOCTOR. THAT TO ME SHOWS ONE OF TWO THINGS, AND YOU -- YOU TELL ME IF THIS -- IF -- WHICH ONE YOU BELIEVE THIS IS.

IT EITHER SHOWS THAT THE DEFENDANT DOES HAVE A CAPACITY FOR EMPATHY OR IT SHOWS THAT THE DEFENDANT IS CONSCIOUSLY AND WITH PREMEDITATION ATTEMPTING TO MANIPULATE THIS JURY.

DO YOU HAVE ANY OPINION AS TO THAT, DOCTOR?
A I DO. WHEN I WAS HERE THAT WEEK AND THERE WAS -- I -- I THINK IT WAS IN THE PRETRIAL HEARING AND WE WERE TALKING ABOUT GETTING ALL THIS INTRODUCED, AND I THINK IT WAS -- I THINK -- I BELIEVE IT WAS THE FIRST TIME MR. STANKO EVER HEARD ME OR ANYONE ELSE CALL HIM A PSYCHOPATH. I'D HATE TO BE CALLED THAT, AND I THINK HE DIDN'T LIKE THAT.

AND IN FACT, HE WANTED TO HAVE A MEETING IN THE

WAITING ROOM OVER THERE WITH ME. AND WE WENT. AND I HAVE TO ADMIT, I FELT A LITTLE NERVOUS AND I THINK SOME OTHER PEOPLE MIGHT HAVE BEEN A LITTLE NERVOUS FOR ME, TOO.

BUT I SAT DOWN THERE. AND MR. STANKO WAS CRYING. AND HE WAS WEEPING BECAUSE HE FELT -- HE ASKED ME IS THERE ANY HELP, HOPE FOR HIM AS FAR AS HIS BRAIN AND HIS BEHAVIOR. ESSENTIALLY THAT'S WHAT HE SAID.

AND I SAID, WELL, THINGS ARE GOING TO CHANGE. WE'RE GETTING THESE IMAGES. WE ARE GOING TO FIGURE OUT HOW THIS STUFF WORKS AND WE'RE GOING TO FIGURE OUT ONE DAY HOW TO TREAT IT. AND HE WAS CRYING.

AND I FELT LIKE POOP. I FELT TERRIBLE. I FELT BAD BECAUSE I SAW HIM CRYING, AND I THOUGHT IT WAS MY--

Q YOU FELT BAD?

A I FELT BAD. I THOUGHT THAT I WAS CAUSING HIM TO FEEL BAD. AND WHAT HAPPENED WAS HE WAS CRYING. BUT THEN AN INVESTIGATOR CAME IN WITH A NEWSPAPER THAT HAD HIS PICTURE, AND SHE WASN'T PART OF THIS.

SHE JUST WALKED IN AND SAID, STEPHEN, LOOK, YOUR PICTURE IS ON THE PAPER. AND HIS TEARS AND CRYING STOPPED INSTANTANEOUSLY.

NOW, I KNOW WHAT PROBLEM HE HAS. I FEEL I KNOW. AND THAT'S JUST PROOF OF WHAT HE HAS. AND I KNOW IN THAT INSTANT HE DID MAKE A CONSCIOUS CHOICE TO SUDDENLY SWITCH FROM TEARS TO, WOW, I'M ON THE FRONT PAGE. IT'S THE WAY

HIS SICK, BROKEN BRAIN WORKS.

AND IT -- IT MADE -- MY GUILT STARTED TO FADE FAIRLY QUICK WHEN I SAW THAT AND AFTER A FEW MINUTES IT WAS GONE. BUT EVEN -- IT TOOK MY GUILT A FEW MINUTES TO COME ON AND DISSIPATE. WITH HIM, IT WAS LIKE THAT. AND I KNOW THAT'S A DYSFUNCTIONAL BRAIN. DOES THAT HELP ANSWER YOUR QUESTION?

Q WELL, I GUESS MY QUESTION WAS, DOES HE HAVE THE CAPACITY FOR EMPATHY OR WAS HE MANIPULATING THIS JURY? I THINK WHAT YOU'RE SAYING IS HE WAS MANIPULATING THIS JURY?

A I THINK HE -- HE CAN PROBABLY DO A LITTLE BIT OF BOTH, BUT I THINK MANIPULATION IS A PART OF HIS BRAIN DISORDER.

Q THANK YOU, DR. SACHY.

THE COURT: ANY FOLLOW-UP?

MR. DIGGS: LET ME FOLLOW UP. THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME.

REDIRECT EXAMINATION

BY MR. DIGGS:

Q COULDN'T THAT SIMPLY BE NEITHER OF THE TWO, BUT THIS VENEER THAT SOMEONE LIKE STEPHEN LEARNS, HE KNOWS WHAT WE EXPECT OF HIM IN CERTAIN SITUATIONS. COULDN'T HE SIMPLY BE TRYING TO DO WHAT HE THINKS WE EXPECT OF HIM?

A WHEN THESE PEOPLE WITH THIS DISORDER ARE INTERVIEWED,

THEY WILL TELL THE PEOPLE INTERVIEWING THEM THAT THEY -- THE WAY THEY EXPERIENCE EMOTION, HUMAN EMOTION, IS DIFFERENT THAN WE DO.

TO THEM IT'S SOMETHING THEY NEED TO LEARN, TO PUT ON A MASK, TO SHOW EVERYONE ELSE, A SMILE, A CARING PAT ON THE BACK. IF WE DO IT, WE ARE SMILING AND WE CARE. WHEN THESE PEOPLE WITH THIS BRAIN DISORDER DO IT, IT'S JUST PART OF THE GEAR THEY PUT ON EVERY DAY TO FUNCTION. SO...

Q TO BE ACCEPTED.

A TO BE ACCEPTED AND -- AND TO -- TO BENEFIT, TO GAIN, TO SURVIVE. IT'S THEIR METHOD OF SURVIVAL.

Q THANK YOU, DOCTOR.

THE COURT: ANY OBJECTION TO THE WITNESS BEING EXCUSED?

MR. HEMBREE: NOTHING. NO, NONE FROM THE STATE.

MR. DIGGS: NO, YOUR HONOR.

THE COURT: THANK YOU, SIR. YOU'RE EXCUSED. YOU MAY PROCEED.

(WITNESS LEFT THE STAND.)

MR. KELLY: WE WOULD CALL GLORIA WILSON.

GLORIA WILSON, AFTER BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

THE WITNESS: MY NAME IS GLORIA A WILSON, W-I-L-S-O-N.

THE COURT: YOU MAY PROCEED.

DIRECT EXAMINATION

BY MR. KELLY:

Q MRS. -- IS IT MS. WILSON, MA'AM?

A YES, MS.

Q MS. WILSON, MY NAME IS GERALD KELLY. I MET YOU BRIEFLY DURING THE BREAK; DIDN'T I?

A YES.

Q AND BEFORE THAT YOU AND I HAVE NEVER MET; HAVE WE?

A NO, WE HAVE NOT.

Q OKAY. I WANT TO ASK YOU A FEW QUESTIONS, MA'AM. WHERE ARE YOU NOW PRESENTLY EMPLOYED?

A I'M PRESENTLY EMPLOYED WITH THE SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES.

Q AND WHERE IS YOUR OFFICE?

A IN THE HORRY COUNTY OFFICE.

Q AND HOW LONG HAVE YOU BEEN WORKING THERE?

A TWENTY-THREE YEARS.

Q AND YOU HAVE BEEN WORKING -- YOU WERE WORKING THERE IN 2005?

A I WAS.

Q AND IN 2005 WHAT WAS YOUR, YOU KNOW, EMPLOYMENT TITLE?

A I'M A PROBATION AND PAROLE SUPERVISOR.

Q AND DID YOU -- DID YOU SUPERVISE STEPHEN STANKO?

A I DID.

Q AND WHAT PROGRAM WAS HE ON?
A COMMUNITY SUPERVISION.
Q AND HOW WAS HE ASSIGNED TO YOU?
A BY WAY OF A TRANSFER. ONE OF OUR AGENTS TRANSFERRED TO THE LEXINGTON COUNTY OFFICE. AS A RESULT, I TOOK ON HER CASE LOAD.
Q SO HE WAS ADDED TO YOUR CASE LOAD BY THE SUPERVISOR?
A NO, HE WAS NOT. I WAS SUPERVISING AN AGENT WHO WAS TRANSFERRED TO THE LEXINGTON COUNTY OFFICE. AND WHEN SOMEONE TRANSFERS, THE CASE LOAD IS EITHER DISPERSED AMONG THE OTHER AGENTS OR THE SUPERVISOR AT THE TIME TAKES ON THE SUPERVISION OF THE CASE LOAD.
Q SO YOU INHERITED THAT FILE?
A I DID.
Q AND DO YOU KNOW ABOUT WHEN YOU TOOK OVER?
A NOVEMBER OF '04.
Q I WANT YOU TO -- I'M GOING TO ASK THAT YOU LOOK AT THIS DEFENDANT'S EXHIBIT NUMBER 37, PLEASE MA'AM. DO YOU RECOGNIZE WHAT THAT DOCUMENT IS?
A I DO.
Q WHAT IS IT?
A THIS IS A PRINTOUT FROM THE APPOINTMENT LEDGER SCHEDULE IN WHICH WE USE IN OUR OFFICE FROM OUR COMPUTERS OF -- REPORTS OF MR. STANKO'S ACTIVITIES WHILE ON SUPERVISION.

Q AND ON PAGE ONE IT STARTS OUT AT -- IF YOU WILL LOOK THERE, PLEASE MA'AM. DOESN'T IT BEGIN IN AUGUST THE SECOND, 2004?
A THAT IS AN APPOINTMENT DATE, YES.
Q AND AT THAT TIME WERE YOU -- WERE YOU THE SUPERVISING AGENT OR WERE YOU TRAINING AT THAT TIME? YOU WERE TRAINING; WEREN'T YOU?
A NO, SIR, I WAS NOT. NEITHER WAS I THE SUPERVISING AGENT. AT THAT TIME I WAS A SUPERVISOR OF AN AGENT WHO WAS SUPERVISING MR. STANKO'S CASE.
Q SO THE ENTRIES IN AUGUST AND IN SEPTEMBER AND IN OCTOBER WERE NOT ENTRIES THAT YOU WOULD HAVE MADE; CORRECT?
A CORRECT.
Q AND THE ENTRIES THAT YOU WOULD HAVE MADE WOULD HAVE BEGUN I THINK YOU TOLD US NOVEMBER WHEN?
A MY INITIAL ENTRY IS NOVEMBER 5TH OF 2004.
Q AND DID YOU MAKE THE ENTRY OF NOVEMBER THE FIFTH, 2004?
A I DID.
Q AT THAT TIME HE WAS LIVING AT 620B TALL -- OAKS DRIVE?
A ACCORDING TO THE DOCUMENTATION, YES.
Q AND THIS WOULD HAVE BEEN AN ENTRY YOU WOULD HAVE MADE.

A YES.
Q AND YOU BELIEVED THAT TO BE TRUE?
A I BELIEVED THAT'S WHAT I DOCUMENTED AT THE TIME TO BE TRUE, YES.
Q AND THIS WOULD BE JUST PART OF HIS FILE THAT YOU WERE SUPERVISING ALONG WITH HIM?
A I DID NOT UNDERSTAND THE QUESTION, SIR.
Q THIS APPOINTMENT LEDGER REPORT, IF IT WERE IN HIS FILE, WOULD JUST BE A PART OF THE FILE WHICH WAS IN YOUR OFFICE FOR HIM?
A YES.
Q AND IN HIS FILE THAT WAS IN YOUR OFFICE THAT YOU WERE SUPERVISING, WOULD IT HAVE HIS PREVIOUS RECORD?
A PROBABLY NOT.
Q DID YOU KNOW MR. STANKO'S PREVIOUS RECORD OF -- FROM NOVEMBER?
A I KNEW WHAT I WAS -- THE OFFENSE FOR WHICH I WAS SUPERVISING HIM ON.
Q WHAT WAS THAT?
A KIDNAPPING.
Q WHAT ABOUT THE -- YOU WEREN'T SUPERVISING HIM ON THE ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE?
A NO, SIR, I WAS NOT.
Q AND THAT WAS BECAUSE HE'D SERVED THAT PENALTY, I'LL CALL IT, AND HE WAS NOT BEING SUPERVISED FOR IT; CORRECT?

A APPARENTLY SO.
Q WELL, DID YOU KNOW THAT HE HAD BEEN CONVICTED OF A -- OF A REDUCED CHARGE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE AT THE SAME TIME HE WAS CONVICTED OF KIDNAPPING?
A AT THE TIME OF ASSUMING THE RESPONSIBILITY OF THE CASE, NO, SIR.
Q WHEN DID YOU FIND THAT OUT?
A LATER ON IN HIS SUPERVISION.
Q WHEN WAS LATER ON IN HIS SUPERVISION?
A DURING THE COURSE -- IF I CAN RECALL, MAYBE LIKE AFTER SUPERVISING HIM A COUPLE OF MONTHS OR SO MAYBE.
Q WELL, IF THAT WERE A COUPLE OF MONTHS AND BEGAN IN NOVEMBER THE FIFTH, THAT WOULD BE -- ONE MONTH WOULD BE DECEMBER, AND TWO MONTHS WOULD BE JANUARY THE FIFTH OR THEREABOUTS; CORRECT?
A THAT'S A POSSIBILITY. AND I'M ASSUMING AT THE TIME THAT THAT'S WHEN I FOUND OUT.
Q AND--
A AND THEY MAY EVEN BE AT THE TIME THAT WE RECEIVED A CALL THAT SOMETHING TERRIBLE HAD HAPPENED.
Q YOU MEAN IN APRIL WHEN YOU FOUND OUT OR...
A THAT'S A--
Q -- RECEIVED NOTICE THAT -- THAT LAURA LING WAS DEAD AND OTHER CRIMES WERE ALLEGED?

A YES.
Q OKAY. BUT PREVIOUS TO THAT TIME YOU DIDN'T KNOW THE RECORD OF THE MAN YOU WERE SUPERVISING OTHER THAN KIDNAPPING?
A NO, SIR, I DID NOT.
Q YOU DIDN'T KNOW THAT HE HAD MULTIPLE CHARGES OF BREACH OF TRUST AND FRAUDULENT ACTIONS ON PROPERTY?
A NO, SIR, I DID NOT.
Q YOU DIDN'T TALK TO HIM ABOUT IT WHEN YOU TALKED WITH HIM, WHAT HIS RECORD WAS?
A NO, SIR, I DID NOT.
Q IS THAT COMMON? IS THAT THE COMMON PRACTICE IN YOUR OFFICE?
A THERE WAS NO NEED AT THE PRESENT TIME TO BRING UP HIS PAST HISTORY BECAUSE I WAS SUPERVISING HIM ON COMMUNITY SUPERVISION FOR KIDNAPPING.
Q SO THERE WOULD NEVER HAVE CAME A TIME THAT YOU FELT THAT YOU NEEDED TO KNOW MORE ABOUT HIS PAST RECORD DURING THE TIME YOU SUPERVISED HIM; CORRECT?
A NOT THAT I CAN RECALL, SIR.
Q ALL RIGHT. ON THAT SAME PAGE, I THINK THAT HE VISITED YOUR OFFICE -- DID HE VISIT YOUR OFFICE AND DID YOU MEET WITH HIM ON NOVEMBER THE FIFTH, 2004?
A I DID.
Q AND DID YOU MEET WITH HIM -- HE TOLD YOU AT THAT TIME

HIS EMPLOYER WAS DUTCH CRAFTERS; IS THAT CORRECT?
A HE DID.
Q DID YOU EVER MEET WITH THE OWNER OF DUTCH CRAFTERS AND SPEAK WITH THE OWNER OF DUTCH CRAFTERS AND DETERMINE IF THAT INFORMATION WAS ACCURATE?
A I DID NOT.
Q THAT'S A COMMON PRACTICE IN YOUR OFFICE?
A OUR OFFICE REALLY DOESN'T HAVE A COMMON PRACTICE PER SAY. IT WOULD DEPEND ON THE SITUATION, WHAT'S GOING ON WITH AN OFFENDER AT THE TIME, ET CETERA. BUT IT HAS BEEN KNOWN -- IT IS KNOWN TO HAPPEN THAT WE WILL TAKE THEIR WORD AT ITS FACE VALUE AT THE MOMENT.
Q SO IF -- IF THE PERSON WHO YOU WOULD SUPERVISE AT THAT TIME -- AT THAT TIME IF THEY TOLD YOU THEY WORKED AT A PARTICULAR PLACE AND YOU HAD NO PROBLEM WITH THEM, YOU WOULDN'T CHECK; IS THAT CORRECT?
A THAT'S A STRONG PROBABILITY. WE WILL INSTRUCT THEM PER POLICY THAT THEY ARE TO BRING VERIFICATION OF THEIR EMPLOYMENT AND THEIR RESIDENCE ON A -- ON A VISIT.
Q AND TO SHOW THEIR EARNINGS WOULD VERIFY THAT--
A YES.
Q -- FOR SURE; CORRECT?
A YES.
Q LOOKING AT YOUR ENTRY FOR NOVEMBER THE FIFTH, 2004, WERE THE EMPLOYMENT OR EARNINGS VERIFIED?

A ACCORDING TO MY DOCUMENTATION I DOCUMENTED IT WAS NOT VERIFIED. HE WAS INSTRUCTED TO BRING VERIFICATION ON EACH MONTH.

Q AND THEN THERE'S A ENTRY OF 12-06. IT SAYS, OFFICE VISIT PROGRESS. AND DID YOU MEET WITH HIM AT THAT TIME?

A THAT WAS A NON-OCCURRED VIOLATION. HE DID NOT SHOW AT THAT TIME.

Q HE DID NOT COME INTO YOUR OFFICE AND MEET WITH YOU AS APPOINTED?

A EXACTLY.

Q NOW, WHEN HE WAS -- FIRST CAME UNDER SUPERVISION OF THE CONWAY PROBATION, PARDON, AND PAROLE, DID HE SIGN WHAT IS CALLED A COMMUNITY SUPERVISION PROGRAM CERTIFICATE?

A IF I MAY REFER. HE DID SIGN ON JULY 28TH OF '04.

Q AND DOESN'T EVERY OFFENDER WHO IS SUPERVISED OVER AT YOUR OFFICE, DON'T THEY ALL SIGN THAT IF THEY'RE IN THAT PROGRAM?

A UPON THEIR RELEASE, YES.

Q UPON THEIR RELEASE FROM PRISON?

A YES.

Q AND ISN'T -- ISN'T THAT COMMUNITY SUPERVISION PROGRAM CERTIFICATE, DOESN'T THAT TELL THEM THEY HAVE TO MEET TO MAKE THEIR APPOINTMENTS?

A YES.

Q AND IF THEY DON'T MEET AND MAKE THEIR APPOINTMENTS,

ONE WOULD STATE -- AGAIN OR PERHAPS EVEN THEN FACE VIOLATION OF THEIR STATUS?

A IF THEY DO NOT MEET THEIR APPOINTMENT, IT IS CONSIDERED A VIOLATION.

Q SO HE WAS IN VIOLATION OF HIS COMMUNITY SUPERVISION PROGRAM CERTIFICATE IN DECEMBER?

A DECEMBER, BY NOT REPORTING.

Q THEN THE NEXT ENTRY, IF YOU WILL, MA'AM, IS JANUARY THE 11TH. AT THAT POINT HE HAD NOT KEPT TWO APPOINTMENTS. AND IT SAYS HERE, WITH VR. WHO IS VR?

A THAT'S VOC REHAB, VOCATIONAL REHABILITATION.

Q HE WAS SUPPOSED TO KEEP -- THAT WAS PART OF HIS PROGRAM, TO GO TO VOC REHABILITATION?

A THERE IS NO DOCUMENTATION THAT THAT WAS A PART OF HIS SUPERVISION PLAN.

Q I DON'T UNDERSTAND. WHY IS THIS HERE, OFFENDER HAS NOT KEPT THE LAST TWO APPOINTMENTS WITH VR, AND HE HAS NOT CONTACTED THEM SINCE OCTOBER THE 21ST, 2004, AND THEY WANT TO KNOW OF -- WE WANT THEM TO KEEP CASE OPEN OR CLOSED.

A I CAN SPECULATE ONLY, SIR, AND I PREFER NOT TO BECAUSE THAT WAS PRIOR -- PRIOR TO MY TIME OF SUPERVISION OF THE CASE.

Q ALL RIGHT. AND I THOUGHT THAT YOU BEGAN YOUR SUPERVISION OF THE CASE TWO MONTHS BEFORE THIS TIME OF THE JANUARY 11TH THAT YOU BEGAN ON NOVEMBER THE 5TH.

A NOVEMBER OF '04, YES.
Q WELL, I'M LOOKING AT JANUARY THE 11TH OF '05. YOU HAVE BEEN SUPERVISING FOR TWO MONTHS. IS THAT WHAT YOU'RE LOOKING AT?
A YES, I AM.
Q DID I MISUNDERSTAND YOU TO SAY THAT YOU WERE NOT SUPERVISING HIM AT THAT TIME?
A NO. WHAT YOU UNDERSTOOD OR WHAT I WAS TRYING TO CONVEY TO THE COURT IS THAT PRIOR TO ASSUMING THE RESPONSIBILITY OF SUPERVISION OF THE CASE, THERE WERE A REFERRAL OR HE WENT OVER TO VR.

I DON'T KNOW HOW HE ACTUALLY GOT TO VR IS WHAT I'M TRYING TO SAY. I DON'T KNOW IF HE TOOK IT UPON HIMSELF TO GO, IF THE AGENT COMMUNICATED WITH VR. ALL I KNOW IS ACCORDING TO THE DOCUMENTATION RECEIVED FROM VR, HE DID NOT SHOW.

Q IS VR A STATE--
A VOCATIONAL REHABILITATION.
Q IS THAT A STATE AGENCY, MA'AM?
A IT IS.
Q SO THEY WERE CONTACTING YOU TO FIND OUT OR TO NOTIFY YOU THAT HE HAD NOT ATTENDED FOR TWO MONTHS; CORRECT?
A YES.
Q AND YOU DIDN'T -- YOU DIDN'T KNOW ANYTHING ABOUT THAT?

A NO, SIR.
Q AND IT WASN'T IN YOUR FILE?
A NO, SIR. IT MAY HAVE BEEN, BUT I OVERLOOKED IT -- INADVERTENTLY OVERLOOKED IT. I AM NOT SURE OF HIS REFERRAL, WHY HE WENT THERE.
Q ALL RIGHT. ON THIS SAME DAY BUT A LITTLE BIT LATER IN THE DAY, YOU MAILED A VIOLATION LETTER TO STEPHEN STANKO; CORRECT?
A NO, SIR. THE LETTER WAS MAILED ON JANUARY 21ST OF 2005.
Q THE VIOLATION LETTER WAS NOT A LETTER COMING FROM PROBATION, PARDON AND PAROLE?
A THAT WAS MAILED ON JANUARY 21ST OF 2005.
Q THAT'S WHAT I SAID, MA'AM. JANUARY 21ST, 2005.
A I MISUNDERSTOOD. I THOUGHT YOU SAID ON THE SAME DAY. THE REFERRAL WAS RECEIVED THAT -- I MAILED THE LETTER AND I'M TRYING TO MAKE A CORRECTION--
Q I APOLOGIZE. THAT'S 10 DAYS LATER.
A YES, SIR.
Q OKAY. I APOLOGIZE. TEN DAYS LATER AFTER THE 11TH AND ON THE 21ST YOU DID MAIL TO HIM A VIOLATION LETTER; CORRECT?
A YES.
Q AND WHAT WAS -- WHAT WAS THE VIOLATION THAT YOU WERE BRINGING TO HIS ATTENTION?

A I WAS INFORMING HIM OF HIS TWO MISSED REPORTS, DECEMBER AND JANUARY, DELINQUENT FEES -- AND DELINQUENT FEES.

Q HOW MUCH WAS HE DELINQUENT?

A ACCORDING TO THE DOCUMENTATION HERE WAS $180 SUPERVISION FEE DELINQUENCY.

Q AND HOW -- WHAT DOES THAT 180 REPRESENT, HOW MANY MONTHS MISSED?

A PROBABLY -- IT WOULD BE $40 A MONTH, FOUR MONTHS -- WELL...

Q ALL RIGHT. OCTOBER AND NOVEMBER, DECEMBER AND JANUARY, WOULD THAT BE WHAT IT MIGHT BE?

A POSSIBLY.

Q ALL RIGHT. ALSO, IN THAT LETTER DID YOU TELL HIM TO REPORT ON -- IS IT ON JANUARY THE 31ST OF 2005 OR BY THEN?

A TO REPORT JANUARY 31ST, 2005.

Q AND TO REPORT TO YOU?

A YES.

Q AND DID THE LETTER CONTAIN THAT IF HE DIDN'T REPORT, THAT HE WOULD VIOLATE AND YOU WOULD BRING A WARRANT FOR REVOCATION STATUS?

A IF -- I HAVE TO SEE IF I CAN LOCATE THE LETTER, SIR.

Q DO YOU HAVE YOUR FILE?

A YES, SIR, I DO.

Q LOOK IN THERE AND SEE IF YOU'VE GOT IT.

A OKAY. (COMPLIED.) OKAY.
Q DOES THAT REMIND YOU OF WHAT YOU WROTE TO HIM?
A YES IT DOES, SIR.
Q AND DID YOU ISSUE A WARRANT AT THAT...
A WHAT WAS YOUR QUESTION?
Q WHAT -- WHAT DID YOU WARN HIM OF IN THE LETTER?
A YOU MUST REPORT TO MY OFFICE LOCATED 1201 THIRD AVENUE IN CONWAY BY MONDAY, JANUARY 31ST, 2005 OR FURTHER ACTION WILL BE TAKEN.
Q SO -- AND THEN WHEN YOU MET WITH HIM YOURSELF, DID YOU TELL HIM WHAT THE RULES WERE AS FAR AS HOW HE MUST BEHAVE, WHAT COULD HAPPEN IF HE DIDN'T...
A WHEN HE -- AT WHAT POINT?
Q WHEN YOU INITIALLY MET WITH STANKO TO TAKE OVER THE FILE OR AT ANY TIME THEREAFTER WHERE YOU SUPERVISED, DID YOU ADVISE HIM OF -- ON HOW HE MUST BEHAVE HIMSELF OR CONDUCT HIMSELF AND WHAT WOULD HAPPEN IF HE DID NOT DO SO PROPERLY?
A THEREAFTER, I--
Q THEREAFTER, AFTER THIS TIME?
A THEREAFTER, WHICH WOULD BE AFTER NOVEMBER OF '04, I -- I DISCUSSED WITH HIM WHAT WOULD POSSIBLY HAPPEN.
Q WHAT'S THE WORST -- WHAT WAS THE WORST THING THAT COULD HAPPEN TO HIM?
A THE WORST THING?

Q YES, MA'AM.
A THE WORST THING COULD HAPPEN IS A WARRANT BEING ISSUED OR A CITATION BEING ISSUED AND HE RETURNED TO COURT, AND THE COULD VIOLATE OR IMPOSE A DISPOSITION OF A YEAR.
Q AND THAT -- IS THERE A DIFFERENCE BETWEEN THE WARRANT AND THE CITATION?
A THE WARRANT JUST STATES THAT HE HAS TO BE -- THERE WILL BE A BOND SET OR A BOND HEARING WILL BE HELD. A CITATION STATES THAT HE WILL BE RELEASED ON HIS OWN RECOGNIZANCE TO APPEAR BEFORE THE COURT AT THE TIME OF THE DATE STIPULATED.
Q SO IF -- IF MR. STANKO OR ANYONE SIMILARLY SITUATED AS HIM WERE TO REACH THAT POINT, WHO WOULD ISSUE THE CITATION FOR THE WARRANT?
A THE CASE WOULD BE STAFFED WITH A SUPERVISOR, AND A SUPERVISOR HAS THE AUTHORITY TO ISSUE CITATIONS.
Q WOULD THAT BE YOU?
A I AM A SUPERVISOR, YES.
Q AND YOU ARE ALREADY STAFFED ON THE FILE. WOULD YOU BE THE ONE TO DO IT OR WOULD YOU HAVE TO TAKE IT UP THE LADDER?
A ARE WE SPEAKING OF THIS CASE IN PARTICULAR OR JUST IN GENERAL?
Q IN GENERAL.

A IN GENERAL IF AN AGENT BRINGS A CASE TO ME FOR STAFFING, I WILL BE THE ONE TO STAFF IT.
Q AND SO IN PARTICULAR, IN THIS CASE, IF A WARRANT OR A CITATION WERE TO BE ISSUED TO STANKO, YOU WOULD BE THE ONE TO MAKE THAT DECISION?
A IN THIS PARTICULAR CASE IT WOULD -- IT WOULD HAVE BEEN STAFFED OR REVIEWED WITH MY SUPERIOR.
Q BUT YOU WOULD HAVE BEEN THE PERSON FIRST OF ALL TO RAISE THAT ISSUE THAT IT SHOULD BE DONE, AND THEN IT WOULD BE--
A IN THIS PARTICULAR CASE, NO, SIR, I WOULD NOT HAVE BEEN THE FIRST PERSON. THE MEDIA WAS THE FIRST PERSON TO BRING IT TO OUR ATTENTION.
Q WELL, MA'AM, YOU ARE TALKING ABOUT BECAUSE OF LAURA LING'S DEATH; CORRECT?
A I'M TALKING ABOUT THE SITUATION AND CIRCUMSTANCES WHICH POSE A COMMUNITY SAFETY VIOLATION.
Q AND WHEN YOU SAID THE MEDIA BROUGHT IT TO OUR ATTENTION; CORRECT?
A YES, THAT'S HOW WE HEARD ABOUT WHAT WAS GOING ON.
Q BUT, IF -- IF YOU WERE TO HAVE FOUND CAUSE EARLIER SUCH AS HIM NOT SHOWING UP, CONTINUING NOT TO DO THAT, HAD HE NOT, YOU WOULD BE THE PERSON TO BRING THAT TO THE ATTENTION BY CERTIFICATE OF -- OR A WARRANT; CORRECT?
A IT WOULD DEPEND ON THE VIOLATIONS. AND THESE

VIOLATIONS WOULD NOT HAVE WARRANTS. BASED ON OUR POLICY AND PROCEDURE AND BASED ON MR. STANKO'S PREVIOUS SUPERVISION WOULD NOT HAVE WARRANTED A WARRANT OR CITATION AT THE TIME.

WE WOULD HAVE ADDRESSED THE ISSUE, BUT NOT NECESSARILY WITH A WARRANT OR A CITATION.

Q WELL, FIVE DAYS LATER -- IF YOU WILL LOOK AT YOUR PAPERWORK THERE ON YOUR APPOINTMENT LEDGER REPORT--

A UH-HUH.

Q -- DID MRS. MAYO OF THE UNITED STATES MARSHAL SERVICE CALL YOU? DID SHE CALL YOU?

A YES, I SPOKE WITH A PERSON BY THE NAME OF MRS. MAYO.

Q AND DID SHE GIVE YOU INFORMATION ON OR CONCERNING MR. STANKO?

A SHE GAVE ME INFORMATION WITH -- WITH REGARDS TO COMPLAINTS RECEIVED IN HER OFFICE WITH REFERENCE TO MR. STANKO.

Q THIS ENTRY -- YOU MADE THIS WRITTEN ENTRY ON JANUARY 26TH?

A JANUARY THE 26TH, YES.

Q READ IT TO US, PLEASE.

A MRS. MAYO, US MARSHAL, PHONE NUMBER 803-253-3966, STATED THEY HAVE RECEIVED SEVERAL COMPLAINTS FROM PEOPLE FROM THE SOCASTEE COMMUNITY STATING THAT SUBJECT IS TRYING TO GET MONEY FROM THEM FOR LEGAL ADVICE AND FEES.

STATED SUBJECT IS DATING ONE OF THE EMPLOYEES AT THE SOCASTEE LIBRARY, LAURA, AND THE COMMUNITY PEOPLE BELIEVE THAT THE PERSONAL DATA IS COMING FROM HER. STATED HE HAS SHOWN UP TO ONE OF THE HOMES OF THE OLDER WOMEN AND WAS ASKED NOT TO COME BACK.

MRS. MAYO STATED IT SOUNDS AS IF SUBJECT IS ACTING AS A CON ARTIST AND SHE JUST WANTED THIS OFFICE TO BE ALERT.

Q WELL, DID YOU -- DID YOU REPORT THIS TO PAMELA HARRELSON?

A NO, SIR.

Q DID YOU -- DID YOU NOT GIVE HER ANY WRITTEN REPORT OTHER THAN WHAT WE'RE LOOKING AT HERE?

A NO, SIR.

Q DID YOU EVER SPEAK WITH HER FACE TO FACE AND GIVE HER INFORMATION CONCERNING WHAT WE'RE READING HERE?

A NOT THAT I CAN RECALL, SIR.

Q DO YOU RECALL PERHAPS TELLING HER THAT -- THAT MR. STANKO MIGHT BE--

MR. HEMBREE: OBJECTION. LEADING, YOUR HONOR.

THE COURT: SUSTAINED. LEADING. YOU MAY REPHRASE.

BY MR. KELLY:

Q AFTER SPEAKING WITH THE US MARSHAL'S OFFICE, DID YOU CONSIDER THAT THIS WAS A CHANGE -- THAT INFORMATION HAD CHANGED YOUR VIEW OF MR. STANKO AS BEING A DANGER TO THE

COMMUNITY?
A NO, SIR. IT WAS AN ALLEGED COMPLAINT FOR WHICH BY POLICY WE HAVE TO ADDRESS WITH THE OFFENDER.
Q IT DIDN'T LEAD -- YOU DIDN'T -- AFTER THIS TELEPHONE CALL THAT YOU HAD WITH MRS. MAYO, YOU DIDN'T CONSIDER THAT--
MR. HEMBREE: OBJECTION. LEADING, YOUR HONOR.
THE COURT: SUSTAINED. LEADING. YOU MAY REPHRASE.
BY MR. KELLY:
Q DID YOU CONSIDER OR WHAT DID YOU CONSIDER? HAD ANYTHING CHANGED FOR YOU?
A NO, SIR, OTHER THAN A COMPLAINT THAT HAD TO BE ADDRESSED WITH THE OFFENDER.
Q SO YOU SAW NO NEED TO CALL THE SOCASTEE LIBRARY?
MR. HEMBREE: OBJECTION, YOUR HONOR. LEADING.
THE COURT: SUSTAINED. LEADING.
BY MR. KELLY:
Q DID YOU CALL THE SOCASTEE LIBRARY?
MR. HEMBREE: OBJECTION. LEADING.
THE COURT: SUSTAINED. LEADING.
BY MR. KELLY:
Q DID -- DID YOU DO ANYTHING -- IS THAT LEADING, TOO?
THE COURT: WELL--
BY MR. KELLY:

Q WHAT DID YOU DO?
A UPON MR. STANKO'S REPORT TO MY OFFICE, I ADDRESSED THE ALLEGED COMPLAINT WITH HIM.
Q AND THAT'S IT?
A YES, SIR.
Q AND WHY DID YOU NOT DO MORE THAN THAT?
A I'M A SUPERVISOR WITH FIVE AGENT -- FOUR AGENTS, FIVE AGENTS, AND MR. STANKO, BECAUSE THERE WERE NO COMMUNITY SAFETY ISSUES ADDRESSED AT THE TIME, I DID PER POLICY, AND PER POLICY SAYS THAT I AM TO ADDRESS VIOLATIONS WITH THE LEAST RESTRICTED SANCTION.

AND AT THAT TIME IT WAS A -- A REPRIMAND AT THAT TIME. IT WAS ADVISING HIM OF THE CONSEQUENCES THAT COULD POSSIBLY HAPPEN IF IN FACT THE ALLEGED COMPLAINTS WERE TRUE. AND AT THAT TIME IT WAS, IF YOU ARE PORTRAYING YOURSELF AS SUCH, THEN YOU NEED TO STOP.

Q WELL, DID YOU ASK HIM WAS HE DOING SUCH AND SUCH?
A I DID.
Q WHAT DID YOU ASK HIM WAS HE DOING?
A I INFORMED HIM OF THE ALLEGED COMPLAINTS AND I ASKED HIM, ARE YOU -- IF I MAY REFER TO MY NOTES AGAIN, PLEASE SIR?
Q PLEASE DO.
A AND I WILL BE SPECIFIC. I SPOKE WITH HIM ON FEBRUARY 8TH OF 2005. I DISCUSSED THE US MARSHAL'S CALLS

WITH SUBJECT AND HE DENIED PORTRAYING HIMSELF AS ANY LEGAL ADVISOR.

HE STATED THAT HE TALKED WITH A FEMALE BY THE NAME OF CAROLYN AT THE LIBRARY ABOUT LEGAL MATTERS AND REFERRED HER TO IRBY WALKER, NEVER DISCUSSED ANY FEES. HE WAS INSTRUCTED TO PORTRAY HIMSELF AS WHO HE IS AND NO ONE ELSE.

Q THAT IS THE ENTRY THAT YOU MADE HERE ON PAGE WHAT?

A MY PAGE IS CUT OFF, SO... MY PAGE NUMBER -- 16 OF 20.

Q THAT'S WHERE YOU SAY YOU DISCUSSED THE US MARSHAL'S CALL WITH SUBJECT. WHAT DID YOU TELL HIM THE US MARSHAL HAD SAID TO YOU?

A MAY I REFER TO THE US MARSHAL'S CALL, PLEASE?

Q YOU MAY REFER TO WHATEVER YOU CHOOSE IF IT HELPS YOU.

A TO BE SPECIFIC, I CANNOT BE. I CAN ONLY ASSUME THAT I STATED TO HIM ABOUT THE COMPLAINTS RECEIVED BY THE US MARSHALS WITH REFERENCE TO HIM PORTRAYING HIMSELF AS AN ATTORNEY AT THE -- AT THE LIBRARY.

Q SO YOU TOLD STANKO THAT I RECEIVED A CALL FROM THE US MARSHAL'S OFFICE. IS THAT WHAT YOU JUST TOLD ME?

A YES.

Q AND THE SUM AND SUBSTANCE OF IT WAS WHAT? THAT YOU TOLD HIM, THIS IS WHAT THEY TOLD ME. AND WHAT IS IT THAT YOU TOLD HIM?

MR. HEMBREE: YOUR HONOR, I OBJECT. ASKED AND

ANSWERED.

MR. KELLY: I DIDN'T GET IT.

THE COURT: I'M GOING TO GIVE -- IT WAS, BUT I'M GOING TO GIVE HIM A LITTLE LATITUDE. YOU MAY ANSWER THE QUESTION. MA'AM, YOU UNDERSTAND IT?

BY MR. KELLY:

Q WANT ME TO REPEAT THAT FOR YOU?

A PLEASE.

Q YOU MET WITH THE SUBJECT STANKO; CORRECT?

A YES.

Q AND YOU MET WITH HIM ON FEBRUARY THE EIGHTH; CORRECT?

A YES.

Q AND YOU TOLD HIM AT THAT TIME -- WELL, THE FIRST TIME THAT YOU RECEIVED A CALL ABOUT HIS BEHAVIOR--

MR. HEMBREE: OBJECTION. LEADING.

THE COURT: SUSTAINED. LEADING.

BY MR. KELLY:

Q IS THAT WHAT YOU DISCUSSED WITH HIM? IS THAT WHAT'S HERE?

A YES.

Q AND WHAT DID YOU TELL HIM THAT THE US MARSHAL HAD TOLD YOU?

A ACCORDING TO...

Q ABOUT HIS BEHAVIOR. ABOUT HIS BEHAVIOR.

A ACCORDING -- I TOLD HIM ABOUT THE COMPLAINT THAT WAS

RECEIVED THROUGH THE US MARSHALS WITH REFERENCE TO HIM PORTRAYING HIMSELF AS A LEGAL ADVISER OR AN ATTORNEY.

Q ANYTHING OTHER THAN THAT?

A I CAN'T RECALL, SIR.

Q YOU DON'T -- YOUR NOTES WON'T HELP YOU?

A YOU WANT ME TO REPEAT...

Q NO, SIR. NO, MA'AM. YOU -- I'M JUST ASKING YOU, IS THAT THE ONE SINGLE THING THAT YOU TOLD STANKO OR IS THAT THE ONE SINGLE THING THAT YOU'RE TELLING US YOU REMEMBER YOU TOLD HIM?

A I PROBABLY TOLD HIM A LOT. BUT I KNOW THAT THIS -- THIS IS -- THE MOST IMPORTANT PART IS THAT HE IS TO REFRAIN FROM PORTRAYING HIMSELF AS SOMEONE THAT HE IS NOT AND THE POSSIBLE CONSEQUENCES IF HE CONTINUES.

Q DID YOU TELL HIM -- WELL, WERE YOU AT ALL WORRIED ABOUT STANKO BEING VIOLENT AT THAT TIME WITH ANYONE IN THE COMMUNITY?

A THERE WAS NO COMPLAINTS OR REASON FOR ME TO THINK SO.

Q AT THE TIME AFTER -- AFTER SPEAKING WITH THE US MARSHAL'S OFFICE, MRS. MAYO, THERE WAS NO REASON FOR YOU TO THINK THAT HE WOULD BE VIOLENT IN ANY WAY; CORRECT?

A ACCORDING TO MY CONVERSATION WITH HER, SHE SAID THAT WE NEED TO -- SHE WANTED TO INFORM HER -- INFORM US OF THE COMPLAINT.

Q AND THE COMPLAINTS WERE? WHAT WERE THEY?

A THE COMPLAINTS WERE THAT HE WAS PORTRAYING HIMSELF AS A LEGAL ADVISOR TO PERSONS AT THE LIBRARY OF SOCASTEE, IN THE SOCASTEE COMMUNITY.

Q AND YOU SAW NO REASON TO FOLLOW THAT UP WITH ANYBODY--

MR. HEMBREE: OBJECTION, YOUR HONOR. LEADING.

THE COURT: SUSTAINED. LEADING.

BY MR. KELLY:

Q DID YOU -- WHAT -- DID YOU FOLLOW UP?

MR. HEMBREE: YOUR HONOR, ASKED AND ANSWERED. I OBJECT TO IT.

THE COURT: I'M GOING TO GIVE HIM A LITTLE LATITUDE, ALTHOUGH IT HAS BEEN ASKED AND ANSWERED.

BY MR. KELLY:

Q DID YOU FOLLOW UP WITH ANYONE OTHER THAN STANKO?

A NO, I DID NOT, SIR.

Q AND THAT'S BECAUSE YOU DIDN'T SEE ANY REASON TO DO THAT?

MR. HEMBREE: OBJECTION, YOUR HONOR. LEADING.

THE COURT: SUSTAINED. LEADING.

BY MR. KELLY:

Q WHY DID YOU NOT FOLLOW UP WITH ANYBODY INVOLVING MR. STANKO?

A BECAUSE PER POLICY WE ARE TO ADDRESS THE ALLEGED VIOLATIONS WITH THE OFFENDER, AND THAT'S WHAT I DID.

Q WELL, LET'S GO BACK HERE JUST A LITTLE BIT IN THIS RECORD. ON THE 28TH, THAT WAS TWO DAYS AFTER MAYO'S CALL, WHAT'S THE ENTRY THERE?

A THE TELEPHONE CONTACT?

Q READ IT TO US.

A 2-28-05 IRBY WALKER CALLED STATING SUPERVISOR WILSON HAD CONTACTED SUBJECT AND HE WONDERED WHAT WAS GOING ON. ADVISED HIM IT APPEARS SHE HAD CONTACTED SUBJECT ABOUT HIS FAILURE TO REPORT IN DECEMBER AND JANUARY AS WELL AS HIS SUPERVISION FEE ARREARS.

WALKER STATES THE SUBJECT HAS THE SUPERVISION FEE ARREARS TO PAY TODAY AND HE WILL BRING THEM -- BRING HIM TO THE OFFICE. ADVISED HIM, THIS WOULD BE FINE, PWH.

Q AND THAT WOULD BE PAM HARRELSON?

A YES.

Q AND DID YOU TALK WITH ATTORNEY WALKER YOURSELF?

A NO, SIR.

Q DID YOU RECEIVE THE FEES WHEN THEY WERE PAID?

A THEY CAME THROUGH THE OFFICE, SIR.

Q WERE YOU PRESENT WHEN THEY WERE OBTAINED?

A THE FEES ARE PAID DIRECTLY TO THE RECEPTION -- THE RECEPTIONIST AT THE FRONT OFFICE.

Q DID ANYBODY ELSE BESIDES THE -- MRS. MAYO, UNITED STATES MARSHAL'S OFFICE, CALL YOU TO MAKE YOU AWARE OF ANY COMPLAINTS OF MR. STANKO'S BEHAVIOR?

A NO ONE CALLED ME, SIR.
Q DID CONNIE PRICE EVER CALL YOU?
A NO, SIR.
Q DID SHE -- TO YOUR KNOWLEDGE DID SHE EVER SPEAK WITH ANYBODY IN YOUR OFFICE?
A TO MY KNOWLEDGE, NO, SIR.
Q IF I CALL TO MAKE A COMPLAINT ABOUT AN OFFENDER WHO IS SUBJECT TO YOUR SUPERVISION AND GIVE YOU A COMPLAINT ABOUT THEM, WOULD YOU EVEN TELL ME THAT THEY ARE BEING SUPERVISED OR -- OR NOT?
A THERE'S A STRONG POSSIBILITY I WOULD DOCUMENT IT OR SAY SOMETHING TO YOU.
Q WAS THERE EVER ANY REASON FOR YOU TO BELIEVE THAT STEPHEN STANKO'S BEHAVIOR WAS REPORTED IN THE COMMUNITY TO BE ODD OR BIZARRE?
A WE RECEIVE COMPLAINTS -- AT THE TIME, NO, SIR. I -- I KNOW THAT -- TO ANSWER YOUR QUESTION, NO, SIR.
Q WERE YOU SURPRISED THEN WHEN STEPHEN STANKO -- WAS REPORTED THAT HE HAD MURDERED LAURA LING AND RAPED HER DAUGHTER?
A I HAVE BEEN IN THE BUSINESS FOR 23 YEARS, AND VERY LITTLE SURPRISE ME NOW-A-DAYS.
Q SO THAT DIDN'T SURPRISE YOU?
A LIKE I SAID, NOTHING -- VERY LITTLE SURPRISES ME NOW-A-DAYS.

Q BUT I ASKED YOU SPECIFICALLY, DID IT SURPRISE YOU WHEN IT WAS REPORTED THAT--

MR. HEMBREE: OBJECTION, YOUR HONOR. RELEVANCE. AND IT'S BEEN ASKED AND ANSWERED TWICE.

THE COURT: I DON'T THINK IT'S BEEN ASKED AND ANSWERED. AND I DON'T -- IT IS RELEVANT TO SOME EXTENT. I'M GOING TO GIVE HIM SOME LATITUDE.

MR. HEMBREE: THANK YOU.

THE COURT: IT'S ACTUALLY LEADING, BUT YOU DIDN'T MAKE THAT OBJECTION.

MR. HEMBREE: OBJECTION. LEADING, YOUR HONOR.

THE COURT: WE NEEDED A LITTLE LEVITY.

BY MR. KELLY:

Q MA'AM, I'M NOT TRYING TO PUT ANY WORDS--

THE COURT: YOU MAY REPHRASE, MR. KELLY, AND PROCEED.

BY MR. KELLY:

Q I'M NOT TRYING TO PUT ANY WORDS IN YOUR MOUTH, MA'AM, BUT WHAT WAS YOUR REACTION WHEN IT WAS REPORTED IN THE MEDIA THAT HE WAS IN VIOLATION OF YOUR POLICIES?

A KIND OF DISAPPOINTING PROBABLY, DISAPPOINTING AT HIS BEHAVIOR OR ALLEGED BEHAVIOR.

Q SO YOU WERE DISAPPOINTED IN HIM?

A YES.

Q ALL RIGHT. WHAT SHOULD WE -- WHAT SHOULD WE DO IN A

SIMILAR SITUATION TO -- OR DO YOU HAVE AN OPINION?

MR. HEMBREE: OBJECTION, YOUR HONOR. THIS CALLS FOR SPECULATION FROM THE WITNESS.

MR. KELLY: WELL MA'AM, SHE'S BEEN WORKING THERE 23 YEARS.

THE COURT: THERE'S NO OBJECTION PENDING. BEAR WITH ME. THE FORM OF THE QUESTION IS PROBLEMATIC. IT CALLS FOR SPECULATION. IF YOU LAY THE APPROPRIATE FOUNDATION, YOU CAN REPHRASE. SUSTAINED.

MR. HEMBREE: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME.

BY MR. KELLY:

Q DO YOU HAVE AN OPINION ABOUT HOW WE COULD AVOID A PERSON SUCH AS STANKO COMING IN UNDER THE RAIL?

A I DID NOT UNDERSTAND THE QUESTION.

Q DO YOU HAVE AN OPINION BASED ON YOUR EXPERIENCE IN PROBATION, PARDON, AND PAROLE, OF HOW WE COULD DETECT A PERSON SUCH AS STEPHEN STANKO SO HE DOESN'T -- HE'S NOT A DANGER TO THE COMMUNITY, DOESN'T KILL--

A SHORT OF FOLLOWING 24-SEVEN, SIR, I DO NOT HAVE AN OPINION.

Q FOLLOWING 24-SEVEN WOULD BE YOUR -- THAT WOULD BE YOUR OPINION?

A I DON'T HAVE AN OPINION BECAUSE FROM THE 23 YEARS OF EXPERIENCE WITH OUR -- WITH THE PROBATION AND PAROLE

DEPARTMENT OR IN LAW ENFORCEMENT, PERSONS YOU THINK THAT THINGS ARE WELL AND TURNS OUT THAT THINGS AREN'T WELL.

AND NEGATIVE THINGS HAPPEN, AND YOU CAN DO YOUR BEST SUPERVISION, THEY CAN PERSONIFY OR PROJECT THE BEST PERSON THAT THEY CAN BE WHILE ON SUPERVISION WHEN YOU'RE IN THEIR -- WHEN YOU'RE IN THEIR PRESENCE OR THEY'RE IN YOUR PRESENCE, AND THEN THINGS HAPPEN.

SO TO ANSWER YOUR QUESTION, SIR, I DO NOT HAVE AN ANSWER TO THAT.

Q WELL, MA'AM, DID YOU EVER DURING THE COURSE OF YOUR SUPERVISION OF STEPHEN STANKO--

MR. HEMBREE: OBJECTION. LEADING, YOUR HONOR.

THE COURT: SUSTAINED. LEADING. YOU MAY REPHRASE.

BY MR. KELLY:

Q WAS THERE ANY -- WAS ANY REASON THAT YOU KNEW OR COULD SEE MEETING WITH STEPHEN STANKO THAT HE WAS IN NEED OF MENTAL HEALTH COUNSELING?

A HE DID NOT PRESENT HIMSELF AS IN NEED OF MENTAL HEALTH COUNSELING.

Q TAKE A LOOK AT PAGE 17, MA'AM.

A PAGE WHAT?

Q SEVENTEEN. WHAT'S THE DATE OF THE ENTRY AT THE TOP OF THE PAGE?

A JANUARY -- NO. JANUARY 28TH OF '05.

Q PAGE 17, MA'AM. SEVENTEEN.
A OKAY.
Q I'M LOOKING -- I WILL GIVE YOU THE DATE, APRIL THE FIFTH OF 2005.
A UH-HUH.
Q DO YOU HAVE AN ENTRY THERE?
A YES, I DO.
Q MAKE SURE WE'RE BOTH ON THE SAME PAGE. WHAT DID STEPHEN STANKO STATE TO YOU WHEN YOU MET WITH HIM?
A SUBJECT STATED TO BE -- TO BEGIN COUNSELING AT GRAND STRAND'S PSYCHIATRIC WITH -- IN MYRTLE BEACH.
Q DOESN'T IT READ, SUBJECT STATED TO BEGIN COUNSELING STRAND'S PSYCHIATRIC, MYRTLE BEACH, LEWIS MYRTLE?
A YES, IT DOES.
Q IS THAT WHAT IT TOLD YOU?
A YES.
Q DID YOU INQUIRE WHY HE WAS DOING THAT?
A FROM MY PREVIOUS CONVERSATIONS, FEBRUARY, IF I'M NOT MISTAKEN, HE WAS HAVING CONCERNS OR CONCERNS WERE BROUGHT TO ME ABOUT HIM RE-INTEGRATING BACK INTO SOCIETY.

AT THAT TIME NAMES, PSYCHIATRISTS' AND PSYCHOLOGISTS' NAMES WERE GIVEN TO HIM AS WELL AS SOUTH CAROLINA EMPLOYMENT SECURITY TO HELP HIM ADDRESS THE ISSUES WITH REFERENCE TO HIS RE-INTEGRATION.

Q OKAY. THAT'S ON WHAT DATE, APRIL THE FIFTH, 2005?

IS THAT CORRECT?
A YES. THE -- THE -- HIM GOING TO THE PSYCHIATRIC -- THE COUNSELING WAS APRIL 5TH. BUT FEBRUARY OF '05 WHEN HE AND MS. LING CAME TO MY OFFICE, THE NAMES WERE GIVEN TO THEM AT THAT TIME.
Q GIVE ME THE DATE IN FEBRUARY, MA'AM.
A FEBRUARY 8TH OF 2005.
Q ON FEBRUARY THE EIGHTH YOU'RE REFERRING TO THE ENTRY THAT READS, HE WAS INSTRUCTED NOT TO PORTRAY HIMSELF AS WHO HE -- TO PORTRAY HIMSELF AS WHO HE IS AND NO ONE ELSE. AND GIRLFRIEND REQUESTED INFORMATION ON -- WHAT KIND OF COUNSELING?
A PSYCHIATRIC COUNSELING.
Q TO HELP THIS OFFENDER BE RE-INTEGRATED BACK INTO SOCIETY. AND YOU GAVE NUMBERS OF SLEUTH, CATLIFF (SIC) AND HOLNICK; CORRECT?
A CORRECT.
Q YES -- BUT I'M ALSO REFERRING TO A LATER DATE.
A YES, SIR.
Q AND THAT LATER DATE IS APRIL THE FIFTH.
A YES.
Q LET'S TAKE A LOOK AT APRIL THE FIFTH WHICH IS TWO MONTHS LATER. IS THIS A MEETING THAT YOU HAD WITH THE SUBJECT STANKO ON APRIL THE FIFTH, THAT'S NOTES OF--
A IT IS.

Q WHAT DID HE TELL YOU? WHAT DID HE STATE TO YOU?
A HE STATED THAT HE BEGAN COUNSELING AT GRAND STRAND PSYCHIATRIC, MYRTLE BEACH, WITH LOUIS MURDEN.
Q AND WHAT'S THE NEXT ENTRY? WHAT'S THE DATE OF THE NEXT ENTRY? THAT WAS APRIL THE FIFTH. WHAT'S THE--
A APRIL 8TH OF 2005.
Q AND WHAT'S THE ENTRY THERE?
A WE RECEIVED A TELEPHONE CALL FROM LIEUTENANT STUBBS, SHERIFF'S DEPARTMENT, GEORGETOWN, STATING SUBJECT KILLED LIVED-IN FEMALE IN THE AM AND IS ON THE RUN. WANTED TO KNOW IF I HAD ANY POSSIBLE LEADS. NONE NOTED.

ADVISED HIM TO GO BY THE GEORGETOWN PROBATION DEPARTMENT AND SPEAK WITH AIC LOSKILL, AIC LOSKILL CAN ASSIST HIM, VERIFICATION PURPOSES.

Q AND NOW, THAT'S ON THE APRIL THE EIGHTH. THAT'S THE MEDIA DAY WE WERE TALKING ABOUT EARLIER; RIGHT? THE NOTICE FROM THE MEDIA THAT THERE WAS A PROBLEM.
A YES.
Q OKAY. LET'S LOOK THREE DAYS LATER AT THE NEXT ENTRY. YOU SEE THE LAST LINE IN THE FIRST PARAGRAPH?
A LAST LINE FIRST PARAGRAPH. YES.
Q READ THE LAST LINE IN THE FIRST PARAGRAPH.
A THIS AGENT ALSO MADE CONTACT WITH US MARSHAL STEWART COTTINGHAM TO UPDATE HIM -- TO UPDATE HIM ADDITION -- WITH ADDITIONAL INFORMATION.

Q THAT WAS YOU WHO MADE CONTACT WITH US MARSHAL STEWART COTTINGHAM?
A NO, SIR. NO, SIR. IT WAS NOT.
Q THAT WAS YOUR OFFICE?
A SOMEONE FROM OUR OFFICE, YES.
Q HAD YOU TALKED WITH THE US MARSHAL'S OFFICE SINCE MAYO HAD TALKED WITH YOU IN JANUARY?
A NO, SIR. I HAVE NOT.
Q AND YOU HADN'T GIVEN HIM ANY INFORMATION ABOUT STANKO AFTER SHE TALKED TO HIM; RIGHT?
A NO, SIR.
Q YOU DIDN'T CALL HER BACK OR ANYTHING?
A NO, SIR.
Q DID -- YOU DIDN'T CALL ANY OTHER AGENCY; DID YOU?
A NO, SIR.
Q DIDN'T CALL THE MYRTLE BEACH PD?

MR. HEMBREE: YOUR HONOR, I OBJECT. IT'S LEADING AS WELL AS ASKED AND ANSWERED.

THE COURT: SUSTAINED. LEADING.

MR. KELLY: YOUR WITNESS.

THE COURT: ANY QUESTIONS FOR THE WITNESS?

MR. HEMBREE: JUST A FEW.

THE COURT: YOU MAY PROCEED.

CROSS-EXAMINATION

BY MR. HEMBREE:

Q MS. WILSON, YOU'VE BEEN UP THERE A WHILE. I'M GOING TO TRY TO BE AS BRIEF AS POSSIBLE. BUT I'M GOING TO REFER YOU BACK TO YOUR REPORT OR TO THE REPORT OF YOUR DEPARTMENT.

LET ME ASK YOU, THE -- YOU TESTIFIED THAT INITIALLY YOU WERE NOT AWARE THAT THIS DEFENDANT HAD ADDITIONAL CHARGES. IS THE REASON FOR THAT BECAUSE HE HAD FINISHED HIS SERVICE ON THOSE CHARGES AND SO THOSE WERE NOT UNDER THE SUPERVISION, CONTROL OF THE PROBATION DEPARTMENT?

A EXACTLY.

Q SO THE ONLY CHARGE THAT CAME TO YOU, BECAUSE THE OTHER ONES WERE CONCLUDED, WERE TOTALLY COMPLETED BY THE DEFENDANT, WAS THE KIDNAPPING CHARGE?

A YES.

Q GOT YA. NOW, LET ME TAKE YOU TO AUGUST THE 23RD, GENERAL CONDUCT AND MISCELLANEOUS INFORMATION. WHAT DID -- WHAT NOTES WERE MADE UNDER GENERAL -- EXCUSE ME -- AUGUST THE 23RD OF 2004. THAT'S THE NOTATION.

I'M JUST GOING TO KIND OF GO THROUGH THIS CHRONOLOGICALLY, KIND OF DO A REVIEW OF THIS DEFENDANT'S STATUS WITH YOUR DEPARTMENT OVER THE MONTHS HE WAS THERE.

ON AUGUST THE 23RD, 2004 WHAT DOES IT SAY UNDER, GENERAL CONDUCT AND MISCELLANEOUS INFORMATION?

A CAN YOU -- I LEFT MY GLASSES, SO I'M HAVING DIFFICULTIES HERE. AUGUST 23RD, 2004?

Q YES, MA'AM.
A OFFENDER STATED THAT HE THINKS THIS COMMUNITY SUPERVISION CASE IS UNCONSTITUTIONAL AND HAS A -- AND HAS A PENDING CASE. OFFENDER -- AND HAS A PENDING CASE. OFFENDER SENT HIS FILE TO RD STEPP. HE THINKS IT WAS STEPP.
Q OKAY. WHAT'S THE NEXT LINE?
A OFFENDER HAS A COCKY ATTITUDE AND THINKS HE IS ABOVE EVERYONE ELSE. STATED THAT HIS FATHER IS BUYING A CAR AND THEN WILL HAVE THAT -- THAT CAR.
Q GOT YA. HOW ABOUT ON THE -- HOW ABOUT ON THE 25TH. THEY DID -- Y'ALL DID HOME ELECTRONIC MONITORING AND IT WAS REPORTED ON THE 25TH, HOME DETENTION, ELECTRONIC MONITORING?
A ARE WE TALKING ABOUT 958?
Q NO, MA'AM. I'M SORRY. AUGUST THE 25TH OF 2004.
A THERE WAS A HOME VISIT, YES.
Q THERE WAS A HOME VISIT AND EVERYTHING LOOKED GOOD; RIGHT?
A THERE ISN'T ANYTHING TO THE CONTRARY DOCUMENTED.
Q OKAY. AND IT SAYS, OFFENDER AT HOME WITH -- AS INSTRUCTED WITH ROOMMATE; CORRECT?
A OKAY. I AM NOT ON THE SAME PAGE YOU'RE ON THEN.
Q YES, MA'AM. IT'S ALL -- IT'S--
A HVPR. OKAY. OFFENDER AT HOME WITH ROOMMATE, YES.

Q AS INSTRUCTED. AND THE NEXT LINE SAYS, NO PROBLEMS; RIGHT?

A YES.

Q ALL RIGHT. LET ME TAKE YOU TO HIS REPORTING DATE ON AUGUST THE 30TH OF 2004. UNDER, GENERAL CONDUCT AND MISCELLANEOUS INFORMATION. THE FIRST THING IT SAYS IS GOOD ATTITUDE.

A YES.

Q ALL RIGHT. LET ME TAKE YOU TO -- LET ME TAKE YOU TO SEPTEMBER 20TH OF 2004, GENERAL CONDUCT AND MISCELLANEOUS INFORMATION. GOOD ATTITUDE. CORRECT?

A YES.

Q LET ME TAKE YOU TO SEPTEMBER 27TH OF 2004, GENERAL CONDUCT AND MISCELLANEOUS INFORMATION. DOES IT SAY GOOD?

A YES.

Q TAKING YOU TO OCTOBER 12TH OF 2004 UNDER GENERAL CONDUCT HE INDICATES HERE THAT HE WANTS TO MOVE TO NORTH CAROLINA WITH HIS BROTHER, BUT THERE'S NO INDICATION THAT THERE'S ANYTHING BAD GOING ON; CORRECT?

A RIGHT.

Q OKAY. HIS OFFICE VISIT ON OCTOBER THE 18TH OF 2004. ONCE AGAIN, DISCUSSION ABOUT MAYBE TRANSFERRING TO NORTH CAROLINA BUT NO PROBLEMS; CORRECT?

A CORRECT.

Q ON NOVEMBER THE FIFTH OF 2004, GENERAL CONDUCT AND

MISCELLANEOUS INFORMATION, COOPERATIVE; CORRECT?
A CORRECT.
Q NOW, THEN WE GET TO WHERE HE MISSED A COUPLE OF APPOINTMENTS AFTER THAT, AND MISSED DECEMBER AND MISSED JANUARY, AND YOU SENT HIM A LETTER THAT SAID, YOU BETTER GET DOWN HERE OR ELSE, YOU KNOW, WE'RE GOING TO DO -- WE'RE GOING TO TAKE FURTHER ACTION I THINK IS WHAT YOUR LETTER SAID; IS THAT RIGHT?
A YES.
Q AND YOU SENT HIM THE LETTER ON THE 21ST. YOU MAILED IT OUT ON THE 21ST; CORRECT?
A YES.
Q OF THE -- OF JANUARY. AND ON JANUARY 28TH YOU GOT A CALL BACK FROM HIS LAWYER.
A A CALL WAS RECEIVED IN THE OFFICE, YES.
Q RIGHT. FROM IRBY WALKER?
A YES.
Q AND HE SAID, MY CLIENT WILL COME DOWN AND CATCH UP THE ARREARS AND HE'LL BE THERE?
A YES.
Q WE'LL TAKE CARE OF EVERYTHING. AND ISN'T THAT EXACTLY WHAT THIS DEFENDANT DID?
A YES.
Q YEAH. BUT YOU DIDN'T HAVE ANY CONCERN THAT HE WAS TRYING TO SKIP OUT ON YOU AT THAT POINT; DID YOU?

A NONE WHATSOEVER.
Q NO, BECAUSE HE SHOWED UP?
A YES.
Q RIGHT. AND I -- TAKING YOU TO THE REPORTING DATE ON JANUARY 28TH, 2005. WHAT DOES IT INDICATE HIS ADDRESS IS ON JANUARY 28TH OF 2005?
A JANUARY 28TH?
Q YES, MA'AM.
A FEBRUARY?
Q NO, MA'AM, JANUARY 28TH, 2005.
A OKAY. I HAVE A JANUARY 28TH, 2005. I HAVE TELEPHONE CONTACT.
Q VERY WELL COULD BE. DOES IT SAY OFFENDER ADDRESS?
A NO, IT DOES NOT.
Q OKAY. LET ME ASK IF YOU HAVE THIS PAGE IN YOUR DOCUMENT THERE YOU'RE REVIEWING?
A 15, 19?
Q YES, MA'AM.
A NO, I DO NOT. RIGHT HERE. WHAT PART?
Q RIGHT -- YEAH, THAT'S IT. YEAH. DO YOU SEE THE NOTATION ON JANUARY 28TH OF 2005, WHAT HIS ADDRESS, HIS NEW ADDRESS IS?
A YES.
Q AND WHAT IS IT?
A 3960 MURRELLS INLET, MURRELLS INLET, SOUTH CAROLINA.

Q AND WHAT DOES IT SAY ABOUT, STATUS OF MONIES OWED ON JANUARY 28TH OF 2005?

A HE PAID $140 SUPERVISION FEE THROUGH 1-18-05, PAID $60 ON INTENSIVE THROUGH 10-18-05.

Q AND GENERAL CONDUCT AND MISCELLANEOUS INFORMATION?

A IS GOOD.

Q RIGHT. AND THEN IF WE GO DOWN TO JANUARY 31ST OF 2005. ARE YOU CAUGHT UP TO ME?

A I'M WITH YOU.

Q OKAY. Y'ALL MADE A CONTACT TO VERIFY WHERE HE LIVED; CORRECT?

A YES.

Q AND WHAT WAS THE RESPONSE THAT YOU RECEIVED ON THAT CONTACT?

A THAT A YOUNG FEMALE WHO APPEARS TO BE HIGH SCHOOL AGE VERIFIED SUBJECT RESIDES AT THE RESIDENCE BUT REFUSED TO GIVE ANY OTHER INFORMATION. HOME VISIT CONDUCTED BY AGENT LOSKILL.

Q LET ME TAKE YOU TO FEBRUARY THE EIGHTH. WELL, OF COURSE, YOU RECEIVED THE CALL FROM THE US MARSHAL'S SERVICE ON JANUARY 26TH OF 2005; CORRECT?

A YES.

Q I TAKE YOU TO FEBRUARY 8TH OF 2005. AND I BELIEVE YOU HAVE ALREADY REFERRED TO THAT. THAT WAS THE DATE THAT YOU HAD THE DISCUSSION WITH HIM ABOUT THIS REPORT?

A YES.
Q AND HE INDICATED THAT -- THAT -- HE DENIED IT; DIDN'T HE?
A YES.
Q HE SAID THAT HE JUST TALKED TO SOMEBODY ABOUT LEGAL ADVICE AND REFERRED THEM TO IRBY WALKER.
A HE DID.
Q AND SAID -- WELL, YOU SAID, WELL, DON'T DO IT ANY MORE.
A SOMETHING SIMILAR TO THAT.
Q GOT YA. AND DID YOU CONSIDER THIS A SERIOUS COMMUNITY DANGER VIOLATION?
A NO, I DID NOT.
Q DID YOU EVEN HAVE A -- DID YOU EVEN HAVE KNOWLEDGE OF WHO WAS MAKING THE COMPLAINT?
A NO, I DID NOT.
Q NOW LET'S GO TO THE NEXT ENTRY. LET'S SEE. THAT WOULD HAVE BEEN HIS -- HIS MONTHLY -- MONTHLY REPORTING WAS ON FEBRUARY 8TH. THE NEXT MONTHLY REPORT, OFFICE VISIT, WAS MARCH THE FIRST, 2005; CORRECT?
A YES.
Q AND IT SAID UNDER, GENERAL CONDUCT AND MISCELLANEOUS INFORMATION, WHAT DOES IT SAY THERE?
A GOOD CONDUCT, NO PROBLEMS TO DISCUSS AT THIS TIME.
Q RIGHT. AND AS A MATTER OF FACT, UNDER STATUS OF

MONIES OWED, WHAT DOES IT SAY ABOUT THE STATUS OF THE MONEY HE OWES?

A DEFENDANT IS CURRENT ON ALL FEES.

Q OKAY. HE ALSO EARLIER IN THAT -- IN THE NOTES THERE INDICATES THAT HE HAS NO REFERRALS TO DISCUSS AT THIS TIME. YOU SEE THAT UNDER REFERRALS?

A YES.

Q BUT HE STATES WHAT TO YOU?

A THIS WAS NOT TO ME. THIS WAS TO ANOTHER AGENT.

Q OKAY.

A HE STATES THAT HE IS VOLUNTARILY BEING COUNSELED AT DUNES COUNSELING.

Q THAT WAS ON MARCH THE FIRST OF 2005?

A YES.

Q HE HAD ALREADY TAKEN IT ON HIMSELF TO GET HIM SOME COUNSELING.

A YES.

Q AND HE HAD EXPRESSED HIS -- HE ALONG WITH HIS GIRLFRIEND EXPRESSED SOME -- SOME INTEREST IN DOING THAT BACK IN FEBRUARY?

A YES.

Q ALL RIGHT. NOW TAKING YOU TO APRIL THE FIFTH OF 2005. GENERAL CONDUCT. UNDER, GENERAL CONDUCT AND MISCELLANEOUS INFORMATION, WHAT DOES IT SAY ABOUT DEFENDANT STEPHEN STANKO ON APRIL THE FIFTH, 2005 WHEN HE

REPORTED TO YOUR OFFICE?

A COOPERATIVE. SUBJECT WAS VERY CALM AND APPEARED TO BE MORE AT PEACE WITH HIMSELF.

Q THANK YOU, MS. WILSON. PLEASE ANSWER ANY QUESTIONS THEY MAY HAVE FOR YOU ON REDIRECT.

THE COURT: ANY REDIRECT FOR THE WITNESS?

MR. KELLY: NO, MA'AM.

THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE STATE?

MR. HEMBREE: NO, MA'AM.

THE COURT: FROM THE DEFENSE?

MR. KELLY: NO, MA'AM.

THE COURT: MA'AM, YOU'RE EXCUSED.

(WITNESS LEFT THE STAND.)

MR. KELLY: ATTORNEY IRBY WALKER.

THE COURT: WE ARE GOING TO TAKE A BREAK. MADAM FORELADY, LADIES AND GENTLEMEN, YOU ALL HAVE BEEN SITTING PROBABLY CLOSE TO TWO HOURS. I'M GOING TO GIVE YOU ALL A SHORT BREAK SO YOU CAN STRETCH YOUR LEGS AND GET REFRESHED. I ANTICIPATE THAT THAT BREAK WILL BE 10 TO 15 MINUTES.

DURING THE BREAK -- WHICH SHOULD GIVE YOU ALL AN OPPORTUNITY TO -- SMOKE BREAK ALSO. DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE. PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS AND LET YOUR CUSTODIANS KNOW

IF YOU NEED ANYTHING.

(JURY LEFT THE COURTROOM AT 3:51 PM.)

THE COURT: IS THERE ANYTHING BEFORE WE BREAK?

MR. HEMBREE: NOTHING FROM THE STATE, YOUR HONOR.

THE COURT: I WOULD JUST ADVISE ALL OF THOSE WHO ARE IN THE GALLERY, IF YOU HAVE CELLPHONES OR OTHER ELECTRONIC DEVICES, BY ORDER OF THE CHIEF JUSTICE, THEY HAVE TO BE IN THE OFF POSITION.

IF THEY GO OFF DURING THE PROCEEDINGS, THEY WILL BE CONFISCATED. THAT DOES NOT MEAN VIBRATE. IT DOESN'T MEAN BEEPS. IT MEANS OFF. OKAY? THANK YOU. WE WILL BE AT EASE.

MR. KELLY: THANK YOU, MA'AM.

(WHEREUPON A RECESS WAS TAKEN.)

MR. HUMPHRIES: YESTERDAY WE TALKED ABOUT THE DISK WITH ALL PHOTOGRAPHS.

THE COURT: PHOTO DISK, YES. WAS IT EVER MOVED INTO EVIDENCE?

MR. HUMPHRIES: THEY DID MOVE IT INTO EVIDENCE AND WE ASKED THAT WE -- YOU KNOW, WE STIPULATED TO ITS INTRODUCTION. THEY'VE PROVIDED NOW THIS DISK AND JUST...

THE COURT: OKAY. IT WILL BE MARKED AND ADMITTED AS DEFENSE NEXT IN LINE WITHOUT OBJECTION.

MR. HUMPHRIES: VERY GOOD. THANK YOU, YOUR HONOR.

MR. DIGGS: YOUR HONOR, COULD I TAKE THAT WITH ME OVERNIGHT AND BRING IT BACK TOMORROW?

THE COURT: YOU DON'T HAVE ANOTHER ONE? ONCE IT'S ADMITTED INTO EVIDENCE, I CAN'T RELEASE IT.

MR. HUMPHRIES: YOU'VE GOT IT ON THE COMPUTER. THAT'S WHERE YOU GOT IT FROM, FROM THE COMPUTER.

THE COURT: NOW, THE OTHER QUESTION I NEED FOR THE COURT REPORTER'S BENEFIT IS I NEED TO KNOW IF THE OTHER TWO DOCUMENTS, I BELIEVE THEY'RE 34 AND 35?

MR. HUMPHRIES: 37 AND 38.

THE COURT: 37 AND 38. I KNEW THEY WERE IN THE THIRTIES -- HAVE BEEN REDACTED SO WE CAN SUBSTITUTE THOSE FOR THE RECORD.

MR. KELLY: YES, MA'AM. WE BELIEVE THE LAST WITNESS TOOK A PAGE WITH HER. AND IT'S PROBABLY A BLANK PAGE IS WHAT IT IS. BUT MA'AM, WE ARE TRYING TO GET A CLEAN--

THE COURT: OH, BECAUSE WE GAVE THE ONES THAT WERE SUPPOSED TO BE MARKED AS COURT'S EXHIBITS BACK TO THEM?

MR. KELLY: WE GOT IT BACK, MA'AM, AND SO...

THE COURT: I NEED THE ORIGINAL ONES THAT WE WERE DISCUSSING, I NEED THOSE AS -- I'VE ALREADY MADE

THOSE COURT'S EXHIBITS.

MR. HUMPHRIES: THEY'VE REDACTED THOSE.

THE COURT: THEY'VE REDACTED THE ORIGINALS?

MR. KELLY: THOSE WERE CLEAN COPIES, MA'AM. WE WILL GIVE YOU CLEAN COPIES. WE REDACTED WHAT YOU HAD BEFORE REVIEW, AND WE'LL JUST GIVE YOU BRAND NEW CLEAN COPIES.

MR. HEMBREE: AS THE COURT'S EXHIBITS.

THE COURT: YEAH. I JUST WANTED FOR APPELLATE PURPOSES FOR THE COURT TO KNOW WHAT HAS BEEN REDACTED AND WHAT WAS ORIGINALLY BEING TALKED ABOUT. SO I NEED THE ONE -- UNREDACTED ONE MADE COURT'S EXHIBITS, AND THE REDACTED ONES WILL BE THE DEFENDANT'S EXHIBITS.

AND I ACTUALLY WOULD LIKE TO GET THAT SQUARED AWAY RIGHT NOW BEFORE WE DO ANYTHING ELSE BECAUSE IT WILL GET LOST IN THE SHUFFLE.

MR. KELLY: YES, MA'AM.

THE COURT: DO Y'ALL NEED OUR ASSISTANCE? WHAT DO YOUR RECORDS REFLECT THOSE EXHIBITS WERE?

COURT REPORTER: 37 AND 38.

THE COURT: WHAT WERE THEY?

COURT REPORTER: I DIDN'T GET TO WRITE A DESCRIPTION DOWN IN MY NOTES. LOOKS LIKE 37 IS A PRINTOUT FROM AN APPOINTMENT LEDGER.

THE COURT: FROM THE SOLICITOR'S OFFICE?

COURT REPORTER: I THINK IT WAS PROBATION.

THE COURT: YEAH, PROBATION.

COURT REPORTER: PROBATION. AND 38...

(WHEREUPON THERE WAS A PAUSE.)

MR. HUMPHRIES: JUDGE, STATE'S --

THE COURT: IT REALLY SHOULD BE A DEFENSE--

MR. HUMPHRIES: -- OR I MEAN DEFENSE. I'M SORRY -- DEFENDANT'S 39, THEY HAVE ALSO INCLUDED THE PROBATION, PARDON, AND PAROLE RECORDS ON HERE. CERTAINLY THEY'RE NOT REDACTED.

THE COURT: YEAH, THEY'VE GOT TO BE REDACTED.

MR. HUMPHRIES: I MEAN, CAN WE JUST TAKE THEM OFF OF THE DISK? I MEAN, THEY'VE GOT THE HARD COPIES.

THE COURT: THAT WAS ON THE COMPUTER -- REDACT IT FROM THAT DISK. THEY CAN MAKE ANOTHER DISK, CAN -- PHOTOS IF THEY WANT. JUST MAKE ANOTHER COPY. BUT I NEED YOU ALSO WORK ON THAT NOW.

MR. HUMPHRIES: DOES THE COURT REPORTER NEED TO KEEP THESE SINCE IT'S ALREADY BEEN MARKED?

THE COURT: WE CAN SUBSTITUTE, BUT SHE NEEDS TO LEAVE THAT WITH HER UNTIL IT'S DONE. DO YOU NEED THAT TO MAKE ANOTHER COPY?

OFFICER: I HAVE GOT THE PROBATION, PARDON

RECORDS SCANNED IN ON THAT, SO -- TRYING TO FIND IT SO I COULD GO AND PRINT...

THE COURT: WHAT WE'RE TRYING TO DO IS THAT'S THE DISK THAT REPORTEDLY HAS THE POWERPOINT WITH ALL HIS HIGH SCHOOL PICTURES. WHAT HAS BEEN ADMITTED INTO THE RECORD ARE ONLY THOSE PHOTOS, THAT POWERPOINT.

SO ANY DISK WE ADMIT CAN ONLY HAVE THOSE PHOTOS ON IT, NOT THAT ADDITIONAL DOCUMENTATION. SO WHAT I'M TRYING TO ASCERTAIN IS DO YOU NEED THAT DISK TO MAKE THE CLEAN COPY OF THE PHOTO POWERPOINT, MAKE A COPY OF THE -- CLEAN COPY OF THE POWERPOINT SO THAT THEN I CAN SUBSTITUTE THAT FOR THAT ONE AND YOU CAN HAVE THAT ONE BACK, THEN THAT ELIMINATES THE ISSUE. BECAUSE OTHERWISE WE'RE GOING TO CONFUSE THE COURT REPORTER AND THE RECORD.

(WHEREUPON, COURT'S EXHIBIT 13 WAS ADMITTED INTO EVIDENCE.)

THE COURT: OKAY. DO WE HAVE THE CLEAN COPY OF THE OTHER DOCUMENT THAT WE'VE BEEN DISCUSSING WITH -- THE DEPARTMENT OF PROBATION, PARDON, AND PAROLE RECORDS? THE REDACTED COPY AND THEN THE ORIGINAL COPY.

MR. HUMPHRIES: THE REDACTED COPIES ARE COMING. WE'RE MAKING COPIES NOW.

THE COURT: OKAY.

MR. HUMPHRIES: I THOUGHT THEY WERE GOING TO PRINT OUT A CLEAN COPY.

THE COURT: OKAY. DO YOU NEED THAT DISK TO DO THAT?

OFFICER: THIS IS -- I HAVE ACTUALLY GOT...

THE COURT: OKAY.

MR. HUMPHRIES: YOUR HONOR, THEY HAVEN'T BEEN FULLY REDACTED. WE ALREADY FOUND A COUPLE OF REFERENCES WE--

THE COURT: ALL RIGHT. WELL, WE WILL JUST KEEP THOSE AND BEFORE WE LEAVE TONIGHT WE WILL GET IT STRAIGHT. ALL RIGHT. IS THERE ANYTHING ELSE BEFORE WE PROCEED? FROM THE STATE?

MR. HUMPHRIES: NOT FROM THE STATE, YOUR HONOR.

THE COURT: FROM THE DEFENSE?

MR. KELLY: NO, MA'AM.

THE COURT: PLEASE BRING IN THE JURY.

(JURY ENTERED THE COURTROOM AT 4:27 PM.)

THE COURT: YOU MAY BE SEATED. LADIES AND GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR BREAK. WE WILL NOW RESUME WITH THE TRIAL. YOU MAY PROCEED.

MR. KELLY: CALL ATTORNEY IRBY WALKER. NO, MA'AM. EXCUSE ME, HEATHER TOLAR.

THE COURT: YOU MAY PROCEED.

HEATHER TOLAR, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: YOU MAY PROCEED.

DIRECT EXAMINATION

BY MR. KELLY:

Q MA'AM, WHERE ARE YOU EMPLOYED NOW?

A I'M EMPLOYED BY THE 15TH SOLICITOR'S -- CIRCUIT SOLICITOR'S OFFICE.

Q AND WHAT IS YOUR JOB TITLE THERE?

A ASSISTANT SOLICITOR.

Q AND WERE YOU EMPLOYED THERE IN 2005?

A I WAS.

Q HOW LONG HAVE YOU BEEN THERE?

A I HAVE BEEN THERE SINCE I BELIEVE 2002.

Q DO YOU REMEMBER BEING THE SOLICITOR ON CALL IN -- FEBRUARY THE FOURTH THROUGH -- EXCUSE ME -- MARCH THE FOURTH THROUGH MARCH THE TENTH, 2005?

A I DON'T RECALL BEING ON CALL ON THAT SPECIFIC DAY.

MR. KELLY: YOUR HONOR, COULD I ASK THAT SHE BE SUPPLIED WITH EXHIBIT NUMBER 36?

THE WITNESS: YES. THIS INDICATES THAT I WAS ON CALL MARCH THE FOURTH THROUGH THE TENTH OF 2005.

BY MR. KELLY:

Q OKAY. MA'AM, AS AN ASSISTANT SOLICITOR AT THAT TIME, WOULD YOU HAVE BEEN ABLE TO ACCESS ANY INFORMATION BANK,

ANY COMPUTER BANK TO FIND OUT WHO IS ON -- WHO IS BEING SUPERVISED BY THE DEPARTMENT OF PROBATION, PARDON, AND PAROLE IN HORRY COUNTY?

A NO, I -- I DON'T THINK I HAVE ACCESS TO THAT. SOME OF OUR ASSISTANTS MAY.

Q OKAY. DO YOU REMEMBER DURING 2005 AND BEFORE APRIL THE EIGHTH PERHAPS WHEN YOU WERE HERE AND WERE RECEIVING A CALL FROM A CITIZEN WHOSE NAME IS CONNIE PRICE?

A I DO NOT RECALL HER NAME SPECIFICALLY, BUT I -- I KNOW OF THE PERSON WHOM YOU'RE REFERRING.

Q AND THE -- DO YOU SAY THAT YOU REMEMBER NOT HER NAME BUT PERHAPS YOU WERE RECEIVING A CALL FROM HER EVEN THOUGH NOT HER NAME?

A I DON'T SPECIFICALLY RECALL HER NAME, ALTHOUGH I -- I CAME TO RECOGNIZE THAT THAT IS IN FACT HER NAME AFTER THE FACT.

Q AND AS A RESULT OF HER CALLING YOU, DID YOU GIVE HER ANY ADVICE, DO YOU REMEMBER?

A I DID.

Q WHAT DID YOU ADVISE HER?

A I ADVISED HER THAT SHE NEEDED TO GO TO THE COUNTY CLERK'S OFFICE AND DETERMINE WHETHER OR NOT CERTAIN LEGAL DOCUMENTS HAD BEEN FILED ON HER BEHALF. I ALSO ADVISED HER TO CALL THE SOUTH CAROLINA BAR ASSOCIATION AND DETERMINE WHETHER OR NOT MR. STANKO WAS IN FACT A LAWYER.

Q AND SO HER INQUIRY DID CONCERN MR. STANKO?
A YES.
Q DID YOU ADVISE HER OF ANYTHING ELSE, MA'AM?
A I DON'T BELIEVE THAT I GAVE HER ANY OTHER ADVICE.
Q ALL RIGHT. MA'AM, YOU'RE RESPONDING TO OUR SUBPOENA TO BE PRESENT TODAY?
A THAT'S CORRECT.
Q I KNOW IT'S AN INCONVENIENCE. WE THANK YOU FOR COMING. NO FURTHER QUESTIONS.
A THANK YOU.

THE COURT: ANY CROSS-EXAMINATION OF THE WITNESS?

MR. HUMPHRIES: NO. THANK YOU.

THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE STATE?

MR. HUMPHRIES: NONE FROM THE STATE.

THE COURT: FROM THE DEFENSE?

MR. KELLY: NO, MA'AM.

THE COURT: YOU'RE EXCUSED. YOU MAY CALL YOUR NEXT WITNESS.

THE WITNESS: THANK YOU.

(WITNESS LEFT THE STAND.)

THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

MR. KELLY: ATTORNEY IRBY WALKER.

IRBY WALKER, AFTER

BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: YOU MAY PROCEED.

DIRECT EXAMINATION

BY MR. KELLY:

Q MR. WALKER, MY NAME IS GERALD KELLY. I THINK WE MET EARLIER TODAY WHEN YOU CAME TO THE COURTHOUSE; CORRECT?

A YES.

Q BEFORE THAT YOU AND I HAVEN'T MET; HAVE WE?

A NO, SIR.

Q I WANT TO ASK YOU SOME QUESTIONS ABOUT MR. STEPHEN STANKO. DID YOU REPRESENT MR. STEPHEN STANKO IN THE YEAR 2005?

A I DO NOT PRESENT THAT I EVER PRESENTED HIM. I HELPED HIM ON SOMETHING, BUT HE NEVER ACTUALLY PAID MY RETAINER FOR WHAT HE WANTED ME TO REPRESENT HIM ON.

Q OKAY. ASK YOU TO LOOK AT THIS DOCUMENT, PLEASE SIR.

A YES, SIR.

Q DO YOU RECOGNIZE THAT?

A YES, SIR.

Q WHAT IS IT?

A THAT IS A FEE AGREEMENT THAT MY OFFICE USES.

Q AND IT IS BETWEEN WHOM AND WHOM?

A IT WOULD BE BETWEEN MY OFFICE AND MR. STANKO.

Q AND TO WHAT PURPOSE WAS YOUR OFFICE CONTRACTED?

A MR. STANKO ASKED ME TO HELP HIM IN CONNECTION WITH A

MOTION TO RECONSIDER A POST-CONVICTION RELIEF APPLICATION MATTER AND A SEX OFFENDER MATTER, AND THIS SET FORTH THE TERMS OF WHAT HE WAS TO PAY ME AND THE HOUR -- MY HOURLY RATE.

Q SIR, THAT WAS A MATTER, WAS IT NOT, WHERE THERE WAS AN ORDER ISSUED BY THE PCR COURT TO THE EFFECT THAT THERE WAS NO SEX OFFENDER STATUS AGAINST HIM AND HE WANTED THAT CLEARED UP WITH HIS PROBATION AND PAROLE OFFICE?

A THAT IS CORRECT, SIR.

Q AND IN FACT, DID YOU LOCATE THAT PCR ORDER AND SHOW IT TO THE PROPER PERSONS AND THAT MATTER WAS CLEARED?

A NO, SIR. I LOCATED THE ORDER. MR. STANKO SENT ME AN ORDER, BUT AGAIN, HE NEVER PAID -- HE NEVER FINISHED PAYING MY RETAINER FEE.

Q WELL, THE -- SO THE JURY WILL UNDERSTAND, MR. WALKER, WASN'T IT A MATTER THAT WHEN HE WAS RELEASED FROM PRISON--

MR. HEMBREE: OBJECTION, YOUR HONOR, AS TO LEADING.

THE COURT: SUSTAINED. LEADING.

BY MR. KELLY:

Q WHEN HE -- TELL US -- TELL US HOW IT WAS MISUNDERSTOOD THAT MR. STANKO WAS A -- LISTED AND STATUS OF A SEX OFFENDER.

A THIS IS ALL I CAN TELL YOU, MR. KELLY. MR. STANKO HAD BEEN REPRESENTED BY A FRIEND OF MINE FROM MANNING

NAMED HARRY DEVOE. WHEN HE MOVED TO HORRY COUNTY, HE CAME TO MY OFFICE CONCERNED ABOUT TWO MATTERS.

THE MATTER TO WHICH YOU REFER WAS THIS. MR. STANKO HAD APPARENTLY -- AND I ASSUME THIS HAD COME OUT. MR. STANKO HAD APPARENTLY AT ONE POINT IN TIME PLED GUILTY TO KIDNAPPING.

UNDER OUR LAW, IT IS POSSIBLE FOR KIDNAPPING TO BE TREATED AS A SEX OFFENDER CRIME. IT IS ALSO POSSIBLE THAT IT WILL NOT BE TREATED AS A SEX OFFENDER CRIME.

MR. STANKO HAD, AS I RECALL, HAD APPARENTLY OBTAINED AN ORDER THAT -- HAD OBTAINED A FINDING RATHER IN A PCR HEARING THAT HIS CRIME THAT HE HAD PLED TO DID NOT FIT THE MODE FOR HIM BEING TREATED AS A REGISTERED SEX OFFENDER.

WHAT BROUGHT HIM TO MY OFFICE AMONG OTHER THINGS WAS THE FACT THAT AT THAT TIME HE -- AS I RECALL, NOW, HE HAD CONSIDERED MOVING TO NORTH CAROLINA AND THE NORTH CAROLINA AUTHORITIES HAD NOTIFIED HIM THAT IN NORTH CAROLINA HE WOULD BE REGISTERED. HE WOULD HAVE TO REGISTER AS A SEX OFFENDER.

HE DID NOT BELIEVE THAT HE SHOULD HAVE TO DO THAT. HE HAD FILED SOME KIND OF A WRIT OR SOMETHING IN EITHER DORCHESTER OR BERKELEY COUNTY AND THEN HE HAD -- AND THE JUDGE HAD APPARENTLY NEVER RULED ON IT.

HE HAD MOVED TO HORRY COUNTY AND HAD FILED A CHANGE OF VENUE MOTION AND THE MATTER WAS HUNG UP. AND HE WANTED

ME TO BASICALLY UNHANG IT, FOR LACK OF A BETTER WAY OF SAYING IT.

Q IT WAS -- IN SOUTH CAROLINA WHEN SOMEONE IS CONVICTED OF KIDNAPPING, IF THERE'S A SPECIAL FINDING THEN -- THAT THERE -- THAT PERSON CAN BE LISTED IN THE REGISTRY AS A SEX OFFENDER; CORRECT?

A THAT IS CORRECT.

Q TAKE A LOOK AT THIS DOCUMENT AND TELL ME IF YOU RECOGNIZE IT.

A YES, SIR. THIS IS A DOCUMENT MR. STANKO FURNISHED ME.

Q ALL RIGHT.

MR. KELLY: I'D ASK IT BE ENTERED.

MR. HEMBREE: WITHOUT OBJECTION, YOUR HONOR.

THE COURT: MARKED AND ADMITTED WITHOUT OBJECTION.

(WHEREUPON, DEFENDANT'S EXHIBIT 40 WAS ADMITTED INTO EVIDENCE.)

BY MR. KELLY:

Q NOW SIR, WHAT -- WHO IS THE JUDGE THAT SIGNED THAT ORDER?

A PAUL SHORT, JUDGE SHORT.

Q AND LOOKING -- LOOK IN THERE BACK TOWARDS THE LAST PAGE OF -- THE NEXT TO LAST PAGE SO WE CAN PUBLISH TO THE JURY THE JUDGE'S FINDING AS TO THE REGISTRATION THAT

STANKO -- AND THE SEXUAL OFFENDER REGISTER.

A ALL RIGHT. ON PAGE FIVE IT -- I ASSUME THIS IS WHAT YOU WANT -- THIS COURT REVIEWED THE FACTS OF THE CASE AND FINDS THERE IS NO ALLEGATION OR INDICATION OF A CRIMINAL SEXUAL OFFENSE AGAINST THE VICTIM OF APPLICANT'S KIDNAPPING.

CONSEQUENTLY THIS COURT FINDS THE TRIAL COURT DID NOT INTEND FOR APPLICANT TO REGISTER AS A SEXUAL OFFENDER. INSTEAD, THIS COURT FINDS THE TRIAL COURT, HAD IT BEEN AWARE OF THE REQUIREMENT SECTION 23-3-430C15, WOULD HAVE OPTED OUT THE APPLICANT.

THEREFORE THIS COURT VERIFIES APPLICANT'S SENTENCE AND FINDS THE CONVICTION OF KIDNAPPING DID NOT INVOLVE CRIMINAL SEXUAL OFFENSE. JUST STOP ME WHEN YOU WANT ME TO STOP.

MR. HEMBREE: I MIGHT BE ABLE TO -- THE STATE WOULD STIPULATE THAT THIS DEFENDANT IS NOT A REGISTERED SEX OFFENDER AND SHOULD NOT HAVE BEEN A REGISTERED SEX OFFENDER AS A RESULT OF HIS PREVIOUS GUILTY PLEA TO KIDNAPPING.

MR. KELLY: WE WILL ACCEPT THAT, MA'AM.

THE COURT: SO STIPULATED. YOU MAY CONTINUE.

BY MR. KELLY:

Q AND THAT'S REALLY WHAT YOU WERE HIRED FOR WAS TO STRAIGHTEN THAT MATTER OUT?

A THAT IS WHAT HE CONSULTED ME ABOUT, YES, SIR.
Q AND THAT ORDER THAT YOU HAVE IN YOUR HAND WAS -- WAS A KEY DOCUMENT IN CLEARING THAT MATTER UP?
A YES, SIR.
Q NOW, MR. WALKER, IF YOU WOULD BE SO KIND, WERE YOU RETAINED OR DID YOU REPRESENT MR. STANKO ON OR ABOUT THE 28TH OF JANUARY, JANUARY OF 2005, ON ANOTHER PAROLE, PROBATION, PARDON DEPARTMENT MATTER?
A MR. KELLY, I DO NOT CONSIDER THAT I WAS RETAINED BY MR. STANKO NOR DO I CONSIDER THAT I REPRESENTED HIM. MR. STANKO HAD COME INTO MY OFFICE SOME TIME PRIOR TO THAT AND HAD INTRODUCED HIMSELF TO ME.

HE -- AND AGAIN, I'M TRYING TO REMEMBER THIS. MY FILE IS VERY SCANT WITH, YOU KNOW, IN TERMS OF WHY HE CAME IN. BUT HE WAS--

Q MR. WALKER--
A -- HE WAS CONCERNED THAT PROBATION AND PAROLE MAY BE ATTEMPTING TO VIOLATE HIS PROBATION AND PAROLE FOR SOME REASON. AND IT COULD HAVE BEEN THAT HE WASN'T -- HE HASN'T REPORTED OR SOMETHING. I DON'T REMEMBER WHAT IT WAS. BUT HE HAD APPARENTLY SCHEDULED HIMSELF TO GO TO PROBATION AND PAROLE THAT DAY OR MAYBE -- MAYBE NOT.

BUT I CALLED PROBATION AND PAROLE AND THEY ASSURED ME, WHOEVER I SPOKE WITH OVER THERE, THAT HE WOULD NOT BE GOING TO JAIL, THAT THEY WERE NOT GOING TO VIOLATE HIM AT

LEAST ON THAT DAY.

AND I WALKED HIM OVER AND SHOWED HIM WHERE -- HE AND THIS LADY THAT, YOU KNOW, HE'S BEEN CONVICTED OF KILLING -- I WALKED THEM OVER AND TOOK THEM TO THE FRONT DESK AT PROBATION AND PAROLE, AND THEY CALLED SOMEBODY AND I LEFT ESSENTIALLY. I MEAN, I DID THAT MORE AS A FAVOR TO HIM.

Q AND THAT WAS LAURA LING AND STEPHEN STANKO THAT YOU JUST WALKED OVER WITH?

A YES.

Q OKAY. AND DO YOU REMEMBER OR NOT IF THE PERSON YOU SPOKE WITH WAS GLORIA WILSON?

A I DO NOT HAVE A CLUE, NO, SIR. COULD NOT TELL YOU.

Q AND DID YOU EVER HAVE ANY INFORMATION THAT THERE WERE ANY REPORTS TO PROBATION AND PAROLE THAT YOU WERE ASKED TO DEAL WITH HAD TO DO WITH ANY MISBEHAVIOR OF MR. STANKO IN THE COMMUNITY?

A NO, I DON'T KNOW WHAT YOU'RE TALKING ABOUT. I CAN'T RECALL ANYTHING LIKE THAT.

Q EXCUSE ME?

A I CAN'T RECALL ANYTHING LIKE THAT. ARE YOU ASKING ME DID PROBATION AND PAROLE CONTACT ME?

Q YES. I'M ASKING YOU, WAS THERE EVER ANY CONTACT FROM PROBATION AND PAROLE OR INFORMATION TO YOU FROM PROBATION AND PAROLE THAT THEY HAD RECEIVED ANY INFORMATION THAT

WOULD -- THAT MR. STANKO WAS A PROBLEM IN THE COMMUNITY?

A NOT THAT I CAN RECALL, NO, SIR.

Q I HAVE NO FURTHER QUESTIONS FOR YOU.

THE COURT: ANY QUESTIONS FOR THE WITNESS?

MR. HEMBREE: NO, YOUR HONOR. I HAVE NO QUESTIONS FOR MR. WALKER.

THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE STATE?

MR. HEMBREE: NOT FROM THE STATE, YOUR HONOR.

MR. KELLY: NO. AND THANK YOU FOR COMING, MR. WALKER.

THE WITNESS: THANK YOU, SIR.

THE COURT: MR. WALKER, YOU'RE EXCUSED.

(WITNESS LEFT THE STAND.)

THE COURT: YOU MAY PROCEED, MR. KELLY.

MR. KELLY: MR. JOHN BERTANG.

JOHN BERTANG, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: YOU MAY PROCEED.

DIRECT EXAMINATION

BY MR. KELLY:

Q OFFICER BERTANG, THANK YOU FOR COMING TODAY. WHERE ARE YOU PRESENTLY EMPLOYED?

A MYRTLE BEACH POLICE DEPARTMENT.

Q AND WERE YOU EMPLOYED AT MYRTLE BEACH POLICE

DEPARTMENT IN APRIL OF 2005?

A YES.

Q AND DID YOU HAVE AN APPOINTMENT WITH A CITIZEN NAMED CONNIE PRICE ON THURSDAY, APRIL THE SEVENTH, 2005?

A I DON'T RECALL.

Q DID YOU HAVE -- DO YOU HAVE AN APPOINTMENT BOOK, A LOG, THAT YOU BROUGHT WITH YOU?

A NO.

Q HAVE YOU -- WHEN YOU RECEIVED OUR SUBPOENA, DID YOU CHECK IN ANY RECORDS OR INFORMATION THAT YOU HAD WHICH SHOWED THAT YOU MIGHT HAVE HAD AN APPOINTMENT ON THAT DAY 9-31 WITH A CONNIE PRICE?

A YES.

Q AND DID YOU FIND ANY?

A NO, I DID NOT.

Q DO YOU HAVE ANY RECORD THAT SHOWED THAT SHE WAS NOT WITH YOU?

A I HAVE A SUBPOENA THAT Y'ALL HAD SERVED ALSO. AND I WAS PROVIDED A VISITOR'S INFORMATION LOG BOOK PRESENTED TO ME BY THE OFFICE ASSISTANT FOR THE DETECTIVE DIVISION, AND HER NAME IS NOT ON HERE.

Q MAY I SEE IT, PLEASE?

A YES, SIR. (COMPLIED.)

Q SIR --

MR. KELLY: TAKE IT BACK TO HIM.

BY MR. KELLY:

Q DO YOU SEE THAT THIS IS FROM THE YEAR 2006?

A YES.

Q BUT I'M REFERRING TO 2005.

A I UNDERSTAND THAT.

Q DID YOU -- DO YOU HAVE ANY RECORD THAT A CITIZEN NAMED CONNIE PRICE AND ANOTHER CITIZEN NAMED GARY OWENS CAME AND MET WITH YOU BY APPOINTMENT ON THURSDAY, APRIL THE SEVENTH, 2005?

A NO, SIR. YOU HAD SERVED THIS SUBPOENA ON THE MYRTLE BEACH POLICE DEPARTMENT ANNEX, AND THAT WAS THE FORM THAT WAS PROVIDED TO ME.

Q DID YOU -- HAVE YOU EVER MET WITH ANYONE NAMED CONNIE PRICE?

A IT SOUNDS FAMILIAR.

Q AND HOW DOES IT SOUND FAMILIAR, FROM WHAT SOURCE IN YOUR MEMORY?

A FROM VICKY, VICKY CHILDS WHO IS SEATED RIGHT THERE, SHE HAD TOLD ME THAT SHE--

MR. HEMBREE: OBJECTION, YOUR HONOR. HEARSAY.

THE COURT: SUSTAINED. HEARSAY. SIR, YOU CANNOT SAY WHAT SOMEONE TOLD YOU. YOU CAN SAY WHAT YOU DID AS A RESULT.

THE WITNESS: OKAY.

BY MR. KELLY:

Q DID ANY CITIZEN COME TO YOU TO YOUR KNOWLEDGE THE DAY BEFORE LAURA LING WAS MURDERED AND ATTEMPT TO SPEAK TO YOU ABOUT STEPHEN STANKO?
A I DON'T RECALL HIS NAME PRIOR TO THAT INCIDENT.
Q IF AN INCIDENT OF -- IF THAT DID TAKE PLACE, THEN YOU DON'T HAVE ANY RECORD?
A IF WHAT TOOK PLACE?
Q IF INDEED THEY DID MEET WITH YOU, YOU DON'T HAVE ANY RECORD THAT THEY DID. IS THAT CORRECT?
A CORRECT.
Q AND YOU DON'T HAVE ANY MEMORY OF IT. IS THAT CORRECT?
A IT VAGUELY -- VAGUELY SOUNDS FAMILIAR -- FAMILIAR THAT -- I MEET WITH HUNDREDS AND HUNDREDS OF PEOPLE DURING THE COURSE OF INVESTIGATIONS. I MEET WITH A LOT OF PEOPLE WHEN IT COMES TO JURISDICTIONAL ISSUES AND THINGS, IT'S SOMETHING THAT I MYSELF AM GOING TO OPEN UP A CASE ON, THEN I WILL DO THAT AND ATTEMPT TO THOROUGHLY DOCUMENT IT.
IT'S ALSO OTHER TIMES THAT PEOPLE COME AND ASK QUESTIONS ABOUT THINGS. AND ONCE I DETERMINE THAT IT'S NOT IN THE MYRTLE BEACH POLICE DEPARTMENT JURISDICTION, WHAT I DO IS I TRY TO HELP THEM OUT AS BEST I CAN AND SAY, WELL, WHAT YOU PROBABLY NEED TO DO IS THIS, THIS, AND THIS, AND THIS IS THE JURISDICTION THAT YOU NEED TO TALK WITH IF YOU'D LIKE TO GET SOME RESOLUTION IN THE MATTER.

Q IS THAT WHAT YOU THINK YOU TOLD THEM?
A YES.
Q AND YOU HAVE SOME MEMORY OF THAT?
A VAGUELY. SHE HAD INTRODUCED HERSELF PRIOR TO -- PRIOR TO THE -- TO TESTIFYING I HAD OVERHEARD HER INTRODUCE HERSELF TO SOMEONE ELSE AS CONNIE PRICE. AND LIKE I SAY, VAGUELY FAMILIAR, BUT I -- I DON'T RECALL THE SPECIFICS OF THE CONVERSATION.
Q THAT JOGGED YOUR MEMORY AND YOU HAVE A VAGUE MEMORY OF THE MEETING, BUT ONLY A VAGUE MEMORY; CORRECT?
A VERY VAGUE, BUT I KNOW FOR A FACT I DON'T RECALL THE NAME STEPHEN STANKO PRIOR TO THE INCIDENT, THE ACTUAL INCIDENT THAT HAD HAPPENED ON OR ABOUT THE EIGHTH OF APRIL.
Q BUT YOU DO HAVE A MEMORY YOU SAY OF A CITIZEN NAMED CONNIE PRICE?
A NOT -- NOT PARTICULARLY THAT NAME. LIKE I SAID, SHE HAD INTRODUCED HERSELF. AND BASED ON WHAT -- I CAN'T COMMENT ON HEARSAY, BUT BASED ON THE EVENTS THAT -- THERE'S NOTHING ELSE I CAN ADD AS FAR AS THAT -- THAT EVENING GOES.
Q NO FURTHER QUESTIONS.
THE COURT: ANY QUESTIONS FOR THE WITNESS?

CROSS-EXAMINATION

BY MR. HEMBREE:

Q SERGEANT BERTANG, SOCASTEE IS NOT IN THE JURISDICTION OF THE MYRTLE BEACH POLICE DEPARTMENT; IS IT?

A THAT'S CORRECT, IT IS NOT.

Q SOCASTEE LIBRARY IS NOT IN THE MYRTLE BEACH JURISDICTION?

A CORRECT.

Q THANK YOU, SIR.

THE COURT: ANY REDIRECT?

REDIRECT EXAMINATION

BY MR. KELLY:

Q SIR, IF -- IF CONNIE PRICE HAD MET WITH YOU AND SHE HAD REPORTED TO YOU ALLEGED CRIMES AND MISBEHAVIORS WERE IN YOUR DISTRICT, NOT TAKING PLACE AT THE LIBRARY, THEN YOU WOULD HAVE RESPONDED; CORRECT?

A CORRECT.

MR. KELLY: I HAVE NOTHING FURTHER OF THE WITNESS, JUDGE.

MR. HEMBREE: NO RE-CROSS.

THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE STATE?

MR. HEMBREE: NO, YOUR HONOR.

THE COURT: FROM THE DEFENSE?

MR. KELLY: GARY OWENS.

THE COURT: ANY EXCEPTION TO THIS WITNESS BEING EXCUSED?

MR. KELLY: OH, NO, MA'AM.

THE COURT: SIR, YOU'RE EXCUSED.

THE WITNESS: THANK YOU.

THE COURT: YOU MAY CONTINUE.

(WITNESS LEFT THE STAND.)

GARY OWENS, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. KELLY:

Q MR. OWENS, PLEASE SPEAK TO THE JURY OVER HERE SO THEY CAN HEAR EVERYTHING YOU SAY. WHERE DO YOU LIVE, GARY?

A 5208 LEE LANE, MYRTLE BEACH, SOUTH CAROLINA.

Q AND HOW LONG HAVE YOU LIVED IN THIS AREA?

A IN THIS AREA?

Q YEAH.

A SINCE 1990.

Q AND WHAT KIND OF WORK DO YOU DO OR HAVE DONE?

A I HAVE DONE DRYWALL WORK AND WARRANTY WORK FOR BUILDERS. AND THE LAST TWO YEARS I HAVE BEEN UP -- HAVEN'T BEEN DOING A WHOLE LOT. I WAS INJURED ON THE JOB AND HURT MY BACK, HAVE A RUPTURED DISK AND, YOU KNOW, LATELY I'VE JUST BEEN DOING LITTLE SIDE WORK FOR A FEW PEOPLE I KNOW, YARD WORK AND HOUSE WORK, PAINTING. I WORK PART-TIME WITH NICELY (SIC) PAINT.

Q DO YOU KNOW CONNIE PRICE?

A YES, I DO.
Q HOW DO YOU -- TELL THE JURY HOW YOU KNOW HER.
A I HAVE BEEN KNOWING CONNIE SINCE I WAS A TEENAGER. I MET HER IN COLUMBUS, GEORGIA WHERE SHE LIVED WITH HER FAMILY. HER FATHER WAS STATIONED AT FORT BENNING, GEORGIA, AND I HAVE BEEN KNOWING HER SINCE WE WERE KIDS.
Q AND SHE'S A VERY GOOD FRIEND OF YOURS?
A OH, YES.
Q GARY, DO YOU REMEMBER THURSDAY, APRIL 7TH, 2005?
A YEAH.
Q THAT WOULD BE THE DATE BEFORE LAURA LING WAS MURDERED. DO YOU REMEMBER THAT?
A YES, I DO.
Q WHAT DID YOU DO THAT MORNING?
A I DON'T REMEMBER A WHOLE LOT ABOUT THAT MORNING, BUT I REMEMBER A LOT ABOUT THAT EVENING, THOUGH, WHEN...
Q WHAT I'M ASKING IS, IN PARTICULAR ON THAT DAY, WHICH WAS A THURSDAY, DID YOU KEEP AN APPOINTMENT WITH--
MR. HUMPHRIES: OBJECTION, YOUR HONOR. LEADING.
THE COURT: SUSTAINED. LEADING.
MR. HUMPHRIES: THANK YOU.
BY MR. KELLY:
Q DID YOU SPEAK WITH--
MR. HUMPHRIES: OBJECTION, YOUR HONOR. LEADING.
THE COURT: WELL, I NEED TO HEAR THE WHOLE

QUESTION. MR. KELLY, YOU CAN CONTINUE.

BY MR. KELLY:

Q DID YOU SPEAK WITH OFFICER BERTANG?

A OH, YES. YES, I DID.

THE COURT: IT IS LEADING.

MR. HUMPHRIES: THANK YOU, YOUR HONOR. MR. KELLY--

THE WITNESS: I FORGET A LOT OF DAYS, BUT--

THE COURT: SIR, THERE IS AN OBJECTION PENDING.

THE WITNESS: OKAY.

THE COURT: IF YOU COULD BEAR WITH ME. MR. KELLY, IF YOU COULD REFRAIN FROM -- YOU MAY CONTINUE YOUR ANSWER, SIR.

THE WITNESS: YES, I REMEMBER MEETING WITH OFFICER BERTANG. ME AND CONNIE MET WITH HIM AT MYRTLE BEACH ANNEX.

BY MR. KELLY:

Q ABOUT WHAT TIME?

A I THINK THE APPOINTMENT WAS -- WAS NINE OR 10:00 IN THE MORNING, I BELIEVE. MIGHT HAVE BEEN 10.

Q HOW DID Y'ALL ARRIVE THERE?

A IN MY AUTOMOBILE.

Q WHY DID Y'ALL GO THERE AT THAT TIME?

A WENT THERE TO DISCUSS A FEW DIFFERENT THINGS WITH HIM. WE WENT TO DISCUSS ABOUT STEPHEN STANKO AND SOME OF

THE THINGS HE WAS DOING, ABOUT THE CRIMES HE COMMITTED AND HE WAS IMPERSONATING A LAWYER. THIS TIME WE KNEW IT. WE HAD SOME DOCUMENTS THAT WE COMPARED.

ONE OF THEM HE BROUGHT US WE KNEW IT WAS A FORGERY BECAUSE SIGNATURES DIDN'T MATCH. AND WE ALSO WENT THERE TO TALK ABOUT A LAURA WILLIAMS, THAT -- A GIRL WE KNEW THAT -- WE KNEW WE WANTED HER TO BE INVESTIGATED, SO...

Q HAVE YOU SEEN THIS OFFICER BERTANG SINCE THEN?

A YES, I SEEN HIM JUST A FEW MINUTES AGO--

Q WHERE DID YOU SEE HIM A FEW MINUTES AGO?

A -- IN THE WITNESS ROOM.

Q AND ON THAT DAY TELL US WHAT HAPPENED WHEN YOU -- FROM THE TIME Y'ALL WALKED IN TO THE POLICE STATION UNTIL YOU LEFT.

A WE WALKED IN, FIRST WE MET -- THERE WAS A LADY IN THE DESK. WE TOLD HER WE WAS THERE TO MEET WITH OFFICER BERTANG. AND A FEW MINUTES LATER HE GOT THERE. WE WENT IN AND TALKED TO HIM FOR 30, 45 MINUTES I KNOW AT LEAST.

Q WHERE DID YOU GO TO SPEAK WITH HIM?

A TO THE MYRTLE BEACH POLICE ANNEX BUILDING ON THE AIR BASE.

Q ONCE YOU GOT INTO THE ANNEX, WHERE DID YOU GO IN THE ANNEX TO MEET WITH HIM?

A IT WAS IN A SMALL ROOM LIKE DOWN ONE OF THE HALLS THERE IN...

Q AND AS -- DID YOU YOURSELF SAY ANYTHING TO MR. BERTANG ABOUT MR. STANKO YOURSELF?

A YES, I DID.

Q WHAT DID YOU SAY TO HIM?

A WELL, I SAID THAT HE WAS PRETENDING TO BE A LAWYER, WE DIDN'T THINK HE WAS A LAWYER, AND THAT WE THOUGHT HE THOUGHT HE WAS BECAUSE HE HAD BEEN TELLING, YOU KNOW, WE CAUGHT HIM IN SOME LIES AND HIS LIES JUST GOT BIGGER AND BIGGER AND A LOT OF THINGS HE SAID WE DIDN'T BELIEVE WAS TRUE LIKE MEETING WITH THE GUY THAT RUN FOR PRESIDENT, MR. EDWARDS, JOHN EDWARDS.

WE DIDN'T BELIEVE THAT, YOU KNOW. SO THERE WAS A LOT OF THINGS HE WERE SAYING THAT WAS KIND OF FAR-FETCHED, YOU KNOW.

Q WHEN DID YOU FIRST MEET STEPHEN STANKO?

A THAT WAS ON NOVEMBER 17TH, 2004.

Q WHY DO YOU REMEMBER THAT DAY?

A BECAUSE THE SAME DAY WE WENT TO THE LIBRARY. SHE WANTED TO THANK MS. LING FOR INTRODUCING HER TO HIM. AT THAT TIME WE THOUGHT HE WAS REALLY A LAWYER. AND HE DID, YOU KNOW, HE KNEW THE LAW. WE -- HE IMPRESSED US, YOU KNOW, WITH SOME OF HIS LAW STUFF.

AND ANY WAY, WE WENT TO -- SHE WANTED TO GO THANK LAURA. AND WHILE I WAS THERE, I GOT A LIBRARY CARD. AND I CALLED AND CHECKED, YOU KNOW, TO MAKE SURE THAT WHEN I

GOT THE CARD AND IT WAS ON NOVEMBER 17TH, 2004.
Q AND WHERE DID YOU MEET WITH MR. STANKO?
A WE MET HIM AT JOE'S RESTAURANT.
Q DID YOU PAY MR. STANKO ANY MONEY ON THAT OCCASION?
A NOT ON THAT OCCASION, NO.
Q DID YOU PAY MR. STANKO ANY MONIES BETWEEN THE 17TH OF NOVEMBER OF 2004 AND THE LAST TIME YOU SAW HIM?
A OH, YES. YES I DID, ON SEVERAL DIFFERENT OCCASIONS.
Q OKAY. WHAT WERE YOU PAYING HIM MONEY FOR?
A WELL, FOR RESEARCH. AND THE LAST -- THE BIG CHECK WE GIVE HIM WAS TO RETAIN A TRANSCRIPT OF A -- CONNIE'S CIVIL TRIAL.
Q AND DID -- DID -- WAS THAT EVER PRODUCED?
A NO, IT WASN'T.
Q WERE ANY OF THE THINGS THAT WERE PROMISED PRODUCED?
A WELL, HE -- HE PRODUCED A FEW DOCUMENTS THAT WE FELT WERE FORGED. HE DONE A LOT OF WORK. HE DONE A LOT OF RESEARCH AND HE DONE A LOT OF WORK ON PAPER AND ON THE COMPUTER. HE SHOWED US A LOT OF LAWS AND STUFF THAT HAD BEEN BROKEN BY THE SOLICITOR'S OFFICE.
Q DID -- I HEARD YOU MENTION FORGED DOCUMENTS. WHAT DOCUMENTS ARE YOU REFERRING TO?
A WELL, THE MAIN DOCUMENT WAS A DOCUMENT HE OBTAINED. HE SAID HE OBTAINED IT FROM VICTOR ROSS (SIC) RESCINDING THE DOCUMENT THAT HE HAD SIGNED FOR THE SOLICITOR'S

OFFICE.
Q AND WHOSE -- TO YOUR KNOWLEDGE WHOSE SIGNATURE HAD HE FORGED?
A VICTOR ROSS (SIC).
Q WHEN WAS THE LAST TIME YOU SAW STEPHEN STANKO?
A LAST TIME I SEE HIM -- I DON'T EXACTLY REMEMBER THE DATE, BUT I THINK IT WAS TWO DAYS BEFORE THE MURDER OCCURRED OR THE -- WELL, MIGHT HAVE BEEN THE DAY BEFORE. I THINK IT WAS TWO DAYS BEFORE.
Q TWO DAYS BEFORE THE DEATH OF LAURA LING.
A YES.
Q AND WHERE DID YOU SEE HIM?
A HE -- WELL, I WENT TO THE RECYCLING DUMP TO TAKE SOME GARBAGE AND STUFF. AND WHEN I COME BACK, HE WAS PARKED IN THE YARD.
Q COME BACK WHERE?
A TO CONNIE'S AT 5208 LEE LANE. HE WAS THERE TO TALK WITH CONNIE, I THINK, BUT...
Q 5208 LEE LANE?
A YES, SIR.
Q WHAT COUNTY IS THAT IN?
A THAT'S HORRY COUNTY.
Q AND IS THE MYRTLE BEACH -- WHERE IS MYRTLE BEACH POLICE DEPARTMENT, WHAT COUNTY?
A HORRY COUNTY.

Q WHAT WAS THE -- WHAT WAS STANKO'S BEHAVIOR AT -- COMPARE -- WELL, JUST TELL US WHAT HIS BEHAVIOR WAS LIKE IN THE LAST WEEK THAT YOU SAW--

A IT HAD BECOME PRETTY ERRATIC. HE WAS TALKING ABOUT CRAZY STUFF. THEN HE'D COME BY THE HOUSE ONE DAY TELLING CONNIE HE NEEDED TO COME INSIDE AND CHECK HER WIRING AND HER PLUMBING AND MAKE SURE EVERYTHING WAS UP TO CODE BEFORE HE COULD FILE A LAWSUIT.

AND SHE THOUGHT THAT WAS PRETTY WEIRD AND I DID, TOO. I KNEW SOMETHING WASN'T RIGHT. SOUNDED LIKE HE JUST WANTED TO GET IN THE HOUSE FOR SOMETHING FOR -- I DON'T KNOW, YOU KNOW. I DON'T KNOW WHAT THE REASON, BUT WE WERE KIND OF WORRIED ABOUT HIM.

Q WHAT WAS HE LIKE? WHAT WAS HIS BEHAVIOR WHEN YOU FIRST MET HIM?

A WELL, HE WAS PRETTY CALM AND, YOU KNOW, HAD A PRETTY GOOD OUTLOOK AND ALL. HE SEEMED PRETTY NORMAL, YOU KNOW. BUT I JUST -- I TOLD CONNIE AFTER WE MET HIM THE FIRST TIME, I SAID THERE'S SOMETHING ABOUT HIM, THE WAY -- I JUST LOOKED INTO HIS EYES AND I SAID SOMETHING -- SOMETHING IS NOT RIGHT WITH HIM.

HE'S JUST -- HE'S GOT THAT COLD STARE AND HE NEVER BELIEVES -- HE'S GOT SHARK EYES.

Q THAT WAS IN NOVEMBER?

A THAT WAS, YEAH, NOVEMBER 17TH.

Q ALL RIGHT. AND DID -- DID HIS BEHAVIOR CHANGE OR ALTER OVER THE TIME THAT YOU KNEW HIM FROM NOVEMBER TILL APRIL?

A YES, ESPECIALLY TOWARDS THE END THERE WHEN HE FOUND OUT SHE HAD BEEN TO TALK TO OFFICER BERTANG. THAT'S WHEN IT REALLY CHANGED AND HE BECOME ERRATIC THEN. HE JUST -- HE JUST -- JUST DIDN'T ACT RIGHT.

Q HOW, HOW ERRATIC--

A WELL...

Q -- DID HE BECOME?

A JUST QUESTIONING HER ABOUT WHY DID YOU GO TALK TO HIM, YOU KNOW, AND WHAT ARE YOU DOING TALKING TO HIM? WHAT FOR? WHAT DID Y'ALL TALK ABOUT? YOU KNOW, HE WANTED TO KNOW EVERYTHING. AND SHE TOLD HIM, I WENT TO TALK TO HIM ABOUT YOU.

Q SO HE KNEW THAT?

A YEAH, HE KNEW THAT.

Q AND YOU WERE AWARE THAT HE KNEW THAT--

MR. HUMPHRIES: OBJECTION. LEADING.

THE COURT: LEADING. SUSTAINED.

BY MR. KELLY:

Q HOW WERE YOU AWARE THAT--

MR. HUMPHRIES: OBJECTION. LEADING.

THE COURT: SUSTAINED. LEADING.

BY MR. KELLY:

Q WHAT OTHER ERRATIC THINGS WAS HE DOING?
A WELL, JUST -- MOSTLY JUST, YOU KNOW, A BUNCH OF LIES THAT HE WAS TELLING. HE WAS CONSTANTLY TELLING LIES. YOU KNOW, HE SAID HE HAD A JAGUAR, BUT EVERY TIME I SEE HIM, HE WAS DRIVING LAURA'S CAR.

AND YOU KNOW, MOSTLY JUST LIES, LIES ON TOP OF LIES. I FINALLY FIGURED OUT HE WAS PATHOLOGICAL LIAR.
Q DID HE EVER TAKE A TRIP WITH CONNIE?
A YES. HE WAS SUPPOSED TO TAKE CONNIE TO MEET WITH -- WELL, HE ACTUALLY WANTED TO TAKE US BOTH, BUT I WAS SICK THAT DAY AND I COULDN'T GO. AND HIM, CONNIE LEFT AND SHE SAID--

MR. HUMPHRIES: OBJECTION AS TO WHAT CONNIE SAID.

THE COURT: SUSTAINED. HEARSAY.

BY MR. KELLY:
Q DON'T TELL US WHAT SHE SAID. WHERE WERE THEY SUPPOSED TO GO?
A SUPPOSED TO MEET WITH ROBERT EDWARDS IN NORTH CAROLINA.
Q HOW DO YOU KNOW THAT?
A WELL, THAT'S WHAT HE HAD SAID -- THEY MADE, YOU KNOW, WE WERE SUPPOSED TO GO. HE TOLD US A COUPLE OF DAYS BEFORE HE WANTED US TO GO WITH HIM AND MEET WITH ROBERT EDWARDS. HE TOLD US WHAT DAY WE WERE GOING AND HE WOULD

BE THERE TO PICK US UP.

Q WHAT WAS EDWARDS' CONNECTION INTO THE THREE OF YOU?

A HE SAID ROBERT EDWARDS WAS GOING TO HELP HIM AND -- WITH HER CIVIL TRIAL, WITH HER CIVIL CASE THAT HE WAS GOING TO FILE FOR HER AGAINST THE SOLICITOR'S OFFICE.

Q DID HE EXHIBIT ANY AGGRESSIVE BEHAVIOR TOWARDS YOU?

A OH, NO, NEVER TOWARD ME.

Q DID YOU -- DID -- TOWARDS CONNIE IN YOUR PRESENCE?

A NOT IN MY PRESENCE, NO.

Q OR TOWARDS ANYBODY ELSE IN YOUR PRESENCE?

A NEVER IN MY PRESENCE, NO.

Q HOW OFTEN WOULD HE HAVE CONTACTED YOU AND CONNIE?

A SOMETIMES DAILY.

Q WHY SO OFTEN DO YOU THINK?

A I DON'T KNOW. HE JUST COME BY, HE'D CALL SOMETIME. LIKE SOMETIMES HE'D CALL AND SAY HE'S IN COLUMBIA OR HE'S IN CONWAY. AND THEN FIVE MINUTES LATER HE'D SHOW UP IN THE YARD AND HE'D BE THERE.

Q AFTER MEETING WITH OFFICER BERTANG AT MYRTLE BEACH PD, WERE YOU SATISFIED WITH THE RESULTS OF THE MEETING?

A OH, NO. NO.

Q WHY NOT?

A IT'S JUST A -- WEIRD SPIN ON IT. THEY REFER US TO HORRY COUNTY, HORRY COUNTY REFERRED HER TO THEM, YOU KNOW, JUST BACK AND FORTH. NOBODY WANTED TO DO ANYTHING, SO...

Q DID -- DON'T TELL ME WHAT OFFICER BERTANG SAID TO YOU, BUT DID BERTANG -- OFFICER BERTANG GIVE Y'ALL ANY ADVICE BEFORE YOU LEFT?

A HE JUST SAID IT--

MR. HUMPHRIES: OBJECTION.

BY MR. KELLY:

Q DON'T TELL ME WHAT HE SAID.

THE COURT: SUSTAINED. HEARSAY.

BY MR. KELLY:

Q JUST ANSWER. DID HE GIVE YOU ANY ADVICE?

A YES.

Q AND IF YOU HAD ACTED ON THAT ADVICE, WHERE WOULD YOU HAVE GONE?

A BACK TO THE SAME PLACE THAT SENT TO HIM.

Q WHERE?

A BACK TO THE SAME PEOPLE WHO SENT US TO HIM.

Q AND WHERE WOULD THAT HAVE BEEN?

A THAT WOULD BE HORRY COUNTY SOLICITOR'S OFFICE, HORRY COUNTY POLICE DEPARTMENT.

Q THANK YOU.

MR. KELLY: I HAVE NO FURTHER QUESTIONS.

THE COURT: ANY QUESTIONS FOR THE WITNESS?

CROSS-EXAMINATION

BY MR. HUMPHRIES:

Q LAURA WILLIAMS, WHO IS THAT?

A IT'S A GIRL WHO CONNIE'S FATHER KNOWS. HER FATHER USED TO BE A MYRTLE BEACH POLICE. HE'S DEAD NOW, BUT HE WAS A RETIRED MYRTLE BEACH POLICEMAN. HER SISTER WORKS AT MYRTLE BEACH POLICE DEPARTMENT, TOO.

Q AND Y'ALL WANTED TO GO TALK TO SERGEANT BERTANG ABOUT LAURA WILLIAMS?

A YES.

Q WHAT DID SHE DO?

A WELL, IT WAS SOMETHING TO DO WITH CONNIE'S MOTHER'S DEATH. HER MOTHER HAD DIED AND LAURA HAD STOLE HER CREDIT CARDS AND HER MILITARY ID AND WENT AND RUN UP A BUNCH OF BILLS WITH HER CREDIT CARD.

Q SO Y'ALL DIDN'T GO TALK TO -- AT THAT TIME DETECTIVE BERTANG JUST ABOUT STEPHEN STANKO?

A NOT JUST ABOUT HIM, NO.

Q NO. THERE WERE OTHER THINGS YOU WANTED TO TALK ABOUT.

A YEAH, THAT ONE OTHER THING, YEAH.

Q AND LET ME ASK YOU, IF DEFENDANT STANKO HAD GIVEN YOU BACK OR GIVEN CONNIE BACK -- ACTUALLY IT WAS YOUR MONEY; WASN'T IT?

A YES.

Q IT WAS. IT WASN'T CONNIE'S MONEY. YOU GAVE IT TO--

A I GAVE IT TO HIM, YES.

Q -- HIM FOR HER?

A YES, FOR HER.
Q AND IF HE HAD GIVEN Y'ALL THE MONEY BACK, Y'ALL WOULDN'T HAVE GONE TO THE POLICE; WOULD YOU?
A YES.
Q EXCUSE ME?
A YES, WE WOULD.
Q IF HE HAD GIVEN YOU YOUR MONEY BACK, YOU'D HAVE STILL GONE TO THE POLICE?
A WE DIDN'T WANT -- WE DONE BEEN TO THE POLICE.
Q THAT'S WHAT I'M ASKING. I'M ASKING -- JUST LISTEN TO MY QUESTION. I'M ASKING, IF AFTER HAVING REQUESTED YOUR MONEY PRIOR TO GOING TO THE POLICE, IF HE -- AFTER ASKING FOR YOUR MONEY, HE HAD GIVEN YOU YOUR MONEY, YOU WOULD HAVE NEVER THEN GONE TO SEE DETECTIVE BERTANG; WOULD YOU?
A IT'S HARD TO SAY. I DON'T KNOW. I MIGHT NOT HAVE, BUT I KNOW SHE WOULD.
Q WELL, WE -- I CAN ONLY ASK YOU.
A YEAH.
Q IF YOU'D GOT YOUR MONEY BACK--
A WELL--
Q -- THAT WOULD HAVE REALLY BEEN THE END OF--
A I WOULDN'T HAVE BEEN SATISFIED, NO.
Q WOULDN'T HAVE BEEN SATISFIED?
A NO, I WOULDN'T.
Q WITH YOUR MONEY BACK.

A NO.
Q OKAY.
A NO, I WOULDN'T BE SATISFIED WITH NOTHING LESS THAN JUSTICE.
Q OKAY.
A WHICH IS HARD TO GET AROUND HERE.
Q IS IT?
A IT SURE IS. I HAVE SEEN THAT.
Q HAVE YOU?
A YES, I HAVE. YOU WANT TO KNOW WHERE?
Q NO. THAT'S FINE.
A OKAY.
Q THANK YOU NOW.

THE COURT: ANY REDIRECT FOR THE WITNESS?

MR. KELLY: NO, MA'AM.

THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE STATE?

MR. HUMPHRIES: NONE FROM THE STATE.

THE COURT: FROM THE DEFENSE?

MR. KELLY: NO, MA'AM.

THE COURT: SIR, YOU'RE EXCUSED.

(WITNESS LEFT THE STAND.)

THE COURT: YOU MAY PROCEED.

MR. DIGGS: YOUR HONOR, WE HAVE ONE ADDITIONAL WITNESS, BUT THAT WITNESS HAS A COMPUTER. WE WOULD

LIKE TO HAVE JUST TWO OR THREE MINUTES TO CONNECT IT UP TO THE SCREEN.

THE COURT: GO RIGHT AHEAD.

MR. DIGGS: THANK YOU.

THE COURT: YOU'RE WELCOME.

(WHEREUPON THERE WAS A PAUSE.)

MR. DIGGS: WE'RE GOING TO CALL DR. EVELYN CALIFF TO THE STAND AT THIS POINT.

THE COURT: OKAY. PLEASE COME TO THE WITNESS STAND, PLEASE, AND BE SWORN.

DR. EVELYN CALIFF,

AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE WITNESS: MY NAME IS EVELYN C CALIFF, C-A-L-I-F-F, AS IN FRANK.

DIRECT EXAMINATION

BY MR. DIGGS:

Q NOW DR. CALIFF, YOU PREPARED A POWERPOINT PRESENTATION TO HELP YOU EXPLAIN YOUR TESTIMONY IN THIS CASE?

A SOME OF THEM.

Q ALL RIGHT. AND YOU HAVE SOMEONE HERE TO HELP YOU--

A YES.

Q -- CONNECT YOUR COMPUTER UP TO OUR SCREEN.

A CORRECT.

Q ALL RIGHT.

MR. HUMPHRIES: YOUR HONOR, JUST FOR PURPOSES OF THE RECORD, MR. DIGGS HAS SHOWN ME HARD COPIES OF--

THE COURT: NO SPEAKING STATEMENTS IN THE PRESENCE OF THE JURY.

MR. HUMPHRIES: I WAS JUST STIPULATING TO THE EVIDENCE.

THE COURT: OKAY.

MR. HUMPHRIES: THAT'S ALL I WAS DOING.

THE COURT: ALL RIGHT. REDACT ALL THE REST OF IT THEN, IF YOU STIPULATE.

MR. HUMPHRIES: STIPULATE TO THE POWERPOINT WHICH HAS BEEN SHOWN TO ME BY HARD COPY, AND I WILL STIPULATE TO DR. CALIFF'S EXPERTISE IN THE AREA OF FAMILY COUNSELING.

THE COURT: OKAY. SO ADMITTED.

MR. DIGGS: THANK YOU.

THE COURT: YOU'RE WELCOME. STIPULATION NOTED FOR THE RECORD.

MR. HUMPHRIES: THANK YOU.

THE COURT: YOU'RE WELCOME.

BY MR. DIGGS:

Q RATHER THAN WASTE TIME ON IT, DR. CALIFF, YOUR -- IT'S A POSSIBILITY -- MY UNDERSTANDING WE'RE LACKING A PROGRAM ON THAT PARTICULAR COMPUTER THAT WILL ALLOW US TO THROW THAT IMAGE OVER HERE.

SO LET'S JUST GO AHEAD AND DO YOUR TESTIMONY WITHOUT THAT PARTICULAR POWERPOINT, AND PERHAPS WE COULD -- WE WILL GO THROUGH THIS. IF NEED BE, WE CAN INTRODUCE THE HARD COPY, BUT LET'S JUST GO AHEAD AND HAVE YOU TESTIFY ABOUT YOUR INVOLVEMENT IN THIS CASE.

TELL US A LITTLE BIT ABOUT YOUR EDUCATION AND YOUR PROFESSIONAL DEGREES, PLEASE MA'AM. TELL US WHAT YOU DO.

A THAT'S A VERY HARD THING TO DO SINCE I DO SO MUCH, BUT I'M GOING TO WORK AT IT REALLY HARD. IT IS A -- AN INTERESTING THING THAT WHEN YOU'RE IN PRIVATE PRACTICE AND YOU SEE ALL TYPES OF CLIENTS AND PATIENTS BUT YOU ALSO DO MANY OTHER THINGS LIKE A LOT OF NON-PROFIT THINGS WHICH HAPPENS TO BE -- CONSUMES A TREMENDOUS AMOUNT OF TIME THROUGH THE PARENTS ANONYMOUS THAT I DO, PLUS TEENS -- I DO A TRIP FOR A TEEN NON-PROFIT THAT HAS A LOT OF PARENTS AND KIDS AND SO FORTH.

SO I DON'T HAVE AN AWFUL LOT OF TIME FOR MY OWN PRIVATE PRACTICE, BUT SUPPOSED TO BE PART-TIME AND IS NOT. BUT I DO DO AS MUCH AS I CAN IN THAT. AND WHEN I DO THAT, I HAVE A PRIVATE PRACTICE AT MYRTLE BEACH.

Q AND WHAT DO YOU DO IN PRIVATE PRACTICE? WE HAVE INTRODUCED YOU AS AN EXPERT IN FAMILY COUNSELING.

A RIGHT.

Q WHAT DO YOU DO IN YOUR PRIVATE PRACTICE IN THAT REGARD?

A WELL, IT'S NOT ONLY FAMILIES, THAT'S -- I DO ALMOST ANYTHING THAT MOST COUNSELORS DO. I HAVE A -- CAN YOU HEAR ME IF I SIT BACK?

THE COURT: PULL THE MICROPHONE A LITTLE CLOSER TO YOU OR PULL YOUR CHAIR UP A LITTLE BIT CLOSER, THEN WE CAN START LIKE THAT.

THE WITNESS: THERE WE GO.

THE COURT: OKAY.

THE WITNESS: ONE OF THE THINGS THAT I DO IN MY PRIVATE PRACTICE IS THAT I HAVE CLIENTS WHO HAVE DEPRESSION, ANXIETY. I WORK WITH SCHOOL PROBLEMS, VISITATION.

I AM A COURT MEDIATOR, DIVORCE MEDIATOR THROUGH -- DO A GOOD BIT OF THAT. I ALSO PROVIDE A LOT OF TEACHING, CONSULTANTSHIP, AND OTHER ISSUES RELATED TO MANY -- THE THINGS THAT I DO.

BY MR. DIGGS:

Q DO YOU DO COUNSELING AND EVALUATIONS OF FAMILIES WITH RESPECT TO FAMILY -- FAMILY DYNAMICS, MEANING THE INDIVIDUAL MEMBERS WITHIN THE FAMILY AND THE FAMILY STRUCTURE AND WHAT MIGHT BE CHARACTERIZED AS A DYSFUNCTIONAL FAMILY AS OPPOSED TO A FAMILY THAT IS NOT DYSFUNCTIONAL?

A I DO. ONE OF THE THINGS THAT I DO IN ABOUT, ABOUT 40 PATIENTS THAT ARE FAMILIES, TOTAL FAMILIES A WEEK, IS I

HAVE TRAINING FOR THEM, BUT BEFORE I CAN PLACE THEM IN ANY KIND OF SERVICES, I HAVE TO EVALUATE THEM. MOST OF THEM HAVE VERY DIFFICULT SITUATIONS.

SO IN ASSESSING THEM, I HAVE EVERYTHING FROM ALCOHOL AND DRUGS -- AND AS AN ADDICTION SPECIALIST, I DO WORK WITH INDIVIDUALS IN THAT ANY WAY, SO WE DO SOME ASSESSMENT THERE.

I ALSO ATTEMPT TO FIND OUT ALL OF THE DIAGNOSIS THAT THEY MAY HAVE SO THAT WHEN WE'RE WORKING IN FAMILY COUNSELING, WHAT WE DO IS WE HAVE -- LEAVE NO STONE UNTURNED TO BE ABLE TO MAKE SURE THAT THAT FAMILY PROGRESSES.

Q ALL RIGHT. NOW, ARE THERE -- DO PEOPLE DO RESEARCH INTO THIS KIND OF ISSUE IN TERMS OF DYSFUNCTIONAL FAMILIES AND IS THERE A RECOGNIZED KIND OF A DEFINITION OF A DYSFUNCTIONAL FAMILY OR CATEGORIES OF DYSFUNCTIONAL FAMILIES?

A RIGHT. DYSFUNCTIONAL--

Q TELL US ABOUT THAT.

A DYSFUNCTIONAL FAMILY IS CERTAINLY ANYTHING THAT CAUSES A FAMILY AS A DYSFUNCTION NOT TO BE A FAMILY OR TO BE ABLE TO OPERATE OR TO LIVE AND TO DO A GOOD JOB WITH THEIR CHILDREN. SO ANYTHING CAN BE DYSFUNCTIONAL.

HOWEVER, WHEN WE TALK ABOUT DYSFUNCTIONAL FAMILIES, WE TALK ABOUT THINGS LIKE ALCOHOLIC FAMILIES, THOSE WHO

HAVE MAYBE ILLNESSES, THOSE WHO HAVE POVERTY AND CERTAIN HEALTH ISSUES MAYBE COMING UP AS SO THEY CANNOT DO A GOOD JOB OF LIVING AND HAVING THEIR FAMILY MEMBERS EXCEL.

SO ALMOST ANYTHING IS A DYSFUNCTION, AND MOST OF US HAVE SOME. IF WE ARE NOT -- NONE OF US ARE PERFECT AND NEITHER HAVE I FOUND ANY PERFECT FAMILIES.

HOWEVER, IF SOMETHING BECOMES CHRONIC OR IT CAUSES DIFFICULTY AND YOU CANNOT GET AN ANSWER FOR IT, THEN -- AND GET SOME HELP WITH IT, THEN IT BECOMES A LIABILITY THERE IN THE FAMILY.

IT IS VERY INTERESTING THAT THE RESEARCH SHOWS MANY DIFFERENT KINDS OF THINGS THAT OCCUR IN FAMILIES THAT CAUSE THEM TO NOT DO WELL IN THE COMMUNITY AND WE HAVE A LOT OF PEOPLE WHO ARE JUST IN POVERTY, AND SO SOME OF THE ISSUES THERE ARE CAUSING DIFFICULTY FOR THEM.

Q I KNOW IN AN ARTICLE THAT YOU HAD PROVIDED ME THAT KIND OF SET OUT AN OVERVIEW OF THIS PARTICULAR TOPIC, DR. -- IS IT KIZIARD -- HAD IDENTIFIED FOUR MAJOR -- OR FOUR TYPES OF DYSFUNCTIONAL FAMILIES THAT SHE HAD STUDIED OR THAT THE DOCTOR HAD STUDIED. AND ONE OF THEM WAS A RIGIDLY DOGMATIC FAMILY SYSTEM. WHAT IS THAT?

A DOGMATIC MEANS THAT THERE ARE VERY MANY THINGS WITHIN THE FAMILY THAT ARE NOT AVAILABLE BECAUSE THERE ARE SOME RIGIDITY ISSUES THERE. AND IF YOU ARE LOOKING AT A FAMILY MEMBER WHO MIGHT BE THE PERSON IN THE FAMILY THAT IS IN

CONTROL OF THIS FAMILY, THEN IT CAUSES A TREMENDOUS AMOUNT OF PROBLEMS, DOES ALSO MAKE SURE THAT IT IS CLASSED AS A DYSFUNCTIONAL SITUATION.

Q NOW, CAN YOU TELL US ABOUT STEPHEN'S FAMILY AND WHETHER IN YOUR OPINION IT SHOWED SIGNS -- HIS FAMILY SHOWED SIGNS OF ANY DYSFUNCTION?

A VERY MUCH SO.

Q AND TELL US ABOUT THAT AND HOW.

A WHEN I DID THE GENOGRAM THAT WE WOULD BE ABLE TO SEE -- BY THE WAY, I HAVE AN EXTRA COPY. WOULD YOU LIKE FOR ME TO GIVE IT TO THE JUDGE?

Q WELL, LET ME SHOW YOU. IS THIS WHAT YOU'RE TALKING ABOUT?

A YES.

MR. DIGGS: YOUR HONOR, COULD WE HAVE THIS MARKED AS A DEFENDANT'S EXHIBIT?

THE COURT: PLEASE LET THE DEFENSE -- I MEAN THE STATE SEE IT.

MR. HUMPHRIES: DON'T HAVE ANY OBJECTION.

THE COURT: MARKED AND ADMITTED WITHOUT OBJECTION.

(WHEREUPON, DEFENDANT'S EXHIBIT 41 WAS ADMITTED INTO EVIDENCE.)

BY MR. DIGGS:

Q DO YOU HAVE AN EXTRA COPY THERE?

A I DO.
Q IS THAT YOUR LAST COPY?
A NO.
THE COURT: DID YOU NEED IT?
MR. DIGGS: NO, YOUR HONOR. YOU CAN KEEP THAT.
THE WITNESS: I HAVE ANOTHER ONE.
BY MR. DIGGS:
Q IF YOU HAVE ANOTHER COPY, MAYBE YOU COULD LET ME USE IT. I'M GOING TO LEAVE THAT UP THERE AND -- THE JURORS WHO WANT TO FOLLOW ALONG WITH IT. ALL RIGHT.

I HAD ASKED YOU ABOUT STEPHEN'S FAMILY AND YOU WERE GOING TO TELL US IN YOUR OPINION HOW HIS FAMILY MIGHT FIT INTO THIS PARTICULAR STRUCTURE THAT WAS IDENTIFIED BY DR...

A WITHIN ALL THE INFORMATION THAT I WAS ABLE TO GATHER, THERE WERE MANY DYSFUNCTIONAL ISSUES, BUT PROBABLY THE ONE THAT WAS THE HARDEST FOR THE CHILDREN WAS THE FACT THAT THE FATHER WAS VERY RIGID. HE WAS MORE MILITARY.

HE DID -- HE SEEMED TO IN MANY CASES REJECT SOME OF HIS CHILDREN AND THEIR WAYS. IF -- IF THE CHILD DID NOT DO SOMETHING THAT HE WANTED THE CHILD TO DO, HE WOULD WITHDRAW.

AND IT WAS ALMOST LIKE -- WE CALL IT ABUSE WHEN SOMEONE GETS VERY SILENT AND DOES NOT SPEAK TO YOU. AND I FOUND THAT WAS ONE OF THE OVERRIDING ISSUES WITH

MR. STANKO.

Q AND--

A AND HE COULD NEVER GET ENOUGH -- MR. STANKO COULD NEVER GET ENOUGH PLEASANT THINGS FROM HIM. HE WAS ALWAYS TRYING -- WHAT SOME PEOPLE CALL APPROVAL ADDICTION. HE WAS ALWAYS TRYING TO GET ATTENTION AND KINDNESS FROM HIM.

Q OKAY. NOW, YOU'RE TALKING ABOUT STEPHEN AND HIS RELATIONSHIP WITH HIS FATHER?

A YES.

Q WHO WE HAVE HEARD WAS IN THE MILITARY.

A RIGHT. HE WAS AT ONE POINT. BUT IF -- AS I LOOKED FURTHER IN THIS FAMILY -- AND I WILL COME BACK TO HIM IN JUST A MINUTE -- BUT THERE WERE OTHER ISSUES. EACH OF THE CHILDREN SEEMED TO DEAL WITH THIS DIFFERENTLY.

ONE CHILD WAS A -- A PERSON WHO WAS REBELLING AND DID NOT SEEM TO TRY TO PLEASE THE FATHER. THERE WAS ANOTHER ONE WHO -- ONE OF THE GIRLS -- WHO WANTED TO TRY TO PLEASE, WAS KIND OF FEARFUL OF BEING ABLE TO STAND UP AND DID NOT WISH THE APPROVAL TO BE TAKEN AWAY FROM HER.

THERE WAS ANOTHER ONE, THE OTHER YOUNG LADY, WHO EARLIER IN THE TIME WAS SORT OF REBELLING AGAINST HIM, BUT THEN NOW-A-DAYS SEEMS LIKE SHE IS LEANING MORE TOWARD GETTING HIS ATTENTION AND WORKING WITH HIM, TRYING TO PLEASE HIM, IN OTHER WORDS.

Q DO YOU KNOW WHAT STEPHEN'S RELATIONSHIP WITH -- WITH

HIS FATHER IS TODAY?

A I KNOW THAT HE HAD NOT SPOKEN TO -- HIS FATHER HAD NOT SPOKEN TO HIM IN 10 YEARS.

Q AND BASED ON YOUR REVIEW AND IN YOUR EXPERT OPINION, YOUR REVIEW OF THE MATERIALS THAT WERE PROVIDED TO YOU IN THIS CASE--

A YES, SIR.

Q -- AND YOUR INTERVIEWS WITH MR. STANKO, WHY HAS THERE BEEN THIS 10 YEAR GAP IN ANY COMMUNICATION BETWEEN STEPHEN STANKO AND HIS FATHER?

A HE DISPLEASED HIS FATHER EVEN THOUGH HE WAS GOOD IN SCHOOL AND DID REALLY WELL UP UNTIL HE DID NOT GET INTO THE MILITARY ACADEMY.

Q OKAY.

A AND HE HAD VISION PROBLEMS. AND SO WHEN HE DID NOT GET INTO THE MILITARY ACADEMY, HE BECAME RATHER DEPRESSED, AND THAT WAS BECAUSE OF HIS EYES.

Q THAT'S STEPHEN?

A UH-HUH.

Q OKAY.

A HE BECAME DEPRESSED, BUT HIS FATHER DID NOT GIVE HIM ANY -- I GUESS WE WOULD CALL IT ANY SUPPORT FOR NOT -- FOR HAVING THE DISABILITY WITH THE EYES AND NOT GETTING IN BECAUSE HE WAS -- HE WAS BRILLIANT IN SCHOOL, DID A GREAT JOB, AND TRIED TO GET IN.

Q YES, MA'AM. AND THAT -- STEPHEN WAS A GOOD STUDENT?
A YES, HE WAS.
Q WELL-BEHAVED?
A BUT THE ISSUE WAS THEN AFTER THAT WHEN HE BECAME DEPRESSED, THEN -- ABOUT THAT -- FEELING THAT THAT WAS REALLY THE THING THAT HIS FATHER WOULD TRULY LIKE ABOUT HIM, THAT HE COULD GET IN BECAUSE THERE WERE OTHER KIDS IN THE FAMILY WHO HAD WANTED IN, AND -- BUT HE WAS JUST NOT SUPPORTING IN THAT.

AND FROM THAT TIME ON IT APPEARED TO ME FROM ALL THE -- THE THINGS THAT I HAVE SEEN AND READ THAT IT APPEARED TO ME THAT HE WENT DOWNWARD.

Q NOW, STEPHEN HAS TWO -- HIS TWO PARENTS ARE ALIVE?
A YES.
Q AND HE HAS HOW MANY SIBLINGS ALIVE?
A HE HAS TWO SISTERS WHO ARE ALIVE. HE ALSO HAS A BROTHER WHO IS ALIVE.
Q AND HE HAS ONE DECEASED BROTHER; ISN'T THAT CORRECT?
A YES.
Q SO THERE ARE FIVE IMMEDIATE FAMILY MEMBERS--
A YES.
Q -- WHO ARE ALIVE AND WELL--
A YES.
Q -- TODAY. AND THEY ARE -- CAN YOU DESCRIBE THEIR ECONOMIC CIRCUMSTANCES? ARE THEY RELATIVELY WHAT WE WOULD

CALL MIDDLE CLASS, FOR EXAMPLE?
A I WOULD SAY SO.
Q AND IN GOOD HEALTH?
A THEY ARE IN PRETTY GOOD HEALTH. I THINK THEY HAVE SOME -- FROM ALL I CAN TELL THEY HAVE SOME MENTAL ISSUES THEMSELVES THAT THEY PROBABLY NEED SOME COUNSELING.
Q LET ME ASK YOU THIS. DO YOU KNOW THAT MR. STANKO IN THIS TRIAL IS ON TRIAL FOR HIS LIFE?
A I DO.
Q WHAT -- DO YOU HAVE ANY COMMENT ABOUT THE FACT THAT THROUGH THIS ENTIRE PROCESS, NOT ONE FAMILY MEMBER HAS EVER APPEARED IN COURT IN SUPPORT OF HIM?
A I WAS VERY SAD THAT -- I THOUGHT HIS SISTER PEGGY WAS PROBABLY GOING TO BE ABLE TO COME--
Q YES, MA'AM.
A -- AND SHE HAD TRIED TO GET HERE, BUT IT JUST -- THERE WERE TOO MANY THINGS AND SHE JUST DID NOT NOR WOULD SHE COME WHEN WE WERE TRYING TO GET HER HERE BECAUSE SHE SEEMED TO -- EVEN AFTER ALL OF HER THERAPY, SHE SEEMED TO BE PULLING OUT OF SOME OF THE ISSUES THAT SHE HAD.

BUT SHE'S HAD THERAPY A LONG TIME. AND TO MY KNOWLEDGE SHE'S THE ONLY ONE OF ANY OF THEM WHO HAVE HAD THERAPY. AND--
Q NOW, IS THE ABSENCE -- OR HE HAS -- IT'S OBVIOUS AT THIS TIME IN THIS TRIAL THERE'S NO FAMILIAL SUPPORT--

A THERE IS NOT.
Q -- THAT STRUCTURE. IS -- IN YOUR EXPERT OPINION AND AS A COUNSELOR BASED ON WHAT YOU KNOW ABOUT THE FAMILY STRUCTURE WITH -- IS THAT SURPRISING TO YOU OR WOULD IT HAVE BEEN PREDICTABLE?
A IT WOULD BE PREDICTABLE TO ME.
Q WHY? WHY IS THAT?
A ANY TIME YOU HAVE ONE MEMBER OF THE FAMILY THAT EVERYONE EVOLVES AROUND AND YOU HAVE A -- AN ENABLER WHO WOULD HAVE BEEN A SPOUSE, MOTHER--
Q MOM?
A -- AREA, THEN EVERYTHING IN THAT FAMILY EVOLVES AROUND THAT IDEA, THAT THOUGHT, THAT LIKING, MAKING SURE EVERYTHING IS OKAY WITH THAT, OR YOU START REBELLING AGAINST.
THAT'S BEEN THE GENERAL USUAL KIND OF DYSFUNCTIONAL FAMILY ISSUES IN THESE KIND OF THINGS.
Q AND WOULD IT BE FAIR TO SAY -- AND I DON'T WANT TO PUT WORDS IN YOUR MOUTH ABOUT IT -- BUT THERE IS NO ONE AT THIS TIME IN THE FAMILY REBELLING, THEY ARE STILL REVOLVING AROUND THE FATHER'S INFLUENCE OVER THE FAMILY UNIT--
A THAT'S TRUE.
Q -- EVEN THOUGH THEY'RE WELL INTO THEIR ADULT YEARS AND EMANCIPATED?

A THEY ARE. AND I CAN UNDERSTAND HIS FATHER'S FEELINGS, AS WE ALL WOULD ABOUT ANY CHILD, BUT NOT FOR 10 YEARS. THAT'S VERY HARD. MOST OF US WHO ARE PARENTS REALIZE THAT OUR CHILDREN ARE NOT GOING TO BE PERFECT AND WE DO HAVE TO UNDERSTAND AND TRY TO HELP IN EVERY WAY WE CAN WHEN THINGS START.

Q ALL RIGHT. NOW, CAN THE TYPE OF DYSFUNCTIONAL FAMILY STRUCTURE THAT WE'RE DESCRIBING HERE, CAN IT ACTUALLY HAVE AN INFLUENCE ON A CHILD'S CONDUCT AND PERSONALITY AND CHARACTER AND SO FORTH AS THEY MATURE AND GROW?

A ALWAYS. YOU ALWAYS--

Q AND WHY DO YOU SAY THAT AND TELL US HOW.

A IF YOU BEGIN TO NOT BE APPROVED OF AND YOU STILL ARE TRYING SO HARD TO GET APPROVAL FROM SOMEONE AND YOU BEGIN TO LOOK AT THOSE THINGS, YOU START BUILDING YOURSELF UP.

AND I THOUGHT IT WAS REALLY INTERESTING ON THOSE WHO HAVE ASSESSED MR. STANKO THAT MOST ALL THE TIME THEY CAME IN WITH NARCISSISTIC PERSONALITY DISORDER, AND I CAN UNDERSTAND THAT BECAUSE IT'S TRULY--

Q BEFORE YOU GO ON WITH THAT, TELL US WHAT THAT DISORDER MEANS. WHAT DO YOU MEAN BY NARCISSISTIC DISORDER?

A IT MEANS THAT YOU REALLY THINK YOU'RE GREAT AND YOU'RE ALWAYS GRANDIOSO, AND -- BUT ACTUALLY WHAT THAT MEANS IS NOT THAT. WHAT IT MEANS IS MANY DIFFERENT

THINGS, BUT MOST OF THE TIME YOU HAVE LOW SELF-ESTEEM, WHEN YOU DO NOT FEEL THAT YOU HAVE -- INSIDE THAT YOU HAVE ANY REAL GOOD THINGS ABOUT YOU.

Q NOW, DID YOU HAVE AN OPPORTUNITY TO LOOK AT THE MEDICAL EVIDENCE THAT HAD BEEN PROVIDED TO STEPHEN IN HIS DEFENSE IN THIS CASE, PARTICULARLY THE PET SCANS AND MRI DATA?

A I DID.

Q AND HOW WOULD YOU CHARACTERIZE -- OR KNOWING THE FUNCTIONAL IMPAIRMENT IN MR. STANKO, STEPHEN STANKO'S BRAIN, WITH THE FAMILY STRUCTURE THAT HE GREW OUT OF--

A WELL, I--

Q -- COULD THERE BE -- HOW WOULD THAT -- HOW WAS THAT LIKELY TO WORK OR INTERPLAY IF AT ALL--

MR. HUMPHRIES: I'M GOING TO OBJECT TO THIS BEING OUTSIDE THE AREA OF HER EXPERTISE IF SHE'S GOING TO TESTIFY ABOUT PET SCAN AND THE MRI.

THE COURT: LAY THE APPROPRIATE FOUNDATION. SUSTAINED.

BY MR. DIGGS:

Q IF -- WITHIN YOUR AREA OF EXPERTISE IN TERMS OF FAMILY DYNAMICS, WOULD -- IS THE FAMILY STRUCTURE HERE SOMETHING THAT WOULD ASSIST MR. STANKO IN A POSITIVE WAY OR IN A NEGATIVE WAY?

A WHETHER OR NOT HE HAD ANY KIND OF DAMAGE--

Q YES, MA'AM.
A -- TO THE BRAIN--
Q YES.
A -- IT WOULD BE VERY -- JUST REAL REASONABLE, I WOULD THINK TO ANYBODY IN THIS COURTROOM AS WELL AS MYSELF FROM SEEING MANY CASES, THAT WHEN YOU HAVE NO SUPPORT, EVEN A BABY WILL FAIL TO THRIVE. IF YOU DO NOT PICK THE BABY UP, IF YOU DO NOT HOLD THE BABY, YOU DO NOT TALK TO THE BABY.

AND IN MY WORK WITH THAT, I HAVE SEEN MANY CHILDREN FAIL TO THRIVE BECAUSE THAT IS NOT DONE. IF YOU FOLLOW THAT ALL THE WAY UP TO THE GRADE SCHOOL, TO HIGH SCHOOL, AND ON UP TO THE MILITARY ACADEMY AND OTHER THINGS WHERE YOU HAVEN'T BEEN INVOLVED IN BAD THINGS, WHERE YOU ARE NOT A -- A DRUGGIE, YOU ARE NOT DOING ANY OF THE JUVENILE THINGS THAT WE OFTEN SEE TRIED UNTIL YOU GET THROUGH HIGH SCHOOL AND THEN YOU ARE HURT WITH A LOT OF ISSUES THERE.

I THINK -- AND ANOTHER CONTRIBUTING THING THERE WAS WHEN HIS -- WHEN HIS BROTHER WAS KILLED BECAUSE HE WAS VERY CLOSE TO HIM. AND I BELIEVE THAT BOTH OF THOSE THINGS, BUT PARTICULARLY HIMSELF, WHEN I INTERVIEWED HIM, IT WAS THE ONLY TIME I SAW SOME REAL FEELINGS--
Q UH-HUH.
A -- FROM HIM IS WHEN WE TALKED ABOUT THAT. AND THAT GOES INTO, WHEN YOU SEE A PERSON EXAGGERATE, WHEN YOU SEE THEM BE A PATHOLOGICAL LIAR BECAUSE THEY'RE HOLDING

THEMSELVES UP, AND THEY ARE ALSO TELLING EVERYBODY ELSE WHAT THEY DO AND THEY CAN DO THIS AND THEY CAN DO THAT, AND IT'S REALLY -- IT'S UNDERSTANDABLE TO ME WHY PEOPLE DO THAT.

I DON'T SAY THAT IT'S RIGHT, BUT IT IS UNDERSTANDABLE. AND WHAT WE TRY TO DO IS TO GET PEOPLE TO SEE WHAT THE TRUTH IS, AND YOU THEN KNOW WHO YOU ARE AND YOUR REAL SELF, YOU GET IN THERE AND YOU DON'T HAVE TO DEPEND ON ANOTHER PERSON FOR YOUR IDENTITY, BUT SOMEBODY HAS TO LEAD YOU THAT WAY WHEN YOU COME UP IN A VERY RIGID HOME, AND THAT'S ALL THE PERSON YOU WANTED TO PLEASE.

Q WHEN DID STEVE STOP GETTING SUPPORT FROM HIS FAMILY IN HIS LIFE, IF YOU KNOW?

A I DON'T THINK HE EVER TRULY HAD VERY MUCH SUPPORT, BECAUSE OF EVERYTHING I HAVE BEEN ABLE TO SEE, HE WAS THE ONE WHO WANTED TO GET GOOD GRADES. HE WAS GETTING SUPPORT AWAY FROM HOME.

NOW, HIS MOTHER GAVE HIM SOME, BUT SHE COULD NOT INTERCEDE BETWEEN THE FATHER WHO WAS HER CHARGE AND THE ENABLER FOR HIM. AND SO I DO NOT BELIEVE HE EVER REALLY HAD A LOT OF SUPPORT.

Q ARE YOU SURPRISED THAT HE HAD ON OCCASIONS EXCEPTIONAL RELATIONSHIPS WITH HIS TEACHERS?

A NO, NO, NO, I'M NOT. AND THE REASON I WOULDN'T BE IS BECAUSE WHEN KIDS ARE NOT HAPPY AT HOME OR THEY'RE NOT

GETTING SUPPORT AT HOME, WHERE DO THEY GO? IF THEY ARE SMART, THEY LOOK AT A GOOD ONE THERE IN SCHOOL.

AND MANY OF US HAVE HAD TEACHERS, THEY HAVE BEEN EXCELLENT FOR US, AND THEY ARE THOSE -- ROLE MODEL THAT WE NEEDED, AND WE MOVE FORWARD WHEN THAT HAPPENS.

AND JUST IN COUNSELING, IF I HAVE A CHILD THAT SOMEONE IS NOT SPEAKING, THEY ARE VERBALLY -- THEY ARE VERBALLY ABUSED AND THEY ARE NOT SPEAKING UP AND THEY ARE NOT LOOKING AT WHO THEY ARE, JUST HAVING CONTACT WITH ME, AND OTHER COUNSELORS PROBABLY WOULD BE THE SAME, FOR A WEEK, YOU CAN SEE THEM START CHANGING.

BUT WHEN YOU WORK WITH THE PARENT AND YOU SAY, NOW LOOK, PARENT, THIS IS WHAT'S HAPPENING, THEN YOU START SEEING EVEN MORE SUCCESS.

AND THAT'S HOW I SEE THE ISSUE THAT YOU'RE ASKING ME, HAD HE -- HAD SOMEONE BEEN ABLE TO INTERVENE AT THAT TIME, I BELIEVE THAT HE WOULD NOT HAVE ENDED UP WHERE HE IS NOW.

BUT I DO KNOW THAT IT'S EASY WHEN YOU HAVE DAMAGE. FOR INSTANCE, THERE WAS A THING WAY BACK WHEN HE WAS BORN, HE HAD JAUNDICE, AND I JUST HAPPENED TO FIND THAT.

Q YES, MA'AM.

A VERY FEW PEOPLE THAT I HAD TALKED TO HAVE TALKED ABOUT ANY OF THAT. BUT WHEN YOU HAVE A BLOOD INCOMPATIBILITY AND O NEGATIVE OR O POSITIVE, IT'S INTERCHANGED, OR MAYBE THERE'S SOME OTHER REASON FOR THAT,

THEN IT HAS SOME DAMAGE TO YOU BECAUSE I HAVE HAD SEVERAL FAMILIES WHERE WE FIND THAT OUT. THAT'S WHEN THINGS HAPPEN. SO TO ME I'M COMING AT THIS FROM HOW I SEE THINGS.

Q I UNDERSTAND.

A THESE ARE REASONABLE, THEY ARE DOWN TO EARTH THINGS THAT I HAVE SEEN EVERY WEEK.

Q DR. CALIFF, HOW MANY TIMES HAVE YOU BEEN ASKED TO TESTIFY AS AN EXPERT IN COURTS IN THIS JUDICIAL CIRCUIT?

A ONLY BEEN IN GEORGETOWN ABOUT THREE OR FOUR TIMES.

Q WELL, IT'S THE SAME CIRCUIT AS HORRY.

A I KNOW, BUT I REALLY CAN'T TELL YOU HOW MANY TIMES BECAUSE IT'S A LOT.

Q A LOT?

A IT'S A LOT.

Q ALL RIGHT. DR. CALIFF, WE APPRECIATE YOUR TIME THIS AFTERNOON AND I APPRECIATE YOUR COMING IN TO TALK TO US ABOUT IT. AND I WOULD ASK YOU TO ANSWER ANY QUESTIONS THAT THE SOLICITOR MAY HAVE.

THE COURT: YOU MAY PROCEED.

MR. HUMPHRIES: JUST A FEW.

CROSS-EXAMINATION

BY MR. HUMPHRIES:

Q HI. HOW ARE YOU?

A I'M FINE. THANK YOU.

Q WHAT DOES DEFENDANT STANKO'S BROTHER JEFFREY DO FOR A LIVING?
A HE -- I NEED MY LITTLE THING TO REMEMBER.
Q I WILL BE GLAD -- THIS?
A YES. IF IT'S ON THAT ONE.
Q OH, IT'S NOT.
A IT'S IN MY OTHER NOTES PROBABLY, BUT I KNOW THAT HE WENT TO -- HE WENT TO -- I'D JUST FORGOTTEN THE NAME OF WHERE HE IS NOW, THAT HE WORKS, BUT I KNOW HE WENT TO THE MILITARY ACADEMY AND I KNOW THAT HE WAS DOING SOMETHING, BUT I HAVE FORGOTTEN WHERE IT IS.
Q OKAY. YOU -- WELL, LET ME ASK YOU THIS. MAYBE THIS IS A BETTER WAY. WITH WHOM DID YOU SPEAK IN ORDER TO FORMULATE YOUR OPINIONS IN REGARD TO DEFENDANT STANKO AND HIS FAMILY?
A I SPOKE TO HIM. I READ ALL THE REPORTS. FATHER, MOTHER WOULD NOT SPEAK TO ME. COULD NOT GET MR. JEFFREY ON THE PHONE. SO ABOUT TWO AND A HALF WEEKS AGO THEN IS WHEN I GOT INTO THIS, AND YOU WERE JUST ABOUT INTO THE COURT THEN, SO I COULD NOT DO ALL OF THAT.
I HAD TO LOOK AT ALL OF THE TESTIMONY. I HAD TO LOOK AT DR. CRAWFORD, WHAT PEOPLE HAVE SAID AND TRY TO FORMULATE IT FROM THERE.
Q OKAY.
A PLUS THE E-MAILS FROM THE SISTER.

Q WELL, WHICH SISTER WAS THAT?
A THAT WAS PEGGY.
Q PEGGY. AND WHERE DOES SHE LIVE?
A SHE IS -- SHE WAS TO BE FLOWN FROM HERE, AND I BELIEVE SHE WAS IN CALIFORNIA.
Q DO YOU KNOW WHAT SHE DOES FOR A LIVING?
A EXCUSE ME?
Q DO YOU KNOW WHAT SHE DOES FOR A LIVING?
A I CAN'T REMEMBER THAT.
Q WHAT ABOUT CYNTHIA, HIS OTHER SISTER?
A SHE IS DOWN IN CHARLESTON, AND I DON'T RECALL WHAT HER JOB IS RIGHT NOW.
Q OKAY. SO YOU HAVE SPOKEN WITH THE DEFENDANT, YOU--
A YES, AND THE INTERVENTION SPECIALIST.
Q THE INTERVENTION--
A THE INTERVENTION SPECIALIST, I SPOKE TO HER AND I SAW HER RECORDS WHERE SHE HAD -- SOMEBODY HAD SENT SOMETHING TO HER IN WRITING. I JUST LOOKED AT ALL THE RECORDS AS WELL.
Q OKAY. YOU DIDN'T SPEAK TO THE SISTER IN CHARLESTON?
A NO. I COULD NOT GET HER, BUT I DID TRY.
Q OKAY. OF COURSE, YOU'RE AWARE THAT -- THAT NONE OF HIS SURVIVING SIBLINGS HAVE PRESENTED PROBLEMS IN REGARD TO CRIMINAL ACTIVITY.
A I AM AWARE OF THAT. I DID CHECK ON THAT. BUT...

Q YES, MA'AM.
A BUT YOU'RE AWARE THAT EVEN THOUGH THEY DIDN'T HAVE THAT, BY YOUR INVOLVEMENT WHERE I HAVE FOUND OUT THAT THEY ARE NOT DOING AS WELL AS THEY NEED TO DO NOW.
Q AND AGAIN, YOU -- YOU BASE THAT ON WHAT?
A YOUR EXPERTS' REPORTS, ALL THE REPORTS OF ANYONE WHO HAS PROVIDED THE INFORMATION HERE, THE CONVERSATIONS WITH THE INTERVENTION SPECIALISTS, THEN WITH--
Q WELL, BUT I DON'T WANT TO INTERRUPT YOU. YOU CAN FINISH THAT ANSWER, BUT TELL -- LET'S MAKE SURE WE KNOW WHO WE ARE TALKING ABOUT WHEN YOU SAY THE INTERVENTION SPECIALIST.
A DALE.
Q WHO -- WHERE IS -- WHERE IS DALE?
A SHE'S RIGHT THERE (INDICATING.)
Q I'M SORRY. RIGHT THERE. I NEVER KNEW DALE -- SORRY. WORKS FOR THE DEFENDANT.
A AND I CAN'T REMEMBER HER LAST NAME. SORRY.
Q THAT'S ALL RIGHT. AND WE'RE BOTH CONFUSED.
A BUT SHE HAS TIMES THAT SHE PICKED UP OR GOT -- I DID LOOK AT THE SCHOOL RECORDS, SO I KNOW THAT. BUT--
Q DO YOU KNOW, OF COURSE, HE DID VERY WELL IN SCHOOL?
A YES, HE DID.
Q THERE WAS -- AT LEAST AS IT RELATES TO SCHOOL WORK AND EXTRACURRICULAR ACTIVITIES IN SCHOOL--

A YES.
Q -- THERE WAS NO OBVIOUS FAILURE TO THRIVE IN THAT ENVIRONMENT; IS THAT--
A NO, THERE WAS NOT.
Q OKAY. AND--
A AND THE TEACHER ALSO SHOWS THAT.
Q RIGHT. RIGHT.
A I DID READ THE NEWSPAPERS ON ALL THE OTHERS.
Q OKAY. YOU -- YOU MENTIONED THAT YOU ACTUALLY DID SEE SOME REAL FEELINGS FROM THE DEFENDANT; DID YOU?
A I DID. THAT WAS THE ONLY TIME, THOUGH.
Q AND -- AND CERTAINLY BASED ON YOUR REVIEW OF THE AVAILABLE INFORMATION THAT YOU HAD--
A CORRECT.
Q -- YOU WOULD CONCEDE THAT THE MOTHER DID PROVIDE SOME SUPPORT FOR DEFENDANT STANKO?
A AS LONG AS IT DIDN'T CONFLICT.
Q WITH THE FATHER?
A UH-HUH. YES.
Q AND -- AND CLEARLY YOU -- YOU FOUND AS WELL THAT HE GOT SUPPORT FROM SOME VERY GOOD ROLE MODELS IN SCHOOL?
A HE DID.
Q AS WELL AS NEIGHBORS?
A HE DID.
Q AND OF COURSE, THIS -- THIS STATES THE OBVIOUS. AND

I'M NOT TAKING A SHOT AT YOU, BUT YOU'RE NOT A MEDICAL DOCTOR?

A I AM NOT.

Q OKAY. AND -- BUT YOU DID HAVE SOME COMMENTS ABOUT JAUNDICE?

A EXCUSE ME?

Q JAUNDICE.

A JAUNDICE. IT IS IN THE REPORT.

Q CERTAINLY. NO QUESTION. AND YOU FOUND THAT TO BE PROBLEMATIC IN YOUR EXPERIENCE WHEN IT COMES TO--

A YES. AS I SAID, I'M SPEAKING FROM MY VERY REAL STANCE. AND ALSO WHEN YOU'RE TALKING ABOUT THE OTHER, AS FAR AS THE WHOLE FAMILY, YOU REMEMBER WHEN I FIRST STARTED, I MENTIONED THAT WHEN I SEE THESE KINDS OF ISSUES WHERE THERE IS THE DOGMATICNESS AND YOU SEE USUALLY -- THEY'LL ALMOST FALL INTO PLACE.

NOT THAT I AM MAKING THEM LIKE THESE, BUT IT -- IT JUST MAKES SENSE, THOUGH, WHEN YOU READ OTHER THINGS AND YOU SEE ALL OF THIS, YOU'RE PRETTY WELL SURE HOW IT'S COMING OUT.

AND THEN IT DOES FIT IN ALSO WITH NARCISSISTIC THINGS BECAUSE THEY ARE PATHOLOGICAL LIARS, THEY MANIPULATE, THEY DO ALL SUCH, SO IT'S PRETTY GOOD REASON.

Q AND YOU ALSO FOUND HIM TO BE ANTISOCIAL; DID YOU NOT?

A HE HAS TENDENCIES FOR ANTISOCIAL. HE IS NOT A FULL

ANTISOCIAL, BUT HE IS IN THAT CLUSTER WHICH IS ALL THREE OR FOUR OF THOSE.

Q AND SO -- SO YOUR OPINION IS THAT HE IS NOT FULLY ANTISOCIAL, BUT HE HAS SOME TENDENCIES?

A HE HAS MORE NARCISSISM THAN HE HAS BEING SOCIOPATH, BUT HE CERTAINLY HAS A LOT OF PSYCHOPATHIC ISSUES.

Q AND I THINK ANTISOCIAL, THAT -- IN SORT OF COMMON PARLANCE, THAT JUST REALLY MEANS YOU'RE MEAN; DOESN'T IT? ISN'T THAT...

A SAY THAT ONE MORE TIME.

Q ANTISOCIAL, REALLY YOU'RE JUST SORT OF MEAN; AREN'T YOU?

A YOU ARE SOMEWHAT PASSIVE, BUT YOU'RE NOT PASSIVE AT TIMES. YOU JUST DON'T CARE ABOUT PEOPLE AND IT DOESN'T BOTHER YOU. YOU CAN KILL THEM AND NOT LAUGH. AND THAT'S A TERRIBLE THING.

Q CERTAINLY IT IS. AND NARCISSISM -- WELL, LET'S NOT EVEN GO THERE.

A OH, COME ON.

Q SUFFICE IT TO SAY THAT YOUR OPINION IS BASED ON THE RIGIDITY OF HIS FATHER IN THE HOUSEHOLD IN GENERAL AND HIS LACK OF SUPPORT FROM THE FAMILY IN GENERAL, THAT HE DEMONSTRATED -- LATER DEMONSTRATED A FAILURE TO THRIVE?

A NO. I DIDN'T USE THAT ON HIM, BUT HE FAILED TO DEVELOP BECAUSE HE WAS IN A DYSFUNCTIONAL SITUATION, AND

HIS PARTICULAR PERSONALITY AND THE LOCATION IN THE FAMILY FOR WHATEVER REASON -- BECAUSE I WAS NOT THERE -- BUT THE FUNCTIONING OF THAT FAMILY CAUSED HIM TO -- TO -- TO DO THINGS THAT HE HAD -- LACKING OF THE ATTENTION THAT HE NEEDED, AND THEREFORE HE DID NOT DEVELOP ON FORWARD.

BUT WHEN HE RECEIVED IT OUT OF OTHER PEOPLE, HE DID THRIVE BECAUSE YOU CAN LOOK AT THOSE RECORDS AND YOU CAN FIND THAT OUT.

Q SURE.

A AND YOU ALSO KNOW THAT WHEN HE THRIVED, THE ONLY TIME -- EVERY RECORD SHOWS THAT HE HAD ANY PROBLEMS WAS WHEN HE FAILED THERE OR WHEN HE WAS HIT IN THE HEAD WITH A BOTTLE.

Q I AM GLAD YOU MENTIONED THAT.

A I KNEW YOU WOULD BE.

Q HE GOT HIT IN THE HEAD WITH A BOTTLE. WHO TOLD YOU ABOUT THAT?

A I READ THAT AND HE TOLD ME, AND I ALSO ASKED ABOUT IT.

Q HE -- ALL RIGHT. HE TOLD YOU ABOUT IT. AND FROM WHAT SOURCE DID YOU READ IT?

A I READ IT IN THE NEWSPAPER. I ASKED THE -- I ASKED THE -- AND THE SPECIALIST, THE INTERVENTION PERSON WHO HAD REVIEWED A LOT OF DIFFERENT THINGS, AND I LOOKED AT HER RECORDS.

Q YES, MA'AM.
A BUT HE HAD -- IT HAD BEEN SAID IN MANY, MANY CASES, AND THAT HE EXPLAINED WHAT IT WAS. SO IT APPEARED THAT WHEN HE WAS HIT IN THE HEAD WITH A BOTTLE THAT THAT HAD SOME PROBLEMS, BUT I CANNOT PROVE THAT.
Q CERTAINLY. NO, I WOULDN'T -- WOULDN'T ASK YOU--
A THANK YOU.
Q -- TO DO THAT. WHEN DID HE GET HIT IN THE HEAD WITH A BOTTLE? AT WHAT AGE?
A NINETEEN -- FORGOTTEN THE DATES. I'D HAVE TO LOOK IT UP IN MY NOTES, BUT IT WAS BACK -- I CAN'T REMEMBER THE DATE. I TRULY DON'T.
Q YOU -- AND IN TERMS OF HIS AGE DO YOU RECALL?
A NO, I REALLY DON'T.
Q YOU DON'T.
A I'M BAD WITH NUMBERS.
Q THAT'S ALL RIGHT. THAT'S ALL RIGHT. IT HAPPENED WELL BEFORE HE GOT OUT OF HIGH SCHOOL. THAT'S FAIR TO SAY; ISN'T IT?
A I BELIEVE. I'M TRYING TO THINK FOR SURE THAT IT DID HAPPEN. I KNOW THE CIRCUMSTANCE, BUT I REALLY DON'T REMEMBER THE DATE AND THE TIME. BUT I THOUGHT THAT IT HAPPENED BECAUSE OF CERTAIN SITUATIONS WHERE HE WAS TRYING TO HELP A GIRL, BUT THAT DIDN'T MATTER TO ME.
I JUST WANTED TO KNOW WHAT WAS THE KINDS OF THINGS

THAT HAPPENED TO HIM THAT COULD HAVE CAUSED PROBLEMS.
Q SURE. BUT NOW, YOU HAVE NOT SEEN ANY -- THERE HAVE BEEN NO MEDICAL REPORTS CONNECTED--
A THEY JUST REPORT IT. THEY DO NOT SAY THAT IT HAPPENED.
Q OKAY. I GOT YA.
MR. HUMPHRIES: BEG THE COURT'S INDULGENCE JUST ONE MOMENT.
BY MR. HUMPHRIES:
Q AND DOCTOR, AS YOU TESTIFIED, YOU HAVE BEEN INVOLVED IN THIS CASE FOR ABOUT TWO AND A HALF WEEKS?
A THREE.
Q THREE WEEKS?
A YES, SIR.
Q THANK YOU, DOCTOR.
THE COURT: ANY REDIRECT?
MR. DIGGS: NO, YOUR HONOR.
THE COURT: ANY EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE STATE?
MR. HUMPHRIES: NONE FROM THE STATE.
THE COURT: FROM THE DEFENSE?
MR. DIGGS: NO, YOUR HONOR.
THE COURT: MA'AM, YOU'RE EXCUSED.
(WITNESS LEFT THE STAND.)
THE COURT: COUNSEL MAY PROCEED.

MR. DIGGS: YOUR HONOR, A VERY BRIEF WITNESS, MRS. DAVIS.

DALE DAVIS, AFTER BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. DIGGS:

Q NOW MRS. DAVIS, WHAT DID YOU DO WITH RESPECT TO THE BEER BOTTLE MEDICAL RECORDS AND YOUR EFFORTS TO OBTAIN COPIES OF THOSE RECORDS?

A I -- I HAD WRITTEN IT BEFORE. I'M SORRY. I DON'T HAVE IT WITH ME. BUT I MADE SEVEN SEPARATE ATTEMPTS. INITIALLY I SENT THE INFORMATION AND GOT BACK THE BIRTH RECORDS, BUT DID NOT GET THE OUTPATIENT RECORDS BECAUSE IT WAS A SEPARATE SOURCE.

I E-MAILED ABOUT THEM. I SENT ANOTHER LETTER. THEN I CALLED THE NAVAL HOSPITAL IN CHARLESTON BECAUSE THAT WAS THE LAST PLACE FOR TREATMENT. AND THAT'S HOW OUTPATIENT MEDICAL RECORDS ARE FILED, BY THE LAST PLACE OF TREATMENT.

SO I CALLED AND SPOKE WITH THE RECORDS PERSON THERE MRS. POWE, P-O-W-E. SHE MADE ATTEMPTS TO ACHIEVE THEM FOR ME AS WELL. AT ONE POINT THEY LOCATED SOMETHING ON A COMPUTER THAT THE LAST TIME HE WAS SEEN WAS IN 1988, BUT THEY COULD NOT LOCATE THE ACTUAL FILES.

Q NOW, STEPHEN HAD REPORTED THIS INCIDENT TO YOU, IS THAT CORRECT, THE BEER BOTTLE INCIDENT?

A INITIALLY, YES.
Q AND YOU HAD OTHER SOURCES FOR THAT INFORMATION?
A YES, I DID.
Q HOW MANY SOURCES?
A THREE SOURCES, TWO WHO WERE EYE WITNESSES TO IT.
Q ALL RIGHT. AND SO IT WASN'T SIMPLY SOME TALE STEPHEN TOLD YOU. YOU HAD, THROUGH YOUR INVESTIGATION, DETERMINED THIS EVENT HAD OCCURRED, WHEN IT OCCURRED, WHERE IT OCCURRED, AND YOU SOUGHT THE MEDICAL RECORDS BASED ON WHAT YOUR INVESTIGATION REVEALED?
A AND AS A RESULT OF THOSE CONVERSATIONS I KNEW THAT THE MEDICAL RECORDS WOULD HAVE BEEN AT CHARLESTON NAVAL HOSPITAL--
Q YES, MA'AM.
A -- WHERE HE SOUGHT EMERGENCY TREATMENT.
Q ALL RIGHT. AND JUST LIKE ALL THE OTHER RECORDS AFTER THE DISCHARGE FROM THE HOSPITAL, YOU WERE NOT ABLE TO LOCATE ANY OF THOSE RECORDS AND GET THOSE FROM THE NAVY?
A NONE OF THE OUTPATIENT RECORDS.
Q ALL RIGHT. THANK YOU VERY MUCH. ONE MORE QUESTION. WITHOUT YOUR NOTES IN FRONT OF YOU, WHEN DID THAT INCIDENT OCCUR?
A IT WAS EITHER IN THE SPRING OF HIS JUNIOR YEAR OR HIS SENIOR YEAR. THE TWO PEOPLE THAT WERE THERE WERE NEITHER ONE CERTAIN AND NEITHER WAS MR. STANKO.

Q ALL RIGHT. BUT IT WAS EITHER IN HIS -- THE 11TH OR 12TH GRADE?

A RIGHT. AND IT WAS DURING GIRLS' SOFTBALL SEASON, SO...

Q ALL RIGHT. THANK YOU VERY MUCH. ANSWER ANY QUESTIONS COUNSEL MAY HAVE.

MR. HUMPHRIES: NOTHING. THANK YOU.

THE COURT: YOU MAY STEP DOWN.

(WITNESS LEFT STAND.)

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, WE NEED TO TAKE A SHORT BREAK FOR THE PURPOSE OF SCHEDULING. DURING THIS BREAK PLEASE DO NOT DISCUSS THE CASE.

PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. I ANTICIPATE THAT IT WILL BE FAIRLY SHORT. IF YOU NEED ANYTHING, PLEASE LET THE BAILIFFS KNOW.

(JURY LEFT THE COURTROOM AT 5:56 PM.)

THE COURT: YOU MAY BE SEATED. MR. STANKO, IF YOU WOULD STAND RAISE YOUR RIGHT HAND AND BE SWORN.

STEPHEN STANKO, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: PLEASE STATE YOUR NAME FOR THE COURT.

THE DEFENDANT: STEPHEN CHRISTOPHER STANKO.

THE COURT: MR. STANKO, AT THIS TIME I'M GOING

TO EXPLAIN TO YOU CERTAIN OF YOUR RIGHTS, AND I EXPLAINED THOSE TO YOU AT THE CONCLUSION OF THE GUILT PHASE OF THE TRIAL, AND I'M REQUIRED, OF COURSE, AGAIN TO ADVISE YOU OF YOUR RIGHTS NOW THAT WE HAVE -- ARE QUICKLY APPROACHING THE END OF THE PENALTY PHASE OF THE TRIAL SO THAT YOU CAN DETERMINE WHETHER YOU IN FACT WANT TO TESTIFY BEFORE THIS JURY.

AND AGAIN, AS I INDICATED, I'M GOING TO EXPLAIN TO YOU CERTAIN OF YOUR RIGHTS. IF YOU DO NOT UNDERSTAND ANYTHING THAT I SAY, PLEASE LET ME KNOW. IF YOU WANT ME TO EXPLAIN ANYTHING IN MORE DETAIL, PLEASE LET ME KNOW. DO YOU UNDERSTAND?

THE DEFENDANT: YES, MA'AM.

THE COURT: SIR, WE HAVE NOW REACHED THE STAGE OF THE TRIAL WHERE YOU MAY PRESENT YOUR DEFENSE, SO TO SPEAK, IN THE PENALTY PHASE OF THIS TRIAL.

YOU HAVE THE RIGHT TO CLAIM THE PROTECTIONS GIVEN TO YOU BY THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES. THIS AMENDMENT STATES IN PART THAT NO PERSON SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF.

THIS MEANS THAT YOU CANNOT BE REQUIRED TO TESTIFY IN THIS CASE. YOU, OF COURSE, HAVE THE RIGHT TO TESTIFY ON YOUR OWN BEHALF. HOWEVER, NO ONE CAN MAKE YOU TESTIFY. THIS IS A PERSONAL RIGHT AND NO

ONE CAN WAIVE THIS RIGHT EXCEPT YOU.

IF YOU DECIDE TO TESTIFY, AS I'VE EXPLAINED PREVIOUSLY, YOU WILL BE SUBJECT TO THE SAME RULES THAT GOVERN OTHER WITNESSES AND YOU MAY BE EXAMINED AND CROSS-EXAMINED ON ANY RELEVANT ISSUE IN THIS CASE.

IN ADDITION, IF YOU HAVE ANY CONVICTIONS INVOLVING DISHONESTY OR FALSE STATEMENT OR FOR CRIMES PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR AND THIS COURT DETERMINES THAT THE PROBATIVE VALUE OF ADMITTING THIS EVIDENCE WITH OUTWEIGHS ITS PREJUDICIAL EFFECT TO YOU, THE SOLICITOR WILL BE ABLE TO INTRODUCE YOUR RECORD TO ATTACK YOUR CREDIBILITY.

AND I BELIEVE WE WENT OVER THIS EARLIER AND I INDICATED TO YOU HOW -- WHAT THE COURT'S INCLINATION WAS IN A WORST CASE SCENARIO REGARDING YOUR RECORD. IF YOU'LL BEAR WITH ME ONE MOMENT, I WILL GO OVER THAT WITH YOU AGAIN.

MR. HUMPHRIES: YOUR HONOR.

THE COURT: YEAH.

MR. HUMPHRIES: THEY ARE A MATTER OF RECORD ALREADY.

THE COURT: THEY ARE, BUT I MADE SOME NOTATIONS TO MYSELF REGARDING THE PROBATIVE VERSUS THE PREJUDICIAL VALUE AND ALSO REGARDING WHETHER I WAS

GOING TO LET YOU ASK HIM ABOUT ALL OF THE BREACH OF TRUSTS REGARDING THE AGE OF THOSE BREACH OF TRUSTS CONVICTIONS, AND I WANT TO MAKE SURE THAT I'VE ADVISED HIM CONSISTENTLY WITH THAT AGAIN.

THE DEFENDANT: YOUR HONOR?

THE COURT: YES.

THE DEFENDANT: WITH REGARD TO TESTIFYING ON THE STAND.

THE COURT: YES, SIR.

THE DEFENDANT: WE CAN EVADE THAT BECAUSE AT THIS POINT I'M NOT GOING TO DO THAT, MA'AM.

THE COURT: OKAY, BUT I STILL HAVE TO GO THROUGH THEM.

THE DEFENDANT: YES, MA'AM.

THE COURT: AND I HAVE TO MAKE SURE THAT YOU MAKE A KNOWING AND VOLUNTARY WAIVER OF THAT RIGHT--

THE DEFENDANT: I UNDERSTAND.

THE COURT: -- SO THAT THE RECORD IS PRESERVED. THE STATE INDICATED THAT THEY WOULD BE SEEKING TO INTRODUCE THE FOLLOWING RECORD. A GRAND LARCENY FROM MARCH 8TH OF 1995. A BREACH OF TRUST FROM MARCH 8TH OF 1995. KIDNAPPING FROM JULY OF 2004. AND ABHAN FROM 1996.

THE DEFENDANT: KIDNAPPING WAS '96, MA'AM.

THE COURT: YEAH. OH, THAT'S THE 2004--

THE DEFENDANT: YES, MA'AM.

THE COURT: YOU KNOW WHAT, IT WAS '96. I APOLOGIZE. I WAS LOOKING AT THE -- YOU PLED ON JULY 4 -- ACTUALLY IT WOULDN'T HAVE BEEN JULY 4TH BECAUSE THAT'S A HOLIDAY AND IT'S A CHAMBERS WEEK, BUT IN ANY EVENT, THAT'S WHAT I HAVE WRITTEN DOWN.

THE DEFENDANT: YES, MA'AM.

THE COURT: 7-29-96.

THE DEFENDANT: YES, MA'AM.

THE COURT: AN ABHAN FROM 1996. TWO BREACH OF TRUSTS WITH FRAUDULENT INTENT WHICH WERE PLED AT THE SAME TIME THE KIDNAPPING AND ABHAN WHICH YOU RECEIVED 10 YEARS CONCURRENT.

ALSO TWO OTHER ADDITIONAL BREACH OF TRUSTS WITH FRAUDULENT INTENT FROM JULY 29TH, 1996. LOOKS LIKE THERE ARE FOUR ADDITIONAL COUNTS OF BREACH OF TRUST WITH FRAUDULENT INTENT JULY 29TH, 1996 AS WELL AS TWO COUNTS OF OBTAINING MONEY BY FALSE PRETENSES FROM JULY 31ST, 1996, AND OBTAINING PROPERTY BY FALSE PRETENSES FROM JULY 29TH, 1996.

AND I BELIEVE THE RECORD SPEAKS FOR ITSELF. BUT JUST IN THE EVENT FOR PURPOSES OF PRESERVING THE RECORD, I ADVISED YOU AT THAT TIME THAT THE -- ALL OF THE OFFENSES THAT INVOLVE LARCENY OR THEFT, OF COURSE, ARE NOT SUBJECT TO THE COURT'S BALANCING TEST

AND THEY CAN COME IN AUTOMATICALLY PURSUANT TO THE ANALYSIS FROM THE AL AHMIN CASE.

AS REGARDS THE BREACH OF TRUST, THOSE ALSO WOULD COME IN AS THEY WOULD BE IN THE NATURE OF STEALING OR LARCENY AND WOULD NOT ALSO -- WOULD ALSO NOT BE SUBJECT TO THE BALANCING TEST, BUT I ADVISED THE STATE THAT I MIGHT LIMIT SOME OF THEM JUST BECAUSE OF THE BREADTH OF THEM, I WAS NOT CERTAIN THAT THEY WOULD NOT BE MORE PREJUDICIAL THAN PROBATIVE AS -- AS WELL AS I ADVISED THEM THAT I WAS -- ALLOW THEM TO ASK YOU IF YOU WERE CONVICTED OF A FELONY ON THE KIDNAPPING AND THE ABHAN AND NOT GO INTO THE FACT THAT THEY WERE -- THAT IT WAS AN ABHAN, THE KIDNAPPING, BECAUSE THEY ARE SO VERY SIMILAR TO THE OFFENSES FOR WHICH YOU ARE NOW STANDING TRIAL.

SIR, DO YOU UNDERSTAND THAT THAT IN EFFECT WOULD BE THE RECORD THAT THE STATE WOULD BE SEEKING TO INTRODUCE AGAINST YOU?

THE DEFENDANT: YES, MA'AM.

THE COURT: AND DO YOU ALSO UNDERSTAND AS THE COURT HAS EXPLAINED REGARDING THEIR ABILITY TO IMPEACH YOU WITH THOSE OFFENSES, THAT THE COURT HAS EXPLAINED ITS PERCEPTION OF THE WORST CASE SCENARIO IN TERMS OF THE ADMISSIBILITY OF THOSE CONVICTIONS?

THE DEFENDANT: YES, MA'AM.

THE COURT: SIR, DO YOU UNDERSTAND WHAT I'VE JUST EXPLAINED TO YOU--

THE DEFENDANT: YES, MA'AM.

THE COURT: -- REGARDING YOUR RIGHTS?

THE DEFENDANT: YES, MA'AM.

THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT WHAT I'VE JUST EXPLAINED TO YOU?

THE DEFENDANT: NO, MA'AM.

THE COURT: HAVE YOU DISCUSSED FULLY WITH YOUR ATTORNEYS WHETHER YOU SHOULD OR SHOULD NOT TESTIFY?

THE DEFENDANT: YES, MA'AM, I HAVE.

THE COURT: DO YOU WISH TO SPEAK WITH THEM ANY FURTHER AT THIS TIME ABOUT THAT ISSUE?

THE DEFENDANT: NO, MA'AM, THERE'S NO NEED.

THE COURT: AND SIR, DO YOU WISH TO TESTIFY?

THE DEFENDANT: NO, MA'AM.

THE COURT: AND YOU ARE WAIVING THAT RIGHT FREELY AND VOLUNTARILY AND OF YOUR OWN WILL; IS THAT CORRECT?

THE DEFENDANT: YES, MA'AM.

THE COURT: DO YOU FEEL THAT YOU'RE OPERATING PURSUANT TO ANY DURESS OR AT ANY UNDUE PRESSURE IN NOT TESTIFYING?

THE DEFENDANT: NO, MA'AM.

THE COURT: ARE YOU SUFFERING FROM ANY MENTAL

DISABILITIES OTHER THAN THE ONES THAT YOUR ATTORNEYS HAVE ADVANCED IN TERMS OF THE THEORY OF THIS CASE OR UNDER THE INFLUENCE OF ANY DRUGS OR ALCOHOL?

THE DEFENDANT: NO, MA'AM.

THE COURT: MR. STANKO, I'M ALSO GOING TO ASK YOU A SERIES OF QUESTIONS REGARDING YOUR LEGAL REPRESENTATION. I AM NOT, HOWEVER, TRYING TO IN ANY WAY BREACH THE ATTORNEY CLIENT PRIVILEGE.

AND IF YOU FEEL AT SOME POINT THAT YOU'RE GOING TO ANSWER SOME OF MY QUESTIONS WITH ANYTHING THAT MAY WELL COMPROMISE YOUR REPRESENTATION, PLEASE MAKE ME AWARE OF THAT SO THAT I CAN CLEAR THE COURTROOM AND SPEAK WITH YOU PRIVATELY WITH ONLY YOUR ATTORNEYS AND THE COURT REPORTER. DO YOU UNDERSTAND?

THE DEFENDANT: YES, MA'AM.

THE COURT: SIR, HAVE YOU BEEN SATISFIED WITH YOUR ATTORNEYS' SERVICES?

THE DEFENDANT: YES, MA'AM.

THE COURT: HAVE THEY ANSWERED ALL OF YOUR QUESTIONS?

THE DEFENDANT: YES, MA'AM.

THE COURT: HAVE YOU MET WITH THEM FOR AS LONG AND AS OFTEN AS YOU FELT IT NECESSARY TO ADEQUATELY REPRESENT YOU?

THE DEFENDANT: YES, MA'AM.

THE COURT: HAVE YOU UNDERSTOOD YOUR TALKS WITH THEM?

THE DEFENDANT: YES, MA'AM.

THE COURT: HAVE THEY FULLY DISCUSSED WITH YOU MATTER OF STRATEGY EMPLOYED IN THIS TRIAL? AGAIN, DON'T COMPROMISE ANYTHING THAT WOULD BE PRIVILEGE. THE QUESTION ONLY CALLS FOR A YES OR NO ANSWER.

THE DEFENDANT: TO THE BEST OF MY KNOWLEDGE THEY HAVE.

THE COURT: ARE YOU AWARE OF ANYTHING THEY'VE KEPT FROM YOU?

THE DEFENDANT: NOT THAT THEY HAVE KEPT FROM ME, NO, MA'AM.

THE COURT: OKAY. HAVE THEY FULLY DISCUSSED EVERYTHING WITH YOU?

THE DEFENDANT: I BELIEVE SO.

THE COURT: IS THERE ANYTHING MORE YOU WOULD HAVE YOUR LAWYERS DO FOR YOU THAT THEY HAVE NOT ALREADY DONE ON YOUR BEHALF? AGAIN, I DON'T WANT YOU TO COMPROMISE THEIR REPRESENTATION.

IF YOU FEEL THERE'S SOMETHING YOU NEED TO TELL ME AND THAT I NEED TO CLEAR THE COURTROOM, PLEASE MAKE THAT DESIRE KNOWN.

THE DEFENDANT: AT THIS POINT, NO, MA'AM.

THE COURT: AND AGAIN I ASK THE QUESTION, IS

THERE ANYTHING MORE YOU WOULD HAVE THEM DO FOR YOU THAT THEY HAVE NOT ALREADY DONE ON YOUR BEHALF?

THE DEFENDANT: YOUR HONOR...

THE COURT: DON'T COMPROMISE.

THE DEFENDANT: WELL, I DON'T WANT YOU TO THINK THAT I -- IT'S NOT SOMETHING I WOULD LIKE TO SPEAK IN FRONT OF THE SOLICITOR.

THE COURT: PARDON ME?

THE DEFENDANT: I DO HAVE SOMETHING I'D LIKE TO TALK TO YOU ABOUT ABOUT MY ATTORNEY, BUT NOT IN FRONT OF THE SOLICITOR OR ANYONE ELSE. I DON'T...

THE COURT: WELL, THAT'S WHY I TOLD YOU I DON'T WANT YOU TO COMPROMISE THE ATTORNEY CLIENT PRIVILEGE. IF THERE'S SOMETHING YOU WANT TO DISCUSS WITH ME, LET ME KNOW, PLEASE--

THE DEFENDANT: YES, MA'AM.

THE COURT: -- AND I WILL LET THE -- CLEAR THE COURTROOM.

THE DEFENDANT: YES, PLEASE.

THE COURT: PLEASE CLEAR THE COURTROOM WITH THE EXCEPTION OF ESSENTIAL PERSONNEL WHICH IS THE COURT REPORTER, MY LAW CLERK, AND THE ATTORNEYS.

(WHEREUPON THE COURTROOM WAS CLEARED.)

THE COURT: I'M MAKING SURE ALL THE TV MONITORS ARE OFF. OKAY. MY QUESTION TO YOU, MR. STANKO, WAS

THERE ANYTHING MORE THAT YOU WOULD HAVE YOUR ATTORNEYS DO FOR YOU THAT THEY HAVE NOT ALREADY DONE ON YOUR BEHALF?

YOUR ANSWER WAS NOT -- WAS NO. AND THEN I ASKED THE QUESTION AGAIN AND YOU SAID YOU NEEDED TO DISCUSS SOMETHING WITH ME OUTSIDE OF EVERYONE ELSE'S PRESENCE.

THE DEFENDANT: YES, MA'AM.

THE COURT: OKAY. I'M LISTENING.

THE DEFENDANT: YOUR HONOR--

THE COURT: I'M JUST STANDING UP TO STRETCH MY LEGS.

THE DEFENDANT: YOU AS WELL AS ANYONE UNDERSTANDS THE APPELLATE CONCEPTS AND EVERYTHING ELSE. AND I UNDERSTAND WHAT YOU HAVE BEEN ASKING ME AT EVERY POINT WHEN THE -- THE CLOSE, LIKE THIS.

THE ONLY THING THAT I HAVE IS THAT THERE ARE THINGS THAT MAY BE IN STRATEGY OR THROUGHOUT THE PROCESS THAT I WOULD HAVE LIKED TO HAVE SEEN ADDITIONAL WITNESSES BROUGHT IN THAT WE HAD ORIGINALLY DISCUSSED, THINGS OF THAT NATURE. I WONDER IF THESE TWO MEN HAVE DONE EVERYTHING POSSIBLE...

THE COURT: I'M SORRY. REPEAT THE LAST SENTENCE. NOT THE -- JUST THE LAST FEW WORDS YOU

JUST SAID. WELL ACTUALLY, LET ME LOOK AT THE...

COURT REPORTER: I DIDN'T HEAR A COUPLE OF THEM.

THE COURT: YEAH. REPEAT WHAT YOU JUST SAID TO ME, MR. STANKO, BECAUSE THE COURT REPORTER DIDN'T HEAR YOU EITHER. THIS IS WHAT YOU SAID. YOU SAID, YOU SAID -- THE ONLY THING I HAVE IS THAT THERE ARE THINGS THAT MAY BE IN STRATEGY OR THROUGHOUT THE PROCESS THAT I WOULD HAVE LIKED TO HAVE SEEN ADDITIONAL WITNESSES BROUGHT IN THAT WERE ORIGINALLY DISCUSSED, THINGS OF THAT NATURE.

I WOULD -- THEY HAVE DONE -- I BELIEVE THEY HAVE DONE EVERYTHING POSSIBLE.

THE DEFENDANT: I BELIEVE THAT THEY HAVE DONE EVERYTHING POSSIBLE AND THEY HAVE BEEN ZEALOUS IN THEIR DEFENSE OF ME AND IN PRESENTING THE ISSUES AND EVERYTHING ELSE.

MY CONCERN IS THE COLLOQUY THAT YOU'RE ASKING ME, IN THE FUTURE WHEN I RAISE OTHER CONCERNS THAT I HAVE HAD THROUGH THIS PROCESS--

THE COURT: IF YOU'VE GOT CONCERNS, YOU NEED TO RAISE THEM NOW BECAUSE THIS IS--

THE DEFENDANT: IT'S TOO LATE NOW--

THE COURT: NO, IT'S NOT TOO LATE BECAUSE I HAVE SPOKEN WITH YOU AT LENGTH ON MANY OCCASIONS. HINDSIGHT I THINK FORTUNATELY IS 20/20.

AND I THINK THAT YOU AND I HAVE HAD SOME VERY STRAIGHT-FORWARD DISCUSSIONS AND YOU HAVE BEEN GIVEN EVERY OPPORTUNITY TO VOICE ANY CONCERNS THAT YOU MAY HAVE HAD AND THE COURT HAS TAKEN EVERY ACTION POSSIBLE TO CORRECT ANY CONCERNS THAT YOU HAVE HAD.

AND THE REASON THAT I HAVE HAD THESE COLLOQUIES WITH YOU IS TO MAKE SURE THAT THE COURT'S INSTRUCTIONS HAVE CONTINUED TO BE FOLLOWED AND BEEN PUT INTO EFFECT.

THE DEFENDANT: YES, MA'AM.

THE COURT: AND YOU HAVE NEVER AT ANY POINT INDICATED TO ME ANYTHING OTHER THAN SATISFACTION.

THE DEFENDANT: YES, MA'AM. AND WHAT I HAVE NOT EVER HAD A CHANCE TO DO IS ACTUALLY DO THE RESEARCH ON, FOR INSTANCE, IF WITNESSES WERE PLACED UP ON THE STAND BY THE STATE THAT SAID CERTAIN THINGS, WHILE SOME OF IT WAS TRUE, SOME OF IT WAS NOT TRUE, AND OTHER WITNESSES WERE AVAILABLE WHO COULD HAVE BEEN BROUGHT IN TO CONTRADICT THOSE--

THE COURT: YOU NEED TO MAKE YOUR LAWYERS AWARE OF WHO THOSE WITNESSES ARE SO THEY CAN CALL THEM BEFORE THEY CLOSE YOUR CASE. THAT'S YOUR RESPONSIBILITY.

THE DEFENDANT: BUT IN THE PENALTY PHASE NOW IS TOO LATE. WHEN IT WAS IN THE GUILT PHASE IT COULD

HAVE BEEN DONE, IN THE GUILT PHASE.

THE COURT: WELL, MR. STANKO, I ASKED YOU THAT AT THE GUILT PHASE AND YOU INDICATED TO ME THAT YOU WERE PERFECTLY SATISFIED WITH YOUR LAWYERS' SERVICES AND YOU HAD NO COMPLAINTS AT THAT TIME.

THE DEFENDANT: AND AGAIN, THIS IS THE POSITION THAT I'M IN NOW.

THE COURT: OH, NO, NO. NO. IT'S NOT THE POSITION THAT YOU'RE IN NOW. THE COURT VERY CLEARLY ARTICULATED THOSE QUESTIONS TO YOU AND YOU HAD MORE THAN AMPLE TIME TO VOICE THAT TO THE COURT AND BEFORE YOUR COUNSEL RESTED IN ORDER TO BRING THESE WITNESSES FORWARD, AND THAT IS PRECISELY WHY I ASKED THE QUESTIONS AT THE TIME THAT I DID BECAUSE HINDSIGHT IS ALWAYS 20/20.

AND I'M CERTAIN YOUR PERSPECTIVE WOULD BE VERY DIFFERENT IF THE JURY'S VERDICT HAD BEEN DIFFERENT.

THE DEFENDANT: I DON'T THINK IT WOULD HAVE BECAUSE I'M NOT -- I'M NOT CHANGING AT THIS POINT--

THE COURT: I THINK YOU'RE A VERY ARTICULATE MAN, MR. STANKO, AND YOU HAVE NEVER BEEN SHY ABOUT TELLING ME ANYTHING. AND I THINK IF YOU HAD CONCERNS AT THAT TIME, YOU WOULD HAVE TOLD ME. YOU HAVE NEVER BEEN SHY ABOUT TELLING ME ANY OTHER TIME.

THE DEFENDANT: GO BACK TO YOUR STATEMENT. I

DON'T THINK IT WOULD HAVE MADE ANY DIFFERENCE REGARDING WHAT HAPPENED BECAUSE MY DEFENSE -- I HAVE ALWAYS BEEN IN COMPLETE AGREEMENT WITH BOTH OF THESE GENTLEMEN ON MY--

THE COURT: OKAY. AND THAT'S THE NATURE OF MY QUESTION. THE NATURE OF MY QUESTION IS, ARE YOU SATISFIED -- YOU KNOW, THEY DON'T HAVE TO HAVE YOUR CONSENT IN THEIR STRATEGY. THEY ONLY HAVE TO DISCUSS IT WITH YOU.

THE DEFENDANT: AND I HAVE NEVER ASKED THEM TO, JUDGE.

THE COURT: BUT I THINK THAT THEY PROBABLY HAVE GONE BEYOND THAT AND I THINK TO SOME EXTENT THEY HAVE GOTTEN YOUR COMPLETE CONSENT IN STRATEGY.

THE DEFENDANT: AND I SAID -- YOUR HONOR, IF I COULD FINISH. I HAVE SAID -- I HAVE NEVER -- AND I HAVE NEVER TRIED TO RUN THIS DEFENSE IN ANY WAY, SHAPE OR FORM, AND I BELIEVE BOTH OF THEM WILL TELL YOU THAT.

I HAVE NEVER EVER TRIED TO CONVEY WHAT I THOUGHT EITHER ONE OF THEM SHOULD DO BECAUSE I HAVE BELIEVED IN EVERYTHING THAT THEY DID.

THE COURT: OKAY.

THE DEFENDANT: BUT WHAT I AM SAYING NOW IS THE QUESTIONS YOU'RE ASKING ME ON A MATTER OF RECORD IN

APPELLATE PROCEDURES IS GOING TO BE THE NUMBER ONE DEFENSE AGAINST THE STATE TO SAY, WELL, JUST LIKE YOU'RE SAYING RIGHT NOW ON EVERY POINT.

AND I'M NOT SAYING THAT -- I'M NOT SAYING EVERYTHING THAT THEY HAVE DONE HASN'T BEEN FANTASTIC, JUDGE. WHAT I'M SAYING IS YOU'RE ASKING ME TO -- ANYTHING THAT I MIGHT BRING UP LATER THAT I DID NOT KNOW AT THE TIME OR DIDN'T SEE OR VISUALIZE, I'M NOT GOING TO BE ABLE TO--

THE COURT: MR. STANKO, THE ONLY QUESTIONS THAT YOU CAN ANSWER THIS COURT IS TO THE BEST OF YOUR ABILITY NOW.

THE DEFENDANT: YES, MA'AM.

THE COURT: NONE OF US ARE CLAIRVOYANT. WE DON'T KNOW WHAT'S GOING TO HAPPEN IN THE FUTURE. MY CONCERN IS NOT AN APPEAL.

QUITE FRANKLY, I DON'T SET ON THE APPELLATE COURT AND THAT IS NOT MY CONCERN.

THE DEFENDANT: RIGHT.

THE COURT: MY ONLY CONCERN RIGHT NOW IS THAT YOU HAVE A FAIR TRIAL, THAT IF YOU ARE -- THAT YOUR LAWYERS ARE ZEALOUSLY ADVOCATING ON YOUR BEHALF AND THAT YOU ARE SATISFIED WITH THEIR SERVICES.

IF THERE'S SOME WITNESSES YOU WANT TO CALL, YOU NEED TO MAKE THEM AWARE OF IT RIGHT NOW SO THAT THEY

CAN DO IT BEFORE THEY CLOSE YOUR CASE.

AND THAT IS PRECISELY WHY THE COURT IS ASKING YOU RIGHT NOW AT THIS SPECIFIC TIME. THERE'S NOTHING RANDOM ABOUT MY TIMING. I DELIBERATELY AM ASKING YOU THESE QUESTIONS RIGHT NOW BEFORE THEY RESTED BECAUSE THEY'VE CALLED THEIR LAST WITNESS.

I'M ASKING THE QUESTION RIGHT NOW SO THAT IF YOU NEED ADDITIONAL TIME TO GET WHOMEVER YOU THINK YOU WANT HERE TO TESTIFY, THAT YOU CAN DO IT BECAUSE YOU ONLY GET ONE SHOT.

AND THAT IS PRECISELY WHY I'M ASKING THESE QUESTIONS. THAT IS PRECISELY WHY I'M ASKING THEM RIGHT NOW. I THINK YOU HAVE BEEN AROUND ME ENOUGH TO KNOW I DON'T DO ANYTHING RANDOMLY.

THE DEFENDANT: I NEVER SAID YOU DID, JUDGE. YOU'RE PUTTING WORDS IN MY MOUTH. I NEVER SAID THAT I THOUGHT YOU -- I NEVER SAID -- I NEVER SAID ANYTHING TO CONTRADICT YOUR RULINGS OR SAY THAT YOU WEREN'T BEING FAIR.

THE COURT: MR. STANKO, I'M NOT -- I'M SIMPLY SAYING TO YOU, IF YOU HAVE SOME CONCERN, YOU NEED TO MAKE IT KNOWN. IF THERE ARE WITNESSES YOU WANT TO CALL, YOU NEED TO TELL THEM RIGHT NOW--

THE DEFENDANT: THEY CAN'T BE CALLED. IT'S TOO LATE, JUDGE.

THE COURT: WELL, THAT'S FOR THE COURT TO DETERMINE WHETHER IT'S TOO LATE. I DON'T KNOW THAT. SO IF THERE ARE WITNESSES, ADDITIONAL WITNESSES THAT YOU WANT TO CALL, YOU NEED TO MAKE YOUR ATTORNEYS AWARE OF IT RIGHT NOW SO THAT THEY CAN DO SOMETHING ABOUT IT.

THE DEFENDANT: MAY I GIVE YOU AN EXAMPLE?

THE COURT: SURE.

THE DEFENDANT: EVERYTHING THAT'S HAPPENED, CHRISTINA, IT'S -- TO TELL THE TRUTH, WOULD HAVE DONE EVERYTHING THAT THEY NEEDED DONE, BUT THERE WERE ADDITIONAL THINGS THAT WERE SAID IN TESTIMONY THAT WERE -- TO THE JURY WOULD LOOK HORRENDOUS.

WHEN NICK, HER BROTHER, COULD HAVE BEEN BROUGHT IN TO SHOW THAT THAT WASN'T TRUE.

THE COURT: YOU'RE ASSUMING HE WOULD HAVE COME?

THE DEFENDANT: MA'AM?

THE COURT: YOU'RE ASSUMING HE WOULD HAVE COME. HE IS ONE HUNDRED MILES OUTSIDE THE JURISDICTION OF THIS COURT. WE HAVE NO WAY OF MAKING SURE HE COMES.

THE DEFENDANT: BUT HE WAS HERE.

THE COURT: YOU'RE STILL ASSUMING HE WOULD HAVE TESTIFIED CONSISTENT WITH WHAT YOU -- DO YOU REALLY THINK HE IS GOING TO COME IN THIS COURT AND TESTIFY CONSISTENTLY TO HELP YOU IN THIS INSTANCE?

THE DEFENDANT: I THINK IF ANYONE IN THAT FAMILY WOULD HAVE TOLD THE TRUTH, JUDGE, IT WOULD HAVE BEEN HIM.

THE COURT: WELL, IT'S STILL NOT TOO LATE TO CALL HIM.

THE DEFENDANT: IT CAN'T BE INTRODUCED IN THIS PHASE.

THE COURT: WELL, WHY NOT? I DON'T KNOW. I'M NOT YOUR ADVOCATE. YOU NEED TO DISCUSS THAT WITH YOUR LAWYER--

THE DEFENDANT: THEY TOLD ME.

THE COURT: -- AND HELP THEM MAKE AN ASSESSMENT ABOUT WHETHER THEY NEED TO CALL HIM OR NOT. IT'S NOT TOO LATE.

THE DEFENDANT: JUDGE, THEY HAVE DONE EVERYTHING THAT THEY COULD HAVE. I'M HAPPY WITH WHATEVER THEY HAVE...

THE COURT: WELL, I'M TELLING YOU VERY CLEARLY, MR. STANKO, AND I NEED YOU TO KNOW -- AND AGAIN, I'M VERY SINCERE BECAUSE I'M A BELIEVER IN THIS SYSTEM, AND I'M A BELIEVER THAT IT WORKS.

THE DEFENDANT: YES, MA'AM.

THE COURT: AND IF THERE ARE ANY -- IF THERE IS ANYTHING ELSE YOU WANT YOUR LAWYERS TO DO, HINDSIGHT JUST LIKE ANY OTHER AREA OF OUR LIFE, WILL NOT

BENEFIT YOU.

THE DEFENDANT: RIGHT.

THE COURT: HINDSIGHT IS ALWAYS 20/20. WE ALWAYS SEE THINGS MORE CLEARLY IN HINDSIGHT. IF THERE IS SOMETHING OR A WITNESS THAT YOU WANT THEM TO CALL, I AM PUTTING YOU ON NOTICE RIGHT NOW THAT YOU NEED TO MAKE THEM AWARE OF IT SO THAT THEY CAN ENLIST THE COURT'S ASSISTANCE IN DOING WHATEVER IT IS YOU FEEL THAT YOU WANT THEM TO DO THAT IS WITHIN THE REALM OF POSSIBILITY TO BE DONE.

AND AGAIN, I AM NOT YOUR ADVOCATE. I AM NOT THE STATE'S ADVOCATE. I DIDN'T SEE THE GLOBAL PICTURE OF THIS ENTIRE CASE. I HAVE -- IT DOESN'T MATTER TO ME WHAT THE JURY DOES. THEY ARE THE FACT FINDERS.

MY ONLY FUNCTION IS TO EQUIP THEM WITH THE LAW AND TO BE THE GATEKEEPER REGARDING, YOU KNOW, THE EVIDENTIARY RULES, PROCEDURES, STATUTES AND OTHERWISE.

IF THERE ARE WITNESSES THAT YOU FEEL YOU WANT CALLED IN THIS CASE, I AM PUTTING YOU ON NOTICE THAT YOU NEED TO MAKE MR. DIGGS AND MR. KELLY AWARE OF IT SO THAT IT CAN BE DONE IF THEY FEEL THAT IT'S STRATEGICALLY IN YOUR BEST INTEREST THAT IT CAN BE DONE BEFORE THEY REST THIS CASE WHILE WE HAVE THE TIME TO TAKE CARE OF IT.

THE DEFENDANT: TO THE BEST OF MY KNOWLEDGE, MA'AM, THEY HAVE DONE EVERYTHING THAT THEY COULD. THEY HAVE REPRESENTED ME WELL.

THE COURT: AND REALLY, QUITE FRANKLY, MR. STANKO, I THOUGHT ABOUT WHAT YOU JUST SAID ABOUT MISS LING'S BROTHER. YOU KNOW, THE COURT INSTRUCTED THE JURY THAT THEY WERE THE SOLE JUDGES OF THE CREDIBILITY AND BELIEVABILITY OF THE TESTIMONY OF WITNESSES.

AND IF YOUR CONCERN WERE ABOUT HER ACTUAL BEHAVIOR IN THE HOUSEHOLD, YOUR LAWYERS DID AN EXCELLENT JOB OF CROSS-EXAMINING HER AND IMPEACHING HER AND HAVING HER ADMIT THAT SHE WAS NOT A MODEL CHILD.

THE DEFENDANT: NO, IT WASN'T ABOUT THAT. SHE ADMITTED THAT BEFORE THEY EVEN GOT UP THERE, JUDGE.

THE COURT: BUT I'M SAYING THAT...

THE DEFENDANT: JUDGE, I JUST VIEW THAT AS--

THE COURT: WELL, I JUST WANTED YOU TO KNOW THAT IN TERMS OF YOUR -- THAT, YOU KNOW, THE JURY IS THE SOLE JUDGE OF THE CREDIBILITY--

THE DEFENDANT: YES, MA'AM.

THE COURT: -- OF WITNESSES. AND I THINK THEY HAD A FULL VIEW OF--

THE DEFENDANT: I DIDN'T WANT -- I -- I USE THAT

AS AN EXAMPLE JUST FOR ONE. THERE WERE--

THE COURT: WELL, AGAIN, IF YOU HAVE CONCERNS ABOUT OTHER WITNESSES BEING CALLED, I'M GOING TO TAKE A BRIEF RECESS AND YOU NEED TO LET THEM KNOW WHO THEY ARE BECAUSE THIS WILL BE YOUR ONLY OPPORTUNITY TO DO IT, AND IF YOU FORGO THIS OPPORTUNITY, THAT ONE WILL BE ON YOU BECAUSE THE COURT -- THE RECORD WILL REFLECT THAT I HAVE GIVEN YOU A FULL OPPORTUNITY TO DO IT AND THAT MR. -- AND I AM GOING TO INQUIRE OF MR. DIGGS AND MR. KELLY WHETHER -- I'M NOT GOING TO GO INTO YOUR STRATEGY BECAUSE IT'S REALLY NOT MY BUSINESS WHAT THEIR STRATEGY IS, BUT ONCE YOU PROVIDE THEM WITH THAT INFORMATION, THEY WILL HAVE TO DETERMINE STRATEGICALLY WHETHER THEY BELIEVE IT IS IN YOUR BEST INTEREST.

THEY MAY WELL MAKE THE DECISION THAT CALLING THESE ADDITIONAL WITNESSES ARE NOT IN YOUR BEST INTEREST AND THAT IT IS CONTRARY TO YOUR STRATEGY IN THE CASE. I DON'T KNOW.

I CAN'T MAKE THAT ASSESSMENT. BUT THE ONLY THING THAT I CAN ADVISE YOU IS THAT YOU NEED TO MAKE THEM AWARE OF IT. THEY CANNOT ADVISE YOU IF THEY ARE NOT FULLY INFORMED OF YOUR THOUGHT.

AND THAT IS WHY I ASKED BECAUSE IT IS MY FULL UNDERSTANDING BASED ON MY CONTACT IN THIS CASE THAT

YOUR LAWYERS HAVE FULLY DISCUSSED THEIR STRATEGY IN THIS CASE AND YOU HAVE BEEN ADVISED ALL ALONG, THAT THEY HAVE NOT MADE ANY DECISIONS WITHOUT FULLY DISCUSSING THOSE MATTERS WITH YOU. IS THAT CORRECT, MR. KELLY AND MR. DIGGS?

MR. KELLY: IT IS, MA'AM.

THE COURT: THAT HAS BEEN THE COURT'S PERCEPTION AND THAT HAS BEEN WHAT YOU'VE REPRESENTED TO THE COURT.

THE DEFENDANT: WE HAVE DISCUSSED IT, MA'AM.

THE COURT: OKAY. NOW, DO YOU HAVE ANY COMPLAINTS ABOUT THEIR SERVICES?

THE DEFENDANT: NO, MA'AM.

THE COURT: AND ARE YOU COMPLETELY SATISFIED WITH YOUR LAWYERS' SERVICES?

THE DEFENDANT: BEST OF MY KNOWLEDGE, YES, MA'AM.

THE COURT: HAVE YOU MADE THESE STATEMENTS TO ME FREELY AND VOLUNTARILY AND OF YOUR OWN WILL?

THE DEFENDANT: YES, MA'AM.

THE COURT: DO YOU FEEL THAT YOU HAVE BEEN COERCED IN ANY WAY OR UNDER ANY DURESS TO MAKE THESE STATEMENTS TO THE COURT?

THE DEFENDANT: NO, MA'AM, I HAVEN'T.

THE COURT: ARE YOU SUFFERING FROM ANY MENTAL

DISABILITIES OR UNDER THE INFLUENCE OF ANY DRUGS OR ALCOHOL THAT WOULD AFFECT THE STATEMENTS THAT YOU JUST MADE TO THE COURT REGARDING YOUR ATTORNEYS' REPRESENTATION?

THE DEFENDANT: NO, MA'AM.

THE COURT: DO YOU FEEL THAT YOU HAVE BEEN COERCED IN ANY WAY TO MAKE THESE STATEMENTS TO THE COURT?

THE DEFENDANT: NO, MA'AM.

THE COURT: NOW, I'M GOING TO GIVE YOU A FEW MINUTES. AND ACTUALLY WHILE I HAVE EVERYBODY OUT OF THE COURTROOM, I MIGHT AS WELL TAKE THIS UP NOW ALSO, IT'S REALLY NOT NECESSARY THAT THEY BE HERE.

YOU ARE AWARE -- LET ME ASK YOU. MR. KELLY AND MR. DIGGS, HAVE YOU FULLY EXPLAINED TO MR. STANKO HIS RIGHT THAT HE HAS THE LAST ARGUMENT IN THIS PHASE?

MR. DIGGS: YOUR HONOR, WE DISCUSSED THAT. I KNOW I'VE DISCUSSED IT WITH STEPHEN. I'M SURE MR. KELLY HAS.

THE COURT: AND MR. KELLY?

MR. KELLY: YES, MA'AM.

THE COURT: AND DO YOU ALL BELIEVE HE'S FULLY INFORMED THAT HE HAS THE RIGHT TO THE LAST ARGUMENT?

MR. KELLY: YES, MA'AM.

MR. DIGGS: YES, MA'AM.

THE COURT: DO YOU ALL PLAN TO OPEN AS WELL AS CLOSE OR DO YOU SIMPLY PLAN TO CLOSE?

LAW CLERK: JUDGE, JUST A SECOND. THERE IS SOMEBODY OUT THERE.

THE COURT: THAT'S A DEPUTY.

LAW CLERK: IS THAT ALL RIGHT?

THE COURT: YEAH, HE CAN'T HEAR WHAT WE'RE SAYING. ALL RIGHT.

LAW CLERK: I JUST WANTED TO MAKE SURE BEFORE WE WENT ANY FURTHER.

MR. DIGGS: YOUR HONOR, I DON'T BELIEVE WE'VE MADE A DECISION ON THAT YET. WE HAVEN'T REALLY DISCUSSED WHAT...

THE COURT: OKAY. WELL, YOU CAN LET ME KNOW THAT.

MR. DIGGS: OKAY.

THE COURT: I JUST NEED TO KNOW -- I WAS ASKING MORE FOR SCHEDULING PURPOSES THAN ANYTHING ELSE.

MR. DIGGS: ALL RIGHT. YOUR HONOR, I PROBABLY WOULD NOT OPEN. I DON'T KNOW HOW MR. KELLY FEELS.

MR. KELLY: YOU MEAN ON THE LAW, MA'AM?

THE COURT: YES, SIR.

MR. KELLY: I DON'T INTEND TO OPEN ON THE LAW MYSELF, MA'AM.

THE COURT: OKAY.

MR. DIGGS: YEAH. AND I REALLY DON'T AT THIS POINT EITHER.

THE COURT: OKAY. MR. STANKO, HAVE YOUR LAWYERS FULLY EXPLAINED TO YOU YOUR RIGHT TO HAVE THE LAST ARGUMENT IN THIS PHASE OF THE TRIAL?

THE DEFENDANT: YES, MA'AM.

THE COURT: AND YOU FULLY UNDERSTAND THAT?

THE DEFENDANT: YES, MA'AM.

THE COURT: HAVE YOUR LAWYERS ALSO EXPLAINED TO YOU THAT YOU HAVE THE RIGHT TO ADDRESS THE JURY DURING THIS PHASE OF THE TRIAL IN CLOSING ARGUMENT?

THE DEFENDANT: YES, MA'AM.

THE COURT: AND MR. STANKO, MR. KELLY, HAVE YOU FULLY EXPLAINED TO MR. STANKO HIS RIGHT TO FULLY -- TO ADDRESS THE JURY IN CLOSING ARGUMENT AT THE -- IN THIS PHASE OF THE TRIAL?

MR. DIGGS: YOUR HONOR, I DISCUSSED IT WITH HIM.

MR. KELLY: YES, MA'AM.

THE COURT: AND DO YOU BELIEVE HE FULLY UNDERSTANDS THAT RIGHT?

MR. DIGGS: HE DOES.

MR. KELLY: HE DOES, YOUR HONOR.

THE COURT: SIR, AGAIN, HAVE YOUR LAWYERS FULLY EXPLAINED TO YOU YOUR RIGHT TO ADDRESS THE JURY IN CLOSING ARGUMENT DURING THIS PHASE OF THE CASE?

THE DEFENDANT: YES, MA'AM.

THE COURT: AND HAVE YOU UNDERSTOOD YOUR TALKS WITH THEM?

THE DEFENDANT: YES, MA'AM.

THE COURT: DO YOU FEEL YOU NEED TO TALK WITH THEM ANY MORE REGARDING THIS RIGHT?

THE DEFENDANT: WHAT WE'RE GOING TO DO IS I'M GOING TO WRITE DOWN -- I CAN'T ANSWER YES OR NO. WHAT WE'RE GOING TO DO IS I'M GOING TO THINK AND WRITE DOWN WHAT I INTEND TO SAY TONIGHT AND WE'RE GOING TO LOOK AT IT IN THE MORNING, AND THEN ONCE WE TALK IN THE MORNING THE LAST TIME--

THE COURT: AND THEN MAKE YOUR FINAL DECISION?

THE DEFENDANT: THEN MAKE -- RIGHT NOW I'M IN AGREEMENT WITH WHAT THEY SAID, BUT I WANT THEM TO READ IT FIRST AND THEN MAKE ONE LAST DECISION.

THE COURT: OKAY.

THE DEFENDANT: AND THAT WON'T TAKE BUT 10 SECONDS.

THE COURT: AND YOU ALL HAVE FULLY EXPLAINED TO HIM WHAT HE WOULD BE CONFINED TO IN MAKING HIS ARGUMENT; CORRECT?

MR. DIGGS: YOUR HONOR, WE DISCUSSED THAT, YES.

THE COURT: MR. KELLY?

MR. KELLY: YES, MA'AM.

THE COURT: AND YOU BELIEVE HE'S FULLY ADVISED--

MR. KELLY: YES.

THE COURT: -- REGARDING THE LIMITATIONS.

MR. KELLY: I DO, MA'AM.

MR. DIGGS: YES, MA'AM.

THE COURT: ALL RIGHT. MR. STANKO, WHAT I WILL DO THEN IS I WILL RESERVE THE REST OF OUR DISCUSSION REGARDING THIS UNTIL THE MORNING BECAUSE THE NEXT SERIES OF MY QUESTIONS WOULD BE WHETHER YOU WANT TO ADDRESS THE JURY IN CLOSING ARGUMENT.

BUT WHAT I WILL DO IS GIVE YOU THE FULL OPPORTUNITY TO DISCUSS THAT THIS EVENING WITH YOUR COUNSEL AND THEN WE WILL RESUME IN THE MORNING. THE FIRST THING THAT I WILL DO IS AGAIN I WILL QUESTION YOU REGARDING YOUR RIGHT TO ADDRESS THE JURY IN FINAL ARGUMENT SO THAT YOU CAN HAVE A FULL OPPORTUNITY TO DISCUSS THAT WITH YOUR LAWYERS IN MORE DETAIL.

IS THERE ANY EXCEPTION TO THE COURT HANDLING IT THAT WAY?

MR. DIGGS: NO, YOUR HONOR.

MR. KELLY: NO, MA'AM.

THE COURT: ALL RIGHT. LET'S BRING EVERYBODY BACK IN. ACTUALLY, I WILL GIVE YOU ALL A FEW MINUTES TO TALK TO MR. STANKO. I'M GLAD YOU REMINDED ME.

IF THERE ARE ANY OTHER WITNESSES YOU WANT YOUR

LAWYERS TO CALL, YOU NEED TO MAKE THEM AWARE OF IT RIGHT NOW BECAUSE WHEN YOU COME -- WHEN I COME BACK, BEFORE I BRING EVERYBODY BACK IN, I'M GOING TO ASCERTAIN FROM THEM WHETHER YOU'VE PROVIDED THEM WITH THAT INFORMATION SO THAT FOR SCHEDULING PURPOSES I CAN DECIDE WHETHER THEY -- OR I WON'T DECIDE -- SO THEY CAN DECIDE WHETHER THEY NEED TO REST TODAY OR WHETHER WE WILL HAVE CLOSING ARGUMENTS AND CHARGE IN THE MORNING OR WHETHER I NEED TO GIVE THEM ADDITIONAL TIME TO PROCURE OTHER WITNESSES. WE WILL BE AT EASE FOR A FEW MOMENTS.

MR. DIGGS: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME.

(WHEREUPON A RECESS WAS HAD.)

THE COURT: OKAY. MR. STANKO, PURSUANT TO OUR CONVERSATION JUST A FEW MOMENTS AGO THE COURT TOOK A BREAK TO GIVE YOU AN ADDITIONAL OPPORTUNITY TO DISCUSS WITH MR. DIGGS AND MR. KELLY THE OPPORTUNITY TO CALL ANY OTHER WITNESSES THAT YOU MIGHT FEEL THAT ARE NECESSARY IN YOUR REPRESENTATION.

HAVE YOU HAD A FULL OPPORTUNITY TO DISCUSS THOSE MATTERS WITH YOUR LAWYERS?

THE DEFENDANT: YES, MA'AM, WE DISCUSSED IT.

THE COURT: AND HAVE YOU FULLY ADVISED THEM OF ANY ADDITIONAL WITNESSES YOU WISH FOR THEM TO CALL

BEFORE THEY REST?

THE DEFENDANT: YES, MA'AM. WE DISCUSSED THAT.

THE COURT: OKAY. MR. KELLY AND MR. DIGGS, HAS MR. STANKO FULLY ADVISED YOU PURSUANT TO THE COURT'S LAST COLLOQUY WITH HIM REGARDING ANY ADDITIONAL WITNESSES?

MR. DIGGS: YES, MA'AM.

MR. KELLY: YES, MA'AM. SAID HE DIDN'T HAVE ANY.

THE COURT: OKAY. AND THAT -- MR. STANKO, YOU ARE FULLY CONFIDENT IN THAT ANSWER?

THE DEFENDANT: YES, MA'AM.

THE COURT: OKAY. AND YOU DO NOT DESIRE YOUR ATTORNEYS TO CALL ANY ADDITIONAL WITNESSES PRIOR TO THE CLOSE OF YOUR CASE?

THE DEFENDANT: NO, MA'AM.

THE COURT: AND YOU UNDERSTAND THAT THIS WILL BE YOUR FINAL OPPORTUNITY TO DO THAT?

THE DEFENDANT: YES, MA'AM.

THE COURT: AND YOU UNDERSTAND THAT THE COURT CAN, IS WILLING TO GIVE YOU ADDITIONAL TIME TO DO THAT IF THAT IS YOUR DESIRE.

THE DEFENDANT: I UNDERSTAND THAT YOU WILL DO THAT, MA'AM.

THE COURT: AND UNDERSTANDING THAT, YOU STILL DO

NOT WISH TO CALL ANY ADDITIONAL WITNESSES?

THE DEFENDANT: THAT'S CORRECT.

THE COURT: OKAY. ALL RIGHT. LET'S PROCEED. WELL, LET ME ASK ANOTHER QUESTION. MR. STANKO, ARE YOU DOING THAT FREELY AND VOLUNTARILY AND OF YOUR OWN WILL?

THE DEFENDANT: YES, MA'AM.

THE COURT: AND YOU DO NOT FEEL -- DO YOU FEEL THAT YOU'RE UNDER ANY DURESS OR COERCION IN ANSWERING THE COURT'S QUESTIONS?

THE DEFENDANT: NO, MA'AM.

THE COURT: OKAY. YOU'RE NOT UNDER THE INFLUENCE OF ANY DRUGS OR ALCOHOL; IS THAT CORRECT?

THE DEFENDANT: THAT'S CORRECT.

THE COURT: OKAY. GO AHEAD AND TELL EVERYBODY THEY CAN COME BACK FOR ME, MR. DIGGS, THEN WHAT I WILL ASSUME WE'LL DO IS YOU ALL WILL REST IN THE PRESENCE OF THE JURY, I WILL LET THEM GO, DO A QUICK CHARGE CONFERENCE.

SUMMER HAS COPIES OF THE CHARGE FOR YOU ALL SHE'S GOING TO GIVE YOU. Y'ALL ALREADY HAVE THE FORMS, AND SO THEN GO OVER THE CHARGE.

MR. KELLY: YES, MA'AM.

THE COURT: OH, AND WE NEED TO DEAL WITH THE EXHIBITS. HAVE WE GOT THEM...

COURT REPORTER: PRETTY MUCH. MRS. DAVIS HAS -- I'VE GOT THE DISK WITH THE PICTURES...

(OFF-THE-RECORD DISCUSSION WAS HAD WITH THE CLERK.)

THE COURT: HAVE THEY BEEN FULLY REDACTED? HAS HE HAD A CHANCE TO FULLY REDACT THEM? HAVE THEY BEEN FULLY REDACTED?

MR. HEMBREE: YES. I'VE BEEN THROUGH THEM, YOUR HONOR. THEY'RE FULLY REDACTED.

THE COURT: OKAY. ALL RIGHT. I JUST WANT TO BE SURE...

(OFF-THE-RECORD DISCUSSION WAS HAD WITH COURT REPORTER AND ATTORNEYS.)

THE COURT: ALL RIGHT. I HAVE ALREADY COVERED WITH MR. STANKO IN YOUR ABSENCE HIS SATISFACTION WITH COUNSEL, HIS RIGHT TO TESTIFY, AND HIS RIGHT TO ADDRESS THE JURY IN FINAL ARGUMENT.

WE WILL CONTINUE QUESTIONING HIM REGARDING HIS RIGHT TO ADDRESS THE JURY IN FINAL ARGUMENT IN THE MORNING. HE NEEDS ADDITIONAL TIME TO DISCUSS THAT WITH HIS LAWYERS.

WHAT -- WE ANTICIPATE THAT THE DEFENSE IS GOING TO REST. ARE THERE GOING TO BE ANY REPLY WITNESSES?

MR. HEMBREE: NO, YOUR HONOR.

THE COURT: AND THEN I WILL -- WE'LL HEAR ANY MOTIONS THEN WE'LL HAVE A CHARGE CONFERENCE AND I

WILL ADVISE THE JURY WE'RE TO HAVE CLOSING ARGUMENT AND CHARGE IN THE MORNING.

NOW, IS THERE ANYTHING THAT YOU ALL ANTICIPATE THAT WE'RE GOING TO HAVE TO TAKE UP IN THE MORNING PRIOR TO STARTING AT 9:30? BECAUSE IF WE DO, I WANT TO ADJUST THE SCHEDULE BECAUSE I DON'T WANT THE JURY WAITING IF WE HAVE THINGS WE NEED TO TAKE CARE OF.

MR. HUMPHRIES: NOT AS LONG AS WE'RE GOING TO GO THROUGH THE CHARGE AND THE FORM TONIGHT.

THE COURT: Y'ALL ANTICIPATE ANYTHING?

MR. DIGGS: WE DON'T HAVE ANYTHING.

THE COURT: OKAY. AND IS THERE ANY EXCEPTION TO US PROCEEDING AS THE COURT HAS INDICATED?

MR. DIGGS: NOT FROM THE DEFENSE.

THE COURT: FROM THE STATE?

MR. HEMBREE: NOT FROM THE STATE, YOUR HONOR.

THE COURT: YOU CAN BRING IN THE JURY, PLEASE.

(JURY ENTERED THE COURTROOM AT 6:50 PM.)

THE COURT: YOU MAY BE SEATED. LADIES AND GENTLEMEN, WE APPRECIATE YOUR PATIENCE. WE NEEDED TO TAKE UP SOME ADMINISTRATIVE MATTERS AS WELL AS SOME MATTERS OF LAW OUTSIDE OF YOUR PRESENCE SO THAT WE COULD KNOW HOW WE WILL BE PROCEEDING WITH THE DURATION OF THE PROCEEDINGS. THE DEFENSE MAY PROCEED.

MR. DIGGS: YOUR HONOR, THE DEFENSE WILL REST AT THIS POINT.

THE COURT: ARE THERE ANY REBUTTAL WITNESSES FROM THE STATE?

MR. HEMBREE: NO REBUTTAL WITNESSES FROM THE STATE, YOUR HONOR.

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, BOTH THE STATE AND THE DEFENSE HAVE RESTED. THE NEXT PHASE -- THERE'S SOME MATTERS OF LAW I NEED TO TAKE UP WITH THE ATTORNEYS, AND IT REALLY IS NOT EFFICIENT AT ALL TO HAVE YOU ALL WAIT WHILE WE DO THAT.

AND IN ANY EVENT, THE NEXT STAGE OF THE PROCESS WILL BE CLOSING ARGUMENT AND THE COURT'S CHARGE ON THE LAW.

AND WE WILL DO THAT -- AND WE WOULDN'T BE ABLE TO START THAT TONIGHT ANYWAY BECAUSE I ANTICIPATE IT WILL TAKE A WHILE AND I WOULD IMAGINE YOU ALL ARE WEARY AND NEED SOME DINNER AND THAT WOULD NOT BE AN EFFICIENT USE OF OUR TIME.

WE WILL HAVE CLOSING ARGUMENT AND CHARGE IN THE MORNING BEGINNING AT 9:30. DURING THIS BREAK PLEASE DO NOT DISCUSS THIS CASE IN ANY WAY. PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS.

AND IF I -- I ASSUME -- IS DINNER BEING BROUGHT

CLOSING STATEMENT

MR. KELLY: LADIES AND GENTLEMEN, I WANT TO START BY TELLING YOU THAT WE APPRECIATE -- I'M TALKING ABOUT THE DEFENSE ATTORNEYS -- I KNOW THE STATE DOES, TOO, YOUR PATIENCE IN THIS MATTER.

THE SECOND PHASE IS COMPLICATED AND THAT'S REALLY WHY IT'S TAKING SO MUCH TIME TO PUT IT UP. AND LET ME ALSO APOLOGIZE -- I'M A LITTLE OUT OF BREATH. I'M NOT -- HAVEN'T REALLY GOT MY BREATH BACK.

BUT I WANT TO APOLOGIZE FOR HAVING TO SIT IN ORDER TO TALK TO YOU OR NOT BEING ABLE TO STAND UP WHEN YOU COME INTO THE ROOM. I DON'T DISRESPECT YOU IN THAT WAY AND I KNOW YOU KNOW THAT, BUT I WANT TO TELL YOU THAT.

AND LET ME TELL YOU, I WAS GOING DOWN SOME STAIRS THE OTHER NIGHT. I WAS STAYING OUT AT PAWLEYS PLANTATION, MY WIFE AND I, AND IN THE CONDO NEXTDOOR UPSTAIRS MY TWO INVESTIGATORS WERE SHARING AN APARTMENT THERE.

AND ALONG ABOUT 9:00 I WENT OVER THERE TO WORK ON THE CASE. A LITTLE BIT BEFORE MIDNIGHT I FINISHED AND I WAS COMING DOWN THE STAIRS AND I FELL.

AND I GOT -- MANAGED TO GET BACK UP THE STAIRS AND TO CALL MY WIFE. AND WHEN WE WERE ABLE TO LOOK

AT THE SCENE DOWN THERE, VICKY HELPED ME COME DOWN THE STAIRS SO THEY COULD TAKE ME TO THE HOSPITAL, MY WIFE DROVE ME THERE, THOUGHT IT WOULD BE QUICKER THAN GETTING EMS OVER THERE.

AND WHEN I WAS COMING DOWN THE STAIRS THEN I COULD LOOK DOWN TO THE BOTTOM OF THE STAIRS AND AT THE BOTTOM OF THOSE STAIRS WHERE THE CONCRETE IS AND WHERE THE LOWER STEPS WERE, IT WAS LIKE A LARGE, DARK POOL.

AND LATER WHEN WE EXAMINED RIGHT ACROSS FROM THOSE STAIRS, RIGHT WHERE THAT POOL WAS, THERE WAS A LIGHT THAT WAS OUT. THERE WAS ONE OTHER LIGHT DOWN THERE, BUT IT WAS ON THE OTHER SIDE OF A -- THE BANISTER POLE, AND SO IT ONLY GAVE A PARTIAL LIGHT. AND AS A RESULT OF THAT, I TOOK THIS FALL.

NOW, WHEN I FIRST TALKED TO YOU, WE TALKED ABOUT TRUTH BEING LIKE A LIGHT. AND I ASK YOU, IS THE TRUTH THE LIGHT? AND I THINK SOME OF YOU AGREE WITH ME IT IS.

AND I ASKED YOU, SHOULD TRUTH BE THE LIGHT THAT GUIDES OUR PATH AS WE ATTEMPT TO MAKE OUR DECISIONS. AND I THINK YOU AGREE WITH ME.

AND I WENT ON TO SAY THAT I BELIEVE THAT YOU CAN TRY TO CONCEAL THE TRUTH, BUT THAT IT WOULD FINALLY SHINE OUT LIKE A BEACON ON A HILL NO MATTER HOW YOU

TRY AND CONCEAL IT. MIGHT TAKE TIME, BUT IT WILL FINALLY COME OUT.

WELL, ALSO THAT LITTLE LIGHT THAT WAS BEHIND THAT POLE DOWN THERE, THAT WAS A HALF-LIGHT. THAT DIDN'T HELP ME MUCH WHEN I FELL. AND A HALF TRUTH DOESN'T HELP US MUCH TO SHINE ON OUR PATH EITHER.

NOW, YOU ARE THE JUDGES OF THE TRUTH, OF THE FACTS. AND WHEN I FIRST TALKED WITH YOU, I TALKED ABOUT ONE OF THE THINGS THAT WOULD BE COMPLEX FOR YOU TO DEAL WITH AND MAKE YOUR DECISIONS ON WOULD BE WHY THIS HAPPENED, HOW AND WHY.

WHEN AND WHERE AND WHAT HAPPENED, THOSE ARE PRETTY CLEAR. NOW, I HAVE GOT A NUMBER OF THINGS I WANT TO TALK TO YOU ABOUT. I SEE IT'S FIVE MINUTES UNTIL THE HOUR.

I'M NOT GOING TO TAKE UP ANY MORE OF YOUR TIME THAN I HAVE TO, BUT IT'S A LOT OF FACTS. WE HAVE BEEN HERE -- I DON'T EVEN KNOW HOW MANY DAYS WE HAVE BEEN WORKING ON THIS.

LET ME TALK FIRST OF ALL ABOUT AN ASPECT OF THIS CASE THAT YOU'RE GOING TO HAVE TO DECIDE BECAUSE THERE ARE AGGRAVATING CIRCUMSTANCES THAT ARE CLAIMED CALLED STATUTORY AGGRAVATING CIRCUMSTANCES. THOSE WERE EXPLAINED TO YOU BY THE SOLICITOR, AND THE JUDGE HAS EXPLAINED THOSE TO YOU AS WELL.

AND THEY WERE LISTED AND THEY ARE LISTED IN OUR LAW AS AGGRAVATING CIRCUMSTANCES. THAT'S FOR YOU TO DECIDE. THE JUDGE WILL GIVE YOU THE BURDEN OF PROOF. THE BURDEN OF PROOF IS BEYOND ANY REASONABLE DOUBT.

THERE ARE ALSO STATUTORY MITIGATING CIRCUMSTANCES. I'M GOING TO TALK ABOUT THOSE. NOW, I KNOW YOU HADN'T MADE UP YOUR MIND BECAUSE YOU WERE SITTING AS JUDGES AND YOUR OATH AND YOUR -- AND YOUR INSTRUCTIONS HAVE BEEN, DON'T MAKE UP YOUR MIND UNTIL YOU HEAR EVERYTHING.

SO OPEN YOUR MIND UP AND GIVE ME THE OPPORTUNITY TO TALK TO YOU. I HAVE GOT SOME NOTES HERE THAT I HAVE MADE. AND THIS IS WHAT THE JUDGE IS GOING TO TELL YOU, BECAUSE I COPIED IT RIGHT OUT OF HER INSTRUCTIONS THAT SHE'S GOING TO READ TO YOU. SHE SHOWED THEM TO US.

AND THIS IS ONE OF THE THINGS THAT YOU HAVE TO CONSIDER. YOU MIGHT HAVE WONDERED, WHY ARE THESE DOCTORS COMING BACK UP HERE AGAIN AFTER WE HAVE ALREADY HEARD THEM AND WE DECIDED HE'S NOT INSANE AND WE DECIDED THAT HE'S NOT MENTALLY ILL, GUILTY BUT MENTALLY ILL, SO WHAT ARE THEY COMING BACK UP HERE FOR?

WELL, IT'S BECAUSE YOU HAVE ANOTHER ISSUE YOU HAVE TO THINK ABOUT, YOU HAVE TO DECIDE. AND HERE IT

IS. I AM JUST GOING TO READ IT TO YOU.

THAT THE MURDER WAS COMMITTED WHILE THE DEFENDANT WAS UNDER THE INFLUENCE OF MENTAL OR EMOTIONAL DISTURBANCE. THAT'S SOMETHING THAT YOU'LL HAVE TO DECIDE.

WHETHER OR NOT THE DEFENDANT COMMITTED THE MURDER -- AND I WILL JUST READ IT AS IT IS -- MURDER WAS COMMITTED WHILE THE DEFENDANT WAS UNDER THE INFLUENCE OF MENTAL OR EMOTIONAL DISTURBANCE.

AND THERE WILL BE ANOTHER ONE THAT YOU'LL HAVE TO CONSIDER. THESE ARE STATUTORY MITIGATING CIRCUMSTANCES. THAT MEANS THEY'RE WRITTEN INTO THE LAW.

THE CAPACITY OF THE DEFENDANT TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF LAW WAS SUBSTANTIALLY IMPAIRED.

WELL, YOU SEE, THAT IS -- THAT IS DIFFERENT, ISN'T IT, FROM WHAT YOU DECIDED EARLIER ABOUT INSANITY AND GUILTY BUT MENTALLY ILL. THOSE ARE DIFFERENT STANDARDS. AND THE JUDGE WILL INSTRUCT YOU ON THOSE.

NOW, IN THE SECOND HALF OF THE CASE WE PUT UP A LOT OF EVIDENCE AND -- AND THAT EVIDENCE, I'M GOING TO TALK TO YOU ABOUT, I'M GOING TO TALK TO YOU ABOUT

IT, HAVING TO DO WITH STANKO'S MENTAL ABILITY.

WE WERE TRYING TO SHOW -- WE SHOWED YOU EVIDENCE THAT YOU DIDN'T SEE IN THE FIRST PART OF THE TRIAL BECAUSE REALLY IT DIDN'T REALLY BELONG THERE.

SOME OF IT COULD HAVE COME IN THERE. IT COULD HAVE BEEN BROUGHT IN BY THE STATE OR BY THE DEFENSE. BUT THERE WAS NEW EVIDENCE. YOU DIDN'T HEAR ABOUT THE -- A CONNIE PRICE.

I DON'T THINK YOU EVEN HEARD ABOUT MR. LEE OR AND I BELIEVE IT WAS JEFFERSON, ABOUT THE LADY WHO WAS CONNED OUT OF HER $25 AND HER STORE WAS CONNED OUT OF THE HUNDRED DOLLARS. YOU DIDN'T HEAR THAT.

WE SUBMIT TO YOU THAT THAT IS REAL EVIDENCE OF HIS MENTAL STATE. AND WHEN THE EXPERT SPOKE TO YOU THE SECOND TIME AROUND, I DIDN'T THINK IT WAS RE-FRIED OR RE-HASHED OR WARMED OVER, REJUVENATED.

I THOUGHT IT WAS -- IN FACT, I KNEW THAT IT SPOKE NOT ONLY TO EARLIER ISSUES, BUT IT SPOKE TO THIS NEW ISSUE AS WELL.

NOW, HIS -- WE'RE NOT BLAMING THE SYSTEM HERE. THAT'S NOT WHAT WE'RE DOING. I MIGHT HAVE GONE A LITTLE BIT TOO FAR WHEN I GAVE YOU MY OPENING. I'M A PASSIONATE KIND OF MAN. IF I SEE SOMEBODY LYING UNDER OATH OR I THINK THEY ARE, I GO FOR THEM.

IF I SEE SOMEBODY THAT I THINK IS TELLING A HALF

TRUTH TO A JURY, I GO AFTER THEM. AND SOMETIMES I GO TOO FAR, PERHAPS, BUT -- AND IF I DID BEFORE YOU, DON'T HOLD IT AGAINST HIM. HOLD IT AGAINST ME.

NOW, I -- WHEN WE'RE TALKING ABOUT STANKO'S MENTAL WHATEVER YOU WANT TO CALL IT, WE HAVE TO ASK OURSELVES HOW INTENSE WAS IT? WHAT WAS HIS HISTORY? HOW DID IT DEVELOP? WHAT WAS GOING ON? WHAT DID PEOPLE SEE? WHAT DOES THAT MEAN TO US GIVEN WHAT THE DOCTORS TOLD US?

AND I'M GOING TO NOW TALK TO YOU ABOUT WHAT THE JUDGE IS GOING TO TELL YOU ABOUT HOW TO JUDGE THE CREDIBILITY OF WITNESSES. AND IF SHE -- SHE ALREADY TOLD YOU IN THE FIRST INSTRUCTIONS ABOUT HOW TO DO THIS, AND SHE IS GOING TO REPEAT IT.

I COPIED IT RIGHT OUT OF HER INSTRUCTIONS. I WANT TO READ IT TO YOU, IF I COULD FIND IT. IT IS CALLED PASSING ON THE CREDIBILITY OF WITNESSES. THIS IS LONG ESTABLISHED LAW.

IT COMES DEEP OUT OF THE COMMON LAW OF THE ENGLISH SPEAKING PEOPLE WHO NURTURED THE JURY SYSTEM IN ORDER TO DETERMINE WHO IS TELLING THE TRUTH ABOUT SOMETHING.

AND THIS IS WHAT SHE'S GOING TO INSTRUCT YOU. YOU CAN CONSIDER THE DEMEANOR OF A WITNESS. THAT'S HOW THEY SHOW THEMSELVES. THAT IS THE APPEARANCE AND

MANNER OF A WITNESS FROM THE WITNESS STAND. THAT'S ONE WAY YOU CHOSE. THERE ARE 12 OF THEM THERE.

IT'S HARD TO RUN SOMEBODY BY YOU IF YOU'RE BEING HONEST WITH YOURSELVES AND WITH ONE ANOTHER AND FREELY DISCUSS CREDIBILITY OF THE WITNESSES, IT'S ALMOST IMPOSSIBLE TO TRICK YOU.

SECOND, WHETHER THE WITNESS EXHIBITED TO YOU ANY INTEREST, ANY BIAS, ANY PREJUDICE OR ANY MOTIVE IN THE CASE.

AND THIRD, WHETHER A WITNESS'S TESTIMONY WAS CONTRADICTED ON THE ONE HAND OR SUPPORTED AND CORROBORATED ON THE OTHER.

AND FOURTH, THE OPPORTUNITY FOR KNOWLEDGE CONCERNING THE THINGS ABOUT WHICH A WITNESS TESTIFIED AS WELL AS THE REASONABLENESS OF THE TESTIMONY.

AND I SUBMIT TO YOU AS JUDGES OF THE FACTS WHEN YOU DISCUSS WHETHER YOU BELIEVE THIS ONE OR YOU BELIEVE THAT ONE, YOU SHOULD USE THOSE STANDARDS THAT ARE GIVEN TO YOU TO DO THAT.

NOW LET'S TALK ABOUT THESE WITNESSES. AND LET ME SAY, MR. DIGGS IS GOING TO TALK TO YOU ABOUT SOMETHING DIFFERENT I GUESS -- I GUESS THAN I DO. I'M NOT GOING TO TALK TO YOU ABOUT PET SCANS OR HOW THEY WORK OR ANYTHING ELSE.

YOU NOTICED THAT MR. DIGGS, HE PUT UP THAT

INFORMATION. I MAINLY PUT UP WHAT THEY CALL FACT INFORMATION.

AS I TOLD YOU FROM THE BEGINNING WHEN I FIRST TALKED TO YOU, YOU'RE THE JUDGES OF THE FACTS, SO I'M GOING TO TALK SOME FACTS WITH YOU, BUT I HAVE TO ALSO TALK SOME LAW AS WELL.

SO LET'S TALK ABOUT THE HISTORY OF IT AND SEE WHAT YOU THINK ABOUT IT. AND LET'S TRY TO KEEP THE HALF TRUTHS OUT OF IT. LET'S TRY TO TELL IT THE WAY IT IS.

LET'S TALK ABOUT THE MENTAL REALITY THAT IS SITTING HERE BEHIND ME IN STEPHEN STANKO'S HEAD. WHAT IS THE MENTAL REALITY THAT'S SITTING BACK HERE AT THIS TABLE AND WHAT WAS IT WHEN THESE CRIMES TOOK PLACE AND ANYWHERE ELSE YOU WANT TO LOOK IN HIS LIFE, SEE WHAT IT IS.

DR. THRASHER. JUST FOR A MOMENT ON DR. THRASHER. I LIKED DR. THRASHER. THOUGHT HE WAS VERY INFORMATIVE. I THOUGHT HE TOLD THE TRUTH. AND HE SAID -- HERE'S WHAT HE SAID ABOUT HIM. WELL, ONE OF THE THINGS, NOT ALL OF THE THINGS.

HE SAID HE'S DISPASSIONATE. HE'S NOT SUBFUSED (SIC) WITH SADNESS OR CRYING. HE'S NOT WHAT YOU WOULD EXPECT NORMALLY. NORMAL MIGHT BE SOME KIND OF -- HE CALLED IT VOLCANIC SADNESS AND FEAR. FEAR

OF WHAT?

FEAR OF YOUR JUDGMENT. YOU'RE GOING TO MAKE THE JUDGMENT DOES HE SPEND THE REST OF HIS NATURAL LIFE IN PRISON OR DOES HE GET PUT TO DEATH. THAT'S THE ONLY THING YOU'RE GOING TO DECIDE IF YOU FIND AN AGGRAVATING CIRCUMSTANCE BECAUSE YOU HAVE TO FIND AT LEAST ONE BEFORE THE JURY IS ALLOWED TO DO THAT.

AND I'M GOING TO TALK ABOUT THAT FOR A FEW MINUTES LATER ON. WELL, YEAH. AND WHEN WE SAY, WELL, WHAT ABOUT IT, DOC, DR. THRASHER, WHAT ABOUT IT?

HE SAID, AND SO DID THE REST OF THEM, IF YOU'RE A PSYCHOPATH, YOU'RE A PSYCHOPATHIC PERSONALITY, THAT'S THE WAY IT IS. AND HE ALSO SAID ABOUT GUANTANAMO.

WELL, YOU KNOW, WHEN I WENT OVER TO THE EMERGENCY ROOM -- AND LET ME TELL YOU. I SAT OVER THERE FOR ABOUT AN HOUR AND A HALF. THEY TOOK MY INFORMATION AND THEN I GOT TO SEE A DOCTOR. HE WAS THE DOCTOR ON CALL THERE.

AND I THINK HE WAS A GOOD DOCTOR. AND THEY TOOK X-RAYS OF MY LEG AND THEN TOLD ME WHAT THE PROBLEM WAS, AND TOOK X-RAYS OF MY FINGER, TOLD ME WHAT THEY THOUGHT THE PROBLEM WAS AND WHAT I OUGHT TO DO.

AND ONE THING THAT THEY TOLD ME WAS, YOU'LL BE

OKAY FOR THREE OR FOUR DAYS WITH YOUR LEG TIED UP THE WAY IT IS, BUT YOU NEED TO SEE AN ORTHOPEDIST. OKAY? ALL RIGHT.

I WANT TO SEE THE BEST DOCTOR I CAN, YOU KNOW. MY HEALTH AND BEING ABLE TO WALK IS IMPORTANT TO ME JUST LIKE IT IS ANYBODY ELSE, AND I WANT -- I WANT GOOD DOCTORS. I WANT GOOD ADVICE. THAT'S WHAT I'M LOOKING FOR.

AND I THINK THAT WE OUGHT TO BELIEVE THAT DOWN AT GUANTANAMO BACK IN 1968 THE NAVY DOCTORS DOWN THERE KNEW WHAT THEY WERE DOING AND THEY TRIED TO REPORT IT AS BEST THEY COULD NOT ONLY FOR THEMSELVES BUT FOR ANY FUTURE PEOPLE.

NOW, THE STATE HAS FOUGHT TO KEEP THAT OUT AND TO CONVINCE YOU THAT THIS WAS NOT A DAMAGED BABY. WELL, THAT'S FOR YOU TO DECIDE WHETHER HE WAS A DAMAGED BABY OR NOT.

BUT THEY SAID THEY BELIEVE FROM THOSE REPORTS THAT WERE MADE BY THOSE DOCTORS DOWN THERE THAT THAT WAS THE CASE. AND THE EVIDENCE OF THAT, IF ITS TRUE, DOESN'T HAVE TO BE PROVED.

DON'T FORGET, IT'S -- THE DEFENDANT DOESN'T HAVE TO PROVE ANYTHING BEYOND A REASONABLE DOUBT AT THIS POINT I THINK. THAT'S JUST INFORMATION THAT YOU CAN ACCEPT IT AS IT IS. IF YOU BELIEVE IT, FINE.

IF YOU DON'T BELIEVE IT, SOME OF YOU DON'T I'M SURE, I'M SURE THAT YOU DON'T WANT TO HEAR ME TALK ABOUT IT. PROBABLY BORING YOU RIGHT NOW, BUT IT'S GOT TO BE SAID BY ME TO YOU.

NOW, THEY FOUGHT VERY HARD TO KEEP OUT THIS EVIDENCE OF THESE PET SCANS AS WELL BECAUSE IT HAS TO DO WITH WHAT THEY WANT TO CALL BAD BEHAVIOR OR EVIL OR THE DEVIL IN HIS HEAD OR THE DEVIL MADE ME DO IT.

IS THE MAN ILL? IS HE SICK? DOES HE HAVE A SICKNESS? AND WHAT IS THE SICKNESS AND HOW DOES IT AFFECT OTHERS? THAT'S REALLY WHAT YOU'RE DECIDING AGAIN, NOW THAT YOU'RE DECIDING IT ON -- IN A DIFFERENT WAY THAN YOU DID EARLIER.

YOU HAVE DECIDED HE'S NOT INSANE AND HE DIDN'T MEET THE STANDARD OF GUILTY BUT MENTALLY ILL. OKAY? AND EVEN IF YOU DECIDE THAT HE MEETS THIS MITIGATING CIRCUMSTANCE, YOU CAN STILL -- ALL 12 OF YOU CAN VOTE TO PUT HIM TO DEATH.

IF YOU ALL 12 UNANIMOUSLY DECIDE TO DO THAT, THAT'S WHAT IT WOULD TAKE AND EACH ONE OF YOU WOULD HAVE TO SIGN. IF YOU ALL -- IF YOU RECOMMEND IT AS A JURY THAT HE WOULD RECEIVE LIFE IN PRISON, IF YOU RECOMMENDED IT, IT WOULD HAVE TO ALSO BE UNANIMOUS.

BUT WHILE I'M TALKING ABOUT IT, I'LL JUST GET IT OUT OF THE WAY. THE JUDGE WILL ALSO -- AND I TOOK

THIS DIRECTLY OUT OF HER INSTRUCTIONS THAT SHE WILL READ THIS TO YOU HERSELF.

SHE'LL QUOTE A CASE CALLED STATE V SOUTHERLAND, AND THIS IS WHAT THE CASE SAYS. CASE SAYS, IF A RECOMMENDATION OF DEATH IS NOT MADE, THE DEFENDANT SHALL BE SENTENCED TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

IF A RECOMMENDATION OF DEATH IS NOT MADE, THE DEFENDANT SHALL BE SENTENCED TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE. SHE'LL TELL YOU THAT.

AND THAT WILL BE SOMETHING THAT YOU'LL HAVE TO TRY TO UNDERSTAND AS BEST YOU CAN AND DEAL WITH IT AS TO WHAT ITS MEANING ACTUALLY IS. IN OTHER WORDS, 12 PEOPLE CAN--

MR. HUMPHRIES: OBJECTION, YOUR HONOR. MATTER OF LAW.

THE COURT: BASIS.

MR. HUMPHRIES: I DON'T MIND APPROACHING WITH MR. DIGGS.

(WHEREUPON A BENCH CONFERENCE WAS HELD WITH MR. DIGGS AND MR. HUMPHRIES, THEN MR. DIGGS APPROACHED MR. KELLY AND CONFERRED.)

MR. KELLY: NO, MA'AM. I WAS NOT ABOUT TO ARGUE THAT.

THE COURT: OKAY. THE OBJECTION IS WITHDRAWN. YOU MAY CONTINUE, MR. KELLY.

MR. KELLY: I SEE NOW IT'S ABOUT 12 MINUTES AFTER, SO I'M GOING TO TRY TO PUSH ON THROUGH. YOU KNOW WHAT ELSE DR. THRASHER SAID? HE SAID THERE WAS NO HISTORY OF EXPLOSIVE VIOLENCE IN STEPHEN STANKO'S HISTORY.

LET'S TALK ABOUT THAT FOR A MINUTE. OKAY? I'M GOING TO TALK ABOUT THE WITNESSES. I THINK THEY HAD HIGH CREDIBILITY. THESE THREE WITNESSES HAD HIGH CREDIBILITY UNDER THE TEST.

REMEMBER THE THREE OFFICERS DOWN AT THE GEORGETOWN DETENTION CENTER? ALL THREE SAID THAT DURING THE TIME THAT HE WAS DOWN THERE, NO VIOLENCE. WHAT THEY DID SAY IS THAT HE WAS HELPFUL, YOU MIGHT SAY, BECAUSE HE WOULD BRING THE GRIEVANCES THAT THE CELLBLOCK MIGHT HAVE FORWARD IN ORDER TO -- NO EXPLOSIVE VIOLENCE THERE.

FOR EIGHT AND A HALF YEARS WHEN HE WAS IN OUR PRISON SYSTEM FOR BEING CONVICTED OF KIDNAPPING, HE GOT A 10 YEAR SENTENCE AND HE SERVED EIGHT AND A HALF YEARS BEFORE HE WAS RELEASED TO THE SUPERVISION HERE IN HORRY COUNTY, NO WRITE-UPS.

THAT MEANS THERE WERE NO INFRACTIONS. NOT JUST NO VIOLENCE, HE DIDN'T BREAK ANY RULES. EIGHT AND A

HALF YEARS. AND SO YOU MIGHT SAY, WAIT A MINUTE, IS THAT THE SAME FELLOW WHO GOT PUT IN JAIL FOR HIS CRIMINAL ACTIVITY WITH ELIZABETH MCLENDON? YEAH.

WELL, HOW WAS THAT EXPLAINED? IT'S EXPLAINED BECAUSE THEY SAY THAT THESE PSYCHOPATHS, AS HE IS, HE'S A PSYCHOPATH, UNDER STRUCTURE THEY REALLY DON'T HAVE VIOLENCE. IT'S WHEN THEY ARE UNSTRUCTURED, THAT'S WHEN YOU HAVE TO BEGIN TO LOOK OUT.

SO IN THE PRISON SYSTEM HE'S NEVER -- HAS NEVER BEEN ANY VIOLENCE AT ALL. DO YOU THINK THAT STEPHEN STANKO WAS TRYING TO CON US BACK BEFORE HE MET US SO THAT WHEN HE DID EVIL DEEDS IN THE FUTURE WE WOULD SAY, OH, LOOK, HE DIDN'T HAVE ANY VIOLENCE IN THE PAST?

I DON'T THINK SO. DO YOU THINK THAT'S REASONABLE? THINK THAT'S JUST THE WAY IT IS.

AND IF YOU REJECT WHATEVER YOU REJECT, YOU SHOULD -- FROM THE WITNESS STAND, YOU REALLY SHOULD APPLY THE SAME TEST THAT I TALKED TO YOU ABOUT. OKAY.

BUT WELL, WHAT ABOUT ELIZABETH MCLENDON? LET'S TALK ABOUT HER FOR A FEW MINUTES, GET HER OUT OF THE WAY, HER HISTORY. HAS A LONG HISTORY THERE. SHE SAID HE WAS CONNING PEOPLE, HE WAS -- HE WAS USING THEIR -- THEIR MONEY, HE WAS DOING WHATEVER SHE SAID

HE WAS DOING, AND THEN THERE CAME A TIME -- AND IF YOU LOOK CLOSELY, IT IS A HIGH STRESS TIME.

WHAT'S GOING ON AROUND THEM? IT'S A HIGH STRESS TIME GOING ON. HE'S CLAIMING TO HAVE HIS OWN CAR LOT AND GOING INTO BUSINESS WITH HIS NEXTDOOR NEIGHBOR, AND HE'S BALANCING ALL OF THIS. IT'S COMING DOWN AROUND HIS EARS.

AND SHE IS UNHAPPY WITH HIM BECAUSE THEIR LIFE IS MISERABLE TOGETHER. HIS LIFE WITH HIM ON A SOCIAL LEVEL WOULD ALWAYS BE THE CAUSE OF HIS MENTAL DEFECT, HIS BRAIN.

NEVER GOING TO DO IT, NEVER GOING TO HAVE A SUCCESSFUL RELATIONSHIP WITH STEPHEN STANKO ON THAT LEVEL BECAUSE HE'S NOT GOING TO BE HONEST WITH YOU AND HE'S GOING TO SAY TO YOU THINGS LIKE HE TOLD HER, OH, IT WAS A SURPRISE, I WAS GOING TO, YOU KNOW, SURPRISE, AND I'M ALSO GETTING A BUSINESS FOR YOU.

SHE WASN'T HAVING ANY MORE. YOU KNOW, I TALKED TO HER FOR ABOUT TWO HOURS AND I WENT OVER WITH HER -- WERE YOU BORED BY THAT? DID YOU THINK I WAS JUST DRAGGING THAT ALONG JUST TO HAVE SOMETHING TO DO?

I WAS DOING THAT FOR YOU SO YOU WOULD SEE WHAT HAPPENED, NOT A HALF TRUTH, BUT WHAT DID HAPPEN OUT OF HER OWN MOUTH AND IN RELATION TO WHAT SHE ACTUALLY

WROTE WITH HER OWN HAND IMMEDIATELY AFTER IT TOOK PLACE SO YOU WOULD SEE THIS HISTORY THAT'S REALLY THERE.

WELL, THE -- YOUR SOLICITOR SAID SOME THINGS, BUT I THINK HE MIGHT HAVE LEFT A FEW OUT. YOU REMEMBER -- I THINK ONE THING HE LEFT OUT WAS THAT WHEN STEPHEN STANKO HAD TAKEN HER TO THE BATHROOM, HE SAID DRUG HER TO THE BATHROOM, BUT HE AFTER -- AND HE DID OVERPOWER HER AND HE DID TIE HER UP.

AND HE TOOK HER TO THE BATHROOM AT ONE POINT WHERE HE SAT HER EITHER ON THE TOILET OR BY -- ON THE EDGE OF THE BATHTUB, AND WHAT WAS HE DOING? HE WAS HUMMING. HE WAS HUMMING.

MATCH THAT UP WITH WHAT DR. SACHY SAID, HOW HE CHANGED FROM, WHAT'S GOING TO HAPPEN TO ME, AND SACHY FEELING GUILTY ABOUT IT TO, OH, MY PICTURE IS IN THE PAPER. IS THAT A BAD PERSON? NOT ACCORDING TO THE DOCTOR. BAD IS NOT THE RIGHT WORD.

HE'S A PSYCHOPATHIC PERSONALITY. HE'S AN ILL, SICK PERSON. AND LIKELY HE BECAME THAT WAY AT BIRTH. AT BIRTH. IS THERE ANY EVIDENCE OF ANY DRUG USE BY HIM? NO.

IS THERE ANY EVIDENCE OF ANY ALCOHOL ABUSE BY HIM OTHER THAN WHAT YOU GOT WHEN YOU WENT TO THE BLUE MARLIN AND HE WAS DOWN AT THE TAVERN DOWN IN AUGUSTA?

NO.

SO IT'S NOT REALLY SELF-INDUCED. YOU HAVE TO TAKE THEM AS YOU FIND THEM. HAVE TO LOOK AT HIM AS HE IS WHEN YOU MAKE YOUR DECISION. AND YOU SHOULD LOOK AT HIM IN A FULL LIGHT OF WHAT'S GOING ON.

WHAT ELSE DID HE DO WHEN HE WAS IN THE BATHROOM AND LOOKING IN THE MIRROR, ACCORDING TO HER? HE TALKED TO HIMSELF. AND WHEN HE CAME OUT, HE TALKED TO THE ROOM. SHE THOUGHT THAT WAS EXTREMELY ODD BEHAVIOR.

WHAT DID HE DO BEFORE HE WALKED OUT OF THE HOUSE? HE STOPPED THE COO COO CLOCK. HE WENT OVER AND STOPPED THE PENDULUM ON THE COO COO CLOCK. WHAT ELSE DID HE DO? HE UNTIED HER FEET.

AND THEN WHAT ELSE DID HE DO? WHEN HE LEFT, HE CALLED THE NEIGHBOR AND HE SAID, THOSE CARS ARE STOLEN, AND TOLD THE NEIGHBOR THAT.

THEN WHEN HE GOES TO GREENVILLE, HE CALLS BACK TO THE HOUSE HE HAS LIVED IN HIMSELF WHERE ELIZABETH IS, WHERE HE KNOWS -- SHE TOLD US, I ASKED HER -- SHE'S GOT A DEVICE THAT SHOWS THE NUMBER YOU'RE CALLING FROM.

THIS IS THE GENIUS STANKO WHO HE CAN'T -- HE -- HE CAN'T MAKE IT WORK. EVERYTHING HE DOES IS A FAILURE BECAUSE HE CAN'T PLAN.

HE CAN DO THINGS, YEAH, THAT'S TRUE, BUT THERE'S SOME THINGS THAT HE JUST CAN'T GET IT DONE. AND HE CALLED AND IN ESSENCE GAVE THEM THE NUMBER. AND IN FACT, THAT'S WHAT THE OFFICER WHO WENT UP THERE TOLD YOU, REMEMBER? YOU REMEMBER THAT?

AND THEN WHEN HE CAME BACK, THE OFFICER SAID HE GAVE A FULL CONFESSION, WROTE OUT A COMPLETE CONFESSION TO EVERYTHING HE HAD DONE. IT TOOK A COUPLE HOURS. IT MIGHT HAVE TAKEN TWO AND A HALF HOURS.

I WAS WORN OUT, I KNOW THAT, WHEN I GOT THROUGH DOING MY JOB OF ASKING HER ABOUT THIS SO -- SO YOU WOULD KNOW. AND THEN I ALSO ASKED HER ABOUT THIS LETTER, JUST ONE OF THE LETTERS, BUT I ASKED HER ABOUT THE LETTER.

I SAID, WHAT ABOUT THIS LETTER? SAID, YEAH, I WROTE THE LETTER. AND WHAT WAS IT ABOUT? IT WAS ABOUT -- SHE WAS SAYING, TELL THOSE PEOPLE UP THERE WHO ARE GOING TO EVALUATE YOU THE TRUTH ABOUT WHAT THE PROBLEM IS.

DON'T FORGET WHAT SHE SAID TO YOU. SHE SAID, YEAH, I THOUGHT THERE WAS SOMETHING BAD WRONG WITH HIM. SHE HAD TAKEN HIM TO A DOCTOR. SHE NAMED HIM, WASN'T -- HIS NAME WAS RANDY WADE DOWN IN CHARLESTON.

SURE, STANKO IS GOING TO DO WHATEVER HE NEEDS TO

DO TO CON HIS WAY TO WHEREVER HE HAPPENS TO BE. HE NEVER BUILDS ANYTHING OR ACCUMULATES ANYTHING OR REALLY EVER GETS AWAY WITH ANYTHING.

BUT IF YOU LOOK AT HIS HISTORY, YEAH, HE'LL GO DOWN THERE, AND HE WILL PROBABLY CON THE DOCTOR, TOO. WHY NOT? HE'S ILL. HE'S SICK. HE'S NOT NORMAL. THERE'S AN INGREDIENT MISSING IN THE RECIPE WITH HIM. THAT'S -- THAT'S IT.

BUT THAT'S JUST WHAT I THINK. SO YEAH, I DON'T THINK HE WAS DOWN THERE BECOMING A BETTER KILLER. ISN'T THAT WHAT THE SOLICITOR SAID? HE SAID -- IN FACT, HE ASKED YOU, HE SAID -- HE SAID -- I THINK HE SAID -- I DON'T SEE IT IN THE NOTES, BUT AS MY MEMORY SERVES ME, HE SAYS HE'S DANGEROUS, DON'T LET HIM BECOME BETTER THAN WHAT HE IS AND WHAT HE DOES.

WELL, THE HISTORY DOESN'T SHOW THAT. HISTORY SHOWS THAT IF YOU PUT HIM IN LIFE -- IN PRISON FOR LIFE, THE SAME THING IS GOING TO HAPPEN IN THE FUTURE THAT'S ALREADY HAPPENED. HIS STRUCTURE WILL BE THERE.

IN OTHER WORDS, WHERE DO YOU PUT SICK PEOPLE LIKE THAT? WHAT DO YOU DO WITH THEM, KILL THEM? IS THAT -- IS THAT THE ANSWER? WELL, THAT'S FOR YOU TO DECIDE, DECIDE WHAT TO DO.

NOW, EVEN DR. CRAWFORD -- I'M NOT GOING TO

DREDGE ALL THIS UP. BUT I AM GOING TO SAY ONE OF TWO THINGS. SHE SAID, I DON'T THINK THE DEFENDANT COULD HAVE EMPATHY.

WELL, THAT'S WHAT EVERYBODY SAID. SHE SAID, I DON'T THINK HE COULD HAVE EMPATHY. WE DON'T KNOW HOW. WELL, SHE DOESN'T KNOW HOW, THAT'S TRUE, BUT THE OTHER DOCTORS HAD A BETTER IDEA HOW IT CAN BE THAT YOU DON'T HAVE EMPATHY.

AND SHE WAS ASKED, OH -- OR SHE DID SAY IT COULD BE BRAIN STRUCTURE OR BRAIN FUNCTION. ALTHOUGH SHE'S NOT AN EXPERT IN THAT AREA, SHE DID SAY THAT. IT COULD BE -- IT COULD BE.

BUT OF COURSE, THE STATE IS SAYING THERE ISN'T ANY, HE HASN'T GOT ANY BRAIN MISFUNCTION (SIC). HE HASN'T GOT ANY BRAIN STRUCTURE PROBLEM.

DID -- DID DR. WU HELP US UNDERSTAND THAT? I THINK I SAID TO YOU WHEN I CLOSED LAST TIME, HEY, THIS AIN'T RIGHT, THEY'RE USING PEOPLE ASLEEP IN A ROOM OVER HERE AND OVER HERE IT'S ACTIVE.

I MEAN, THAT'S NOT FAIR; IS IT? YOU KNOW, I'M NOT -- I DON'T -- I'M NOT A PSYCHIATRIST, BUT IS THAT FAIR? DR. WU SAID THAT DON'T WORK, THAT JUST DOESN'T WORK. IT DOESN'T GIVE YOU A FAIR RESULT. OKAY?

BE TOUGH ON STANKO. BELIEVE ME, YOU'RE GOING TO -- YOU'RE GOING TO EITHER PUT HIM TO DEATH OR

YOU'RE GOING TO PUT HIM IN PRISON FOR THE REST OF HIS LIFE, OKAY, BUT BE FAIR.

KEEP YOUR MIND OPEN AND BE FAIR TO THE MAN NO MATTER HOW MUCH YOU HATE WHAT HE DID, NO MATTER HOW YOU'RE DISGUSTED BY WHAT HE DID.

BUT SHE COULDN'T -- CRAWFORD COULDN'T GIVE US ANY EXPLANATION BECAUSE IT'S JUST OUTSIDE HER FIELD. FOR HER, BEHAVIOR WAS ITS OWN EXPLANATION. THAT'S WHAT IT IS FOR THE SOLICITOR'S OFFICE. HE IS WHAT HE DOES. THAT'S NOT WHAT I SAID TO YOU.

I DID SAY, I DON'T CARE WHAT HAT YOU OR ANYBODY ELSE WEARS, YOU KNOW, TRUTH IS THE TRUTH AND THAT'S IT. IT DOESN'T MAKE ANY DIFFERENCE TO ME WHO LIES ON THE WITNESS STAND.

IF I'M GOING TO CROSS-EXAMINE AND I THINK YOU'RE NOT TELLING THE TRUTH, I'M GOING TO FIND OUT. BUT THIS AIN'T ABOUT ME. THIS IS -- THIS IS -- AT THIS POINT THAT WE'RE TALKING ABOUT NOW WE ARE NOT LEAVING LAURA LING OUT OF THIS OR HER DAUGHTER, EITHER ONE.

BUT THIS HAS LARGELY TO DO WITH STEPHEN STANKO BECAUSE SHE ADMITTED SHE COULD NOT TESTIFY TO THE KNOWLEDGE OF FRONTAL LOBES AND PET SCANS. SHE DID SAY, I THINK HE DID IT BECAUSE HE WAS ANGRY.

WELL, YOU KNOW WHAT THE DOCTOR SAID ABOUT THAT ANGER, IF YOU SET THAT THING OFF, STANKO IS 6 FEET

FOUR, WEIGHS A COUPLE HUNDRED POUNDS, HE'S A YOUNG MAN, AND YOU SET -- SET HIM OFF WITH THIS DEBILITY (SIC) HE'S GOT WITH ANGER, AND HE GETS SET OFF -- THE STATE SAYS HE WASN'T SET OFF, STATE SAYS HE PLANNED IT -- BUT SET HIM OFF AND IT WON'T -- THOSE FRONTAL LOBES WON'T HOLD HIM.

HE'S GOT PLENTY OF HORSEPOWER. HE'S LOADED WITH HORSEPOWER, BUT HE AIN'T GOT NO STEERING. HIS STEERING AIN'T WORKING. HE CAN'T HOLD THE ROAD, BUT HE'S GOT TONS OF INTELLECT.

BUT DOCTORS -- I THOUGHT THEY SAID, DIDN'T YOU, Y'ALL THE ONES TO DECIDE, THAT INTELLECT, THAT IS -- THAT CAN BE INTACT WITH ALL THE DAMAGE YOU WANT.

WHAT ABOUT THE MAN THEY SHOWED WHO HAD THE SPIKE DRIVEN THROUGH HIS HEAD IN THE LAST CENTURY WHERE THEY FIRST BEGAN TO DISCOVER YOU CAN HAVE FULL INTELLECTUAL FUNCTIONING, BUT YOUR FRONTAL LOBES CAN BE DAMAGED, COMPLETELY CHANGE YOUR BEHAVIOR.

NOW, DR. SPICER -- I'M GOING TO SAY A FEW WORDS ABOUT HIM. I'M GOING TO GET OFF OF THIS, NOW. BUT YOU KNOW, I RAKED DR. SPICER OVER THE COALS WHEN I WAS UP HERE LAST TIME.

MAYBE I SHOULDN'T HAVE BEEN SO HARSH WITH HIM. BUT HE SAID THAT HE HAD DR. LEONI -- YOU REMEMBER THIS -- HE HAD DR. LEONI WHO WAS ONE OF HIS

COLLEAGUES EXAMINE THE PET SCAN THAT HE PRODUCED AND THAT DR. LEONI SAID THAT PET SCAN WAS PERFECTLY NORMAL.

YOU REMEMBER HIM TELLING YOU THAT? BUT DID DR. SPICER ADMIT BUT -- DR. SPICER ADMITTED THAT IN THIS SET OF IMAGES -- GET THE RIGHT PAGE HERE NOW -- I DON'T THINK HE TOLD DR. LEONI THAT HE HAD TWO DIFFERENT SUBJECT MATTERS THE WAY WE FOUND OUT FROM DR. WU, BECAUSE IF YOU DON'T TELL THEM THAT, THEN DR. LEONI, WHOEVER HE IS, BECAUSE HE DIDN'T COME IN HERE AND TALK TO YOU, DR. LEONI WOULD ONLY GET A HALF TRUTH ON THAT.

AND ALSO, DR. LEONI ADMITTED THAT IN THIS SET OF IMAGES, THAT MEANS THE ONES PRODUCED BY WU, REDUCED BRAIN FUNCTION WAS DISPLAYED. HE JUST SAID -- HE EVEN SUGGESTED THAT WU CRANKED DOWN OR NARROWED DOWN OR FUDGED THE IMAGES.

THAT'S THE SAME DR. WU THAT Y'ALL SAW. YOU THINK THAT THAT'S THE GUY WHO DID THAT? AND SPICER'S GOT THESE -- HE'S JUGGLING THIS STUFF? I CALL THAT DISHONEST MYSELF.

AND I DON'T THINK IT'S FAIR TO -- JUST BECAUSE IT'S STANKO AND YOU MIGHT DESPISE WHAT HE HAS DONE, AT LEAST BE FAIR TO THE GUY. WHAT ARE YOU AFRAID OF?

ARE YOU AFRAID HE'S GOING TO SPEND HIS LIFE IN

PRISON RATHER THAN BEING PUT TO DEATH? IS THAT WHAT THE FEAR IS?

BUT JUDGING THE CREDIBILITY OF WITNESSES IS UP TO YOU. ALTHOUGH SPICER ADMITTED THAT SURGEONS USE THREE DIMENSIONAL DISPLAY THAT WU CREATED, HE CALLED IT FLASHY AND NOT USEFUL, AND HE CLAIMED SLICES WERE BETTER THAN THAT.

CALLED IT FLASHY, NOT USEFUL. AND ALTHOUGH DR. SPICER WAS UNQUALIFIED TO BE A MEMBER OF A PEER REVIEW COUNCIL OR PANEL, HE WAS JUST UNQUALIFIED TO DO IT, ON A PET SCAN RESEARCH, DIDN'T HAVE THE QUALIFICATION.

AND HE HAD NEVER PUBLISHED ANY RESEARCH ON PET SCANS OR PET SCAN RESEARCH OR SERVED ON ANY PEER REVIEW PANEL IN THIS AREA OF THE SCIENCE. HE SUGGESTED THAT DR. WU, WHO IS THE FOREMOST LEADING EXPERT IN THE UNITED STATES, THAT WAS A PRODUCT TO BE DISREGARDED.

OKAY. WELL, I THINK THAT'S REASON THAT MR. DIGGS -- HE WILL HAVE TO TELL YOU, BUT I THINK THAT'S THE REASON WE BROUGHT HIM BACK SO THAT WE COULD DETERMINE THIS THING TO -- MORE PRECISELY, YOU COULD.

I'M GOING TO SAY A FEW WORDS ABOUT SACHY AND THEN I'M GOING TO GO TO THE OTHER FACT WITNESSES. YOU KNOW, HE IDENTIFIED BRAIN ABNORMALITIES AND HE

EXPLAINED THE LIMBIC SYSTEM AND HE POINTED TO THE RAGE OF THE ACTS AND THE INCONSISTENT TRIVIAL ACTS LIKE TAKING THE BRACELET. IT'S DESPICABLE.

DID YOU SEE HOW DANA PUTNAM SAID, I WAS DISGUSTED BY THAT WHEN I FOUND OUT THAT THE BRACELET THAT HE HAD GIVEN ME WAS ONE THAT HE HAD TAKEN FROM THIS WOMAN THAT YOU DECIDED THAT HE HAD MURDERED. WELL, YEAH.

BUT THE DOCTORS SEE IT AS A TRIVIAL ACT DURING THIS TIME WHICH IS EMBLEMATIC OF HIS -- THE SYMPTOMS OF HIS BEING A PSYCHOPATH, BEING SICK, BEING ILL. THAT'S WHAT THAT WAS; WASN'T IT?

HE SUGGESTED THAT THE REMORSE OF THE DEFENDANT MIGHT SHOW WAS A MASK OF SANITY. AND HE REPEATEDLY POINTED TO THE DEFENDANT'S MENTAL DISORDER AND MENTAL ILLNESS.

HE SUGGESTED HE MIGHT HAVE CONTINUED THIS BEHAVIOR IF NOT STOPPED OR ARRESTED. WELL, WE KNOW ABOUT THAT BECAUSE HE WAS NOT STOPPED OR ARRESTED.

HE WAS NOT IDENTIFIED AS WHAT HE WAS UNTIL HE HAD MURDERED LAURA LING AND HAD RAPED CHRISTINA LING, HAD KIDNAPPED THEM BOTH, AND DONE THE OTHER THINGS YOU CONVICTED HIM OF, AND HAD BEEN ARRESTED DOWN IN AUGUSTA. YEAH, WE KNOW THAT FOR CERTAIN.

THAT IS OUTSIDE THE PRISON SYSTEM. INSIDE THE

PRISON SYSTEM HE SHOWS NO PROBLEM. HE POINTED OUT THAT THE CRIMES WERE NOT WELL THOUGHT OUT. THE STATE SAYS HE'S THIS BIG PLANNER. NO, I DON'T THINK SO.

HE NOTED A CALLOUS MANNER OF FACT DISCUSSION OF THE VICTIMS AND SAID THE DEFENDANT WAS COLD AFTER THE FACTS BUT NOT DURING THE ACTS. DURING THE ACTS HE WAS NOT COLD AND DETACHED, WASN'T A -- IT WASN'T A COLD BLOODED MURDER CERTAINLY.

AND HE SAID HIS OPINIONS WERE BASED ON THE LITERATURE AND THE SCIENCE. WELL, SO MUCH FOR THE SCIENTISTS. LET'S NOW TALK ABOUT THE OTHER FACT WITNESSES, NOT THE EXPERTS. OKAY? AND BEAR WITH ME WHILE WE GO THROUGH THEM.

THIS IS GOING TO BE VERY UNPLEASANT FOR THE -- FOR ANYBODY TO HEAR. IT'S UNPLEASANT FOR -- I -- MAY I ASK, YOUR HONOR -- I CAN'T GET UP. CAN I ASK ONE OF MY INVESTIGATORS TO GO OVER HERE AND REMOVE THIS OFF OF THE FRONT OF THE...

THE COURT: CERTAINLY.

MR. KELLY: UP HERE. I'M NOT TALKING ABOUT THOSE. YEAH, EVERYTHING. TAKE IT OFF. IT'S UNPLEASANT TO LOOK AT THESE PICTURES, BELIEVE ME.

IT'S UNPLEASANT TO CONTEMPLATE IN ANY WAY WHAT TOOK PLACE. AND IT'S UNPLEASANT TO HEAR ABOUT IT. I'M NOT DREDGING IT UP TO HURT ANYBODY'S FEELINGS AT

ALL.

I'M TALKING TO YOU ABOUT IT BECAUSE YOU'RE THE JUDGES, JUDGES. THAT'S WHY I'M TALKING TO YOU.

HERE IS WHAT LAURA LING (SIC) SAID. I'M ONLY QUOTING HER. YOU MAY DISAGREE WITH ME, BUT I'M ONLY RECOUNTING TO YOU AND I'M ONLY REPEATING TO YOU WHAT CHRISTINA LING TOLD YOU UNDER OATH ON THE RECORD.

ONE THING SHE SAID THAT I THOUGHT WAS STRIKING, SHE SAID, IS THIS REALLY STEPHEN? YOU REMEMBER HER SAYING THAT? REMEMBER HER SAYING, WHEN IT WAS HAPPENING I THOUGHT, IS THIS REALLY STEPHEN?

WELL, HERE COMES THE AIRPLANE AND IT'S FLYING THROUGH THE SKY AND THERE'S A PILOT AND THE PILOT IS RUNNING THE PLANE. THE PLANE IS NOT RUNNING THE PILOT.

AND IF THERE'S A PROBLEM WITH THAT PILOT, THE PLANE IS GOING TO HAVE PROBLEMS. AND IF THERE'S ENOUGH OF A PROBLEM WITH THAT PILOT, THAT PLANE IS GOING TO CRASH.

AND WHEN SHE -- SHE WAS LOOKING AT THE PLANE, THAT'S FOR SURE. THAT PILOT IS UP IN HER HEAD. THAT'S OUR BRAIN. AND SOMETHING HAD SHIFTED.

HOW DID SHE KNOW HIM UP UNTIL THAT TIME? WHAT MADE HER SAY THAT? BECAUSE THIS WAS A COMPLETELY DIFFERENT PERSON. WAS HE LYING IN WAIT THE WAY THE

SOLICITOR SAYS? WELL, LET'S CONTINUE TO SEE WHAT SHE SAID.

SHE SAYS THAT HE STRUCK HER MOTHER'S FACE BEFORE HE GOT ON THE BED. WHY DID HE STRIKE THE MOTHER IN THE FACE BEFORE HE GOT ON THE BED? WHAT'S THE MEANING OF THAT?

IF HE'S ONLY AFTER LAURA LING (SIC), WHY IS HE PUNISHING THE MOTHER? WHAT'S THAT ALL ABOUT? THE MOTHER WAS LYING ON THE FLOOR. HER HANDS WERE TIED BEHIND HER BACK. SHE WAS MOANING. SHE WAS TOTALLY DISABLED.

WHY IN THE PRESENCE OF THE DAUGHTER DID HE CONTINUE OR AT THAT TIME PUNISH THE MOTHER OR STRUCK THE MOTHER? I SUPPOSE THE STATE WOULD SAY, BECAUSE HE DID IT, THAT'S JUST THE BEHAVIOR, HE'S A MEAN PERSON.

BUT WHAT ELSE DID SHE ALSO SAY? SHE WAS TURNED ON HER BACK. SHE WAS FACE DOWN ON THE BED. SHE SAID, HE TURNED ME ON MY BACK AND THEN HE SAID TO HER, LOOK WHAT YOU DID. HE TURNED HER OVER TO LOOK.

AND THE STATE SAYS HE DOES THAT TO EVERYBODY. SO IN THE MIDDLE OF A MURDER AND A RAPE HE'S GOING TO BLAME IT ON THE PERSON HE'S RAPING? I GUESS THAT'S THE LOGIC THAT THE STATE IS SAYING.

BUT WHAT ACTUALLY HAPPENED? HE TURNS HER ON HER

BACK SO SHE CAN SEE, AND SHE (SIC) SAYS, LOOK WHAT YOU DID, I LOVED HER. AND CHRISTINA SHOOK HER HEAD, NO, BECAUSE CHRISTINA HADN'T DONE ANYTHING.

CHRISTINA SAYS SHE SHOOK HER HEAD NO. AND HE LOOKED AT ME AND HE SAID, LOOK WHAT YOU DID. IN OTHER WORDS, HE REPEATED IT.

HE'S -- WHAT'S GOING ON THERE? WELL, IT BEGINS TO MAKE SENSE IF YOU JUST TAKE ONE THING THAT STANKO TOLD THE DOCTORS, AND THAT IS THAT LAURA LING -- AND I'M NOT DEFAMING HER OR SAYING ANYTHING BAD ABOUT HER, DON'T GET MAD AT ME AND DON'T GET MAD AT HIM FROM ME TALKING ABOUT THE FACTS, OKAY.

BUT HE SAYS THAT THE FIGHT ERUPTED WHEN SHE SAID, I'M GOING TO -- MY DAUGHTER HAS ACCUSED YOU AND I'M GOING TO TURN YOU IN AND YOU'RE GOING TO GO TO PRISON, YOU'RE NOT GOING ANYWHERE. THAT'S WHAT WAS--

MR. HEMBREE: OBJECTION, YOUR HONOR. SIDE BAR?

THE COURT: PLEASE APPROACH.

(WHEREUPON A BENCH CONFERENCE WAS HELD WITH MR. DIGGS AND MR. HEMBREE.)

THE COURT: THE OBJECTION IS SUSTAINED. MR. KELLY, MR. DIGGS IS GOING TO GIVE YOU SOME INSTRUCTIONS, THEN YOU MAY PROCEED WITH YOUR ARGUMENT.

(MR. DIGGS CONFERRING WITH MR. KELLY.)

THE COURT: YOU MAY CONTINUE.

MR. KELLY: THANK YOU, MA'AM.

THE COURT: YOU'RE WELCOME.

MR. KELLY: THEN AFTER HE HAD SAID THAT, AFTER HE TURNED HER OVER AND MADE HER LOOK AT THE MOTHER, AFTER HE HAD DONE THESE THINGS THAT WE TALKED ABOUT, THEN HE LIFTED UP HER HEAD AND ATTEMPTED TO CUT HER THROAT. THEN SHE -- SHE SAID THAT.

AND THEN SHE SAID SHE -- HE MADE HER LIE DOWN AT HER MOTHER'S FEET. SO IT'S NOT JUST ABOUT CHRISTINA LING NOW. IT HAS TO DO WITH LAURA LING AS WELL.

AND WE DON'T KNOW, BUT WE CAN ONLY PIECE IT TOGETHER. THE ONLY LIVE WITNESS WE'VE GOT IS CHRISTINA LING. SHE DOESN'T KNOW.

WE HAVE TO PIECE IT TOGETHER AS BEST WE CAN TO SEE REALLY WHAT WAS THE STATE OF MIND OF THIS MAN AT THAT TIME.

BUT SHE DID SAY SOMETHING ELSE THAT I THOUGHT THE STATE TRIED TO KEEP OUT AS BEST THEY COULD, BUT IT FINALLY CAME IN. AND THAT WAS THAT WHEN SHE CALLED THE 9-1-1, SHE TOLD THEM ON THE -- AND IT'S ON THE TAPE -- THAT SHE THOUGHT THERE WAS SOMEBODY ELSE THERE, SHE HEARD HIM TALKING TO SOMEBODY ELSE.

NOW, TALKING LIKE TO THE ROOM IS SOMETHING THAT HE -- HE HAD DONE EARLIER WHEN HE WAS DOWN AT

ELIZABETH'S HOUSE. THAT WAS SOMETHING THAT BEGINS TO REFLECT OUT OF THAT SICKNESS THAT HE MIGHT *HAVE HAD* AT THAT TIME AS WELL.

AND HOW DO WE KNOW IT WAS BEFORE THEY GOT THERE? BECAUSE ON THE TAPE SHE TELLS THE 9-1-1 OPERATOR THAT AND THEN SHE SPELLS HIS NAME AT LEAST TWO TIMES, THEN SHE SAYS SHE SEES A FLASHLIGHT OUTSIDE THE WINDOW, THEN THEY COME TO THE DOOR.

THE OFFICERS THEMSELVES SAID THEY WENT AROUND THE HOUSE FIRST BEFORE THEY CAME IN. WELL, THAT'S ALL I HAVE GOT TO SAY ABOUT THAT, BUT I THINK THAT THAT SHOWS THAT IT WASN'T JUST THAT HE WAS -- IT WAS LAURA -- THAT IT WAS CHRISTINA LING.

AND WHAT DID DOCTOR -- WHAT DID THE NURSE WHOSE NAME WAS WIRDZEK, SHE DESCRIBED CHRISTINA WHEN THEY TOOK HER TO THE HOSPITAL AS BEING CLEAR, I TAKE THAT TO MEAN CLEAR-MINDED, AND SHE WANTED TO KNOW WHAT HAPPENED.

WELL, YOU KNOW, WE ON THE DEFENSE, WE'RE NOT TRYING TO BLOW A SMOKESCREEN OVER THE JURY OR THE FAMILY. WE ARE ALSO TRYING TO DETERMINE REALLY WHAT DID HAPPEN ALSO. AND I HOPE WE HAVE HELPED TO DO THAT.

NOW LET'S GO TO CONNIE PRICE. WHAT IS CONNIE PRICE LIKE? CONNIE PRICE WAS LIKE A -- SHE'S LIKE A

GUARDIAN ANGEL. SHE DIDN'T SAVE LAURA LING, BUT SHE DID A LOT OF THINGS SHE -- THAT TRIED TO EXPOSE STANKO FOR WHAT HE WAS.

AND I'M NOT SAYING THAT ANYBODY SHOULD HAVE DONE THIS, THAT, AND THE OTHER. I'M TALKING ABOUT WHY SHE DID WHAT SHE DID. OKAY? SHE -- SHE ONLY GOT ONE EYE. BUT CONNIE PRICE IS A CITIZEN WHO NEVER TURNED A BLIND EYE TO STEPHEN STANKO'S BEHAVIOR.

CONNIE PRICE WAS A CITIZEN WHO KNOCKED ON THE DOOR TIME AND TIME AGAIN. AND WHY? WHY DID SHE DO THAT? THAT'S THE POINT. BECAUSE TALKING ABOUT THE MENTAL STATE OR THE MENTAL HEALTH OF STEPHEN STANKO.

SHE CALLED THE LIBRARY BECAUSE IT'S NEARBY. SHE'S ALWAYS DEPENDED ON THE LIBRARY SHE TOLD YOU. AND SHE CALLED THERE FOR INFORMATION. SHE HAD A -- WAS IT HER MOTHER WHO DIED, AND THERE WAS A PROBATE, AND THEY PUT HER THROUGH TO THE RESEARCH LIBRARIAN WHO HAPPENED TO BE LAURA LING.

AND SHE SAID LAURA LING HELPED HER AND SPENT TIME WITH HER TO FIND OUT WHAT SHE HAD TO SAY. AND SHE -- SHE AND GARY WERE BOTH GRATEFUL ABOUT IT AND THEY WENT OVER THERE THE NEXT DAY.

THAT'S WHEN GARY GOT HIS CARD. DO YOU REMEMBER GARY SAYING HE GOT HIS CARD ON THE 17TH, TO THANK THEM, AND THEY MET WITH STEPHEN STANKO ON THAT

MORNING.

AND HOW WAS HE DECKED OUT? HE WAS DECKED *OUT*, HE HAD A BRIEFCASE AND HE LOOKED LIKE A PROFESSIONAL. THAT WAS ONE OF THE THINGS THAT HE DID. AND THEY THOUGHT -- SHE THOUGHT THAT HE WAS A LAWYER AND SHE LATER FOUND OUT HE WASN'T.

SHE SAID -- I THINK SHE TOLD YOU SHE DIDN'T REALLY CARE AT THAT POINT. HE WAS WILLING TO HELP HER, FINE. YES, SHE DID SAY HE SAID HE HAD BOATS AND HE SAID HE HAD THIS, AND THAT, AND THE OTHER.

WELL, HE WAS ALWAYS TELLING THAT. BUT IF HE WAS A LAWYER, MAYBE -- OR SAYING HE WAS A LAWYER, MAYBE HE WAS TRYING TO IMPRESS HER THAT HE WAS SUCCESSFUL AS A LAWYER BECAUSE HE CERTAINLY DIDN'T HAVE ANYTHING.

I DON'T THINK THAT'S THE OUTRAGEOUSNESS THAT SHE WAS TALKING ABOUT. SHE WAS TALKING ABOUT THE OUTRAGEOUSNESS AS IT AFFECTED HER. AND SHE SAID -- AND WE PUT INTO EVIDENCE FOR YOU -- THIS FORGERY OF -- NOW, GET THIS. THINK ABOUT IT.

THE FORGERY OF JUDGE VICTOR RAWL'S SIGNATURE ON OFFICIAL COURT DOCUMENTS. AND IF YOU LOOK AT THOSE, THOSE DOCUMENTS, YOU WILL SEE THAT THE FORGERY IS NOTARIZED BY ANOTHER FORGERY, AND THAT WOULD BE THE FORGERY OF THE CLERK OF COURT OF THAT COUNTY.

AND SHE SAID, I ALREADY HAD A SIGNATURE, ONCE I MATCHED THESE THINGS UP, GARY AND I, HEY, SOMETHING IS WRONG HERE. SO WHAT DID SHE DO? SHE CALLED LAWYER IRBY. DOES HE WORK FOR YOU?

AND YOU HEARD WHAT SHE SAID. YOU ALSO HEARD IRBY, WHAT HE SAID ABOUT WHAT WENT ON. SHE NOT ONLY CALLED IRBY, SHE CALLED -- SHE NAMED SOME OTHER LAWYERS THAT SHE CALLED, SAID SHE WAS UNABLE TO GET THROUGH TO THEM ON IT, SHE SAID SHE TALKED TO IRBY, IRBY SAID FINE, HE DOES GOOD WORK.

I DON'T REMEMBER HER SAYING THAT HE SAID HE WORKED FOR IRBY, BUT SHE SAID, I WAS -- THAT SETTLED IT DOWN. I BELIEVE THAT WAS MARCH THE EIGHTH. AT ANY RATE -- OR IT MAY HAVE BEEN EVEN EARLIER.

SOME TIME AROUND MARCH THE EIGHTH SHE CALLED -- AND NOW I'M JUST TALKING ABOUT -- NOT THE TIMELINE, NOT THE OTHER THINGS THAT ARE GOING ON IN STANKO'S LIFE, BUT SHE STARTS TO CALL AROUND.

SHE CALLS DONNA WILLIAMS, THE CLERK OF COURT FOR HORRY COUNTY FOR GENERAL SESSIONS COURT. CAME IN HERE. AND YOU REMEMBER HER? NOW, TALK ABOUT A -- CREDIBILITY OF A WITNESS.

I MEAN, THE CLERK -- IF YOU GET UP TO THE CLERK OF COURT, YOU'RE -- GET SOMEBODY WHO PROBABLY IS TELLING YOU THE TRUTH. AND SHE SAID, YEAH, I

REMEMBER, SHE DID CALL.

CONNIE SAID THAT SHE WAS REFERRED BY DONNA WILLIAMS TO HEATHER TOLAR, AND SHE SAID THAT HEATHER TOLAR REFERRED HER TO PROBATION AND PAROLE. HEATHER TOLAR CAME IN HERE. SHE WAS ONE OF THE SOLICITORS.

THERE WERE SANFORD GRAVES, KAREN HANEBRINK, HEATHER TOLAR, TIM MEACHUM, THEY ALL HAD SOME RECOLLECTION THAT CONNIE HAD CALLED. YEAH, I JUMPED SQUARE ON THE TOP OF SANFORD GRAVES.

AND THE JUDGE CALLED ME DOWN AND SAID I WAS BADGERING HIM, WHICH I -- I HAVE TO ADMIT I LOST MY TEMPER AND I SHOULDN'T HAVE SAID TO HIM WHAT I DID SAY.

HE HAD SAID TO ME, WELL, WHEN I GET BACK TO THE OFFICE, THERE'S PROBABLY ANOTHER CALL LIKE THAT. WHEN HE SAID THAT, I LOST -- LOST MY COMPOSURE, I HAVE TO ADMIT.

AS FAR AS I CAN REMEMBER THEY SAID THERE WASN'T ANY POLICY THERE AND THEY GAVE THE BEST ADVICE THEY COULD, AND THAT'S WHAT THEY SAID. WELL, FINE. WHAT DOES THAT PROVE FOR YOU? ONLY THIS.

HER -- SHE WAS SO INTENSE AT THAT TIME, SHE WAS CALLING THESE PEOPLE. THAT'S HOW BAD HIS BEHAVIOR WAS. MATCH UP HER BEHAVIOR WITH MAYO FROM THE OFFICE OF THE MARSHAL, US MARSHAL.

NOW, WE ARE TALKING ABOUT PEOPLE WHO HAVE INFORMATION ABOUT STANKO AND WHAT DO THEY DO ABOUT IT. I THINK YOU GOT TO LOOK AT THE -- AND SEE HOW CLOSE THEY WERE AND WHAT DID THEY THINK ABOUT IT AND WHY.

MAYO SAID -- SHE SAID, I DON'T WANT TO GIVE YOU THE NAME OF THESE PEOPLE, I PROMISED THEM I WOULDN'T DO IT, GOT MORE THAN ONE CALL, AND THEY SAID -- WHAT DID THEY SAY? WHAT DID SHE SAY TO US?

SHE SAID, WHEN I RECEIVED A COMPLAINT ABOUT THIS FELLOW, I RAN HIM THROUGH NCIC THROUGH THE INFORMATION BANK AND I DETERMINED THAT HE WAS UNDER SUPERVISION IN SOUTH CAROLINA AND I CALLED COLUMBIA I THINK AND THEN I CALLED HORRY COUNTY.

AND I HAVE GOT SOMEBODY AT HORRY COUNTY AT THE PROBATION, PARDON, AND PAROLE OFFICE ON THE PHONE AND I TOLD THEM, I SAID STEPHEN STANKO APPEARED TO BE CONTROLLING THE LIBRARY OF SOCASTEE AND THE LIBRARIAN.

AND SHE SAID THERE WAS SOME PATRONS IN THE LIBRARY WHO WERE FEARFUL OF HIM. THAT'S WHAT SHE SAID SHE TOLD. AND SHE SAID THAT HE HAD PRESENTED HIMSELF AS AN ATTORNEY OR AN INVESTOR OR AN INVESTIGATOR FOR VARIOUS LAW FIRMS, AND THAT HE EVEN WORE HANDCUFFS FROM HIS WAISTBAND.

NOW, THAT'S STARTING TO GET A LITTLE UNUSUAL I WOULD SAY. SHE SAID, I TOLD HIM THAT HE HAD A FULL CONTROL OF LAURA LING'S OFFICE -- SHE MENTIONED LAURA LING BY NAME -- COMPUTER EQUIPMENT, ET CETERA, AND WAS IN THERE ON AN ALMOST DAILY BASIS CONDUCTING SOME TYPE OF BUSINESS OR RESEARCH AND HAD TO BE UNDISTURBED.

SHE'S TELLING THIS TO GLORIA WILSON. GLORIA WILSON IS ON THE OTHER END OF THE PHONE. AND THIS IS ABOUT JANUARY THE 26TH. NOW, THIS IS ACCORDING -- YOU HAVE TO DETERMINE WHETHER YOU -- YOU'RE GOING TO BELIEVE THIS WOMAN WHO IS -- I BELIEVE -- WHAT DID SHE SAY, HOW MANY YEARS WAS SHE AT THE US ATTORNEYS' OFFICE? TWENTY YEARS. AND SHE WAS ADMINISTRATIVE SUPPORT ASSISTANT TO OPERATION INTERCEPT.

SO YOU HAVE TO DETERMINE, WELL, I'M GOING TO BELIEVE HER? IS SHE CREDIBLE OR NOT? I TOLD THEM THAT HE WAS OFFERING HIMSELF AS A REPRESENTATIVE TO REPRESENT LEGALLY MEMBERS OF THE COMMUNITY IN EXCHANGE FOR RETAINER FEES.

AND I TOLD THEM THAT HE HAD ALREADY EXPRESSED TO AT LEAST ONE PERSON THAT HE HAD RESEARCHED THEIR HOLDINGS AND THROUGH SOME LOCAL COMPUTER SYSTEM AND HE KNEW THEIR PROPERTIES, WHAT THEY OWNED, AND WHAT TAX BRACKET THEY WERE IN, AND FOR A FEE HE WOULD

REDUCE THEIR TAXATION.

THIS IS WHAT SHE'S TELLING GLORIA WILSON WHO IS HIS SUPERVISING AGENT. WHAT'S THE POINT OF THIS? THIS IS SOMEBODY WHO HAS COMPLAINED ABOUT THIS BEHAVIOR WHICH IS ODD AND EXTREME AND THAT THEY'RE FEARFUL OF HIM TO SOMEBODY WHO IS SUPERVISING HIM AND FOR WHAT PURPOSE?

WELL, I THINK SHE TOLD US. AND SHE SAID, I SAID THAT MY SOURCE OF INFORMATION WAS EXTREMELY, EXTREMELY AFRAID AND THAT NOTHING I COULD SAY COULD SEEM TO ALLEVIATE ANY OF THE CALLER'S FEARS.

SO SHE'S TELLING THE SUPERVISING AGENT OF THE PERSON WHO IS STANKO WHO IS MAKING THIS PERSON SO EXTREMELY, EXTREMELY AFRAID, SHE'S TELLING THIS SUPERVISING AGENT THIS.

BECAUSE WHY? IT HAS TO DO WITH HIS MENTAL HEALTH. THAT'S WHY. AND SHE SAID, I TOLD THE CALLER THAT IF STANKO WAS A CON-ARTIST, THAT GENERALLY THEY WERE -- CON-ARTISTS WOULD NOT BE -- THEY DIDN'T HAVE ANY -- REPRESENT ANY PHYSICAL HARM, BUT NOTHING I COULD DO COULD ALLEVIATE THEIR FEARS.

SHE SAID THE CONVERSATION LASTED SEVERAL MINUTES. I DON'T REMEMBER ALL THAT I SAID, BUT I JUST TRIED TO CONVEY THAT PERHAPS THIS PERSON WAS A DANGER TO THE COMMUNITY.

COMMUNITY SAFETY IS SUPPOSED TO BE PRETTY IMPORTANT I GUESS EVERYWHERE WE GO. AND WHY IS SHE SAYING THAT? BECAUSE SHE EVIDENTLY -- I THINK WE HAVE TO INFER -- TO BELIEVE THAT SHE HAD A SERIOUS, SERIOUS ENOUGH TO SEARCH OUT THESE AND FIND THAT HE'S BEING SUPERVISED AND THEN GIVE NOTICE OF IT.

AND THEN SHE ALSO SAYS THIS. I ASKED HER, WHAT DID YOU EXPECT? AND SHE SAID, WELL, I EXPECTED THAT THE PROBATION OFFICER AT LEAST WOULD TAKE A LOOK AT WHAT I HAD REPORTED, AND I EVEN RECALL SAYING THAT IF YOU WANT TO FIND HIM, IF THE INFORMATION I'M GIVING YOU IS CORRECT, JUST GO TO THE LIBRARY.

WHERE IS STEPHEN STANKO? GO TO THE LIBRARY, THAT'S WHERE THE COMPLAINT CAME FROM. AND SO I EXPECTED THAT HIS FILE WOULD BE CAREFULLY SCRUTINIZED AND THAT HE -- SPECIAL ATTENTION WOULD BE PAID TO HIM TO SEE IF IN FACT HE DID REPRESENT A DANGER TO THE COMMUNITY.

SEEMS FAIR ENOUGH TO ME. LOGICAL ENOUGH TO ME. SO SHE'S REPORTING THIS ABERRANT BEHAVIOR, IF THAT'S WHAT YOU WANT TO CALL IT. BUT WE KNOW STEPHEN STANKO BECAUSE WE HAVE SEEN HIS BIRTH RECORDS, WE HAVE SEEN PICTURES OF HIM AS A CHILD, WE HAVE HEARD THE DOCTORS WHO EXAMINED HIM, SO WE HAVE GOT AN OVERVIEW, BUT NONE OF -- THAT SHE DIDN'T HAVE.

AND HE WAS A DANGER, OF COURSE, AND HE WAS ILL. I ASKED HER, I THINK, WHAT WAS YOUR REACTION WHEN THE STANKO CASE OF MURDER AND FLIGHT AND RAPE AND KIDNAPPING CAME TO YOUR OFFICE, WHAT WAS YOUR REACTION THEN?

SHE SAID, I'M NOT SURE I CAN DESCRIBE IT. AND I ASKED HER, TRY TO DESCRIBE IT. SHE SAID, WELL, I JUST SAID, YOU KNOW, WELL, THAT'S HIM. WHEN I -- WHEN I GOT THE PAPERWORK, I SAID, THAT'S HIM, THAT'S HIM, THAT'S THE GUY.

OF COURSE, I'M NOT READING IT LIKE SHE SAID IT. YOU CAN SEE THE EMOTION POURING OUT OF HER ON THE WITNESS STAND.

SHE SAID, I CAME BACK INTO THE OFFICE ABOUT FIVE MINUTES LATER AND THAT'S WHEN I REACTED THAT WAY AND SAID, OH MY LORD, THAT'S HIM, THAT'S HIM. AND SO I IMMEDIATELY PLACED A CALL TO THE LIBRARY, THAT'S THE SOCASTEE LIBRARY, BECAUSE I DID NOT KNOW AT THE TIME WHO THE VICTIMS WERE FOR SURE, SO I CALLED TO ASK FOR LAURA AND WAS TOLD SHE WOULD NOT BE IN THAT DAY.

THAT WOULD HAVE BEEN APRIL THE NINTH. SHE -- SHE CALLED DOWN HERE IN JANUARY, 26TH, 28TH. OKAY. WHAT'S THAT GOT TO DO WITH ANYTHING? IT'S GOT TO DO WITH HIS -- HIS -- WHAT'S GOING ON IN HIS HEAD, HIS DISABILITY, OR WHATEVER YOU WANT TO DETERMINE IT TO

BE.

NOW, WE TALKED WITH PAM HARRELSON. WE CALLED HER TO THE WITNESS STAND. AND SHE SAID, GLORIA WILSON CAME TO ME AND FACE TO FACE TOLD ME ABOUT THE CALL. YES, I KNEW THE CALL CAME IN. YOU REMEMBER THAT? I KNEW THE CALL.

BUT WHEN WE TALKED WITH GLORIA WILSON, SHE SAID, NO, I DIDN'T TALK TO HER, DIDN'T WRITE ANY REPORT EITHER. YOU SEE HOW THE FURTHER YOU GET AWAY FROM WHAT'S HAPPENING THE LESS YOU MIGHT TAKE THE SERIOUSNESS OF THIS THAT BOTH MAYO AND CONNIE BOTH SAW.

THE SOLICITOR SAID THAT I WAS ATTACKING THESE PEOPLE. I'M NOT ATTACKING THESE PEOPLE. THIS IS JUST A SIMPLE FACT THAT -- THAT HIS -- THE REPORT OF HIS MENTAL, HIS BEHAVIOR, IF YOU WANT TO CALL IT NOTHING MORE THAN THAT, WAS GETTING OUT AND THAT IT WAS BECOMING A PUBLIC SAFETY MATTER.

NOW, WHAT'S GOING ON WITH CONNIE ALL THIS TIME? SHE IS CALLING PEOPLE. SHE SAID SHE CALLED THE US ATTORNEY'S OFFICE. THIS CALL THAT MAYO GOT COULD NOT HAVE COME FROM CONNIE.

IT HAD TO BE SOMEBODY ELSE BECAUSE CONNIE WASN'T COMPLAINING ABOUT THE LIBRARY. SHE WAS COMPLAINING ABOUT STANKO BECAUSE HE WAS DEFRAUDING HER.

AND HOW DOES THAT ESCALATE? I AM NOT GOING TO SPEND A LOT OF TIME GOING OVER IT. I HAVE BEEN TALKING TO YOU NOW FOR AN HOUR AND 10 MINUTES. I KNOW YOU'RE SICK OF LISTENING TO ME.

BUT YOU KNOW, I HAVE GOT TO FINISH WHAT I AM DOING. STANKO HAD GOTTEN TO THE PLACE THAT HE WAS COMING TO HER HOUSE WITH BANDAIDS ON HIM SAYING THAT HE HAD TO GO TO THE DOCTOR AND GET SHOTS.

HE WAS CALLING AND -- AND THAT DIDN'T MATCH UP AT ALL. HE WOULD CALL AND SAY HE WAS UP THE ROAD HERE AND HE WOULD SHOW UP A FEW MINUTES LATER. HE WAS BECOMING -- HIS BEHAVIOR WAS BECOMING BIZARRE.

SHE TOLD HIM -- HE HAD STRUNG OUT THE CON WITH HER SAYING THAT IT WAS MR. EDWARDS UP IN NORTH CAROLINA AND JUDGE RAWL'S -- RAWL'S NAME AGAIN -- AND SENATOR THOMAS AND SOMEBODY FROM 48 HOURS WERE ALL DOWN IN MYRTLE BEACH, BUT THEY COULDN'T MEET WITH HER AND THAT THEY WOULD HAVE TO GO TO CHARLOTTE.

THEY WENT HALF-WAY UP THE ROAD AND CAME BACK DOWN. ALL OF THIS IS GOING ON. THIS -- THIS IS GOING ON. YOU THINK FOR A MINUTE THAT YOU -- YOU'D HAVE TO BE DELUSIONAL TO THINK THAT THIS IS NOT GOING TO FALL IN ON TOP OF HIM. THIS IS A GUY WHO IS SUPPOSED TO HAVE A GENIUS IQ.

IDA BROOKS. IT'S GOING ON THE SAME TIME. AND

WHAT WE'RE PUTTING THIS UP HERE BEFORE YOU IS IS TO SHOW YOU WHAT WE BELIEVE HIS MENTAL STATE WAS AND HIS SICKNESS THAT WAS THERE.

FINALLY THEY GO TO -- THERE'S -- CONNIE GOES DOWN TO THE -- OR MAKES AN APPOINTMENT ON MONDAY, APRIL THE FOURTH, TO GO DOWN AND TALK WITH THE INVESTIGATOR WHO TURNS OUT TO BE MR. BERTANG DOWN AT THE OFFICE OF THE MYRTLE BEACH PD AND ARRIVES FOR THE APPOINTMENT WHICH IS THURSDAY AT 9:30.

THIS IS 16 HOURS BEFORE LAURA LING'S MURDER, AND SHE CAN'T GET THE STORY OUT. THAT'S WHAT SHE SAID. AND GARY SAYS SO, TOO.

BERTANG SAID RIGHT HERE ON THE STAND -- FIRST OF ALL HE RESPONDED TO MY SUBPOENA BY BRINGING ME THE WRONG YEAR, 2006. AND I GOT NOTHING AGAINST HIM. BUT WHAT DID HE SAY?

HE SAID, I DO VAGUELY REMEMBER IT. THAT MUCH HE DID SAY. BUT WHAT DOES THAT SHOW? I'M NOT ATTACKING BERTANG AND I'M NOT ATTACKING MYRTLE BEACH POLICE.

HEY, IF IT'S A HOUSE DIVIDED AGAINST ITSELF, IT NEEDS TO STRAIGHTEN ITSELF OUT. THAT'S NOT MY PROBLEM. IT'S NOT WHAT I'M TALKING ABOUT.

I'M NOT TRYING TO CONVINCE YOU TO GIVE STANKO LIFE BECAUSE MAYBE THESE PEOPLE DID OR MAYBE THESE PEOPLE DIDN'T DO ANYTHING. I'M TALKING ABOUT PEOPLE

WHO REPORTED STANKO'S ABERRANT BEHAVIOR.

AND WHY? BECAUSE THEY WERE CONCERNED ABOUT HIM. I THINK, THOUGH, THE DEPUTY SOLICITOR ASKED GARY WHEN HE WAS ON THE STAND, YOU KNOW, WASN'T IT JUST MONEY? IF YOU GOT YOUR MONEY -- IN FACT, CONNIE SAID EARLY ON, IF HE'D HAVE GIVEN ME MY MONEY OR MY PAPERS, THAT'S WHAT I WANTED.

BUT SHE ALSO SAID THAT JUST BECAUSE BERTANG DIDN'T LISTEN TO HER, THAT WASN'T GOING TO STOP HER. SHE WAS GOING TO KEEP RIGHT ON GOING. AND IN FACT, SHE DID.

ON THE -- ON APRIL THE NINTH WHEN IT CAME ON THE TV THAT THESE HORRENDOUS CRIMES HAD TAKEN PLACE, SHE CALLED 9-1-1 AND SHE SAID SHE BELIEVED THAT STANKO MIGHT BE IN COLUMBIA BECAUSE HE HAD TOLD HER THAT HE HAD TO GO UP THERE AND GET AN AWARD.

WELL, AS IT TURNED OUT, HE ACTUALLY HAD GONE TO COLUMBIA IT SEEMS. AND WHAT DID HE DO UP THERE? THIS SAME PSYCHOPATHIC BEHAVIOR, SAME THING.

IF HE SHOWED GENUINE REGRET, THEN HE WOULDN'T BE WHAT HE IS. YOU THINK HE'S FOOLING US ON THAT? I DON'T THINK SO. I THINK THE DOCTORS ARE RIGHT, ALL AGREE ON IT. WHAT THEY DON'T AGREE ON IS TO WHAT EXTENT.

YOU WILL REMEMBER, HOWEVER, THAT WHEN -- IN

DECEMBER, IN JANUARY WHEN LAURA AND STEPHEN STANKO WENT TO THE PROBATION OFFICE, THEY WERE TELLING THEM THAT THEY WERE GOING TO ARRANGE MENTAL HEALTH COUNSELING FOR HIM. THAT'S ONE THING THEY WERE TRYING TO DO.

ALSO LAURA HAD ARRANGED -- SHE HAD TOLD THE OFFICIAL PEOPLE THAT THEY WERE COMMON LAW MAN AND WIFE, AND HE WAS ADDED ON TO HER INSURANCE. AND I THINK THE LOGICAL INFERENCE IS SO HE COULD GET INSURANCE WHICH INCLUDED MENTAL HEALTH INSURANCE.

I'M NOT ASKING YOU TO CONDONE WHAT YOU HAVE DETERMINED THAT STEPHEN STANKO DID. I'M NOT ASKING YOU TO DO THAT AT ALL.

EACH OF YOU MUST INDIVIDUALLY DECIDE WHAT THIS PENALTY SHOULD BE BASED ON THE LAW AS GIVEN TO YOU, NOT WHAT THE PERSON NEXT TO YOU THINKS, NOT WHAT THE PERSON NEXT TO YOU YOU MIGHT THINK OF KNEW OR THINKING WHAT YOU THINK, BUT YOU MUST DO IT YOURSELF. THAT'S WHAT YOU MUST DO.

SO LET'S TALK ABOUT THE PENALTY AND THEN I'M GOING TO QUIT. OKAY? AND I APPRECIATE YOU TALKING TO ME. IF I HAVE DONE ANYTHING TO OFFEND YOU, FORGIVE ME. I DIDN'T MEAN TO DO IT. AND DON'T HOLD IT AGAINST STANKO IF I HAVE DONE SOMETHING TO YOU.

LET'S TALK ABOUT THE PENALTY. YOU KNOW, WE

VALUE OUR LIBERTY AND OUR FREEDOM, SOME OF US, AS MUCH AS WE VALUE OUR LIVES.

WE PRAISE PATRICK HENRY FOR SAYING, I KNOW NOT WHAT OTHERS MAY DO, BUT AS FOR ME, GIVE ME LIBERTY OR GIVE ME DEATH. AND WE APPLAUD THAT. THAT'S -- TO US THAT'S -- THAT'S A PATRIOT SAYING SOMETHING.

WE VALUE THAT. I HAVEN'T BEEN DOWN HERE IN GEORGETOWN EXCEPT JUST TO PASS THROUGH. I LIVE DOWN IN HAMPTON COUNTY. THIS IS BEAUTIFUL DOWN HERE. I HAVE BEEN STAYING DOWN HERE BECAUSE I -- I HAVE TO. IT'S ROUND TRIP 300 MILES TO WHERE I LIVE.

AND WHERE I GO IN THE AFTERNOON, I CROSS OVER YOUR RIVERS DOWN HERE. IT'S GORGEOUS. THIS IS BEAUTIFUL COUNTRY. AND -- BUT EVERYWHERE YOU GO ALMOST, IT'S -- IT'S A BEAUTIFUL WORLD. AND SOME PLACES IT'S STILL PRISTINE WORLD.

TO BE LOCKED AWAY FROM THAT THE REST OF YOUR NATURAL LIFE, THAT IS A SEVERE PENALTY, AND SOME PEOPLE WOULD SAY MUCH MORE SEVERE THAN DEATH. WHEN YOU'RE DEAD, NO MORE SUFFERING.

SUFFER WHEN YOU'RE ALIVE. SO YOU'RE GOING TO SUFFER, AND THAT'S FOR CERTAIN. LIFE IN PRISON IS NOT A INSUBSTANTIAL PENALTY. IT'S SERIOUS STUFF.

NOBODY IS REWARDING ANYBODY BY PUTTING THEM IN PRISON FOR THE REST OF THEIR LIFE WHERE THEY'RE GOING

TO HAVE TO DEAL WITH WHATEVER IT IS UNTIL THEY DRAW THEIR LAST BREATH.

I DON'T KNOW ABOUT YOU, BUT I HAVE HEARD PEOPLE SAY THAT THEY'D RATHER BE DEAD THAN TO BE IN PRISON FOR THE REST OF THEIR LIFE.

AND I'D SAY THIS TO YOU. IF THE ULTIMATE PENALTY WAS LIFE IN PRISON RATHER THAN DEATH, THEN THE STATE WOULD BE SAYING, GIVE HIM THE ULTIMATE PENALTY.

BUT WHAT IS APPROPRIATE? IS IT APPROPRIATE? LET ME ASK YOU THIS QUESTION AND TAKE IT WITH YOU WHEN YOU GO INTO YOUR ROOM. WHAT IS APPROPRIATE HERE IF HE'S A SICK GUY, AND HE -- HE CAN'T REALLY -- IF YOU REACH A CERTAIN PLACE, THE GASKET FLOWS.

AND DOESN'T JUST WHAT I TALKED TO YOU ABOUT, WHAT CONNIE PRICE BROUGHT UP, DOESN'T THAT SHOW JUST HOW OUTLANDISH, BIZARRE BEHAVIOR. YOU REMEMBER WHAT HE SAID? HE SAID, ANYBODY COULD SEE IT, ALL YOU HAD TO DO WAS LOOK. OKAY.

GIVING STANKO LIFE IS NOT RUBBER STAMPING ANYTHING FOR HIM OR TURNING YOUR BACK ON ANYBODY OR ANYTHING ELSE. DON'T BE STAMPEDED INTO THINKING THAT.

I APPRECIATE YOU LISTENING TO ME AND I TOOK UP A LOT OF YOUR TIME, AND THANK YOU. THAT'S ALL I HAVE

TO SAY.

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN, I'M GOING TO GIVE YOU A BRIEF OPPORTUNITY TO REFRESH YOURSELVES BEFORE WE CONCLUDE CLOSING ARGUMENTS.

I ANTICIPATE THAT WE WILL FINISH CLOSING ARGUMENTS, THAT WE WILL BREAK FOR LUNCH, AND THEN I WILL GIVE YOU THE COURT'S CHARGE ON THE LAW.

DURING THIS BREAK PLEASE HAVE NO DISCUSSION AMONG YOURSELVES ABOUT THE CASE. I HOPE YOU ENJOY YOUR BREAK. I ANTICIPATE IT WILL BE RELATIVELY SHORT. I WOULD LIKE TO FINISH CLOSING ARGUMENTS. IF YOU WOULD GO WITH YOUR CUSTODIANS.

I'M SORRY, MR. KELLY. I APOLOGIZE. I SHOULD HAVE GOTTEN YOU SITUATED FIRST.

(JURY LEFT THE COURTROOM AT 12:15 PM.)

THE COURT: YOU MAY BE SEATED. WE'LL BE AT EASE FOR ABOUT FIVE MINUTES.

(WHEREUPON A RECESS WAS TAKEN.)

THE COURT: IS THE STATE READY TO PROCEED?

MR. HEMBREE: YES, YOUR HONOR.

THE COURT: DEFENSE READY TO PROCEED?

MR. DIGGS: YES, YOUR HONOR.

THE COURT: ALL RIGHT. PLEASE BRING IN THE JURY.

(JURY ENTERED THE COURTROOM AT 12:41 PM.)

THE COURT: YOU MAY BE SEATED. LADIES AND GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR BREAK. WE WILL NOW RESUME WITH CLOSING ARGUMENT. MR. DIGGS, YOU MAY PROCEED WHEN YOU'RE READY.

MR. DIGGS: THANK YOU VERY MUCH, YOUR HONOR. MAY IT PLEASE THE COURT.

THE COURT: YES, SIR. THE COURT IS PLEASED. YOU MAY PROCEED.

CLOSING STATEMENT

MR. DIGGS: THE SOLICITOR ASKED IN HIS COMMENTS AND STATEMENT, IF NOT NOW, THE DEATH PENALTY IS NOT GIVEN IN THIS CASE, THEN WHEN WOULD WE GIVE IT?

AND I WOULD RESPOND THAT THE ULTIMATE PUNISHMENT SHOULD BE RESERVED FOR PEOPLE WHO HAVE A HEALTHY BRAIN THAT IS NOT DEFECTIVE, WHO HAS THE ABILITY TO CONDUCT THEMSELVES ON A LEVEL PLAYING FIELD, WHO ARE NOT ASLEEP AT THE WHEEL AS THAT CAR THAT STEPHEN IS GOES BARRELLING DOWN THE HIGHWAY.

I THOUGHT THAT WAS A VERY GOOD EXAMPLE OR ANALOGY THAT MR. KELLY MADE. IF WE COULD SAY THAT STEPHEN WAS IN FULL CONTROL, LIKE A HEALTHY BRAIN, PEOPLE WITH A HEALTHY BRAIN, THEN THAT WOULD BE, I WOULD SUBMIT TO YOU, SOMEBODY YOU WANT TO CONSIDER AS A CANDIDATE FOR PUTTING TO DEATH.

BUT YOU KNOW WHAT? I WOULD SUBMIT TO YOU THAT THERE'S NO QUESTION AT THIS POINT, THERE IS NO QUESTION, THAT STEPHEN HAS A MENTAL -- A BRAIN DEFECT.

YOU KNOW, IT'S -- I WOULD SUBMIT IT'S NO DIFFERENT FROM ANY OTHER KIND OF DEFECT, PHYSICAL DEFECT THAT ONE WOULD HAVE WITH THE BODY THAT WE CAN SEE AND THAT WE CAN OBSERVE HOW IT AFFECTS THEIR CONDUCT AND THEIR INTERACTION WITH OTHER PEOPLE, HOW THEY LIVE THEIR LIVES.

IT JUST SO HAPPENS THAT WITH THIS KIND OF DEFECT IT AFFECTS ONE'S BEHAVIOR. WE HAVE HEARD EXPERT AFTER EXPERT CONFIRM THAT FOR US. THERE'S NO QUESTION ABOUT THAT.

AND THERE'S NO QUESTION I WOULD SUBMIT TO YOU THAT EVERY WITNESS, YOU KNOW WHAT -- FOR THE STATE OR FOR THE PROSECUTION, EVERY WITNESS THAT GOT ON THAT STAND HAS TOLD US WHO HAVE -- WHO HAVE HAD -- EVERY WITNESS WHO HAS HAD INTERACTION PERSONALLY WITH STEPHEN STANKO, THAT THAT INTERACTION IS EITHER A REMARKABLE EXPERIENCE OR A VERY BIZARRE EXPERIENCE.

NOT ONE PERSON WHO HAS TAKEN THE STAND IN THIS CASE HAS EVER DESCRIBED HIM AS NORMAL. EVEN THE GIRLS, THE YOUNG LADIES UP IN COLUMBIA, THE YOUNG LADY WHO SPENT SEVERAL HOURS TALKING TO HIM AT A BAR.

SHE OBVIOUSLY SAW SOMETHING IN STEPHEN THAT INTERESTED HER, THAT, YOU KNOW, WHERE SHE MAINTAINED HER ATTENTION FOR HOURS, SEVERAL HOURS ON THAT FRIDAY WHERE STEPHEN WAS TELLING HER SON -- SERIES OF STORIES ABOUT, YOU KNOW, HIS PAST, WHO HE WAS, AND WHAT EDUCATION HE HAD AND ALL OF THOSE THINGS.

AND THE YOUNG LADY FROM AUGUSTA WHO OBVIOUSLY BECAME ENAMORED WITH STEPHEN, IT WAS A REMARKABLE EXPERIENCE FOR HER. AND LOOK WHAT STEPHEN'S EXPERIENCE WAS WITH LAURA AND CHRISTINA.

YOU KNOW, THEY'RE VERY -- THEY'RE -- THEY'RE OUT OF THE ORDINARY. THEY'RE ALL EXTRAORDINARY ENCOUNTERS. AND HE'S AN EXTRAORDINARY MAN BECAUSE OF THIS DEFECT THAT HE HAS THAT AFFECTS HIS BEHAVIOR.

IT'S ONE POINT THAT I WANT TO CLEAR UP. LET'S GO TO THE BIRTH RECORDS. AND THE SOLICITOR CORRECTLY POINTED OUT YESTERDAY WE DID HAVE A NORMAL MORO THERE IN THAT CHART.

BUT -- AND THIS THING, THIS DOCUMENT IS IN EVIDENCE AND YOU CAN READ IT WHEN YOU TAKE IT BACK TO DELIBERATE. THIS THING SAYS UP HERE, TO BE COMPLETED WITHIN 24 HOURS OF BIRTH. OKAY.

AND SO WHEN THEY WERE FILLING THIS THING OUT EARLY ON IN STEPHEN'S LIFE AFTER JUST A FEW HOURS, THEY DIDN'T NOTICE ANY MORO PROBLEM. ALL RIGHT?

THEY NOTICED ALL THESE OTHER THINGS. HE WAS BORN BLUE. THEY PUT THAT DOWN HERE. CYANOSIS, PALLOR -- I CAN'T READ IT MYSELF, BUT YOU'LL HAVE ICTERUS OR SOMETHING LIKE THAT. YES, ICTERUS.

YOU HEARD DR. THRASHER EXPLAIN WHAT THOSE THINGS WERE AND WHAT THE LIKELY CAUSES OF THOSE THINGS WERE. AND THIS WAS IN 24 HOURS. AND IF YOU CAN SCROLL DOWN UNTIL -- KEEP GOING -- A FEW HOURS LATER IN STEPHEN'S LIFE. STOP.

BABY HAS A POOR MORO. BABY HAS POOR MORO. A FEW HOURS LATER IN STEPHEN'S LIFE THEY RECOGNIZE THAT. AND THEREAFTER THEY NEVER PUT IN HIS RECORD HE WAS NORMAL.

MAYBE APPEARED A LITTLE BETTER, APPEARED A LITTLE IMPROVED, BUT THEY NEVER SAY THAT WAS NORMAL THEREAFTER. THEY ONLY SAW IT NORMAL IN THE FIRST FEW HOURS OF THE BOY'S LIFE, AND THEN ITS MANIFESTED ITSELF.

NOW -- JUST LEAVE THAT -- THE PURPOSE OF THIS PHASE, AND I BELIEVE THE JUDGE IS GOING TO CHARGE THIS, CERTAINLY YOU CAN GLEAM THIS FROM THE TYPE OF EVIDENCE THAT'S BEEN INTRODUCED IN THIS PENALTY PHASE.

THE PURPOSE OF THIS PHASE IS TO LEARN AS MUCH ABOUT STEPHEN'S CHARACTER AS YOU CAN BECAUSE OUR

CONSTITUTION BOTH IN THE STATE AND IN THE US REQUIRE THAT YOU KNOW ALL ABOUT HIM, AS MUCH AS EITHER SIDE CAN PRESENT ON THAT QUESTION BECAUSE THE US SUPREME COURT HAS SAID THAT THAT IS A REQUIREMENT.

YOU KNOW, IF THERE'S ANYTHING GOOD ABOUT THE GUY, BEFORE YOU MAKE A DECISION YOU SHOULD KNOW THOSE THINGS. IF THERE IS ANYTHING BAD ABOUT HIM, YOU SHOULD KNOW THOSE THINGS, EVEN THOUGH THEY WOULDN'T BE ADMISSIBLE IN THAT FIRST PHASE OF THE TRIAL.

AND SO THAT'S WHY YOU'VE HEARD SOME THINGS THIS WEEK THAT YOU DID NOT HEAR IN THE PENALTY -- IN THE GUILT PHASE. THAT'S WHY, BECAUSE IT GIVES US MORE INFORMATION ABOUT HIM.

AND I FELT LIKE WE OWED A DUTY TO YOU TO BRING DR. WU BACK AND LET HIM ADDRESS THE SUGGESTION. NOW, HERE'S WHAT DR. SPICER SAID. AND I ASKED HIM THIS TWICE.

AND I WOULD SUBMIT TO YOU THAT IT'S VERY IMPORTANT BECAUSE HE WAS A STATE'S WITNESS. THE PROSECUTION PUT HIM ON THE STAND AS THEIR WITNESS. AND HE SAID THIS, AND YOU'LL REMEMBER THIS I THINK IF YOU THINK BACK ON IT.

ARE YOU SAYING, DR. SPICER, THAT IF DR. WU DID NOT FUDGE THE WINDOW THAT HE'S GOT DIMINISHED FUNCTION OF THE FRONTAL LOBE? AND HE SAID YES.

EITHER DR. WU FUDGED IT OR THE BOY'S GOT A DIMINISHED FUNCTION IN HIS FRONTAL LOBE. THAT'S WHAT DR. SPICER SAID.

NOW, DR. WU CAME BACK. AND DID WE WARM HIM OVER? NO, BECAUSE I WANTED YOU TO BE ABLE TO AGAIN ASSESS THAT MAN'S CREDIBILITY WHO DOES WORK FOR THE NATIONAL INSTITUTE OF HEALTH AND THE US GOVERNMENT.

ALL RIGHT. YOU THINK HE'S GOING TO FUDGE THE NUMBERS? NO. I WOULD SUBMIT TO YOU DR. SPICER AT THIS POINT WOULD SAY THE MAN'S NOT GOING TO FUDGE THE NUMBERS.

BUT DR. WU EXPLAINED TO YOU WHAT YOU CAN LOOK TO TO MAKE SURE THAT HE DIDN'T, AND THAT WAS THAT FULL RANGE OF SCALE FROM ZERO TO 256 ON THE COLOR SPECTRUM, THAT THE BRIGHTEST REDS ARE ASSIGNED IN BOTH THE DATABASE AND IN MR. STANKO THAT TWO -- NUMBER 255 OR 256.

THAT'S THE HIGHEST IN BOTH DIAGRAMS. AND THE ZERO OR THE ONE IS THE LOWEST, THE HIGHEST BEING THE RED UP HERE AND THE LOWEST BEING THE BLUE. AND THAT'S WHY WE BROUGHT DR. WU BACK.

AND DR. WU ALSO SAID SOMETHING ELSE THAT WAS VERY INTERESTING, THAT COMMERCIALLY AVAILABLE SOFTWARE THAT CONVERTS THE PET SCAN DATA INTO THE IMAGES USES AN AT REST DATABASE. AND THAT'S JUST

LIKE DR. SPICER SAID. WE USE AN AT REST DATABASE.

AND HE USED AN AT REST DATABASE BECAUSE WE KNOW NOW THAT THE DATABASE COMES WITH THE SOFTWARE. SO DR. SPICER HAD THE WRONG SOFTWARE FOR THIS PARTICULAR KIND OF NEUROPSYCHIATRIC ANALYSIS.

AND YOU KNOW, I DON'T BLAME HIM FOR THAT. HE'S A RADIOLOGIST. I DON'T KNOW HOW MANY NEUROPSYCHIATRIC PATIENTS HE SEES. I DON'T THINK HE SEES ANY BECAUSE THAT'S NOT HIS AREA OF SPECIALTY.

BUT DR. WU DOES. HE'S SEEN 5000 OF THOSE KINDS OF SCANS. AND AGAIN, THE NATIONAL INSTITUTE OF HEALTH AND THE US GOVERNMENT RELY ON HIM. AND I WOULD SUBMIT YOU DON'T GET ANY MORE CREDIBLE THAN THAT. THE MAN CAME HERE TWICE ALL THE WAY FROM CALIFORNIA. YOU JUST DON'T GET ANY MORE CREDIBLE.

AND THE REASON THAT'S SO CRITICAL IS BECAUSE WHEN YOU LOOK AT THIS CHARACTER, STEPHEN'S CHARACTER, WE ARE LEARNING -- WE DON'T LIVE IN THE 1800'S ANY MORE OR THE 1900'S ANY MORE. WE'RE IN THE 21ST CENTURY. OKAY.

WE DON'T HAVE TO LOOK BACKWARDS LIKE SOME PEOPLE, PAM CRAWFORD, FOR EXAMPLE, WHO SAID, WELL, THIS IS THE WAY WE HAVE ALWAYS DONE IT. I DON'T KNOW WHY HE DOES THESE THINGS, HE JUST DOES THEM.

BUT YOU KNOW WHAT? SOME PEOPLE WHO LOOK

FORWARD, LIKE DR. WU AND DR. SACHY, CAN EXPLAIN WHY. WE DON'T HAVE TO LIVE IN DARKNESS ANY MORE. WE CAN LIVE WITH AN UNDERSTANDING OF WHAT'S GOING ON IN THE BRAIN.

AND YOU KNOW WHAT THEY ARE FINDING OUT? THE BRAIN IS JUST LIKE THE BODY. IF IT'S BROKEN, IT DOESN'T WORK WELL AND IT AFFECTS WHAT YOU CAN DO AND WHAT -- WHAT YOU CAN DO, WHETHER YOU CAN BEHAVE PROPERLY OR WHETHER YOU CAN'T BEHAVE PROPERLY.

YOU KNOW, AND IT DOESN'T MATTER -- IF YOU HAVE ALZHEIMERS OR IF YOU KNOW SOMEONE WHO DOES AND YOU WANT THEM -- YOU WANT TO TRY TO HELP THEM NO MATTER HOW MUCH YOU SIT THEM DOWN TO TELL THEM TO CHANGE THEIR BEHAVIOR, THEY'RE NOT GOING TO.

AND I WOULD SUBMIT TO YOU THAT'S THE WAY STEPHEN IS. HE'S NOT GOING TO CHANGE. AND IF WE KILL HIM INSTEAD OF LOOKING FORWARD, WE LOOK BACK AND WE KILL HIM, WE'RE GOING TO LOSE THIS OPPORTUNITY TO UNDERSTAND HOW THIS MIGHT HAPPEN AGAIN AND HOW WE CAN PREVENT IT AGAIN AND HOW WE CAN CHANGE AND MAKE PEOPLE LIKE LAURA LING SAFE INSTEAD OF VICTIMS.

IF YOU KILL STEPHEN AND REJECT THE FACT THAT THIS MAN HAS A BRAIN DEFECT, HE HAS A DEFECT, LAURA'S DEATH BECOMES A STATISTIC, OKAY, AND THAT'S ALL.

BUT NOW LAURA IN HER DEATH CAN GIVE MEANING TO

HER DEATH. SHE CAN HELP YOU EXPLAIN TO US HOW THIS HAPPENED. THIS MAN WHO WAS THE LIGHT -- WITH THE EXCEPTION OF HER CHILDREN -- AT THAT MOMENT THE LIGHT OF HER LIFE.

CHRISTINA SAID HE BRIGHTENED UP HER LIFE. SHE LOVED HIM. AND STEPHEN LOVED HER. HOW DOES HE DO THIS? DR. SACHY EXPLAINED IT.

DR. THRASHER, DR. WU, THEY ALL -- THEY KNOW WHAT THIS AREA OF THE BRAIN IS FOR, AND IT'S NOT WORKING IN STEPHEN. AND ARE WE GOING TO MAKE A DECISION? WELL, WE'RE GOING TO KILL HIM ANY WAY. THAT'S WHAT WE DEAL -- THAT'S HOW WE DEAL WITH IT AND THAT'S JUST THE WAY IT'S GOING TO BE.

I WOULD SUBMIT TO YOU THAT CHARACTER, WHAT WE THINK OF GOOD CHARACTER, PEOPLE WHO ARE GOOD AND DO GOOD THINGS, YOU KNOW, YOU LEARN THAT. THERE'S NO DOUBT ABOUT IT.

IT'S -- LEARNING PROCESS IS A PART OF IT. BUT A LOT OF IT, EMPATHY, FOR EXAMPLE, YOU'RE NOT GOING TO HAVE GOOD CHARACTER AND HAVE A GOOD RELATIONSHIP WITH OTHER PEOPLE AND DO SOCIETY, YOU KNOW, MEET SOCIETAL OBLIGATIONS TO OTHER PEOPLE.

YOU'RE NOT GOING TO DO THAT IF YOU DON'T HAVE EMPATHY FOR THEM. YOU'RE JUST NOT. YOU'RE NOT GOING TO BE ABLE TO DO THOSE THINGS. AND WE SEE THAT AS

BAD CHARACTER.

AND HISTORICALLY WE'VE THOUGHT, THEY CHOOSE TO DO THOSE. HE'S LAZY, HE DOESN'T WANT TO WORK, HE DOESN'T WANT TO PUT OUT THE EFFORT. THAT'S BOLOGNA BECAUSE STEVE WAS AN EXCELLENT STUDENT THROUGH SCHOOL, AND YOU SAW THOSE THINGS.

I WOULD SUBMIT TO YOU THAT WAS AN EXCELLENT PRESENTATION OF WHO HE WAS. BUT DR. WU SAID, AND DR. SACHY, THAT THIS TYPE OF DEFECT REALLY DOESN'T BEGIN TO MANIFEST ITSELF UNTIL THE MORE MATURE YEARS.

THAT'S WHY HE DIDN'T DO IT -- HE DIDN'T ACT OUT AS A CHILD BECAUSE EVERY CHILD HAS, I WOULD SUBMIT TO YOU, A LOWER FUNCTIONING FRONTAL LOBE THAN AN ADULT. THAT'S WHY THEY DO IMMATURE THINGS.

THEY DIDN'T REALLY NOTICE -- NOW, MR. HOUSE MIGHT HAVE NOTICED -- HE SAID STEPHEN WAS A PATHOLOGICAL LIAR FOREVER. YOU KNOW. HE -- MAYBE HE KNEW STEPHEN, YOU KNOW, BECAUSE OF HIS RELATIONSHIP, STEPHEN'S RELATIONSHIP WITH MR. HOUSE'S SON.

MAYBE HE SAW THINGS EARLIER THAN OTHER PEOPLE. BUT LOOK, WHAT IS MORE TELLING ABOUT STEPHEN'S PERSONALITY AND WHO HE IS THAN TO BE REJECTED BY HIS OWN FAMILY.

THEY JUST -- STEPHEN'S ON TRIAL FOR HIS LIFE AND THEY'RE NOT EVEN HERE, NOT ONE OF THE FIVE, NOT TO

MENTION AUNTS AND UNCLES, COUSINS, NOT ONE PERSON.

IT'S BECAUSE HE IS SO BIZARRE AND SO UNUSUAL AND NOBODY UNDERSTOOD ABOUT WHY HE WAS THAT WAY. THEY JUST THREW IN THE TOWEL AND GAVE UP ON HIM, HIS FAMILY DID.

THAT IS A TEST OF THE TRUTHFULNESS OF WHAT WE'RE SAYING. IT'S A BENCHMARK. YOU KNOW, IT'S KIND OF LIKE THE GOLD STANDARD. THE SOLICITOR'S MENTIONED THE GOLD STANDARD IN THIS TRIAL.

TO BE FULLY REJECTED BY EVERYBODY IN YOUR FAMILY, THAT'S A PRETTY HARD THING TO DO. AND YOU THINK HE TRIED TO DO THAT? I WOULD SUBMIT TO YOU HE DIDN'T. I WOULD SUBMIT TO YOU THERE'S NOTHING IN THE WORLD THAT -- I MEAN, HE GREW UP WITH THESE PEOPLE. HE LOVES THESE PEOPLE TO THE EXTENT THAT HE CAN.

YOU THINK HE WOULD WILLINGLY KICK HIS FAMILY OUT OF HIS LIFE, ALL OF THEM, EVEN HIS SISTERS AND HIS BROTHERS AND HIS PARENTS, HIS MOM?

IT'S BECAUSE OF THIS. IT DOESN'T WORK PROPERLY. AND IT'S CRITICAL TO PROPER FUNCTIONING AND YOUR CONDUCT AND TO GOOD, ACCEPTABLE CHARACTER. IT'S CRITICAL.

AND THAT KIND OF PERSON IN OUR SOCIETY WE DON'T PUT TO DEATH ANY MORE BECAUSE NOW WE CAN UNDERSTAND THIS. WE CAN UNDERSTAND WHAT DRIVES THE BEHAVIOR.

AND IT'S NOT A SERIES OF BAD CHOICES AND DECISIONS THAT HE MAKES, AND IT'S NOT MERELY A MATTER OF SAYING, LOOK, YOU DO THIS, SON, AND THIS -- THESE ARE GOING TO BE THE CONSEQUENCES YOU'RE GOING TO SUFFER ANY MORE THAN -- THAT'S NOT GOING TO WORK ANY MORE THAN TELLING AN ALZHEIMERS PATIENT, YOU DO THAT AGAIN AND YOU'RE GOING TO PAY THE PRICE. IT'S THE SAME THING. IT IS THE SAME THING I WOULD SUBMIT TO YOU.

AND FOREVER WE HAVE KNOWN PEOPLE WHO WERE PSYCHOPATHS, YOU KNOW, AND HAS A VERY BAD -- BRINGS UP BAD IMAGES, DREDGES UP, YOU KNOW, EVIL, MEAN, JUST ALL AROUND BAD, EVIL DOINGS. YOU KNOW.

AND WE THINK, BOY, HOW COULD THEY DO THAT TO PEOPLE? BUT YOU KNOW WHAT? I WOULD SUBMIT TO YOU IT'S JUST A DEFECT IN THE BRAIN AND IT'S NOTHING MORE OR NOTHING LESS. THEY DON'T CHOOSE TO DO IT. THAT'S THE WAY THEIR BRAIN WORKS.

AND SOLICITOR SAYS BUT FOR THE GRACE OF GOD THERE GO I OR YOU. SAME WITH THIS. IT COULD HAPPEN TO ANY OF US, AND IT HAPPENS A LOT.

BUT AT LEAST NOW -- AND YOU KNOW WHAT? IN MEDICINE THEY HAVE KNOWN THAT FOR A LONG TIME. WHY ARE WE BLIND TO IT IN THE LEGAL SYSTEM? WHY DO WE PUT ON THE BLINDERS? WELL, YOU KNOW, IN THIS CASE WE

DO.

AND NOW YOU HAVE HEARD AN EXPLANATION TO CHRISTINA'S QUESTION, HOW DID THIS HAPPEN, WHY DID THIS HAPPEN. WE KNOW NOW BASICALLY WHY IT HAPPENED.

DR. WU, THRASHER, SACHY, CALIFF, ALBINIAK, GUR, AND CRAWFORD ALL IN SOME FORM OR ANOTHER SAID THIS BOY'S NOT NORMAL. CRAWFORD SAID HE'S NOT INSANE, BUT NO, I CAN'T SAY HE'S NORMAL.

DR. BRANNON WITH THE MRI, HE KNEW HOW TO DO IT IN THE OLD DAYS, BUT HE NEVER HEARD OF DR. GUR AND HE NEVER HEARD OF VOLUMETRIC ANALYSIS OF AN MRI.

DR. BRANNON HAD NEVER HEARD OF THIS TYPE OF ANALYSIS, BUT THE PEOPLE WHO READ THE JOURNALS IN MEDICINE, MODERN SCIENCE AND RESEARCH, THEY'VE HEARD OF IT.

DR. ALBINIAK SAID HUNDREDS OF ARTICLES ARE WRITTEN ABOUT IT. BUT DR. BRANNON DIDN'T KNOW ABOUT IT BECAUSE HE DOESN'T READ THE ARTICLES ANY MORE.

HE'S NOT UP TO DATE WITH WHAT HE SHOULD BE UP TO DATE WITH TO COME IN HERE AS AN EXPERT AND TESTIFY WHEN A MAN'S LIFE IS AT STAKE. AND THE SAME WITH DR. SPICER.

WHEN DR. WU CAME UP AND EXPLAINED HIS TECHNIQUE AND EXPLAINED THERE WAS NO MOVING OF THE WINDOW, DID DR. SPICER COME BACK AND SAY, OH, NO, NO. NO, HE

DIDN'T. I WOULD SUBMIT TO YOU HE THREW IN THE TOWEL.

AND SO WHEN DR. SPICER SAYS, THIS IS A SIDE-SHOW, WE ASK -- YOU KNOW, IT'S FUN TO WATCH, BUT IT'S NOT VERY HELPFUL. THE NATIONAL INSTITUTE OF HEALTH APPARENTLY DOESN'T AGREE WITH THAT OPINION AND NEITHER DOES THE US GOVERNMENT BECAUSE THEY USE DR. WU.

AND I FEEL RELATIVELY AT EASE IN URGING UPON YOU TO USE HIM AS WELL. HE'S RELIABLE. HE'S A STRAIGHT SHOOTER.

I THOUGHT DR. CALIFF'S TESTIMONY WAS RELEVANT BECAUSE UNDER THE BEST OF CIRCUMSTANCES I BELIEVE STEPHEN WOULD HAVE HAD A DIFFICULT TIME, AND I WOULD SUBMIT THAT'S WHAT THE TESTIMONY SHOWS.

IT'S A TOUGH STRUCTURE, A HARD DISCIPLINARIAN, A MILITARY MAN IN THE NAVY. UNDER THE BEST OF CIRCUMSTANCES IT WOULD HAVE BEEN HARD FOR HIS FAMILY TO PRODUCE, YOU KNOW, GOOD, HEALTHY CHILDREN.

STEPHEN HAD -- HE'S GOT THE MISSING MATTER, MISSING MATTER IN HIS BRAIN. HE'S GOT FUNCTION DEFICIT OVER HERE WHERE IT'S NOT WORKING PROPERLY, AND HE'S GOT A REALLY DIFFICULT FAMILY CIRCUMSTANCE TO COME OUT OF IN ORDER TO BE HEALTHY.

HE'S GOT -- THE BOY'S NEVER GOTTEN A BREAK IN HIS LIFE EXCEPT FOR LAURA. YOU KNOW, THAT WAS THE

ONE BREAK HE'S GOTTEN. AND WHAT DID HE DO WITH HER? HE KILLED HER.

AND WHAT HAPPENS TO SOCIETY IF STEPHEN LIVES? WHAT HAPPENS? WOULD YOU WANT TO BE LOCKED UP WITH HIM? INITIALLY YOU MIGHT SAY, WELL, NO, I WOULDN'T, YOU KNOW, LOOK WHAT HE CAN DO.

BUT IN EIGHT AND A HALF YEARS HE DID WELL. FOR THE PAST YEAR HE'S DONE WELL. YOU HEARD THE GUARDS THEMSELVES -- THEY'RE NOT GOING TO COME DOWN HERE AND FUDGE TRUTH. I MEAN, THEY TOLD YOU WHAT THEY THOUGHT OF STEPHEN.

HE IS SMART. AND IN A STRUCTURED ENVIRONMENT HE CAN BE A LEADER, HE CAN BE -- HE CAN USE THOSE THINGS LIKE HE DID BACK IN HIGH SCHOOL IN THAT ENVIRONMENT. HE CAN DO THAT IN THE PRISON SYSTEM.

DR. SACHY SAID THERE ARE STUDIES THAT SHOW THAT PSYCHOPATH -- AND I WOULD SUBMIT THAT WE'RE NOT -- THAT WORD IS GOING TO FADE OUT OF OUR LANGUAGE LEXICON, IT'S GOING TO FADE AWAY WHEN WE UNDERSTAND THESE PEOPLE JUST HAVE DEFECTS, AND STEPHEN'S IS PROBABLY FROM BIRTH OR PROBABLY SHORTLY THEREAFTER FROM A LACK OF OXYGEN, WHEN HE CAME OUT BLUE.

SO HE HAS ALL OF THESE QUALITIES THAT ARE APART FROM THIS INABILITY TO CONTROL WHAT HAPPENED WITH LAURA. HE CAN BE IN A -- A LEADER.

DR. SACHY INDICATED THAT THE STUDY SHOWED THAT WITH PEOPLE WITH THIS KIND OF DEFECT, DEFECT IN THEIR BRAIN, DON'T COMMIT CRIMES IN THAT STRUCTURED SETTING.

IT'S ONLY OUT IN SOCIETY WHERE THEY CAN PRAY ON A WEAKER PERSON. BUT IN PRISON IT'S ABOUT SURVIVAL, AND -- SO PSYCHOPATHS, PEOPLE WITH BRAIN DEFECTS, DO WELL BECAUSE THEY -- THEY DON'T GET IN THAT MODE WHERE THEY WANT TO STRIKE OUT AND TAKE ADVANTAGE OF OTHER PEOPLE.

STEPHEN COULD BE AN INMATE LEADER, HE COULD BE A GOOD INMATE WITH HIS INTELLIGENCE AND THE OTHER ABILITIES HE HAS, HE COULD BE HELPFUL TO THE INMATES. AND THERE ARE A LOT OF INMATES IN THERE WHO NEED ALL THE HELP THEY CAN GET FROM WHATEVER SOURCE.

AND HE WOULDN'T BE A THREAT TO CORRECTIONS OFFICERS BECAUSE HE HAS GOOD -- THE HISTORY HAS SHOWN, NINE AND A HALF YEARS, 10 YEARS, DURING HIS INCARCERATION IN THE SCDC, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, AND GEORGETOWN, HE HAS HAD A GOOD RELATIONSHIP, 10 YEARS OF THE TRACK RECORD.

THE TRACK RECORD ON THE OUTSIDE IS ELIZABETH MCLENDON AND LAURA LING. TRACK RECORD ON THE INSIDE IN THAT STRUCTURED ENVIRONMENT, GOOD, 10 YEARS.

WHEN -- IF YOU AS A JUROR WANT TO MAKE A

DECISION FOR LIFE, YOU HAVE THE RIGHT TO DO THAT. YOU HAVE A RIGHT TO DO THAT. AND YOU DON'T HAVE TO ABIDE -- YOU DON'T HAVE TO HAVE THAT DICTATED TO YOU BY ANYBODY ELSE.

THAT'S WHY YOU ARE ON THIS JURY, FOR YOU TO MAKE A DECISION. IT'S YOUR DECISION. YOU ARE THE ONE THAT WILL SIGN YOUR NAME TO THE VERDICT FORM.

BUT WHAT IS IMPORTANT IS THIS. REMEMBER THIS. MAKE SURE THIS IS A DECISION THAT YOU WANT TO MAKE BECAUSE TOMORROW -- ONCE YOU MAKE THIS DECISION TODAY, YOU CANNOT GO BACK AND SAY, I WANT TO CHANGE MY VOTE, I THOUGHT ABOUT IT SOME MORE OR FOR SOME OTHER REASON I WANT TO CHANGE. NOW, I SENTENCED HIM TO DEATH THEN, BUT NOW I WANT TO VOTE LIFE.

YOU WILL NOT HAVE THAT CHANCE. YOU HAVE GOT TO MAKE YOUR DECISION NOW. TALK ABOUT BEING UNDER PRESSURE. YOU HAVE GOT TO MAKE YOUR DECISION TODAY, NOT TOMORROW AND NOT NEXT WEEK, NOT NEXT YEAR IF STEPHEN IS IN SOME APPEAL PROCESS OR SOMETHING, NOT -- NOT -- NOW. NOW.

AND I WOULD SUBMIT TO YOU THAT IN THE 21ST CENTURY, EVEN THOUGH HORRIBLE THINGS HAPPENED TO LAURA AND TO CHRISTINA, WE CAN UNDERSTAND FINALLY HOW THAT CAN HAPPEN INSTEAD OF HOW CAN SOMEBODY DO SUCH A THING.

IT IS A DEFECT IN THEIR BRAIN AND OUR BEHAVIOR IS A PRODUCT OF OUR BRAIN AND THE WAY IT FUNCTIONS. IT IS NO MORE COMPLICATED AND NO MORE SIMPLE.

AND I WOULD SUBMIT TO YOUR IN OUR SOCIETY, 21ST CENTURY, 2006, WE AS A COLLECTIVE BODY MAKE A DECISION NOT TO KILL THESE PEOPLE ANY MORE, NOT TO BURN THE WITCHES, BUT TO UNDERSTAND THEIR CONDUCT FOR WHAT IT IS, AND SENTENCE THE MAN TO LIFE. HE'S NOT GOING TO BE PAROLED.

AND LAURA WILL HAVE CONTRIBUTED IN HER DEATH TO AN ADVANCEMENT OF THIS SOCIETY AND THIS CIVILIZATION, THIS COUNTY WHERE SHE LIVES, BECAUSE YOU ARE HER NEIGHBORS AND FELLOW CITIZENS IN THE COMMUNITY.

YOU HAVE BEEN VERY ATTENTIVE AND I -- YOU KNOW, I HAVE TRIED TO LOOK TO CATCH SOME OF YOU NOT PAYING ATTENTION OR NOT LISTENING, BUT I -- I HAVEN'T SEEN A SINGLE ONE OF YOU DO THAT, AND I -- AND I KNOW STEPHEN APPRECIATES IT, AND I KNOW ALL OF THE DEFENSE PEOPLE APPRECIATE IT AND I KNOW THE SOLICITOR'S OFFICE AND THE SOLICITOR'S EMPLOYEES APPRECIATE IT.

THANK YOU VERY MUCH FOR LISTENING, AND I APPRECIATE YOUR ATTENTION.

THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY, THE NEXT PART OF THIS PROCESS WILL BE THE COURT'S CHARGE ON THE LAW. AND I'M GOING TO GIVE

TAKEN BACK TO THE JURY? EVERYTHING?

MR. HUMPHRIES: I BELIEVE SO, YOUR HONOR.

THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT THE JURY IS BEGINNING THEIR DELIBERATIONS AT 1:51. MADAM CLERK, IF YOU COULD HAVE THEIR CUSTODIANS ARRANGE FOR THEM TO TAKE CARE OF THEIR LUNCH, AND THEY CAN EAT AND DELIBERATE IF THEY WOULD LIKE. THERE'S NOTHING THAT PROHIBITS THAT.

(JURY BEGAN DELIBERATIONS AT 1:51 PM.)

THE COURT: I DON'T KNOW WHETHER Y'ALL WANT TO DISCUSS WITH PROBATION DEPENDING UPON WHAT THE VERDICT IS WHETHER THEY WANT TO DISMISS HIS COMMUNITY SUPERVISION VIOLATION WARRANT OR WHETHER Y'ALL WANT TO DEAL WITH IT NOW SO THAT ALL OF IT CAN BE DEALT WITH AT ONE TIME.

AND I DON'T KNOW IF YOU ALL -- I MEANT TO ASK YOU THAT YESTERDAY SO YOU CAN DISCUSS IT WITH HIM. BUT I SUSPECT PROBATION MAY SIMPLY WANT TO DISMISS IT, AND THEY CAN DO THAT ADMINISTRATIVELY WITHOUT THE COURT'S INVOLVEMENT.

BUT YOU MAY WANT TO GO AHEAD AND DEAL WITH THAT NOW SO THAT THEY DON'T HAVE TO BE TRANSPORTING HIM BACK FROM THE DEPARTMENT OF CORRECTIONS.

MR. DIGGS: ALL RIGHT.

THE COURT: AND THAT IT JUST -- AND REALLY,

THEY HAVE REACHED A VERDICT. IS THERE ANYTHING PRIOR TO THE COURT RECEIVING THE VERDICT FROM THE STATE?

MR. HEMBREE: NO, YOUR HONOR.

THE COURT: FROM THE DEFENSE?

MR. DIGGS: NO, YOUR HONOR.

THE COURT: LADIES AND GENTLEMEN WHO ARE PRESENT IN THE GALLERY, I WOULD ASK THAT YOU ALL MAINTAIN THE COURT'S DECORUM, THAT THERE BE NO OUTBURSTS REGARDING THE SENTENCE OR THE VERDICT OF THE JURY.

I KNOW AND IT'S SOMETIMES VERY DIFFICULT FOR THE COURT AND I THINK THE SPECTATORS TO UNDERSTAND THAT THE COURT DOES UNDERSTAND THE HIGH EMOTION THAT THESE TYPE CASES INVOKE.

AND SOMETIMES WHEN WE MAKE STATEMENTS SUCH AS THIS, IT MAY SEEM THAT WE ARE DISPASSIONATE, BUT THAT IS NOT THE COURT'S INTENTION. IT IS JUST THAT AT ALL TIMES THE DECORUM OF THE COURT AND THE DIGNITY OF THE PROCESS MUST BE MAINTAINED.

SO I WOULD ASK THAT YOU ALL WOULD ABIDE BY THOSE RULES, AND I THANK YOU IN ADVANCE FOR EVERYONE'S OBSERVATION AND THERE BEING NO OUTBURSTS AFTER THE JURY'S VERDICT.

(ALTERNATES ENTERED THE COURTROOM.)

THE COURT: OKAY. PLEASE BRING IN THE JURY.

(WHEREUPON THE JURY ENTERED THE COURTROOM AT

4:00 PM.)

VERDICT

THE COURT: YOU MAY BE SEATED. MADAM FORELADY, IS IT CORRECT THAT THE JURY HAS REACHED A VERDICT?

FORELADY: THAT'S CORRECT, YOUR HONOR.

THE COURT: IF YOU WOULD GIVE THE VERDICT FORMS TO THE BAILIFF.

(BAILIFF APPROACHED THE FORELADY THEN APPROACHED THE CLERK WHO HANDED TO JUDGE.)

THE COURT: MADAM CLERK, IF YOU COULD COME OVER HERE...

(WHEREUPON A BENCH CONFERENCE WAS HELD WITH THE CLERK AND THE COURT.)

THE COURT: IF THE DEFENDANT WOULD STAND FOR THE PUBLICATION OF THE JURY'S VERDICT.

THE CLERK: THE STATE OF SOUTH CAROLINA, THE STATE VERSUS STEPHEN CHRISTOPHER STANKO IN THE COURT OF GENERAL SESSIONS FOR THE 15TH JUDICIAL CIRCUIT, CASE NUMBER 2005-GS-22-918, AGGRAVATING CIRCUMSTANCES, WE THE JURY IN THE ABOVE-ENTITLED CASE FIND BEYOND A REASONABLE DOUBT THE FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCES:

CRIMINAL SEXUAL CONDUCT; KIDNAPPING; ROBBERY WHILE ARMED WITH A DEADLY WEAPON; LARCENY WITH THE USE OF A DEADLY WEAPON; AND PHYSICAL TORTURE. DO YOU

WANT ME TO POLL THE JURY AFTER EACH?

THE COURT: YES.

THE CLERK: OKAY. LADIES AND GENTLEMEN OF THE JURY, IF THIS IS YOUR DECISION AND IT IS STILL YOUR DECISION, PLEASE LET IT BE KNOWN BY RAISING YOUR RIGHT HAND.

(ALL JURORS COMPLIED.)

THE CLERK: THANK YOU. STATE OF SOUTH CAROLINA, GEORGETOWN COUNTY, VERSUS STEPHEN CHRISTOPHER STANKO IN THE COURT OF GENERAL SESSIONS FOR THE 15TH JUDICIAL CIRCUIT, CASE NUMBER 2005-GS-22-918, RECOMMENDATION OF SENTENCE, DEATH PENALTY.

WE THE JURY IN THE ABOVE-ENTITLED CASE HAVING FOUND BEYOND A REASONABLE DOUBT THE EXISTENCE OF THE FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCES. TO WIT: ONE, CRIMINAL SEXUAL CONDUCT; TWO, KIDNAPPING; ROBBERY WHILE ARMED WITH A DEADLY WEAPON; LARCENY WITH THE USE OF A DEADLY WEAPON; AND PHYSICAL TORTURE NOW RECOMMEND TO THE COURT THAT THE DEFENDANT, STEPHEN CHRISTOPHER STANKO, BE SENTENCED TO DEATH.

STATE OF SOUTH CAROLINA, GEORGETOWN COUNTY VERSUS STEPHEN CHRISTOPHER STANKO -- AND I'D LIKE TO GO BACK AND POLL THE JURY FOR THE ONE THAT I JUST READ.

IF THIS IS YOUR DECISION AND IT IS STILL YOUR

DECISION, PLEASE LET IT BE KNOWN BY RAISING YOUR RIGHT HAND.

(ALL JURORS COMPLIED.)

THE CLERK: AND FINALLY, THE STATE OF SOUTH CAROLINA, GEORGETOWN COUNTY, STEPHEN CHRISTOPHER STANKO IN THE COURT OF GENERAL SESSIONS FOR THE 15TH JUDICIAL CIRCUIT, CASE NUMBER 2005-GS-22-918, STATUTORY INSTRUCTIONS, IN DETERMINING WHETHER TO RECOMMEND THE DEFENDANT, STEPHEN CHRISTOPHER STANKO, BE SENTENCE BY THE COURT TO LIFE IMPRISONMENT OR DEATH, YOU MAY CONSIDER THE FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCES.

ONE, THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF CRIMINAL SEXUAL CONDUCT IN ANY DEGREE; TWO, THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF KIDNAPPING; THREE, THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF ROBBERY WHILE ARMED WITH A DEADLY WEAPON; FOUR, THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF LARCENY WITH THE USE OF A DEADLY WEAPON; FIVE, THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF PHYSICAL TORTURE.

AND THEN YOU MAY ALSO CONSIDER THE FOLLOWING MITIGATING CIRCUMSTANCES: ONE, THE MURDER WAS COMMITTED WHILE THE DEFENDANT WAS UNDER THE INFLUENCE OF MENTAL OR EMOTIONAL DISTURBANCE; TWO, THAT THE